



# Director of Forensic Disability

## POLICY

### **Title:** Appointment of Practitioners

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#### **1. Policy Statement**

The proper and effective administration of the *Forensic Disability Act 2011* (the Act) will be supported by the appointment of practitioners of the Forensic Disability Service (FDS) under chapter 8 part 3 of the Act.

Practitioners exercise significant powers and functions which impact on the rights of forensic disability clients. Accountable appointment processes and the establishment of knowledge and skill requirements for appointment are fundamental to the proper and effective administration of the Act.

#### **2. Purpose**

The purpose of the policy is to set out the relevant provisions of the Act and the Director of Forensic Disability Policy regarding necessary competencies and qualifications to facilitate the appointment of Senior Practitioners, Authorised Practitioners and practitioners at the FDS.

#### **3. Scope**

This policy applies to the FDS. The Administrator, Senior Practitioner, Authorised Practitioner, and other persons appointed under section 104 of the Act, performing a function or exercising a power under the Act must comply with this policy.

This policy must be implemented in a way that is consistent with the purpose and principles of the Act.

#### **4. Authorising Legislation**

Section 91 of the Act.

#### **5. Policy**

##### **5.1 Definition**

A 'practitioner' means –

- a) a Senior Practitioner; or
- b) an Authorised Practitioner; or
- c) a person appointed under section 104 of the Act to perform the role of a practitioner.

## **5.2 Appointment of Senior Practitioners**

Senior Practitioners exercise significant powers and functions in ensuring the care, support and protection of clients within the FDS. The primary powers and functions of Senior Practitioners are set out in Schedule 1.

### **5.2.1 Appointment requirements**

The Administrator may, by written instrument, appoint a person as a Senior Practitioner under section 101 of the Act.

The Administrator must be satisfied the person has the relevant expertise and/or experience necessary to perform the function of a Senior Practitioner, and must have regard to:

- a) the need for a multidisciplinary approach within the FDS;
- b) the person's demonstrated understanding of the purpose of the Act and commitment to the principles stated in section 7 of the Act; and
- c) the person's skills and expertise in supporting people with an intellectual or cognitive disability, mental condition and/or offending behaviour.

In addition, the Administrator must:

- a) ensure the person has complete knowledge of the Act and the Director of Forensic Disability policies and procedures as they relate to the functions of a Senior Practitioner;
- b) ensure the person has the ability to work within a complex regulatory environment;
- c) ensure the person can provide leadership in the assessment and support of forensic disability clients; and
- d) ensure an appropriate professional credentialing process is undertaken of the person appointed.

The Senior Practitioner's instrument of appointment must state the powers, functions and duties that may be exercised under the Act including whether the person can exercise the powers under chapter 6 of the Act (Regulation of behaviour control).

The Administrator may limit the Senior Practitioner's powers under the Act which must be stated in the instrument of appointment. If the Administrator appoints a Senior Practitioner but limits the full extent of their powers, the Administrator must still be satisfied the person has the necessary and relevant experience to perform the functions of the Senior Practitioner role to which they have been appointed as per the above stated appointment requirements.

### **5.2.2 Authority to exercise powers under Chapter 6 of the Act**

The use of behaviour controls is strictly regulated. The Senior Practitioner's instrument of appointment must explicitly state if the Senior Practitioner may exercise powers under chapter 6 of the Act (Regulation of behaviour control).

In assessing whether a Senior Practitioner should be authorised to exercise the powers under chapter 6, the Administrator must have regard to the person's:

- understanding and commitment to the least restrictive approach principle in relation to the exercise of chapter 6 powers;
- capacity to effectively implement all authorisation, administration, observation, cessation, documentation, notification and de-briefing requirements associated with the exercise of chapter 6 powers; and

- commitment to the reduction and safe elimination of regulated behaviour control to manage client behaviours of concern.

### **5.2.3 Appointment of the Administrator as a Senior Practitioner**

The Administrator cannot self-appoint as a Senior Practitioner. The Director of Forensic Disability may, by written instrument, appoint the Administrator to be a Senior Practitioner if, in the Director's opinion, the Administrator has the necessary expertise or experience to be a Senior Practitioner.

In appointing the Administrator as a Senior Practitioner, the Director should have regard to the considerations as outlined for the appointment of Senior Practitioners.

## **5.3 Appointment of Authorised Practitioners**

Authorised Practitioners exercise significant responsibilities in ensuring the care, support and protection of clients within the FDS. The primary powers and functions of Authorised Practitioners are set out in Schedule 2.

### **5.3.1 Appointment requirements**

The Administrator may, by written instrument, appoint a person to be an Authorised Practitioner under section 101 of the Act.

The Administrator must be satisfied the person has the necessary relevant expertise or experience necessary to perform the function of an Authorised Practitioner, and must have regard to:

- a) the need for a multidisciplinary approach within the FDS;
- b) the person's demonstrated understanding of the purpose of the Act and commitment to the principles stated in section 7 of the Act; and
- c) the person's skills and expertise in supporting people with an intellectual or cognitive disability, mental condition and/or offending behaviour.

