

Senior Practitioner (Positive Behaviour Support Plan) Guideline 2019 (No 2)

Disallowable instrument – DI2019-273

made under the

Senior Practitioner Act 2018, Section 12

EXPLANATORY STATEMENT

Introduction

The *Senior Practitioner Act 2018* ('the Act') provides a formal framework for the reduction and elimination of restrictive practices by service providers in the ACT.

A 'restrictive practice' is defined under Section 7(1) of the Act to mean a practice that is used to restrict the rights or freedom of movement of a person for the primary purpose of protecting the person or others from harm. It includes:

- chemical restraint;
- environmental restraint;
- mechanical restraint;
- physical restraint;
- seclusion; or
- verbal directions, or gestural conduct, of a coercive nature

The Act enshrines the principle that providers should only use restrictive practices in very limited circumstances – as a last resort, for the shortest period possible in the circumstances, and in the least restrictive way to prevent harm to the person or others.

The Act also provides an operational structure for the Senior Practitioner which reaffirms and strengthens the rights and responsibilities of vulnerable people, recognising that this requires support from across the government sector and within the community.

To whom does the Act apply?

The Act is specifically aimed at regulating the use of restrictive practices by providers.

It applies to all persons or other entities who provide any of the following services to another person:

- education (including education and care);
- disability;
- care and protection of children; or
- a service prescribed by regulation.

The legislation protects the rights of all individuals in the above settings, not just those with a disability.

The influence and leadership of the Senior Practitioner will also drive cultural change across all sectors where restrictive practices may be an issue.

Purpose of this Guideline

The Senior Practitioner is required to issue Guidelines about certain matters to assist providers to understand their responsibilities in relation to restrictive practices.

Regulated restrictive practices are further defined at Appendix D of this Guideline.

Section 12(1) of the Act states that the Senior Practitioner must issue a guideline in relation to Positive Behaviour Support (PBS) Plans, including:

- the content of plans;
- the preparation of plans;
- the assessment and approval of plans;
- the review and amendment of plans; and
- notifying the Senior Practitioner about the use of restrictive practices under plans.

While the Act prescribes the obligations and requirements of service providers, the *Positive Behaviour Support Plan Guideline* has been issued as a further point of reference. It defines key terms and steps through the PBS planning process, as well as optional templates that may assist providers to write a PBS Plan.

What's new in this version of the Guideline?

This Guideline has been updated to reflect a number of amendments to the Senior Practitioner Act 2018, which came into effect on 15 June 2019.

The legislative changes ensure alignment with the National Disability Insurance Scheme (NDIS) National Quality and Safeguarding Framework and support a culture of openness of reporting and disclosure to the Senior Practitioner. The amendments include:

- changing the definition of ‘chemical restraint’ to align with the NDIS Quality and Safeguarding Framework;
- addressing the use of a restrictive practice outside of a registered positive behaviour support plan where use of the restrictive practice is reasonably believed to be necessary to avoid imminent harm;
- amending applicable penalties to make allowance for the use of a restrictive practice outside of a registered positive behaviour support plan in the circumstances detailed above;
- extending the timeframe for the commencement of offences from 1 July 2019 to 1 July 2020; and
- adding the NDIS National Quality and Safeguards Commission as an entity to which the Senior Practitioner may provide information.

Service provider responsibilities under the Act

To ensure restrictive practices are used in accordance with a registered PBS Plan for the person

Under Section 10 of the Act, a provider must not use a restrictive practice on a person other than in accordance with a PBS Plan that has been approved by a registered PBS Panel (see Section 14) and registered by the Senior Practitioner (see Section 15).

A restrictive practice can only be used outside of a registered PBS Plan in certain emergency situations, when the provider or relevant person for the provider believes on reasonable grounds that is necessary to avoid imminent harm to the person or others (Section 10(b)).

This Guideline provides a step-by-step process for PBS Plans that include a restrictive practice.

To have a plan approved by a registered Positive Behaviour Support (PBS) Panel

This Guideline provides detailed guidance for service providers about the principles of positive behaviour support and how to write a PBS Plan.

The role of PBS Panels, the process for having Plans approved, and information on how to register a Panel are matters described in *Positive Behaviour Support Panel Guideline*, issued under Section 21(1) of the Act.

To report all uses of a restrictive practice to the Senior Practitioner

Under the Act, service providers must report all uses of a restrictive practice to the Senior Practitioner, whether there is a PBS Plan in place for the person or not. The functions and powers of the Senior Practitioner will be supported by the collection and reporting of key data on the use of restrictive practices over time.

Principles of Positive Behaviour Support

The Guideline outlines the principles of Positive Behaviour Support (PBS). PBS is the key strategy identified in the Act to guide the development of a Plan to address behaviours of concern in the least restrictive way possible.

The Guideline highlights the following key elements of PBS:

- **Person-centred:** ensuring the person's (or child's) life goals are at the centre of the process.
- **a Partnership:** collaborating with the person and all key stakeholders shapes the process of change.
- **Planned:** creating a clear document to ensure shared understandings and accountability.
- **Positive:** focusing on preventative, rather than reactive, strategies.
- **Proactive:** placing the responsibility for changing behaviour on both the person and their supporters.
- **Purposeful:** using a functional behavioural assessment approach to identify the reason for the behaviour.
- **Process driven:** cycling iteratively through a process of identifying, assessing, planning, implementing, monitoring and evaluating data.

The intent of this Guideline is not to prescribe the use of a particular PBS Plan template. However, this Guideline outlines the key components of PBS Plans that meet the objects and requirements of the Act.

How to write a PBS Plan (Appendix A)

Appendix A is to assist providers to develop PBS plans in accordance with the Act. It provides further detail in relation to each of the steps described, including general guidance on developing a PBS Plan (Appendix A1) and guidance on how to complete each section of an example PBS Plan template (Appendices A2-A8).

Providers may opt to use these resources to inform staff professional development or as a template for whole service provider approaches.

PBS Plan example template (Appendix B)

The intent of this Guideline is not to prescribe the use of a particular PBS Plan template. Appendix B is presented as a good example of a PBS Plan template that meets legislative requirements. Use of this template is optional.

PBS Panel Application (Appendix C)

Appendix C presents a copy of the form that service providers must use to apply to have a PBS Plan considered for approval by a PBS Panel.