

<b>Policy 19</b>	<b>PROTECTION AND PROMOTION OF HUMAN RIGHTS/ZERO TOLERANCE OF ABUSE</b>
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<b>Record of policy development</b>		
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<p><b>Policy purpose:</b> Coastlink ensures that client and/or their representative, participates in the development of a support plan that is based on assessed needs and is provided with the care and/or support described in their plan.</p> <p><b>Policy:</b> COASTLINK is committed to developing an organisational culture that supports the legal and human rights of clients and ensures they are able to exercise those rights as outlined in relevant legislation including the:</p> <ul style="list-style-type: none"> <li>• Age Discrimination Act 2004</li> <li>• Australian Human Rights Commission Act 1986</li> <li>• Disability Discrimination Act 1992</li> <li>• Racial Discrimination Act 1975</li> <li>• Sex Discrimination Act 1984</li> <li>• NDIS Code of Conduct Rules 2018</li> </ul> <p>COASTLINK understands and supports the principles of fairness and human rights in all aspects of service delivery. It will ensure that services are provided in an environment free from discrimination, financial, sexual, physical and emotional abuse, neglect or exploitation.</p>
<b>Relevant Standards</b>
<b>NDIS Practice Standards:</b>
<ol style="list-style-type: none"> <li>1. Rights and Responsibilities</li> <li>2. Provider Governance and Operational Management</li> <li>3. Provision of Supports</li> <li>4. Support Provision Environment</li> <li>5. High Intensity Daily Personal Activities</li> <li>6. Specialist Behaviour Support</li> <li>7. Implementing Behaviour Support Plans</li> <li>8. Early Childhood Supports</li> </ol>

9. Specialised Support Coordination
10. Specialist Disability Accommodation

#### **Aged Care Quality Standards**

- |   |                                       |
|---|---------------------------------------|
| 1. Consumer dignity and choice                    | 5. Organisation’s service environment |
| 2. Ongoing assessment and planning with consumers | 6. Feedback and complaints            |
| 3. Personal care and clinical care                | 7. Human resources                    |
| 4. Services and supports for daily living         | 8. Organisational governance          |

#### **Related Legislation & References**

[Aged Care Act 1997 \(Cth\), Schedule 2 User Rights Principles 2014. Charter of Rights and Responsibilities – Home Care](#)

[Aged Care Quality & Safety Commission](#)

[Better Practice Guide to Complaints Handling in Aged Care Services \(2013\)](#)

[Children and Young Persons \(Care and Protection\) Act 1998](#)

[Children and Young Persons \(Care and Protection\) Regulation 2012](#)

[Commonwealth Home Support Programme Guidelines](#)

[Commonwealth Privacy Act 1988](#)

[National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#)

[National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#)

[National Disability Insurance Scheme \(Practice Standards—Worker Screening\) Rules 2018](#)

[National Disability Insurance Scheme Act 2013](#)

[National Disability Insurance Scheme Code of Conduct](#)

[NDIS Quality and Safeguards Commission](#)

[Ombudsman Act 1976](#)

[SafeWork NSW](#)

[United Nations Convention on the Rights of Persons with Disabilities](#)

[Work Health and Safety Act 2011](#)

#### **Related Procedures**

Responsibilities and delegations	
<b>This policy applies to:</b> Clients Employees/volunteers	<b>It will be distributed through:</b> Client handbook, Coastlink website, Coastlink brochures Employee/volunteer handbook, shared drive <a href="#">hyperlink</a>
<b>Policy approval</b>	Board

Definitions
Refer to Definitions list at front of Coastlink Policy and Procedure Manual

## PROTECTION AND PROMOTION OF HUMAN RIGHTS/ZERO TOLERANCE OF ABUSE PROCEDURE OVERVIEW



## **PROTECTION AND PROMOTION OF HUMAN RIGHTS/ZERO TOLERANCE OF ABUSE PROCEDURE**

### 19.1 Purpose of this Policy

The purpose of this policy is to set out how COASTLINK will act to prevent abuse and neglect and to uphold the legal and human rights of service recipients.

### 19.2. Objectives

- 19.2.1 to acknowledge that people with disability and those who are frail aged have the same human rights as other members of the community, and that COASTLINK has a responsibility to facilitate the exercise of those rights;
- 19.2.2 to treat each client with respect and dignity and to support each individual to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports and services;
- 19.2.3 to ensure that COASTLINK's policies and procedures manual contains policies to protect and enhance clients' human rights;
- 19.2.4 to promote the independence and social and economic inclusion of people with disability and frail older people;
- 19.2.5 to ensure safety and security for all clients and freedom from abuse and neglect when at COASTLINK.
- 19.2.6 to support, to the extent reasonably practicable, the purposes and principles of the United Nations Convention on the Rights of Persons with Disabilities and to ensure people who are ageing, who may be subject to abuse, are protected as required by the Aged Care Act.