In addition, the Administrator must:

- a) ensure that the person has substantial knowledge of the Act and the Director of Forensic Disability policies and procedures as they relate to the functions of Authorised Practitioner;
- b) ensure the person has the ability to work within a complex regulatory environment; and
- c) ensure an appropriate professional credentialing process is undertaken of the person appointed.

The instrument of appointment should include the powers, functions and duties that may be exercised under the Act including, whether the person can exercise the powers under chapter 6 (Regulation of behaviour control).

The Administrator may limit the Authorised Practitioner's powers under the Act which must be stated in the instrument of appointment. If the Administrator appoints an Authorised Practitioner but limits the full extent of their powers, the Administrator must still be satisfied the person has the necessary and relevant experience to perform the functions of the Authorised Practitioner role to which they have been appointed, as per the above stated appointment requirements.

### **5.3.2 Authority to exercise powers under chapter 6 of the Act**

The use of behaviour controls is strictly regulated.

The Authorised Practitioner's instrument of appointment must explicitly state if the appointed Authorised Practitioner may exercise powers under chapter 6 of the Act.

In assessing whether an Authorised Practitioner should be authorised to exercise powers under chapter 6, the Administrator should consider the person's:

- understanding and commitment to the least restrictive approach principle in relation to the exercise of chapter 6 powers;
- capacity to effectively implement all authorisation, administration, observation, cessation, documentation, notification and de-briefing requirements associated with the exercise of chapter 6 powers; and
- commitment to the reduction and safe elimination of restrictive practices to manage client behaviours of concern.

#### **5.4 Appointment of other persons to perform the role of a practitioner (section 104 of the Act)**

The Administrator may, by written instrument, appoint a person to perform the role of a practitioner under section 104 of the Act.

The Administrator must be satisfied the person has the necessary training, qualifications and expertise relevant to providing care and support of persons with an intellectual or cognitive disability.

General functions of a practitioner appointed under section 104 are outlined throughout the Act, and include:

- taking a client to an Authorised Mental Health Service (AMHS) if a transfer is authorised section 113 (2);
- taking a client to the FDS or AMHS in circumstances prescribed by the Act section 113 (2);
- taking a client to a 'relevant place' as prescribed by the Act section 113 (4)
- taking a client to appear before the Mental Health Court and returning the client to the FDS at the end of proceedings; or
- using the reasonable force that is necessary in the circumstances in the exercise of the above powers in accordance with the Act section 155.

##### **5.4.1 Appointment requirements**

In appointing persons to perform the role of a practitioner under section 104, the Administrator must have regard to:

- a) the need for a multidisciplinary approach within the FDS;
- b) the persons demonstrated understanding of the purpose of the Act and commitment to the principles stated in section 7 of the Act; and
- c) the person's skills and expertise in supporting people with an intellectual or cognitive disability, mental condition and/or offending behaviour.

In addition, the Administrator is to:

- a) ensure that the person has knowledge of the Act and the Director of Forensic Disability's Policies;
- b) ensure the person has the ability to work within a complex regulatory environment; and
- c) ensure an appropriate professional credentialing process is undertaken for the person appointed.

The instrument of appointment should include the powers, functions and duties that may be exercised under the Act.

The Administrator may limit the Practitioner's power under the Act which must be stated in the instrument of appointment. If the Administrator appoints a Practitioner but limits the full extent of their powers, they must still be satisfied the person has the necessary and relevant experience to perform the functions of the Practitioner's role to which they have been appointed, as per the above stated appointment requirements.

#### **5.4.2 Authority to exercise powers under chapter 6 of the Act**

Persons appointed under section 104 of the Act to perform the role of a practitioner may **not** exercise the powers of a Senior Practitioner or Authorised Practitioner under chapter 6 of the Act (Regulation of behaviour control).

### **5.5 Instruments of appointment**

The instrument of appointment must be in writing and state the name of the person appointed, the powers of the appointee (i.e. whether the appointment provides for all powers of a Senior Practitioner or Authorised Practitioner), and any conditions of appointment including the term and/or circumstances under which the appointment ends.

All appointments are to be for a specified term or subject to the person's ongoing employment in the FDS. All appointments are conditional upon the practitioner exercising their role, function and powers in accordance with their instrument of appointment and in accordance with the provisions of the Act.

### **5.6 Register of practitioners and other persons**

The Administrator is responsible for ensuring there is an accountable system in place for the appointment of practitioners.

The Administrator must keep a register (as required under section 105 of the Act) of the following:

- Senior Practitioners appointed under sections 101 and 102 of the Act;
- Authorised Practitioners appointed under section 101; and
- other persons appointed under section 104 of the Act to perform the role of a practitioner.

