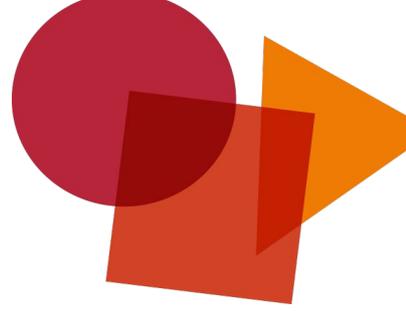


Review of state-based authorisation processes for use of restrictive interventions: A consultation for the Government of Tasmania Recommendations

Communities Tasmania Response

February 2022



Acknowledgement

The Department of Communities Tasmania extends our sincere thanks to the people with lived experience for sharing their views and experience of Tasmania's authorisation of the restrictive practice pathway; your feedback has contributed to, and influenced the recommendations made by JFA Purple Orange.

Communities Tasmania also extends our thanks and acknowledges the participation of other key stakeholders across community and government who contributed to the consultation and shaping of the recommendations.

Communities Tasmania Response

Review of state-based authorisation processes for use of restrictive interventions: A consultation for the Government of Tasmania

The Tasmanian Government has committed to prioritise the ongoing work required to achieve consistency with the draft Principles for Nationally Consistent Authorisation of Restrictive Practices¹ endorsed by Disability Ministers in July 2020.

The work undertaken by JFA Purple Orange is an integral and complementary activity that will contribute to the Review of the Tasmanian *Disability Services Act 2011* (the Act) and assist in shaping Tasmania's future restrictive practice environment.

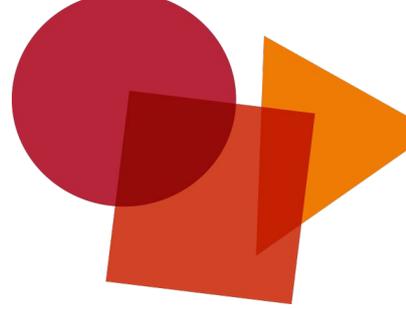
The Department of Communities Tasmania's (Communities Tasmania) response to each of the 12 recommendations contained in JFA Purple Orange's report titled *Review of state-based authorisation processes for use of restrictive interventions: A consultation for the Government of Tasmania* is outlined in the following section.

In summary Communities Tasmania has:

- Fully supported Recommendations 2, 8, 9, 11 and 12.
- Supported in-principle Recommendations 3, 4, 5, 7 and 10; and
- Partially supported Recommendations 1 and 6.

Many of the Recommendations, including the authorisation pathway, will be considered with other feedback gained through the consultation process for the Review of the Act. Similarly, the progression and implementation of many recommendations is dependent upon legislative changes.

¹ [Microsoft Word - Draft national principles_agreed by DRC \(royalcommission.gov.au\)](https://royalcommission.gov.au/draft-national-principles-agreed-by-drc)



Recommendations

JFA Purple Orange's Report includes the following 12 recommendations.

Recommendation 1

That the Tasmanian Government changes the current dual authorisation pathways to a single authorisation pathway removing the function of the Guardianship and Administration Board from the authorisation pathway.

Communities Tasmania Response

Partially Supported

- Streamlining the authorisation process to a single pathway is fully supported.
- The role and function of the Tasmanian Civil and Administrative Tribunal – Guardian Stream (formerly the Guardianship and Administration Board) within a single authorisation pathway requires further consideration.
- Implementation of this recommendation would be contingent on legislative amendment.

Recommendation 2

That the Tasmanian Government reviews the sequence of steps currently involved in seeking approvals for restrictive interventions and considers a linear pathway where the participant is supported at each step via a behaviour support plan leading to a reduced need for restrictive practices.

Communities Tasmania Response

Fully supported.

- Communities Tasmania will develop a best practice model based on the experience and successful approaches in other jurisdictions and in consideration of the Recommendations and model proposed by JFA Purple Orange.
- Consultation on the model will occur in conjunction with legislative changes arising from the Review of Tasmania's Disability Services Act.

Recommendation 3

That the Tasmanian Government reviews the role, positioning and current reporting structure of the Senior Practitioner and considers elevating this role to bring it into alignment with other jurisdictions that can be considered to use best practice designs.

Communities Tasmania Response

In-Principle Support

- The Senior Practitioner role, positioning and reporting structure will be considered in the drafting of legislation as a result of the Review of the Disability Services Act.

Recommendation 4

That the Tasmanian Government considers widening the current legislation under which the Senior Practitioner can operate in order to allow for greater consistency and oversight of restrictive practices across other appropriate settings such as educational, child protection, thereby ensuring a coordinated approach for participants accessing multiple services.

Communities Tasmania Response

In-Principle Support

- Communities Tasmania will consult with relevant Agencies to seek advice regarding the opportunities for broadening the scope of the Senior Practitioner's role and consideration of the legislative, administrative and resource impacts.

Recommendation 5

That the Tasmanian Government positions the Office of the Senior Practitioner as a leader for sector-wide education and capacity building towards a positive context for how people are supported, particularly people most at risk of a service provider using restrictive practices in their support arrangements.

