

Determining whether to consent to an intervention and support plan concerning a person's behaviour

These applications refer to any procedure which attempts to manage or change a person's behaviour in a systematic way e.g. use of a behaviour intervention plan because of a person's challenging behaviour. Behaviour may be considered 'challenging' if it is life threatening or dangerous to the person under guardianship or others, and/or significantly restricts the person's or other's learning, or their access to services or to the community.

RELEVANT LEGISLATION:

NSW Guardianship Act 1987, Section 4 - General Principles require that the freedom of decision and freedom of action of the person should be restricted as little as possible.

POSITION STATEMENT:

The Public Guardian is committed to current best practice where behaviour intervention strategies involve positive intervention specifically designed to assist a person with 'challenging behaviours'. It is recognised that there is always a reason for behaviour. Many people with a disability use behaviour, which some may consider to be challenging, as a means of communicating something they may not have the skills to express in any other way.

A proposed intervention plan should be based on comprehensive assessment of the person's needs and of their environment. The intervention plan must therefore include a comprehensive management strategy, which includes key aspects of the person's lifestyle, environment, and skill development, which will help achieve the desired outcome. A plan should, where necessary, include a considered response to possible crisis situations.

All applications for consent to a behaviour intervention plan must be made in writing to the Public Guardian. Restrictive practices will only be consented to if they are an initial, short term strategy used within the context of a comprehensive data-based positive intervention plan and used only to ensure the immediate physical safety of the person under guardianship or others. Data must be provided to support the continued use of any plan.

Regular review must occur with all behaviour intervention plans.

FACTORS CONSIDERED BY THE PUBLIC GUARDIAN BEFORE MAKING A DECISION

Views available

- What are the views of the person under guardianship and others important in the person's life about the identified behaviours?
- What are their views about the proposed intervention plan?
- Does the person under guardianship object to the plan?

Information from service providers which may include:

- An assessment which covers the following issues
 - environmental factors
 - medical history, health issues and current medication
 - personal and social relationships
 - communication
 - the function of the behaviour
 - current adaptive living skills
 - possible exploitation/abuse or neglect.

- Previous data regarding behaviour management intervention and implementation strategies and issues.
- Whether other less restrictive alternatives have been tried and which have been demonstrated by data not to have been effective.
- A plan which has been:
 - designed specifically for the person in the environments in which he/she exhibits the behaviour(s);
 - developed by, or under the supervision of, a psychologist or programming person and in conjunction with all parties involved;
 - reviewed by a specialist programmer or clinical psychologist.

OTHER RELEVANT ISSUES

- Does the Public Guardian have a services function or a restrictive practices function, and if so does the authority cover the intervention proposed in the plan?
- Has the use of medication been proposed by a specialist medical practitioner/psychiatrist as a strategy for behaviour intervention to be considered in conjunction with other strategies?

Chemical and/or physical restraint should be considered as a crisis response only. A crisis is any behaviour that places the person or others in immediate physical danger and requires a response that would be defensible at common law.

- Have the staff who will be using the proposed intervention been trained in its implementation by a suitably qualified professional?
- Has a referral to a specialist service been considered for a person with a disability who has been exhibiting challenging behaviours for a long period of time and where other services and strategies have been unsuccessful?

Background material

Allen D, 2000. *“Recent research on physical aggression in persons with intellectual disability: An overview”*. In *Journal of Intellectual & Developmental Disability*, Vol. 25, No. 1, pp. 41-57, 2000.

“Standards in Action”, Practice Requirements and Guidelines for Services funded under the Disability Services Act, Ageing and Disability Department, May 1998

“The positive approach to challenging behaviour: Policy and Guidelines.” Ageing and Disability Department, June 1997.

“Behaviour Intervention and Support” October 1996. NSW Department of Community Services, Disability Services Policies,

“Behaviour Management and People with an Intellectual Disability, The Role of Guardianship”, The Guardianship Board, January 1994

“Innovative Practices Report”, NSW Department of Community Services, December 1994.

“Behaviour management: An approach for the 90's; The prevention and management of challenging behaviour policies, procedures, ethics and law”. University of Newcastle, ASSID. 1993

OTHER RELATED OPG POSITION STATEMENTS

Determining whether to consent to treatment proposed for a person with an eating disorder
Responding to proposals concerning a person living an "at risk" lifestyle
Determining whether to consent to proposed medical or dental treatment