The register of practitioners and other persons must identify the Senior Practitioners and Authorised Practitioners whose instrument of appointment states the practitioner may exercise the powers given under chapter 6 of the Act.

In addition, the Administrator must undertake an annual review of the register of practitioners and other persons for the purpose of ensuring the register remains up to date (e.g. to ensure no oversights in ceasing appointments for individuals no longer employed at the FDS or amendments to appointment).

### **5.7 Other documentation requirements**

The Administrator must maintain a system of records relating to appointments, amendments to appointment conditions and terminations of appointment, including copies of written instruments of appointment and any verifying documentation.



In addition, the Administrator must have in place processes for:

- the appointment of practitioners, i.e. how an appointment is initiated and assessed to ensure competencies are met; and
- ongoing oversight of statutory functions exercised by appointees to ensure compliance with the Act and policy requirements, with clear accountabilities, ensuring competencies continue to be satisfied.

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**Designation:** Director of Forensic Disability

**Help Contact:** [directorforensicdisability@dedsatsip.qld.gov.au](mailto:directorforensicdisability@dedsatsip.qld.gov.au)

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Jenny Lynas  
Director of Forensic Disability

## POWERS AND FUNCTIONS OF SENIOR PRACTITIONERS

## FORENSIC DISABILITY ACT 2011

SECTION		POWER/FUNCTION
14	Preparing plan for the client	<p>A <b>Senior Practitioner</b> must ensure an individual development plan is prepared for a forensic disability client.</p> <p>For preparing the plan, the <b>Senior Practitioner</b> must consult with and consider the views of the following persons:</p> <ul style="list-style-type: none"> <li>a) the client;</li> <li>b) if the client has a guardian or an informal decision-maker—the guardian or informal decision-maker, or each of those persons, as the case may be;</li> <li>c) anyone else the <b>Senior Practitioner</b> considers to be integral to the plan’s preparation.</li> </ul>
16	Senior Practitioner must tell client about plan	<p>A <b>Senior Practitioner</b> must talk to the client about the client’s care and support under the individual development plan.</p> <p>If the client has a guardian or an informal decision-maker, a <b>Senior Practitioner</b> must also talk to the guardian or informal decision-maker, or each of those persons, as the case may be, about the client’s care and support under the plan.</p>
17	Changing plan	<p>A <b>Senior Practitioner</b>, or an Authorised Practitioner authorised for the purpose by a <b>Senior Practitioner</b>, may change the client’s individual development plan pursuant to the section.</p> <p>A <b>Senior Practitioner</b> must change the client’s individual development plan—</p>

SECTION		POWER/FUNCTION
		<ul style="list-style-type: none"> <li>a) to give effect to a decision or order of the Mental Health Review Tribunal (tribunal) or Mental Health Court; or</li> <li>b) to comply with section 22 or 73.</li> </ul>
<p><b>Chapter 6 – Regulation of behaviour control</b></p> <p>Chapter 6 regulates the use of behaviour control medication, mechanical restraint and seclusion under the Act so that the regulated behaviour control is only used –</p> <ul style="list-style-type: none"> <li>a) if considered necessary and the least restrictive way to protect the health and safety of clients or to protect others; and</li> <li>b) in a way that has regard to the human rights of clients; and aims to reduce or eliminate the need for its use; and ensure transparency and accountability of its use.</li> </ul> <p><b>A Senior Practitioner may only exercise chapter 6 powers if the Senior Practitioner’s instrument of appointment states the practitioner may exercise the powers given to Senior Practitioner under chapter 6.</b></p>		
<p><b>Behaviour Control Medication</b></p> <p>Behaviour control medication of a forensic disability client is the use of medication for the primary purpose of controlling the client’s behaviour (section 44 of the Act).</p>		
50	Use of behaviour control medication	<p>A <b>Senior Practitioner</b> who is a doctor or registered nurse, or a doctor or registered nurse acting under the direction of a <b>Senior Practitioner</b> who is a doctor or registered nurse, may administer behaviour control medication to a forensic disability client detained in the forensic disability service if—</p> <ul style="list-style-type: none"> <li>a) a psychiatrist prescribes the medication as a regulated behaviour control for the client; and</li> <li>b) the medication is administered in accordance with the psychiatrist’s directions, including directions about the dose, route and frequency of the medication and any restrictions on its use; and</li> <li>c) the client is observed in accordance with the psychiatrist’s directions.</li> </ul>