### 19.3 COASTLINK will:

- 19.3.1 Uphold the legal and human rights of all clients;
- 19.3.2 Take all practical and appropriate steps to prevent abuse and neglect of its clients;
- 19.3.3 Uphold the Principles and Objectives enshrined in the NSW Disability Inclusion Bill 2014;
- 19.3.4 Ensure safeguards are in place to prevent abuse or neglect from occurring by:
  - Providing information to clients in appropriate formats on rights and on protection against abuse;
  - Providing information and awareness training for staff on the vulnerability to abuse and neglect of people with a disability;

- Including clients in decision-making processes for the development of policies and procedures;
- Ensure that staff have clear guidelines on how to deal with allegations of abuse and neglect (see Zero Tolerance section of this policy).
- Safeguarding improves safety and wellbeing, while imposing the least possible restriction on an individual and their choices.
- Safeguards are responsive to the individual's circumstance and are relevant to the risk within these circumstances. These factors may change over time.
- Every person should be supported to develop their individual skills and capacity and be involved in determining their own safeguards.
- People who need and want support to make decisions will be supported to exercise choice.
- Safeguards can be informal or formal and work at an individual and/or organisational level.

## 19.4 CODE OF CONDUCT

In accordance with the National Disability Insurance Scheme (Code of Conduct) Rules 2018, in providing supports or services to people with a disability, COASTLINK requires all staff and volunteers to adhere to a Code of Conduct that includes:

- (a) act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions; and
- (b) respect the privacy of people with disability; and
- (c) provide supports and services in a safe and competent manner, with care and skill; and
- (d) act with integrity, honesty and transparency; and
- (e) promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability; and
- (f) take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability; and
- (g) take all reasonable steps to prevent and respond to sexual misconduct.

### 19.4.2 NEGLECT

Neglect is the failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care. This may include, but is not limited to:

- **Physical Neglect:** failure to provide adequate food, shelter, clothing, protection, supervision and medical and dental care, or to place persons at undue risk through unsafe environments or practices.
- **Passive Neglect:** a caregiver's failure to provide or willful withholding of, the necessities of life, including but not limited to food, clothing, shelter or medical care.
- **Willful Deprivation:** willfully denying a person who, because of age, health or disability, requires medication, medical care, shelter, food, therapeutic device or other physical assistance, and thereby exposing that person to risk of physical, mental or emotional harm.

- **Emotional Neglect:** the failure to provide the nurturance or stimulation needed for the social, intellectual and emotional growth or well being of an adult or child.

## 19.5 Performance Standards

19.5.1 All employees will receive information and support that acts to prevent abuse and neglect and to uphold their legal and human rights according to the procedures documented in the Employee Employment Manual under the sections called, Workplace Health & Safety, Employee Training and Development and Employee Codes of Conduct.

All employees will:

- receive support and assistance when a statement or report about an allegation of abuse, neglect or a violation of human rights is either witnessed or perceived to have occurred according to the procedures outlined in Zero Tolerance section below;
- have the opportunity at regular monthly program meetings and the Continuous Improvement Committee to have input into formulation of policies and procedures and discuss human rights and zero tolerance issues;
- participate in training to help prevent abuse and neglect and promote all clients legal and human rights;

## 19.6 Zero Tolerance

19.6.1 COASTLINK is committed to promoting and assuring the health, safety and security of our clients. Therefore, COASTLINK has adopted a “zero tolerance” policy regarding abuse or neglect of clients, as well as failure to report suspected abuse or neglect.

19.6.2 Client abuse or neglect committed by employees, volunteers or contractors will not be tolerated.

## 19.7. Response Procedures to Reports of Abuse

19.7.1. A report of abuse may be received by any staff member from:

- A client verbally or in writing or any other communication system;
- Another client, member of staff or any other person who may witness abuse of a client and make a report; or
- A member of staff who believes a client is being abused.

## 19.8 Emergency Response

19.8.1 Staff present at the time of an assault should take appropriate action to maintain their own safety and that of clients and staff;

19.8.2 Staff at the scene must ensure that the alleged victim is protected from any further harm or contact with the person who is the alleged offender;

19.8.3 Staff at the scene must notify the doctor or ambulance if the client or any other person is injured;

19.8.4 Staff at the scene must immediately advise the Operations Manager at the office or on the emergency line of the incident;

19.8.5 The Operations Manager will notify the CEO immediately of the incident;

19.8.6 The Operations Manager must ensure that all necessary documentation has been completed and forwarded to the CEO;

19.8.7 Staff at the scene must immediately notify the client’s carer/family of the incident;

- 19.8.8 Staff at the scene, or the senior manager contacted, must call the police if the client has been physically or sexually assaulted or dies as a result of the assault.
- 19.8.9 Staff at the scene or the Operations Manager must also contact the local sexual assault service if a client has been sexually assaulted.

