

Onguard!

A REGULAR NEWSLETTER FOR PRIVATE GUARDIANS IN NSW

MAY 2008

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NOTE TO READERS

While the information in these articles cover a range of possibilities, it is not meant to be exhaustive. You will need to take from it whatever applies to the decisions you have to make. Contact the PGSU if you would like to discuss any of this information.

Taking a look at BEHAVIOUR MANAGEMENT

Being a guardian for a person with a disability means that you often have to make some pretty tough decisions. In this edition of Onguard we will take a look at an area of decision making that poses regular difficulties for many guardians – behaviour management and restrictive practices.

It is not a nice thing to think that the use of restrictive practices is required, especially for someone that you care about. However the reality for some people who have a disability is that restrictive practices may be required in response to managing challenging behaviours. If planned and implemented within the context of a well developed behaviour management plan, restrictive practices can lead to positive outcomes.

What are challenging behaviours?

Challenging behaviours have been defined as behaviours which a person uses to communicate a message or show that some part of their life is not going as it should be¹. The person may be:

- reacting to boredom
- have difficulty communicating with other people
- feeling sadness or loss, fear or confusion, feeling angry or sick
- reacting to not having any choices or control over what happens to them
- remembering a recent or past trauma.

Challenging behaviours can pose a threat to the individual and to the people around them. Such behaviours also impact on the person's ability to participate in everyday activities, and their ability to interact with family, friends and peers.

What are restrictive practices?

Restrictive practices are techniques used to control or change a person's behaviour and which without consent may be considered to be an assault or wrongful imprisonment. The techniques used include chemical restraint (sedation), personal physical restraint, punishment, the loss of privileges, timeout, the denial of access, the use of arm splints, restraining seat belts and other similar things. Obviously, such measures must only be used in a crisis situation and/or as a last resort. In such situations, staff restrain a person as part of their "duty of care" to them. When if they did not take such action, the person would be at risk of harming her/himself or others.

Can I consent to restrictive practices?

You can consent to the use of restrictive practices if you have been appointed with the restrictive practices authority. This may be worded in the guardianship order as:

"To give or withhold consent to the behaviour intervention and support program presently in place and behaviour intervention protocol or a program that is no more restrictive and contains at least equivalent positive programming as that program".

1 Anderson, M., Burke, M., Einfeld, S., Fegan, L., Fraser, J., Jones, M., Krey, J., Martin, M., Simpson, J., Swinton, L., Taplin, J., Thorley-Smith, S., and Watson, L.

Behaviour Management: An approach for the 90's. The Prevention and Management of Challenging Behaviour Policies, Procedures, Ethics and Law. ASSID Publications, C/- Special Education Centre, University of Sydney, Newcastle



With this function you have the authority to decide on behalf of the person with a disability whether or not they receive services or strategies in the area of behaviour management.

With the restrictive practices function a guardian can:

- consent to and be involved in assessments to determine why the person may be communicating as they do. This should lead to the development of a plan that contains new strategies to assist the person
- give or decline consent to (proposed) support and intervention plans which include a range of positive strategies and practices
- receive information on reviews of the effectiveness of these plans
- decide which services may be involved in the assessment, development, implementation and review/evaluation of such plans.

The process of consenting to a support and intervention plan

In response to behaviour management issues service providers will generally develop an intervention plan which details strategies and practices to assist the person with the disability.

Before you can give consent, you need to make sure the proposed plan provides the least restrictive alternative in the current circumstances and promotes the person's well-being. This may include:

- seeking the views of the person under guardianship
- holding a meeting and requesting an independent review of plans from a specialist programmer or skilled psychologist/educator skilled in this field
- reviewing records, reports and previous plans to give you a better understanding of what has and has not worked in the past, and show you what is happening now.

When deciding whether to give or decline consent to behaviour management plans consider if there is a need to provide consents with conditions that you want to see included, e.g. how long the plan should be used before it is reviewed.