SECTION		POWER/FUNCTION
51	Obligations	<p>1) If a psychiatrist prescribes the behaviour control medication as a regulated behaviour control for the client, a <b>Senior Practitioner</b> must ensure details of the medication, as prescribed by the psychiatrist, are included in—</p> <p>a) the client’s file; and  b) the client’s individual development plan as required under section 15(3).</p> <p>2) If the medication is administered to the client under section 50, the <b>Senior Practitioner</b> who administered it, or under whose direction it was administered, must ensure the following details are recorded in the client’s file—</p> <p>a) the name of the medication that was administered;  b) the time it was administered;  c) the person who administered it;  d) for medication to be administered as and when needed—the circumstances in which it was administered.</p>
52	Review of client’s behaviour control medication	<p>a) A <b>Senior Practitioner</b> must ensure a psychiatrist regularly reviews the client’s need for, and the appropriateness of, the behaviour control medication prescribed for the client.  b) The review must be carried out at least every 3 months.  c) Also, if requested by the Director, a <b>Senior Practitioner</b> must ensure a psychiatrist carries out an immediate review of the client’s behaviour control medication as mentioned in subsection (1).  d) The psychiatrist must record details of the review in the client’s file.</p>
<p><b>Restraint</b></p> <p>Restraint of a forensic disability is the restraint of the client by use of an approved mechanical appliance preventing the free movement of the client’s body or limb of the client (section 45 of the Act).</p>		

SECTION		POWER/FUNCTION
<p>The Director of Forensic Disability approves the mechanical applicant that may be used for the restraint of a forensic disability client and authorises the use of restraint by giving a written order to a <b>Senior Practitioner</b> or Authorised Practitioner (section 56 of the Act).</p>		
57	Obligations	<p>The <b>Senior Practitioner</b> or Authorised Practitioner must –</p> <ul style="list-style-type: none"> <li>a) ensure a copy of the Director of Forensic Disability’s written order authorising the use of mechanical restraint made under section 56 of the Act is included in the client’s file; and</li> <li>b) use the restraint as authorised by the Director of Forensic Disability; and</li> <li>c) record the following details in the client’s file – <ul style="list-style-type: none"> <li>i. the type of mechanical restraint used;</li> <li>ii. if the Director of Forensic Disability’s order states any restrictions on the circumstances in which the restraint may be used – the circumstances in which the restraint was used;</li> <li>iii. the time the restraint was used;</li> <li>iv. the person who used the restraint;</li> <li>v. the time the restraint was removed;</li> <li>vi. the person who removed the restraint.</li> </ul> </li> </ul>
58	Removal of restraint before authorisation ends	<p>This section applies if, before the authorisation ends –</p> <ul style="list-style-type: none"> <li>a) a <b>Senior Practitioner</b> or Authorised Practitioner is satisfied care and support can be safely provided to the client without the restraint; or</li> <li>b) the Director of Forensic Disability orders a <b>Senior Practitioner</b> or Authorised Practitioner to remove the restraint.</li> </ul> <p>The practitioner must immediately remove the restraint.</p>

SECTION		POWER/FUNCTION
<b>Seclusion – Division 3</b>		
Seclusion of a forensic disability client is the confinement of the client at any time of the day or night alone in a room or area from which the client’s free exit is prevented (section 46 of the Act).		
61	Placing a client in seclusion	<p>A forensic disability client may be placed in seclusion in the forensic disability service –</p> <ul style="list-style-type: none"> <li>a) by a <b>Senior Practitioner</b>, at any time; or</li> <li>b) by an Authorised Practitioner – <ul style="list-style-type: none"> <li>i. if authorised by a <b>Senior Practitioner</b>; or</li> <li>ii. in urgent circumstances</li> </ul> </li> </ul> <p>A <b>Senior Practitioner</b> may place a client in seclusion or authorise the seclusion of a client only if reasonably satisfied –</p> <ul style="list-style-type: none"> <li>a) the seclusion is necessary to protect the client or other persons from imminent physical harm; and</li> <li>b) there is no less restrictive way to protect the client’s health and safety or to protect others.</li> </ul>
62	How authorisation of seclusion is given by a <b>Senior Practitioner</b> to an Authorised Practitioner	<p>A <b>Senior Practitioner’s</b> authorisation must be given by written order to an Authorised Practitioner</p> <p>The order must state the following –</p> <ul style="list-style-type: none"> <li>a) the reasons for the seclusion;</li> <li>b) the time the order is made;</li> <li>c) the time (not longer than 3 hours after the order is made) when the authorisation ends;</li> <li>d) whether an Authorised Practitioner is authorised to release the client from, or return the client to, seclusion;</li> <li>e) the special measures necessary to ensure the client’s proper care and support while secluded;</li> </ul>