#### 19.9 Protecting evidence for the police

- 19.9.1 Staff at the scene should try to ensure that any evidence required by police remains undisturbed;
- 19.9.2 If possible isolate the area where the incident occurred and do not allow entry until the police arrive;
- 19.9.3 Make the client as comfortable as possible and avoid questioning the victim and other clients about the incident to reduce confusion around the events;
- 19.9.4 If a sexual assault is alleged, try to delay showering until the police arrive if the alleged victim is not distressed by the delay;
- 19.9.1 Try to preserve the victim's clothing as evidence following an assault of any kind.

#### 19.10 Abuse by a member of staff

- 19.10.1 Any actual or suspected sexual assault, physical assault or other assault must be reported to the NSW Police;
- 19.10.1 If it is witnessed or suspected that a member of staff has abused a client/s, the Operations Manager must be informed immediately;
- 19.10.2 If it is suspected that the supervisor, coordinator or Operations Manager is involved in the abuse, the matter must be reported to the CEO immediately;
- 19.10.3 Where management reasonably believes that a member of staff is the source of abuse of a client, the matter must be referred to the police;
- 19.10.5 All incidents of abuse to a child or young person under 18 years of age by a staff member must be reported to the Ombudsman and the Office of the Children's Guardian in line with policy 7B.7.1
- 19.10.4 The member of staff who is reasonably suspected of abusing a client must not be permitted to have any unsupervised contact with the client and may be stood down until the matter is resolved;
- 19.10.5 Any allegations of abuse by a member of staff towards a client will be the subject of internal investigations by COASTLINK and the police;
- 19.10.6 If it is found that a member of staff has abused a client, the employee will be dismissed in addition to any action by police.

#### 19.11 Abuse by another client

- 19.11.1 When one client is a suspected, or known, source of abuse towards another client, staff must ensure that the rights of both clients are observed during the response and reporting processes;
- 19.11.2 Carers and families will be advised of any incident immediately;
- 19.11.3 Staff on the scene will contact the Operations Manager immediately. The Operations Manager will immediately notify the CEO;
- 19.11.4 Incidents of abuse to a child or young person under 18 years of age by another client will be reported to the Ombudsman and the Office of the Children's Guardian in line with policy 7B.7.1

- 19.11.5 The Operations Manager will facilitate access to appropriate support for both clients, their families and staff and ensure they have information about available services;
- 19.11.6 If the Operations Manager reasonably believes that the incident between two clients is abuse or assault, the matter must be referred to the police.
- 19.11.7 **EXCEPTIONS**  
A report to the Police about an assault may not be required if any of the following conditions exist:
- An incident which would usually be classed as an assault is caused by a person with an intellectual disability who lacks understanding of the behaviour; and
  - Physical contact between clients (e.g. pushing or striking), that are appropriate for resolution using behaviour management strategies, are reported internally.

**If in doubt about reporting abuse, contact the Police for advice.**

## 19.12 Restrictive Practices Policy

### 19.12.1 Intent

To provide COASTLINK employees and management with a framework to comply with NDIS Quality and Safeguarding Framework, the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 and the NSW Restrictive Practices Authorisation Policy (and Procedures) put in place the protect people with disability and being provided supports through NDIS arrangements.

### 19.12.2 Scope

This policy applies to all clients receiving NDIS funded supports by COASTLINK. It impacts only on clients who require *Restrictive Practices* to be in place to receive supports from COASTLINK.

COASTLINK does not develop Behaviour Support plans identifying restrictive practices, but will seek or receive plans from those professionals qualified to do so.

This policy provides guidelines on internal processes that must be followed to ensure legislative requirements pertaining to the management, monitoring, client support and reporting of restrictive practices are followed.

COASTLINK continually works towards the reduction and elimination of restrictive practices. However, COASTLINK recognises that the use of restrictive practices may be necessary under a worker's duty of care or to preserve the rights and safety of the client and others. Any use of restrictive practices will be:

- The least restrictive option;
- Used for the least amount of time possible;
- Used only as a last resort; and
- Used only to prevent harm to the client or others.

Restrictive practices will not be used:



- As a punishment; or
- For the convenience of the worker.

COASTLINK will continually evaluate and review its use of restrictive practices to inform improvement activities.

### 19.12.3 Positive behaviour support

COASTLINK complies with the NDIS Quality and Safeguarding Framework and the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 which outlines the requirements for the delivery of behaviour supports. Behaviour supports are provided in accordance with the NDIS Commission's requirements for positive behaviour support and the *Behaviour Support Competency Framework* guiding principles.

Restrictive practices are only included in a participant's behaviour support plan in accordance with relevant Commonwealth legislation and/or policy requirements and relevant state or territory legislation and/or policy requirements for obtaining authorisation (however described) for the use of any restrictive practices.