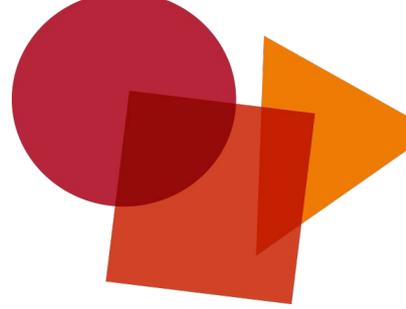
Communities Tasmania Response

In-Principle Support

- Communities Tasmania will consider the resource implications and mechanisms to ensure education and capacity building activity offered by the Office of the Senior Practitioner is complementary to activity undertaken by other relevant parties such as the NDIS Quality and Safeguards Commission and the Disability Commissioner.

Recommendation 6

That the OSP [Office of the Senior Practitioner] role and resourcing include capacity to directly provide specialist input to agencies in relation to alternatives to restrictive practices through positive behaviour support strategies, and to develop other best practice resources that assist service agencies to build capacity.



Communities Tasmania Response

Partially Supported

- The development of best practice resources to build capacity is supported.
- Responsibility for the development of behaviour support strategies rests with Behaviour Support Practitioners; Communities Tasmania is not an NDIS registered provider for the provision of specialist positive behaviour support practitioner.

Recommendation 7

That the Tasmanian Government commit to supporting the OSP to lead a human rights approach to the broader context surrounding a restrictive practices authorisation pathway, including an emphasis on authentic, strengths-based, vision-based approaches to planning that place the person's vulnerability in the context of building life chances leading to a reduced need for restrictive practices.

Communities Tasmania Response

In-Principle Support

- Communities Tasmania is supportive of a human rights approach and people with disability exercising choice and control in the planning process, including in the development of their NDIS and behaviour support plans. However, the broader aspects of this recommendation may be out of scope of the authorisation pathway for restrictive practices.

Recommendation 8

That the Tasmanian Government change the current definition of restrictive interventions and in doing so refer to the national definition of restrictive practices. We also recommend that as part of this change chemical restraint is included as a category of restrictive practices requiring approval.

Communities Tasmania Response

Fully Supported.

- Communities Tasmania will:
 - consider ways to incorporate the national restrictive practice definitions into state disability legislation that will minimise the risk of future divergence between state and national definitions; and
 - progress changes to the definition of restrictive practices in conjunction with the outcomes from the Review of Tasmania's *Disability Services Act 2011*.

Recommendation 9

That the Tasmanian Government require an NDIS Interim Behaviour Support Plan for an interim authorisation period of no longer than six months or an NDIS Behaviour Support Plan, including a complete Functional Behavioural Assessment, for an authorisation period of no longer than 12 months. That there be no authorisations of any duration without a plan; deferring instead to a strict emergency arrangement.

Communities Tasmania Response

Fully Supported

- Communities Tasmania, in consultation with the NDIS Quality and Safeguards Commission will consider the implications for the NDIS behaviour support market including the market's capacity to respond to potential increased demand.
- Should market capacity and capability not be evident Communities Tasmania may consider expanding the scope of interim authorisations to include situations where the provider is making all reasonable endeavours to engage a behaviour support practitioner, but a behaviour support plan is yet to be developed. This approach would address the unintended consequence of increased reporting of unauthorised restrictive practices for providers.
- Changes to the authorisation requirements and timeframes will require legislative amendments and would therefore be progressed in conjunction with the outcomes from the Review of Tasmania's Disability Services Act.

Recommendation 10

That the Tasmanian Government implements supported decision making frameworks within its restrictive practices authorisation processes and lead a national conversation relating to this approach.

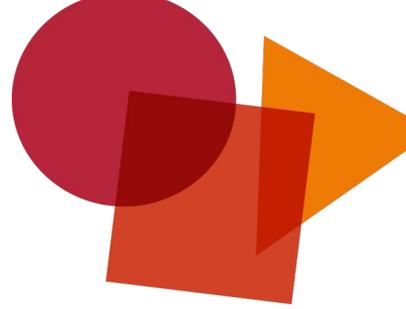
Communities Tasmania Response

In-Principle Support

- Communities Tasmania will incorporate strategies within the restrictive practice authorisation processes that ensure people with disability and their support networks are supported to make decisions about the use of restrictive practices.
- Communities Tasmania will utilise existing national forums and practice leadership meetings to discuss and share the approach with colleagues from across the nation.

Recommendation 11

That the Tasmanian Government implements a mechanism within the authorisation pathway that provides people living with disability and their families clear access to authentic, independent review processes, separate from original decision-makers.



Communities Tasmania Response

Fully Supported

- Communities Tasmania will consider the implementation of a mechanism that provides independent review processes within the development of the authorisation pathway and in conjunction with the outcomes from the Review of the *Disability Services Act 2011*.

Recommendation 12

That the Tasmanian Government continues to explore ways to establish a data capture and reporting mechanism for the conduct of restrictive practices, and that this database is curated by the OSP.

Communities Tasmania Response

Fully Supported

- Communities Tasmania will research the data capture and reporting mechanisms being used across other states and territories to determine the viability of an existing database being appropriate within the Tasmanian context.
- Although not dependent on legislative reform, progression of this recommendation is contingent on the restrictive practice authorisation pathway being determined.

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