

Can aged care residents freely move around in their environment?

Fact Sheet: Limiting an aged care resident's access to areas and items as a form of environmental restraint in Victoria

In Australia, an aged care resident (**Resident**) generally has the right to move around their aged care facility freely, except where there may be a risk of harm to the Resident or others.

Practices that restrict a Resident's free access to all parts of their environment for the primary purpose of influencing the Resident's behaviour, are known as 'environmental restraints'. This includes restricting access to items and activities. Environmental restraint is a 'restrictive practice' because its use restricts a person's rights or freedom of movement and can only be used as a last resort to prevent harm.

Restrictive practices are strictly regulated and aged care providers (**Providers**) are required to meet various obligations. This fact sheet applies to Victorian residential aged care services in an aged care facility (**Facility**), delivered under the Commonwealth's [Aged Care Act 1997 \(Cth\)](#).

This fact sheet will:

- Identify what is environmental restraint;
- Explain the legal requirements that must be met by Providers to authorise and apply environmental restraint, including in emergency situations;
- Discuss who can provide consent for applying environmental restraint and the meaning of informed consent; and
- Explain what you can do if you are concerned about the misuse of environmental restraint.

What does environmental restraint look like?

Environmental restraint is a practice that restricts access to any part of a Resident's environment within their Facility, including their room and any common areas, with the primary objective of influencing the behaviour of the Resident. This does not include areas within the Facility where a Resident would not normally be permitted, such as the kitchen, laundry, maintenance areas, medication storage areas, and other Residents' rooms.

Environmental restraint could also involve restricting access to items or activities, which a person usually has access to, such as a walking frame or a mobile phone, or watching TV or attending an outing.

Example 1

Florence feels vulnerable at night, worried that people may enter her room. She asks for a lock to be fitted to her door so she can lock it when she's inside. The Facility discusses the risks and benefits with Florence, as well ways to reduce any risk. Florence and staff have keys to the room and a process whereby staff check on Florence if she is in her room, and knock before entering.

This is not environmental restraint. Florence is able to leave her room freely and has full control over her environment.

Example 2

Sandra has mild dementia and often forgets where she has put her mobile phone, so has asked staff to keep it in the Facility's office until she would like to call her family. Sandra tends to speak very loudly when on the phone so staff have a specific area for Sandra where she does not disturb anyone. One evening, Sandra asks for her phone to call her daughter but the staff member says she's too loud and will not give Sandra her phone. Sandra does not understand why she cannot use her phone in the designated area.

This is an inappropriate use of environmental restraint as keeping Sandra's mobile phone is for the primary purpose of influencing her behaviour, and it is not to prevent harm.

Appropriate use of environmental restraint. If Sandra's behaviour was harmful, such as throwing her phone at other residents, taking her phone away to stop or prevent harm may be appropriate, if all obligations are followed by the Provider.

What are the Provider's obligations in the use of environmental restraint?

The Provider must be satisfied that:

- Environmental restraint is only used as a last resort to prevent harm to the Resident or other persons, and after consideration of the likely impact on the Resident;
- Alternative strategies are considered and used to the extent possible, and documented in the Resident's Behaviour Support Plan;
- The restraint is used only to the extent that it is necessary and in proportion to the risk of harm to the Resident or other persons, in the least restrictive form, and for the shortest time necessary to prevent harm;
- The restraint complies with the Resident's Behaviour Support Plan (and other relevant care plans), the Aged Care Quality Standards, and is consistent with the Charter of Aged Care Rights;
- Informed consent to the use of the restraint has been obtained, except in an emergency (see below).
- An approved health practitioner with day-to-day knowledge of the Resident has assessed the Resident as posing a risk of harm to themselves or any other person and assessed that the use of the environmental restraint is necessary.

The Provider must document the following in the Resident's Behaviour Support Plan:

- The Resident's behaviour and assessments relevant to the use of environmental restraint.
- The alternative strategies that have been considered or used, including a record of any consultations with the Resident or their substitute decision maker discussing such strategies.
- Details of the environmental restraint, including duration, frequency and intended outcome, and how it is to be monitored, including the escalation process.