SECTION		POWER/FUNCTION
		<p>f) whether it is necessary to continuously observe the client while secluded;</p> <p>g) if the order states that it is not necessary to continuously observe the client while secluded – the intervals (not longer than 15 minutes) at which the client must be observed while secluded.</p> <p>The <b>Senior Practitioner</b> must ensure a copy of the order is included in the client’s file.</p>
63	Obligations	<p>A <b>Senior Practitioner</b> must have regard to a forensic disability client’s individual development plan in placing the client in seclusion, or authorising the seclusion, under this division.</p> <p>A <b>Senior Practitioner</b> who places a client in seclusion, or an Authorised Practitioner, who places a client in seclusion under a <b>Senior Practitioner’s</b> authorisation, must record the following details in the client’s file –</p> <p>a) the time the client was placed in seclusion;</p> <p>b) the name of the <b>Senior Practitioner</b> or Authorised Practitioner who placed the client in seclusion;</p> <p>c) the time the client was released from seclusion.</p>
64	Obligations on a <b>Senior Practitioner</b> if an Authorised Practitioner places client in seclusion in urgent circumstances	<ul style="list-style-type: none"> <li>• If an Authorised Practitioner places a forensic disability client in seclusion in the forensic disability service in urgent circumstances, the Authorised Practitioner must</li> <li>• immediately tell a <b>Senior Practitioner</b> of the seclusion.</li> <li>• The <b>Senior Practitioner</b> must ensure the client is examined as soon as practicable by a <b>Senior Practitioner</b>.</li> <li>• On the examination, the examining <b>Senior Practitioner</b> must – <ul style="list-style-type: none"> <li>a) Record in the client’s file the time of the examination; and</li> <li>b) Order the client’s release from seclusion or authorise the client’s seclusion.</li> </ul> </li> </ul> <p>Note: the authorisation of the client’s seclusion must be done by a written order.</p>
66	Ending seclusion on Director of Forensic Disability’s order	<p>A <b>Senior Practitioner</b> or Authorised Practitioner must immediately release a forensic disability client from seclusion if the Director of Forensic Disability orders the client to be released.</p>

SECTION		POWER/FUNCTION
<b>Other provisions about regulated behaviour controls – Division 4</b>		
68	Use of reasonable force	A <b>Senior Practitioner</b> or Authorised Practitioner may, with the help, and using the minimum force necessary and reasonable in the circumstances to administer behaviour control medication, restrain or place a client in seclusion.
69	Ensuring reasonable needs are met while subject to regulated behaviour control	<p>A <b>Senior Practitioner</b> or Authorised Practitioner must ensure a forensic disability client’s reasonable needs are met while the client is subject to a regulated behaviour control.</p> <p>Reasonable needs include –</p> <ul style="list-style-type: none"> <li>a) sufficient bedding and clothing</li> <li>b) sufficient food and drink</li> <li>c) access to toilet facilities.</li> </ul>
70	Observation of client	<p>A <b>Senior Practitioner</b> or Authorised Practitioner must ensure a forensic disability client on whom restraint is used under chapter 6, Part 2 Division 2 of the Act is observed as required under the Director of Forensic Disability’s authorisation for restraint.</p> <p>A <b>Senior Practitioner</b> or Authorised Practitioner must ensure a forensic disability client is continuously observed while secluded under chapter 6, Part 2 Division 3 of the Act unless the <b>Senior Practitioner’s</b> order for seclusion states –</p> <ul style="list-style-type: none"> <li>a) it is not necessary to continually observed the client while secluded; and</li> <li>b) the intervals (not longer than 15 minutes) at which the client must be observed while secluded.</li> </ul>
<b>Chapter 7, Part 1 – Searching forensic disability clients and possessions</b>		

SECTION		POWER/FUNCTION
76	Authority to search	<p>If a <b>Senior Practitioner</b> or Authorised Practitioner reasonably believes a forensic disability client has possession of a harmful thing, the <b>Senior Practitioner</b> or Authorised Practitioner may search the client or the client's possessions.</p> <p>Before carrying out the search the <b>Senior Practitioner</b> or Authorised Practitioner must tell the client the reasons for the search and how it is to be carried out.</p> <p>The Act defines a <i>harmful thing</i> to mean anything that –</p> <ul style="list-style-type: none"> <li>a) may be used to threaten the security of the forensic disability service; or threaten a person's health or safety; or</li> <li>b) if used by a forensic disability client in the forensic disability service, is likely to adversely affect the client's care and support.</li> </ul>
77	Carrying out search	<ol style="list-style-type: none"> <li>1) The <b>Senior Practitioner</b> or Authorised Practitioner may require the client to submit, or submit the client's possessions, to a search under this section.</li> <li>2) The <b>Senior Practitioner</b> or Authorised Practitioner may do any or all of the following – <ul style="list-style-type: none"> <li>a) pass a hand-held electronic scanning device over or around the client or the client's possessions;</li> <li>b) open or inspect a thing in the client's possession;</li> <li>c) remove and inspect an outer garment or footwear of the client;</li> <li>d) remove and inspect all things from the pockets of the client's clothing;</li> <li>e) touch the clothing worn by the client to the extent reasonably necessary to detect things in the client's possession;</li> <li>f) remove and inspect any detected thing.</li> </ul> </li> <li>3) With the Administrator's approval, the practitioner, may remove and inspect all, or part of, the client's other clothing and anything found in the clothing.</li> </ol>