Behaviour support delivered to NDIS participants by COASTLINK promote the quality of life, and uphold the dignity and safeguard the rights of the person. They reflect authentic consideration of the needs of the person with disability and their family, with consideration of any particular needs for participants from aboriginal backgrounds, or from culturally and linguistically diverse communities. Each client and, with the client's consent, their support network, their providers implementing Behaviour Support plans, and other relevant stakeholders are engaged in:

- discussions about the need for restrictive practices and they understand the risks associated with their use
- Consideration of alternatives to the use of restrictive practices are promoted as part of these discussions
- implementing and reviewing behaviour support plans
- the development of behaviour support strategies that are proportionate to the risk of harm to the participant or others.

Each client's behaviour support plan or interim behaviour support plan provided to COASTLINK is to include strategies that will lead to the reduction and elimination of any restrictive practices included in the plan.

COASTLINK staff are to monitor and report on the implementation of a behaviour support plan, evaluating the effectiveness of current approaches aimed at reducing and eliminating restrictive practices. Any barriers or concerns in implementing a behaviour support plan, in line with its intended use, should be immediately reported to the Operations Manager. The external Behaviour Support clinician who has developed the plan should be contacted for further advice if there are any significant changes or considerations that may impact on the plan.

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#### 19.12.4 Behaviours of concern - definition

Behaviours of concern are those that are of such intensity, frequency or duration that the physical safety of the person or others is placed in serious jeopardy, or that are likely to seriously limit the person's use of, or access to, services or community facilities.

Behaviours of concern are also known as challenging behaviours.

Behaviours of concern should be understood in the social context in which they occur. They should not automatically be interpreted as an expression of deviance or abnormality in an individual.

#### 19.12.5 Using restrictive practices in response to behaviours of concern

Where able, COASTLINK will manage behaviours of concern by implementing positive behaviour support strategies.

COASTLINK will try to eliminate the use of restrictive practices by understanding and responding to the issues underlying behaviours of concern.

In limited circumstances, and as a last resort, COASTLINK will use a restrictive practice as part of a behaviour support plan (**BSP**), to address a behaviour that poses a risk of harm to the person or others.

In situations where a restrictive practice is deemed necessary as part of a BSP, COASTLINK will comply with the approval, authorisation and monitoring requirements of the NDIS and NSW Government.

This procedural guide sets out the authorisation process that COASTLINK follows prior to the use of a restrictive practice. In some cases it is acknowledged that regulated restrictive interventions may be used as last resort or an interim measure to reduce risk to individuals, while longer-term behaviour support measures are planned, developed and implemented.

#### 19.12.6 Regulated Restrictive Practices

A restrictive practice is any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability.

Regulated restrictive practices in behaviour support plans provided to COASTLINK must comply with the conditions prescribed in the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*.

The NDIS (Restrictive Practices and Behaviour Support) Rules 2018 set out five categories of restrictive practices, which may be used in the context of behaviour support, if authorised using the mechanism set out in the RPA policy and this procedural guide.

These categories are referred to as 'regulated restrictive practices' (RRPs).

Table 1 below provides further detail in relation to the five categories of RRP.

RRP Category	NDIS Rules definition	Additional notes
<b>Seclusion</b>	The sole confinement of a person with disability in a room or physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.	<ul style="list-style-type: none"> <li>• Seclusion is usually used as a crisis response.</li> <li>• This RRP can only be authorised for persons aged 18 and over.</li> <li>• Seclusion incorporates the category of restricted practice formally known in NSW as 'exclusionary time-outs'.</li> </ul>
<b>Chemical Restraint</b>	<p>The use of medication or chemical substance for the primary purpose of influencing a person's behaviour.</p> <p>It <u>does not include</u> the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or physical condition</p>	<p>The use of medication on either a routine or PRN basis may constitute chemical restraint.</p> <p>Chemical restraint may include psychoactive medication and androgen-reducing medication, where these are used to influence behaviour.</p> <p>The use of a medication to address behaviour should be considered in the context of the primary purpose of its prescription, as it is not the medication itself that requires authorisation but its use as a form of chemical restraint. It is possible that some medications may either be, or not be, chemical restraint, depending on the intended benefit from their use. Common <i>examples</i> to assist in determining if a medication would require authorisation as a chemical restraint are:</p> <ul style="list-style-type: none"> <li>• Diazepam prescribed (other than in relation to a diagnosed anxiety disorder) to assist a person to remain calm throughout the day to minimise the likelihood of target behaviours: the primary purpose is to address behaviours of concern. This use meets the definition of chemical restraint and requires authorisation.</li> </ul>