Some things you may want to ask of service providers:

- develop support plans with the involvement of specialist programming services or skilled psychologists/educators
- arrange for a thorough assessment of the person, which may cover areas such as their communication skills, lifestyle, and the immediate environment
- provide detailed reports on the above assessments
- provide a plan which includes such things as the introduction of new skills and ways to assist the person to communicate their needs to others
- Provide you with a copy of the service provider's policy and guidelines on behaviour management so you can understand what standards to expect.

What if you are unhappy or not satisfied?

In this case you need to let the service provider know your concerns and possibly suggest other options you would like them to consider. If this does not achieve any change, consider making a more formal complaint on behalf of the person under guardianship. The PGSU can help you understand your role and options when you are making decisions about behaviour management. We can provide telephone support, help you understand the plan, and provide support at meetings.

An example of a guardian using the restrictive practices authority

Jeremy, a young man with a moderate disability, resides in a group home and attends a day program five days per week. Jeremy displays challenging behaviours such as hitting the people around him and hitting himself, both at home and at the day program. Due to an escalation in his behaviours Jeremy's day program has suspended his attendance.

Nola is Jeremy's guardian appointed with the functions of medical/dental consent to treatment, health care, services and restrictive practices. Nola is aware that when Jeremy displays challenging behaviours staff remove other residents from the immediate area and direct Jeremy to his room. Risperdal is also administered at this time. Nola is concerned about the increasing occurrence of Jeremy's behaviours and meets with Jeremy's keyworker and house staff. At the meeting Nola and the staff agree that a more structured approach is needed to manage Jeremy's behaviours and his communication. A referral is made to the service's psychologist for an assessment and development of a behaviour intervention support plan (BISP).

Two months later...the psychologist develops a behaviour intervention plan and provides training to house and day program staff on how to implement the plan. The plan includes some of the following things:

- identifying situations that trigger challenging behaviours (e.g. unexplained changes to Jeremy's routine)
- identifying the early signs of Jeremy becoming agitated and how to divert these (e.g. redirecting to music or doing a favourite activity)
- a communication system which uses photos to explain daily activities and routine changes to Jeremy;
- a slow transitioned return to the day program;
- the continued use of the strategy of removing other residents from the immediate area when Jeremy displays challenging behaviours, directing Jeremy to his room and the use of PRN, however more structured data will be maintained.

The plan will be reviewed every 3 months and Jeremy will have a psychiatric review (in regards to his medication) in the near future. Jeremy's keyworker will work closely with Jeremy and Nola to look at Jeremy's current activities and if these can be expanded.

Networking Day for Private Guardians

24 OCTOBER 2008

The Private Guardian Support Unit (PGSU) will be hosting a networking day for private and enduring guardians on **Friday 24 October 2008 in Parramatta**. The networking day will provide an opportunity for guardians to come together and share their knowledge and experiences. There will also be information sessions on topics relevant to your role as a guardian, such as the scope of guardianship functions and how to make a complaint. There will be guest speakers from NSW Ombudsman, Health Care Complaints Commission and the Aged Care Complaints Investigation Scheme, as well as many others.

If you are interested in attending, participating or suggesting a topic, please contact the PGSU on **02 8688 6060** or by email **informationsupport@opg.nsw.gov.au**.

There will be a formal registration process later in the year.

Taking a look at behaviour management, continued from page 2

some definitions

Restraint can be anything which limits a person's movements, such as helmets, arm restraints, posey jackets, deep chairs (which the person cannot get out of), tables put on a wheelchair (which prevent a person from standing), and bed rails (to keep a person in bed who would otherwise try to get out). A guardian may need to consider consenting to the use of restraint when the person with a disability may need to be protected from self-harm by the use of physical restraint for a limited time. This does not include restraint to overcome objections to medical treatment (as outlined in Part 5 of the Guardianship Act 1987), but rather actions aimed at managing or controlling the person's behaviour, in their best interest and only as a last resort. When consenting to the use of restraint a guardian may:

- give or decline consent to the use of physical restraint or physical interventions by staff
- give or decline consent to the specialist review of the management plan for a specific restraint, proposed or used with the person.

A guardian can consent to the use of restraint under the restrictive practices function. A restraint function can also be appointed to guardians by the Guardianship Tribunal.

