

Restrictive interventions

Disability Act 2006

Introduction

The *Disability Act 2006* ('the Act') will become fully operational from 1 July 2007.

The Act provides a much greater level of scrutiny and accountability for disability service providers who use restrictive interventions or compulsory treatment, including:

- creation of a Senior Practitioner position
- a requirement for disability service providers to be approved by the Secretary to use restrictive interventions
- review of certain decisions by the Victorian Civil and Administrative Tribunal (VCAT).

What are restrictive interventions?

Restrictive intervention is defined in the Act to mean 'any intervention that is used to restrict the rights or freedom of movement of a person with a disability including chemical restraint, mechanical restraint and seclusion'.

Who may restrictive interventions apply to?

Any person with a disability, as defined by the Act, using services from a disability service provider.

Who is allowed to use restrictive interventions?

Registered disability service providers that have the appropriate approval of the Secretary, Department of Human Services can use restrictive interventions. The Secretary is taken to be approved to use restrictive interventions. To be approved, a disability service provider must include information from the disability regulations, which include:

- name, address and contact details for every premises where the disability service provider proposes to use restrictive interventions
- if the disability service provider proposes to have more than one authorised program officer, the names and qualifications of the holders of the positions at each premises where the disability service provider proposes to use restrictive interventions
- the reasons why the disability service provider considers it necessary to use restrictive interventions at any particular premises.

What are the requirements for the use of chemical or mechanical restraint and seclusion?

The use of chemical or mechanical restraint and seclusion must meet the requirements of the Act. These include:

- The use of chemical or mechanical restraint and seclusion must be included in a behaviour management plan.
- The authorised program officer must approve the use of chemical or mechanical restraint and seclusion in the plan.
- The authorised program officer must ensure that an independent person has explained the use of chemical or mechanical restraint and seclusion to the person and the person's right to a review of this decision by VCAT.
- A copy of the behaviour management plan must be provided to the Senior Practitioner, who monitors the use of the chemical or mechanical restraint and seclusion.

Who is an authorised program officer?

A disability service provider is responsible for the appointment of an authorised program officer. Their responsibilities are critical to ensure any use of restrictive interventions for a person with a disability are only used in accordance with the Act.

What are the responsibilities of an authorised program officer?

The key responsibility is to ensure that where restrictive interventions are applied to people with a disability, it is done in a manner that conforms to the requirements of the Act. Specifically:

- if chemical or mechanical restraint or seclusion is being proposed for a person with a disability, ensure that a behaviour management plan is developed, reviewed and monitored, and that it conforms to all requirements stipulated in the Act
- ensure that an independent person is available and present when a behaviour management plan is explained to a person with a disability
- provide a copy of the behaviour management plan to the Senior Practitioner
- report monthly to the Senior Practitioner through the Restrictive Interventions Data System (RIDS), report monthly on the use of all chemical or mechanical restraint and seclusion.

Who can be an independent person?

An independent person assisting a person with a disability must not:

- be a disability service provider or a representative of a disability service provider
- have any interest in a disability service provider which is providing, or has provided, disability services to the person with a disability.

What does the use of restraint and seclusion mean for people with a disability?

Chemical or mechanical restraint and seclusion can only be used if it is the least restrictive option.

Where a person with a disability has chemical or mechanical restraint or seclusion included in their behaviour management plan, an independent person must explain to the person with a disability the use of chemical or mechanical restraint and seclusion in the behaviour management plan and the person's right to seek a review of the decision by VCAT.

A person with a disability has the right to seek a review from VCAT of the decision by a disability service provider to include chemical or mechanical restraint or seclusion in their behaviour management plan.

What does the use of restraint and seclusion mean for disability service providers?

Disability service providers will need to be approved to use restrictive interventions.

Disability service providers will need to nominate a suitable position as an authorised program officer to ensure that they comply with the requirements of the Act.

Where a disability service provider assesses that it is necessary to use restraint or seclusion, a behaviour management plan must be prepared and approved by the authorised program officer.

When restraint or seclusion is included in a behaviour management plan, someone independent of the disability service provider must assist the person in understanding the decision and understanding that they have a right to a review of the decision.

Through the Office of the Senior Practitioner, disability service providers will be better supported with increased access to specialist expertise, information and advice.

For more information about restrictive interventions:

Contact the Office of the Senior Practitioner by email: seniorpractitioner@dhs.vic.gov.au

For more information about the Act contact:

Disability Services Division, Department of Human Services

Telephone 1300 366 731 (9am to 5pm, Monday to Friday)

TTY: (03) 9096 0133 (for people who are deaf or have a hearing, speech or communication impairment)

Email: disability.legislation@dhs.vic.gov.au