SECTION		POWER/FUNCTION
		<p>4) This approval may only be given if the Administrator is reasonably satisfied it is necessary in the circumstance for carrying out the search.</p> <p>5) The practitioner may—</p> <ul style="list-style-type: none"> <li>c) exercise a power of inspection under subsection (2) only if the client is present or has been given the opportunity to be present; or</li> <li>d) exercise a power under subsection (2)(c) to (f) or (3) only if – <ul style="list-style-type: none"> <li>i. the practitioner is the same sex as the client; and</li> <li>ii. the search is carried out in a part of a building that ensures the client’s privacy</li> </ul> </li> </ul> <p>6) The practitioner must carry out the search in a way that respects the client’s dignity to the greatest extent possible; and cause as little inconvenience to the client as is practicable in the circumstance.</p>
78	Seizure of things	The <b>Senior Practitioner</b> or Authorised Practitioner may seize anything found during the search that the practitioner reasonably suspects is a harmful thing.
80	Record of search	<p>If a <b>Senior Practitioner</b> or Authorised Practitioner carries out a search; or seizes anything found during a search under chapter 7, part 1 the practitioner must immediately make a written record of the following details of the search –</p> <ul style="list-style-type: none"> <li>a) the reasons for the search;</li> <li>b) the practitioner’s name;</li> <li>c) how the search was carried out;</li> <li>d) the results of the search;</li> <li>e) anything seized.</li> </ul>
<b>Chapter 9, Part 1 – Return of forensic disability clients to forensic disability service for care and support</b>		
112	Return of client	<p>1) A <b>Senior Practitioner</b> may, by written notice given to a forensic disability client, require the client to return to the forensic disability service on or before a stated time—</p> <ul style="list-style-type: none"> <li>a) to give effect to a change to the client’s individual development plan; or</li> </ul>

SECTION	POWER/FUNCTION
	<ul style="list-style-type: none"> <li>b) to give effect to a decision or order of the tribunal or Mental Health Court; or</li> <li>c) if the <b>Senior Practitioner</b> reasonably believes— <ul style="list-style-type: none"> <li>i. the client has not complied with the client’s individual development plan; and</li> <li>ii. it is necessary in the interests of the client’s health or safety or the safety of others.</li> </ul> </li> <li>2) The Senior Practitioner must— <ul style="list-style-type: none"> <li>a) state the reasons for the requirement in the notice; and</li> <li>b) talk to the client about the requirement.</li> </ul> </li> <li>3) However, the <b>Senior Practitioner</b> need not comply with subsection (2)(b) if the <b>Senior Practitioner</b> reasonably believes that to do so would not be in the interests of the client’s health or safety or the safety of others.</li> </ul>



## POWERS AND FUNCTIONS OF AUTHORISED PRACTITIONERS

## FORENSIC DISABILITY ACT 2011

SECTION		POWER/FUNCTION
<b>Chapter 2 – Support and development of forensic disability clients</b>		
17	Changing the Plan	<p>An <b>Authorised Practitioner</b> may change the client’s individual development plan if authorised by a Senior Practitioner for that purpose.</p> <p>An <b>Authorised Practitioner</b> who changes the client’s individual development plan as authorised by a Senior Practitioner must –</p> <ul style="list-style-type: none"> <li>a) make a written record of the change and the reasons for the change; and</li> <li>b) talk to the client about the change and reasons.</li> </ul>
<b>Chapter 6 – Regulation of behaviour control</b>		
<p>Chapter 6 regulates the use of behaviour control medication, mechanical restraint and seclusion under the Act so that the regulated behaviour control is only used –</p> <ul style="list-style-type: none"> <li>a) if considered necessary and the least restrictive way to protect the health and safety of clients or to protect others; and</li> <li>b) in a way that has regard to the human rights of clients; aims to reduce or eliminate the need for its use; ensures transparency and accountability of its use.</li> </ul> <p>An <b>Authorised Practitioner</b> may only exercise chapter 6 powers if the <b>Authorised Practitioner’s</b> instrument of appointment states the practitioner may exercise the powers given to an <b>Authorised Practitioner</b> under chapter 6.</p>		
<b>Restraint – Division 2</b>		

SECTION		POWER/FUNCTION
<p>Restraint of a forensic disability is the restraint of the client by use of an approved mechanical appliance preventing the free movement of the client's body or limb of the client (section 45 of the Act).</p> <p>The Director of Forensic Disability approves the mechanical applicant that may be used for the restraint of a forensic disability client and authorises the use of restraint by giving a written order to a Senior Practitioner or <b>Authorised Practitioner</b> (section 56 of the Act).</p>		
57	Obligations	<p>An <b>Authorised Practitioner</b> must –</p> <ol style="list-style-type: none"> <li>a) ensure a copy of the Director of Forensic Disability's written order authorising the use of mechanical restraint made under section 56 of the Act is included in the client's file; and</li> <li>b) use the restraint as authorised by the Director of Forensic Disability; and</li> <li>c) record the following details in the client's file – <ol style="list-style-type: none"> <li>i. the type of mechanical restraint used;</li> <li>ii. if the Director of Forensic Disability's order states any restrictions on the circumstances in which the restraint may be used – the circumstances in which the restraint was used;</li> <li>iii. the time the restraint was used;</li> <li>iv. the person who used the restraint;</li> <li>v. the time the restraint was removed;</li> <li>vi. the person who removed the restraint.</li> </ol> </li> </ol>
58	Removal of restraint before authorisation ends	<p>This section applies if, before the authorisation ends –</p> <ol style="list-style-type: none"> <li>a) a Senior Practitioner or <b>Authorised Practitioner</b> is satisfied care and support can be safely provided to the client without the restraint; or</li> <li>b) the Director of Forensic Disability orders a Senior Practitioner or <b>Authorised Practitioner</b> to remove the restraint.</li> </ol> <p>The practitioner must immediately remove the restraint.</p>