- Any engagement with persons other than the approved health practitioner in relation to the use or assessment of the environmental restraint (for example, dementia support specialists).
- A record of the informed consent obtained by the Provider from the Resident or their substitute decision maker, for the use of the environmental restraint.

Responsibilities of the Provider while environmental restraint is being used:

- The use of the restraint is monitored, reviewed and documented in the Resident's Behaviour Support Plan.
- The Resident is monitored for signs of distress or harm, side effects, changes in mood or behaviour, including ability to engage in activities and to maintain independent function (to the extent possible).
- Consider if appropriate alternative strategies can be used, or changes to the environment could be made, for the restraint to be reduced or stopped.

Who can consent to environmental restraint?

- A decision to use environmental restraint requires informed consent by the Resident, or if they lack capacity, a substitute decision-maker.
- Determining a person's capacity can be difficult, it may be appropriate to obtain an assessment by a medical practitioner, but importantly Residents are presumed to have capacity to make their own decisions.

Who can be a substitute decision maker for environmental restraint?

The Commonwealth of Australia has a hierarchy of Restrictive Practices Substitute Decision Makers (**RPSDMs**) who can provide informed consent for the use of environmental restraint on behalf of a Resident.

There is a new hierarchy of RPSDMs in Victoria that comes into effect on the 1 July 2025. RPSDMs appointed under the Commonwealth hierarchy prior to 1 July 2025 will not be impacted by this new legislation. The Commonwealth hierarchy can be found [here](#).

The order of the hierarchy will be:

- A person nominated in writing, and the nomination is witnessed by an authorised affidavit taker (for example a lawyer);
- The spouse or domestic partner of the Resident;
- The primary carer of the Resident;
- The oldest child of the Resident, followed by the other children in descending order of age if there are two or more adult children;
- The oldest sibling of the Resident, followed by the other siblings of the Resident in descending order of age if there are two or more adult siblings.

Applications may also be made to the Victorian Civil and Administrative Tribunal (**VCAT**) to appoint a RPSDM. If no person is available, VCAT may provide consent to the use of a restrictive practice.

What is ‘informed consent’?

A Resident or RPSDM must provide informed consent to the use of environmental restraint. This requires the Provider to explain the reason for the use of the environmental restraint, the risks and benefits, the timeframe and intended outcomes, and any alternative options. In addition, consent should be provided independently, free from duress, and involve the opportunity to review and ask questions. Consent can be refused or withdrawn and is required each time a environmental restraint is proposed.

How is environmental restraint used in an emergency?

Environmental restraint can be used in an emergency as necessary, such as in a dangerous situation that is unanticipated and requires immediate action. It does not require informed consent or the need to ensure compliance with the Resident’s Behaviour Support Plan.

The environmental restraint used in the emergency must be in the least restrictive form, for the shortest period possible, and documented. The Provider must inform the RPSDM as soon as practicable after the event, and document the Resident’s behaviour, the alternatives considered or used, why the restraint was necessary, and the care provided.

Legal remedies for unlawful environmental restraint

Unauthorised use of restraint may be considered assault or false imprisonment and may give rise to civil or criminal actions in severe cases.

A person may seek an injunction from the courts to prevent the restraint from happening or continuing.

What can you do if you or your loved one is being environmentally restrained unlawfully?

- Make a complaint to the Provider, referencing the [Quality of Care Principles](#) which outline the requirements of applying restrictive practices.
- Make a complaint to the [Aged Care Quality and Safety Commission](#) (ACQSC).
- Contact [ACJ](#) if you are unsure of your rights for a free legal consultation.



Contact Aged Care Justice if you would like a free legal consultation:

Email: info@agedcarejustice.org.au

[Complete Get Help Form](#)

Website: www.agedcarejustice.org.au

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