An example of a guardian consenting to the use of restraint

James, a 73 year old man with Alzheimer's, lives in a nursing home. James's daughter Louise has been appointed as her father's guardian with the functions of medical and dental consent, health care and accommodation. Louise notices that her father is often restrained in his chair with a lap sash. Louise discusses this with the nursing unit manager (NUM) to find out why and how often the lap restraint is used. The NUM informs Louise that the lap sash is used in the afternoon when James becomes agitated and restless to stop him from lashing out at other residents. The NUM also advises, that as part of the nursing home policy the use of the lap sash has been signed off by the treating doctor.

Louise makes an application to the Guardianship Tribunal to have the restrictive practices function added to the current order. With this function Louise consents to the use of the lap sash. Louise and the NUM agree to review the situation after three months, and the nursing home will document frequency and duration of use. Louise also requests that the nursing home look at alternatives to using the lap sash (i.e. redirecting to other activities, music, moving to a quiet area).

Chemical restraint: Sometimes medication designed to treat mental illness (a group of drugs commonly called psychotropic medication) will be suggested for someone who is considered to have "challenging" or "difficult" behaviour (e.g. aggressive behaviour toward others). If you are asked to consent to the use of chemical restraint, a medical and dental consent function is required to provide consent to the specific medication proposed. Additionally, the Guardianship Tribunal requires that use of medication to manage a person's challenging behaviour must be conditional on its use in the context of a behaviour intervention and support plan that seeks to provide positive interventions to support the person in addition to the medication. In this case you may require the restrictive practices function (if there are other restrictive practices used in the BISP) or the services function (to consent to a BISP that contains only positive practices).

32 Life Pieces

The 32 Life Pieces art exhibition held in June 2007 at the State Parliament House celebrated the artistic achievements of people with disabilities.

Due to the success of the event the Office of the Public Guardian and Protective Commissioner will be holding another art exhibition in June 2009, and will shortly be inviting people to submit artworks for this. So now is the time to start working on new art works. Further information will be made available later in the year in Oguard and on the OPG website.

A NEW ELECTRONIC OPG PUBLICATION

This month the Office of the Public Guardian officially launched the new electronic publication "How will my guardian make an accommodation decision for me?".

The Office of the Public Guardian (OPG) developed the short pictorial story to explain to people with disabilities what a guardian does. The new publication is available on the OPG website www.lawlink.nsw.gov.au/opg.

The story specifically focuses on a young woman with a disability who lives in a group home and needs a substitute decision made by the Public Guardian about her accommodation.

The Public Guardian is appointed to make decisions for approximately 1700 people with disabilities each year. Many people who come under guardianship are unfamiliar with the role of a substitute decision maker and may be confused by the involvement of a government agency.

The web based publication in PDF format is designed for people with disabilities to access with the assistance of a support worker, family member or friend. When the Public Guardian is appointed, the person with a disability will be made aware of this resource via the OPG's welcome letter.

Every individual that is appointed the Public Guardian has a unique decision to be made for them with circumstances that are specific to their lives. For accessibility reasons, the e-publication has been kept simple. It is anticipated that the brief scenario will assist people who come under guardianship to understand how decisions are made.

The Public Guardian will be reviewing the success of this publication in 2008 and will consider developing further stories to explain different decision making areas in the future.

Comments for future publications are also welcome and you can ring the OPG's information and Support Branch on 8688 6060, or email informationssupport@opg.nsw.gov.au.

residential aged care reforms

The Department of Health and Ageing have recently introduced some changes to aged care fees and charges, which came into effect on 20 March 2008. Some of the changes include:

- a large increase in Government subsidies for aged care
- all residents' income will be assessed in the same way, that is whether they are self funded retirees or pensioners
- accommodation bonds paid by residents entering low care and extra service care will not be altered
- homes will be required to meet the highest standards (in terms of building, amenities and safety), before they get increased accommodation payments (increased accommodation payments can be made by the Government, the resident or a combination of both)
- people who are already residing in an aged care facility will not be adversely affected.

For information about these and some other changes contact the Department of Health and Aged Care Information Line – 1800 500 853 – or go to the web site www.health.gov.au and follow the links.