SECTION		POWER/FUNCTION
<b>Seclusion – Division 3</b>		
Seclusion of a forensic disability client is the confinement of the client at any time of the day or night alone in a room or area from which the client's free exit is prevented (s. 46 of the Act).		
61	Placing a client in seclusion	<p>A forensic disability client may be placed in seclusion in the forensic disability service –</p> <ul style="list-style-type: none"> <li>a) by a Senior Practitioner, at any time; or</li> <li>b) by an <b>Authorised Practitioner</b> – <ul style="list-style-type: none"> <li>• if authorised by a Senior Practitioner; or</li> <li>• in urgent circumstances</li> </ul> </li> </ul> <p>An <b>Authorised Practitioner</b> may place a client in seclusion, if authorised by a Senior Practitioner or in urgent circumstances, only if reasonably satisfied –</p> <ul style="list-style-type: none"> <li>• the seclusion is necessary to protect the client or other persons from imminent physical harm; and</li> <li>• there is no less restrictive way to protect the client's health and safety or to protect others.</li> </ul>
62	How authorisation of seclusion is given by a Senior Practitioner to an <b>Authorised Practitioner</b>	A Senior Practitioner's authorisation must be given by written order to an <b>Authorised Practitioner</b> .
63	Obligations	<p>An <b>Authorised Practitioner</b> must have regard to a forensic disability client's individual development plan when placing a client in seclusion under a Senior Practitioner's authorisation or in urgent circumstances.</p> <p>An <b>Authorised Practitioner</b> who places a forensic disability client in seclusion under a Senior Practitioner's authorisation must place the client in seclusion as authorised.</p>

SECTION		POWER/FUNCTION
		<p>An <b>Authorised Practitioner</b> who places a client in seclusion under a Senior Practitioner’s authorisation must record in the client’s file –</p> <ul style="list-style-type: none"> <li>a) the time the client was placed in seclusion;</li> <li>b) the name of the Senior Practitioner or Authorised Practitioner who placed the client in seclusion;</li> <li>c) the time the client was released from seclusion.</li> </ul>
64	Obligations of <b>Authorised Practitioner</b> placing client in seclusion in urgent circumstances	<ul style="list-style-type: none"> <li>1) If an <b>Authorised Practitioner</b> places a forensic disability client in seclusion in the forensic disability service in urgent circumstances, the <b>Authorised Practitioner</b> must— <ul style="list-style-type: none"> <li>a) immediately tell a Senior Practitioner of the seclusion; and</li> <li>b) record the following details in the client’s file— <ul style="list-style-type: none"> <li>i. the reasons for the seclusion;</li> <li>ii. the time the client was placed in seclusion;</li> <li>iii. the time the Authorised Practitioner told the Senior Practitioner of the seclusion;</li> <li>iv. the Authorised Practitioner’s name;</li> <li>v. the Senior Practitioner’s name.</li> </ul> </li> </ul> </li> </ul>
65	Ending seclusion or returning client to seclusion	<p>This section applies if, under a Senior Practitioner’s authorisation, an <b>Authorised Practitioner</b> is authorised to release a forensic disability client from or return a client to seclusion.</p> <p>An <b>Authorised Practitioner</b> may –</p> <ul style="list-style-type: none"> <li>a) release a client from seclusion if satisfied the client’s seclusion is no longer necessary; and</li> <li>b) return the client to seclusion if – <ul style="list-style-type: none"> <li>i. the Senior Practitioner’s authorisation is still in force; and</li> <li>ii. the <b>Authorised Practitioner</b> is reasonably satisfied of the matters in section 61(2)(a) seclusion is necessary to protect the client or other person from imminent physical harm; and (b) there is no less restrictive way to protect the client’s health and safety or to protect others.</li> </ul> </li> </ul>