		<ul style="list-style-type: none"> <li>• Diazepam prescribed and used as a muscle relaxant after seizure activity: the primary purpose is to treat physical illness. This use does not meet the definition of chemical restraint and authorisation is not required.</li> <li>• Sodium valproate prescribed to treat or minimise seizure activity: the primary purpose is to treat a neurological condition. This use does not meet the definition of chemical restraint, and authorisation is not required.</li> <li>• Sodium valproate prescribed to stabilise a person’s mood in order to decrease the likelihood of target behaviours occurring: the primary purpose is to influence the person’s behaviour. This use meets the definition of chemical restraint, and requires authorisation.</li> </ul>
<p><b>Mechanical Restraint</b></p>	<p>The use of a device to prevent, restrict, or subdue a person’s movement for the primary purpose of</p>	<p>As with chemical restraint, it is the purpose for which a mechanical restraint is used that determines whether the use is restricted. For example, the following uses would not meet the definition of</p>

RRP Category	NDIS Rules definition	Additional notes
	<p>influencing a person's behaviour. It <u>does not include</u> the use of devices for therapeutic or non-behavioural purposes.</p>	<p>mechanical restraint:</p> <ul style="list-style-type: none"> <li>• Use of a device to assist a person with functional activities as part of occupational therapy, such as the use of a safety harness in a wheelchair for postural support as prescribed by an occupational therapist</li> <li>• Use of a device to allow for safe transportation</li> </ul>
<b>Physical Restraint</b>	<p>The use of action or physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. It <u>does not include</u> the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person.</p>	<p>Section 158 of the <b><i>Children and Young Persons (Care and Protection) Act 1998</i></b> includes circumstances where physical restraint may be used and the extent, and limitations which apply under these circumstances.</p> <p>Section 45 of the <b><i>Children and Young Persons (Care and Protection) Regulation 2012</i></b> identifies requirements pertaining to the procedures to be used in respect of the application of physical restraint, reporting, and post practice supports to be provided.</p>
<b>Environmental Restraint</b>	<p>Restricting a person's free access to all parts of their environment, including items and activities.</p>	<p>Environmental restraint incorporates the categories of restricted practice formally known in NSW as 'response cost' and 'restricted access'.</p> <p>Examples of environmental restraint include:</p> <ul style="list-style-type: none"> <li>• Withholding personal items such as a mobile phone, computer game or TV program in response to behaviour</li> <li>• Using physical barriers, such as locks, to limit access to certain items</li> <li>• Using enforceable limits or boundaries</li> <li>• Using a level of supervision that is invasive and likely to prevent a person from accessing parts of their environment.</li> </ul>

### **19.12.7 Prohibited Practices**

Prohibited means that the practice is not to be used. Some practices will never be authorised and must never be used as they are considered unlawful or unethical.

Allegations or suspicions of prohibited practices are considered reportable incidents and will be managed and reported in line with the requirements of the NDIS Incident Management and Reportable Incidents Rules (2018).

Prohibited practices include those that constitute assault and wrongful imprisonment. Such practices are criminal offences or civil wrongs. Prohibited practices also include those that may not be unlawful but are unethical and violate the United Nations Convention on the Rights of Persons with Disabilities.

### **19.12.8 Crisis response to a critical incident**

A crisis response may be required in situations where there is a clear and immediate risk of harm linked to behaviour(s), specifically new or a previously unexperienced degree of severity in the escalation of behaviour, and there is no interim or comprehensive Behaviour Support Plan in place.

In such circumstances immediate intervention may be considered necessary under COASTLINK's duty of care in order to manage the risk. This is referred to as a crisis response. The crisis response will involve the minimum amount of restriction or force necessary, the least intrusion and be applied only for as long as is necessary to manage the risk. A crisis response is not to be used as a de facto routine behaviour support strategy.

Where such responses include the use of a regulated restrictive practice, the use is unauthorised and constitutes a reportable incident. COASTLINK may not need to use the practice again, however where it is anticipated it will be needed again, it must be included in a comprehensive or interim behaviour support plan and authorisation sought.

Until authorisation is obtained it remains an unauthorised restrictive practice. Each occasion where the practice is used constitutes a reportable incident.

### **19.12.9 Minimum requirements for the use of RRP**

The minimum requirements for use of RRP must:

- be clearly identified in the BSP
- be authorised in accordance with NSW processes
- be used only as a last resort in response to risk of harm to the person with disability or others, and after the provider has explored and applied evidence-based, person-centred and proactive strategies
- be the least restrictive response possible in the circumstances to ensure the safety of the person or others

- reduce the risk of harm to the person with disability or others
- be in proportion to the potential negative consequence or risk of harm, and
- be used for the shortest possible time to ensure the safety of the person with disability or others.

In addition, the person with disability to whom the BSP applies must be given opportunities to participate in community activities and develop new skills that have the potential to reduce or eliminate the need for regulated restrictive practices in the future.

#### **19.12.10 Guiding principals**

COASTLINK considers the following set of guiding principals in deciding whether or not an RRP is appropriate.

