

When can physical force be used to restrict the movement of an aged care resident?

Fact Sheet: Limiting the movement of an aged care resident through physical restraint in Victoria.

In Australia, an aged care resident (**Resident**) generally has the right to move around the aged care facility (**Facility**) freely, except where there may be a risk of harm to themselves or others. The use of physical force to prevent, restrict or subdue movement for the primary purpose of influencing a Resident's behaviour, is known as 'physical restraint'.

Physical restraint is a restrictive practice because its use restricts the rights or freedom of movement of a resident 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 services delivered in aged care facilities (**Facility**) in Victoria, under the Commonwealth's [*Aged Care Act 1997 \(Cth\)*](#).

This fact sheet will:

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

What does physical restraint look like?

Physical restraint is a practice or intervention that is, or involves the use of, physical force to prevent, restrict or subdue movement of a Resident's body, or part of a Resident's body, for the primary purpose of influencing the Resident's behaviour.

It does not include the use of a hands-on technique in a reflexive way to guide or redirect the Resident away from potential harm or injury if it could reasonably be considered to be the exercise of care towards the Resident.

Example 1

William and some of the other Residents are going on an outing. William is busy talking to the carer who is standing by his side when he nearly walks on to the road with oncoming traffic. The carer quickly holds William back from the road as they stop to wait for the pedestrian signal.

This is *not* physical restraint. The carer used gentle force to stop William from walking on to the road and to prevent him from harm.

Example 2

Angela has advanced dementia and is fed her meals while sitting upright in bed. One evening, she does not seem to have an appetite and wants to leave her bed, but two staff members hold her arms against the bed so she cannot move.

This is physical restraint. Angela is being held against her wishes and, and it is not to prevent harm to herself or others. This is an inappropriate use of physical restraint.

Physical restraint may be appropriate if there is consent and the health practitioner has determined that Angela has to be physically restrained for her safety.

What are the Provider's obligations in the use of physical restraint?**The Provider must be satisfied that:**

- Physical 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).

The Provider must also be satisfied that an approved health practitioner with day-to-day knowledge of the Resident has;

1. Assessed the Resident as posing a risk of harm to themselves or any other person; and
2. Assessed that the use of the physical 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 physical 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 physical 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 physical 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 physical restraint.

Responsibilities of the Provider while physical 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 physical restraint on behalf of a Resident?

- A decision to use physical 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 mechanical restraint?

The Commonwealth of Australia has a hierarchy of Restrictive Practices Substitute Decision Makers (**RPSDMs**) who can provide informed consent for the use of physical 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 a physical restraint. This requires the Provider to explain the reason for the use of the physical 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 physical restraint is proposed.

How is physical restraint used in an emergency?

Physical restraint can be used in an emergency 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 physical restraint used in an 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 physical 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 physically 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

Phone: (03) 9016 3248

Website: www.agedcarejustice.org.au



DISCLAIMER: This fact sheet is for general information purposes only and does not represent legal advice. As it is not intended to be comprehensive in relation to the topic, other inclusions or exemptions may apply. The law and policy referred to in this document was in force on the 26/02/2025. Scenarios on first page are fictional.