SECTION		POWER/FUNCTION
		<p>If an <b>Authorised Practitioner</b> under this section releases or returns a client to seclusion, the <b>Authorised Practitioner</b> must immediately record in the client's file –</p> <ul style="list-style-type: none"> <li>a) the time of release from, or return to, seclusion; and</li> <li>b) the reasons for the release or return.</li> </ul>
66	Ending seclusion on Director of Forensic Disability's order	A Senior Practitioner or <b>Authorised Practitioner</b> must immediately release a forensic disability client from seclusion if the Director of Forensic Disability orders the client to be released.
<b>Other provisions about regulated behaviour controls – Division 4</b>		
68	Use of reasonable force	A Senior Practitioner or <b>Authorised Practitioner</b> may, with the help, and using the minimum force that is necessary and reasonable in the circumstances administer behaviour control medication, restraint or place a client in seclusion.
69	Ensuring reasonable needs are met while subject to regulated behaviour control	<p>A Senior Practitioner or <b>Authorised Practitioner</b> must ensure a forensic disability client's reasonable needs are met while the client is subject to a regulated behaviour control.</p> <p>Reasonable needs include –</p> <ul style="list-style-type: none"> <li>a) sufficient bedding and clothing</li> <li>b) sufficient food and drink</li> <li>c) access to toilet facilities.</li> </ul>
70	Observation of client	A Senior Practitioner or <b>Authorised Practitioner</b> must ensure a forensic disability client on whom restraint is used under chapter 6, part 2 division 2 of the Act is observed as required under the Director of Forensic Disability's authorisation for restraint.

SECTION		POWER/FUNCTION
		<p>A Senior Practitioner or <b>Authorised Practitioner</b> must ensure a forensic disability client is continuously observed while secluded under chapter 6, part 2, division 3 of the Act unless the Senior Practitioner's order for seclusion states –</p> <ul style="list-style-type: none"> <li>a) it is not necessary to continually observe the client while secluded; and</li> <li>b) the intervals (not longer than 15 minutes) at which the client must be observed while secluded.</li> </ul>
<b>Chapter 7, Part 1 – Searching forensic disability clients and possessions</b>		
76	Authority to search	<p>If a Senior Practitioner or <b>Authorised Practitioner</b> reasonably believes a forensic disability client has possession of a harmful thing, the Senior Practitioner or <b>Authorised Practitioner</b> may search the client or the client's possessions</p> <p>Before carrying out the search the Senior Practitioner or <b>Authorised Practitioner</b> must tell the client the reasons for the search and how it is to be carried out.</p> <p>The Act defines a <i>harmful thing</i> to mean anything that –</p> <ul style="list-style-type: none"> <li>a) may be used to threaten the security of the forensic disability service; or threaten a person's health or safety; or</li> <li>b) if used by a forensic disability client in the forensic disability service, is likely to adversely affect the client's care and support.</li> </ul>
77	Carrying out search	<ul style="list-style-type: none"> <li>1) The Senior Practitioner or <b>Authorised Practitioner</b> may require the client to submit, or submit the client's possessions, to a search under this section.</li> <li>2) The Senior Practitioner or <b>Authorised Practitioner</b> may do any or all of the following – <ul style="list-style-type: none"> <li>a) pass a hand-held electronic scanning device over or around the client or the client's possessions;</li> </ul> </li> </ul>

SECTION		POWER/FUNCTION
		<ul style="list-style-type: none"> <li>b) open or inspect a thing in the client's possession;</li> <li>c) remove and inspect an outer garment or footwear of the client;</li> <li>d) remove and inspect all things from the pockets of the client's clothing;</li> <li>e) touch the clothing worn by the client to the extent reasonably necessary to detect things in the client's possession;</li> <li>f) remove and inspect any detected thing.</li> </ul> <p>3) With the Administrator's approval, the practitioner, may remove and inspect all, or part of, the client's other clothing and anything found in the clothing.</p> <p>4) This approval may only be given if the Administrator is reasonably satisfied it is necessary in the circumstance for carrying out the search.</p> <p>5) The practitioner may -</p> <ul style="list-style-type: none"> <li>a) exercise a power of inspection under subsection (2) only if the client is present or has been given the opportunity to be present; or</li> <li>b) exercise a power under subsection (2)(c) to (f) or (3) only if – <ul style="list-style-type: none"> <li>i. the practitioner is the same sex as the client; and</li> <li>ii. the search is carried out in a part of a building that ensures the client's privacy</li> </ul> </li> </ul> <p>6) The practitioner must carry out the search in a way that respects the client's dignity to the greatest extent possible; and causes as little inconvenience to the client as is practicable in the circumstance.</p>
78	Seizure of things	The Senior Practitioner or <b>Authorised Practitioner</b> may seize anything found during the search that the practitioner reasonably suspects is a harmful thing.

SECTION		POWER/FUNCTION
80	Record of search	<p>If a Senior Practitioner or <b>Authorised Practitioner</b> carries out a search; or seizes anything found during a search under chapter 7, part 1 the practitioner must immediately make a written record of the following details of the search –</p> <ul style="list-style-type: none"> <li>• the reasons for the search;</li> <li>• the practitioner’s name;</li> <li>• how the search was carried out;</li> <li>• the results of the search;</li> <li>• anything seized.</li> </ul>