An RRP is only appropriate if it:

- is consistent with a sufficiently comprehensive assessment and reflective of sound evidence-based reasoning, and a contemporary approach to positive behaviour support
- is part of an integrated plan for behaviour and lifestyle support, which is clearly aligned to the assessment
- will enable the participant in regard to enhancement of their quality of life
- represents the least restrictive of alternative options which have an adequate evidence base for reducing or eliminating the behaviour and improving personal safety and/or reduced predictable risk to others
- is appropriate and is reasonably available to the participant.
- can be effectively and reliably implemented in the identified contexts, and
- will be monitored in relation to implementation, review and evaluation for the purposes of safeguarding and timely reduction and removal as applicable.

#### **19.12.11 Three requirements for authorisation of RRP**

Restrictive practices authorisation is endorsement for identified restrictive practices to be implemented with a certain individual, in a particular service setting, by associated staff and under clearly defined circumstances.

All RRP must be authorised before being used at COASTLINK. There are three requirements for authorisation:

1. a BSP is developed, and
2. informed consent is obtained by the participant or their guardian, and
3. authorisation is approved by the COASTLINK RPA Panel.

### **19.12.12 Behaviour Support Plan**

BSP's used by COASTLINK will ensure that each participant's quality of life is maintained and improved by tailored, using evidence-informed **BSPs** that are responsive to the participant's needs and developed by a qualified practitioner.

**BSP** will meet the requirements of the NDIS and

- be developed in consultation with the person with a disability, their support network and implementing provider
- be based on a comprehensive biopsychosocial assessment including a functional behavioural assessment
- contain contemporary evidence -based behavioural strategies including environmental adjustments to constructively reduce behaviours of concern
- be aimed at reducing and eliminating restrictive practices
- be developed in a form approved by the Commissioner and lodged with the Commission

Consent must be obtained from the participant, or their guardian for the BSP.

Consent refers to the permission given by a person or legally appointed guardian (with authority to consent to restrictive practices). For consent to be valid it must be voluntary, informed, specific and current.

#### **Voluntary consent**

A person must be free to exercise genuine choice about whether to give or withhold consent. This means they haven't been pressured or coerced into making a decision, and they have all the information they need in a format they understand. Voluntary consent requires that the person is not affected by medications, other drugs or alcohol when making the decision.

#### **Informed consent**

A person's capacity to make decisions will vary depending on the type of decision or its complexity, or how the person is feeling on the day. The way information is provided to a person will also affect his or her capacity to make decisions. Choices must be offered in a way that the person understands, for example by using images or signing.

If it is required, support must be provided for the person to communicate their consent.

#### **Specific consent**

Consent must be sought for the specific restriction each time authorisation is sought.



### **Current consent**

Consent cannot be assumed to remain the same indefinitely, or as the person's circumstances change. People and guardians are entitled to change their minds and revoke consent at a later time.

### **19.12.13 Approval by RPA Panel**

COASTLINK has a properly constituted restricted practices authorization panel (**RPA Panel**). The restrictive practice authorisation panel acts as the mechanism for authorisation and review. A restrictive practice authorisation panel operates at arm's length from the contributors to the documented support plans or strategies. Its role is to evaluate the recommendations within the context of the COASTLINK's operations.

The COASTLINK RPA Panel consists of the CEO, Operations Manager, a Board Director and an external professional supplied through the Department of Family and Community Services or another authorised professional from an external organisation.

The Panel will:

- appraise the need, risk, applicability and outcome of a restrictive practice for a person with disability with reference to the person's needs, quality of life and living context
- sanction the use of restricted practices as a component of a documented BSP
- ensure that people who receive a behaviour support service are protected from exploitation, abuse, neglect, and unlawful and degrading treatment
- ensure that consent is in place for any recommendation for the use of a restrictive practice
- consider the appropriateness of a documented support plan or strategy
- ensure the appropriate documentation is available and contains information that is sufficiently evidence-based to justify the strategies being requested, and
- ensure the timely reduction and cessation of restrictive practices.

### **19.12.14 RPA Panel processes**

#### *19.12.14.1 Submission and approval process*

Figure 1 below sets out the process for restrictive practices with the following requirements being met:

- Requests for RPA are submitted via the NSW (FACS) RPA system by COASTLINK or the Behaviour Support Practitioner.
- Decisions of the RPA Panel are recorded in a formal Outcomes Summary on the NSW (FACS) RPA system.

- The RPA panel comes to a decision by consensus based on the documented application and the information supplied by the presenting applicant. The decision must be unanimous.
- The discussion and determination centres on the justification for the proposed strategy, alternatives, and risks / benefits to the NDIS participant and those around the person.
- An RPA panel will have a regular schedule to enable
- orderly consideration and progressing of Restrictive Practice applications and
- regular monitoring, review and reporting of restrictive practices in accord with the requirements set out by the Commission.
- COASTLINK maintains a register to track authorisation validity and prompt timely re-submission for renewal of authorisation.

