

**NDS Queensland Discussion Paper:
Restrictive Practice Legislation and
Chemical Restraint Policy Framework**



October 2008

There have been no concerns raised with NDS by Non-government organisations about the need for accountability, nor the need for vulnerable people to be safeguarded from abuse and neglect.

Service providers have embraced the Disability Sector Quality System and overall, the level of trust between government and non-govt agencies has been fairly high as the Disability Sector Quality System was clear, consistent, and assumed the best intent of organisations and individuals involved in service delivery.

The recent legislative amendments and policy development that has occurred in response to the Carter Inquiry into Challenging Behaviour has been less favourably received. The framework is punitive and assumes the worst intent of organisations and individuals involved in service delivery. Specialised support and expertise is funded and located within government, as is the authority for critical decision making and review of practice. Legislative amendments and chemical restraint policies (the policy framework is still a work in progress) shift all risk, including those resulting from inadequate funding arrangements, away from govt and onto the non-government agency, with no corresponding shift or promise of resources.

In an environment where it is increasingly difficult to attract and retain appropriately qualified staff and voluntary boards, this shift of control and authority to government and the shift of risk to non-government agencies requires further examination and consideration, independent of the vested interests of government and the service delivery system itself.

A compliance framework that genuinely safeguards vulnerable people is one that provides clear reference points for behaviour and decision making at both organisational and support worker levels – a system that supports good practice.

A system that is burdensome, both in direct cost and attention taken away from direct service provision does not support good practice.

A system that is perceived as valuing compliance over quality outcomes for people is in danger of promoting risk aversion and a lessening of quality outcomes for people.

Key Issues

1. Requirements relating to containment and seclusion

a. Role of broader environmental context in which challenging behaviour occurs, i.e. inappropriate living and co-tenancy arrangements which occur as a result of inadequate funding for disability services

Recommendation: renegotiation of living arrangements e.g. co-tenancy arrangements where this is known to cause and/or exacerbate challenging behaviour

b. The additional costs to non-govt organisations associated with the complex processes of obtaining, finalising then implementing positive behaviour support plans i.e. additional hours for coordinators seeking, scheduling, briefing, supervising then following up “suitably qualified” people to assess and approve plans. The existing arrangements for coordination hours i.e. 2.5 hrs per week per person is substantially inadequate

Recommendation: the provision of contingency funding to the service to accommodate additional coordination hours.

2. Requirements relating to third party certification (Disability Sector Quality System or ISO9000 depending on service type)

(a) The additional costs to non-govt agencies associated with ensuring compliance with new legislation and policy framework i.e. direct costs associated with internal review, medication reviews, and external audits (over and above the current DSQS audit support grants).

Recommendation: NDS to quantify and report quarterly on the impact (direct and indirect costs) of restrictive practice amendments to the legislation and associated chemical restraint policy framework, with the purpose of informing DSQ of additional resources required.

(b) Additional direct costs to non-government agencies to train and supervise staff – not only those staff directly working with individuals with challenging behaviour but staff across their organisation.

Recommendations: That NDS seek to establish an MOU with the Centre of Excellence to ensure NGOs are informing the roll out of training and support with regard to timing, content and relevance. That ngo funding arrangements reflect additional training and supervision requirements.

3. The need for a credible, independent mechanism for service providers to raise and gain resolution of matters relating to the quality and ethics of implementing positive behaviour support plans developed through the system. Given the level of risk carried by ngo's (both at an organisational and individual staff member level), this is critical.

Recommendation: NDS, in partnership with other non-government stakeholders, establish an independent advisory panel to provide ethical oversight and support to non-government agencies with regard to the quality and integrity of behaviour support strategies, and the policies and procedures developed by organisations in response to the new requirements.

4. Potential conflicts between the new legislative amendments, BOLA legislation, and the UN Convention on the Human Rights of People with Disabilities.

Recommendation: Publication of a matrix of key legislative requirements impacting on supported accommodation service delivery by government and non-government agencies in partnership to identify and address inconsistencies.

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