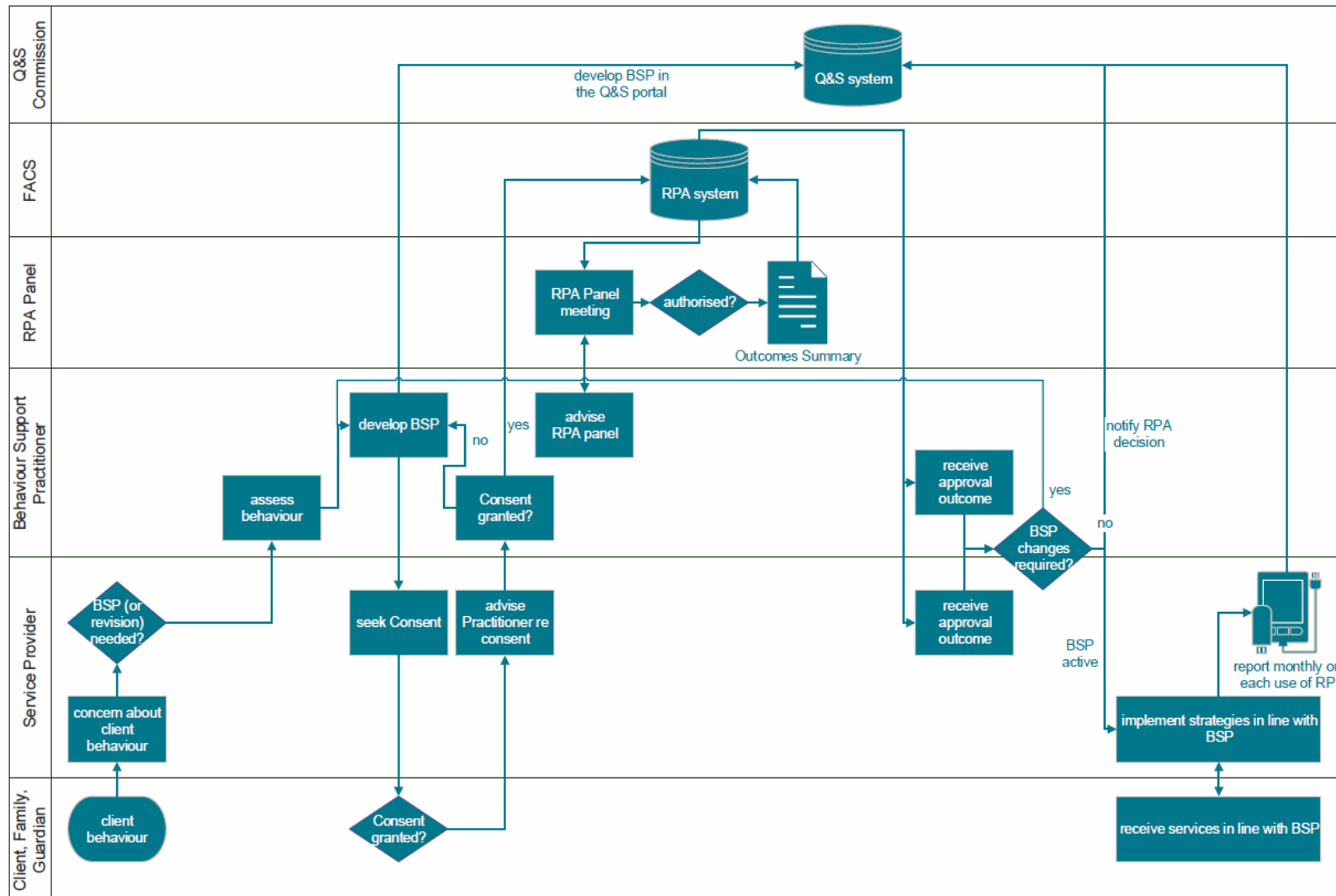


Table 2

### 19.12.15 Information and evidence submitted to the RPA Panel

The RPA Panel will need:

- A BSP prepared by a registered Behaviour Support Practitioner, including information about any proposed restrictive practice (this person must be independent of Coastlink)
- A functional behaviour analysis
- Evidence of consent to the use of any proposed restrictive practice
- Information about previous and current use of any restrictive practice
- Supporting documentation demonstrating that Behaviour Support strategies are appropriate to minimise or eliminate the use of restrictive practices.
- Evidence to demonstrate the existence of adequate governance arrangements, for example, information on arrangements for reporting, supervision, staff training and monitoring.
- Evidence to demonstrate compliance with any conditions imposed on a prior authorisation.

The Behaviour Support Practitioner who conducted the assessment and prepared the BSP, or a similarly knowledgeable person, must participate in the RPA Panel meeting to answer questions from the Panel.

The submission to the NSW (FACS) RPA system will include the following information to provide an overview of the practices that are the focus of the submission. Supporting documentation is required to provide the detail on which a decision to give or decline authorisation will be based.

The documents supplied must provide:

- a clear detailed description of the proposed implementation of the practice
- the expected outcomes from using the practice
- the rationale for the use of the proposed which includes why positive practices alone are unable to achieve the intended outcome
- evidence of less restrictive options having been attempted
- the roles and responsibilities of those implementing the practice in the context of its use
- evidence of training those implementing the practice
- the anticipated frequency of use and how its use will be monitored (formal data collection procedure and the schedule of its review)
- fade-out strategies.

### 19.12.16 Reporting and Authorisation Responsibilities

- The CEO and Compliance Officer are responsible for ensuring all registration activities are complied with. This includes but is not limited to registration with the Family and Community Services Restrictive Practice Authorisation System (FACSRPAS) and the NDIS Commission.
- The Operations Manager is responsible for ensuring all restrictive practices are reported correctly to the FACSRPAS and the NDIS Commission.
- The Operations Manager is responsible for monthly reporting to the CEO of compliance with the external reporting requirements and reporting all details of restrictive practice use to the CEO.
- The WHS Committee is responsible for reporting all corrective actions resulting from use of restrictive practices and their after event reviews to the CEO on a monthly basis.
- The CEO is responsible for reporting all use of restrictive practice use to the Board.
- The Coordinators are responsible for ensuring all incidents of restrictive practice are reported to the Operations Manager.
- Community Workers are responsible for ensuring they report every incidence of restrictive practice to their Coordinator using the ProSIMS Incident Reporting tool.

#### Incident reporting

See also Policy 5 Continuous Improvement – 5.4.3 Incident/Accident Report

If a restrictive practice is used that is not documented in the client's treatment plan, COASTLINK will record the use and report the incident to the NDIS Quality and Safeguarding Commission, as well as the client's family or advocates.

### 19.12.17 Restrictive Practice client management processes

All clients with planned use of a restrictive practice must be identified and assessed for potential use of a restrictive practice. Where a client meets the requirements of planned restrictive practice as determined in Table 1 of this policy, the Coordinator is responsible for liaising with the client, carer or Coordinator of Supports person representing the client to obtain a Behaviour Support Plan (BSP).

Once obtained, the Coordinator will liaise with the Operations Manager to coordinate a Restrictive Practices Panel for the purpose of conducting a review of the BSP, and obtaining necessary approval internally for the use of the BSP. The Coordinator is also responsible for ensuring all relevant documentation is provided to the Panel (see Section 19.12.15).

If the BSP is not approved, the Coordinator will liaise with the client or their representative to either review the BSP or to arrange supports which do not require the planned use of a Restrictive Practice (an example may be a client who only requires routine medication in the mornings or at night, who may not be allowed to attend overnight activities with COASTLINK).

The Operations Manager is responsible for ensuring registration of any approved restrictive practice with the FACS RPAS and the NDIS Commission.

The Coordinator is responsible for ensuring all staff supporting a client with a restrictive practice are trained in the BSP and reporting requirements.

### 19.13 Inconsistencies

19.13.1 If any inconsistency exists between this Policy and the reporting laws, the provisions in the reporting laws will prevail.

### 19.14 Support

19.14.1 The victim and family should be assisted to access any debriefing, counselling, legal or other support services they wish;

19.14.2 Clients and families can be referred to Victims Services NSW on 1800 633 063 to be advised of their rights and support services available to them;

19.14.3 Staff should be offered a debriefing session within 24 hours of the incident.

19.14.4 Staff can also be offered up to 2 counselling sessions with COASTLINK's EAP counselling service;

### 19.15 Privacy and confidentiality

19.15.1 All staff members who are in contact with the victim or the offender, will maintain confidentiality of information between the individuals who are directly involved in responding to the incident;

19.15.2 Confidentiality must be maintained when making a report to external agencies. Failure to do so may prejudice any subsequent investigation and cause unnecessary hurt or embarrassment to individuals.

## 19.16 Record Keeping for Restrictive Practices

19.16.1 Comprehensive and accurate records must be maintained in the interest of all parties and to ensure accountability and transparency in decision-making.

19.16.2 A detailed written report should be completed as soon as possible (within 12 hours) to ensure it is an accurate record of the incident. The report should include:

- The nature and extent of the incident;
- A description of the incident completed as soon as after the event as possible and being an exact record of the events;
- Additional reports written by other witnesses or persons present at the time the incident occurred;
- The name and contact details of all those involved, particularly in relation to decisions that are made as a result of the incident;
- The response provided to the person making the allegation;
- The date and signature of the person making the report;
- Ongoing actions required to resolve the matter;
- The outcome, knowing that the nature of the incident may mean the outcome is delayed;

Records are to be provided to the Operations Manager who has an obligation to store them in hard file and electronically in a secure location.