Working together to build a better future

Q116	RESTRICTIVE PRACTICE POLICY

Policy Statement

This policy provides direction on the minimisation and where possible, elimination of the use of restrictive practices and seeks to ensure that any restrictive practice authorised and consented to be administered appropriately with the least infringement of the rights of people with disability.

This document complies with NDIS Practice Standards and Quality Indicators 2020, 1.1 Person Centred Supports, Specialist Behaviour Support Module and all subsections, Implementing Behaviour Support Plans Module and all subsections, and ACIS 2018, section 1.1 Service User Rights.

This document is readily available to all Customers/Clients and employees of Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service including The Boards.

Definitions

Aversive restraint is a practice that uses unpleasant physical, sensory or verbal stimuli in an attempt to reduce a person's undesired behaviour.

Behaviours of concern are behaviours of such intensity, frequency or duration as to threaten the quality of life and/or safety of the individual or others and may seriously limit or deny the use of ordinary community facilities, limit or deny lifestyle opportunities, impede positive interactions with others in their environment, and are likely to lead to responses that are restrictive, aversive or result in exclusion.

Chemical restraint is the use of any medication (including PRN medication) for the primary purpose of influencing or controlling a person's behaviour, movement or normal bodily function for a non-therapeutic reason. Chemical restraint does not include the administration of:

- Medication prescribed by a medical practitioner for the treatment of a diagnosed mental illness, a physical illness or physical condition.
- Pre-procedural medication for the principal purpose of reducing that person's anxiety regarding the procedure, and where the person is not resisting the medication.

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Detention is a situation where a person who wishes to do so is actively prevented from leaving the place where they receive disability services. Detention may include locked doors, windows or gates, and the constant supervision and escorting of a person to prevent them from exercising freedom of movement. Detention also includes where it is implied that voluntary exit is not permitted.

Environmental modifications are changes made to the person's environment, including the use of physical or other barriers, for safety or therapeutic purposes. An environmental modification becomes an environmental restraint if a person resists or objects to its implementation.

Environmental restraint is the use of physical or other barriers to prevent the person's free access to all parts of their environment for the primary purpose of influencing or controlling that person's behaviour (e.g. locking the front door to stop someone from going outside if the property is on a busy road and the Customer/Client has poor road sense).

Exclusion is the act of preventing a person from participating in or being part of an activity or decision, or deliberately ignoring or not including a person in an activity or decision.

Guardian means a person appointed as guardian of an adult by order of the South Australian Civil and Administrative Tribunal (SACAT), under the *Guardianship and Administration Act 1993.* A guardian is a formal substitute decision maker responsible for making decisions on behalf of a person about accommodation and/or health care and/or lifestyle matters.

Impaired decision-making capacity refers to the inability of a person to make a particular decision at a particular time because he or she is incapable of:

- understanding any information that may be relevant to the decision; or retaining such information; or
- using such information in the course of making the decision; or communicating his or her decision in any manner; or
- by reason of being comatose or otherwise unconscious, is unable to make a particular decision about his or her medical treatment.

Mechanical restraint refers to the use of a device to prevent, restrict or subdue a person's free movement for the primary purpose of influencing or controlling that person's behaviour. Mechanical restraint does not include the use of devices for therapeutic purposes (e.g. splints) or for safety purposes not primarily related to behaviour (e.g. seat belts, wheelchair trays or bed rails to prevent injury from falls or

devices to enable the safe transportation of a person). However, a therapeutic or safety device is considered a mechanical restraint if a person resists or objects to its use.

Where there is no substitute decision-maker or relevant instruction, a **person responsible** for a person with impaired decision-making capacity has legal authority to provide or refuse consent to health care and medical treatment for that person (subject to certain legislatively prescribed exceptions), in the following legal order:

- guardian with health care decision-making powers
- relative with a close and continuing relationship (an adult spouse or domestic partner or an adult related by blood, marriage, adoption or Aboriginal kinship rules/marriage)
- an adult friend with a close and continuing relationship
- someone charged with the day to day care and well-being of the person
- South Australian Civil and Administrative Tribunal (SACAT) (last resort).

Physical restraint is the use of any part of a person's body to prevent, restrict or subdue free movement of another person's body for the primary purpose of controlling that person's behaviour. Physical restraint does not include brief physical contact to guide or redirect a person away from immediate potential harm or injury consistent with a service provider's duty of care to that person or physical assistance with activities of daily living.

PRN medication (PRN) is an acronym for 'pro-re-nata' a Latin phrase used in medicine to mean 'medication given as needed' or 'as the situation arises' (i.e. the times of administration are determined by the needs of the person and not given at scheduled times, e.g. analgesia for pain or fever, Ventolin for asthma, antihistamine for allergies, Midazolam for seizures). PRN may also be used for chemical restraint subject to appropriate authorisation.

Psycho-social restraint – the use of power-control strategies to influence a person's behaviour. This includes but is not limited to directing the person's behaviour through voice tone, commands or threats and the use of punishment, including ignoring the person and withholding basic human rights, such as positive social interaction, personal belongings or a favoured activity.

Restrictive practices refer to any practice, device or action that removes or restricts another person's freedom, movement or ability to make a decision. This includes detention, seclusion, exclusion, aversive restraint, chemical restraint, physical restraint, mechanical restraint, environmental restraint and psycho-social restraint. Restrictive practices do not include therapeutic or safety devices/practices, where the

device or practice is being used for its intended purpose and the person is not resisting or objecting to its use.

RRP a Regulated Restrictive Practice (RRP) is a regulated restrictive practice if it is or involves any of the following, seclusion, chemical restraint, medical restraint, physical restraint or environmental restraint. They can only be used if authorised by existing state processes and procedures and comply with NDIS Quality and Safeguards Commissions regulations on the use and reporting of restrictive practices.

Safety device/practice refers to a device or practice used for safety purposes not primarily related to behaviour (e.g. lap belts or bed rails to prevent accidental falls or devices to enable the safe transportation of a person). This also includes environmental modifications for safety purposes, such as sensor mats and 'Walkabout' alarms.

Seclusion refers to the sole confinement of a person with disability in a room or physical space at any hour of the day or night where voluntary exit is denied, prevented or not facilitated.

Substitute decision-maker is an adult appointed under an advance care directive who can make decisions about health care, end of life, living arrangements and other personal matters on behalf of a person during a period of impaired decision-making capacity, whether for a short time or permanently. In this policy, it includes substitute decision-makers appointed under the former Enduring Power of Guardianship and Medical Power of Attorney

Therapeutic device/practice is a device or practice recommended by an appropriate health practitioner for the purpose of maintaining or restoring health or for the treatment of an illness or condition (e.g. splints).

ARO an Authorised Reporting Officer (ARO) is one or more of the organisation's workers who is tasked with reporting the use of restrictive practices with the relevant external body on a monthly basis.

Reportable Incident is a serious incident or allegation which results in harm to a NDIS participant and occurs in connection with the provision of NDIS supports and services. Reportable incidents must be reported to a relevant external agency/agencies within an expected timeframe.

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Responsibilities

It is the responsibility of Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service and its employees engaged in the provision of Customer/Client services to adhere to this policy.

The direct supervisor has the primary responsibility to ensure that employees conform to this policy.

It is expected that each person in receipt of disability support will have an individual support plan. These plans must be person-centred with a strong focus on positive behaviour support and choice and control. Consideration should be given to the person's particular goals, aspirations, interests, preferences, strengths and capabilities.

The plans should seek to increase a person's participation in positive activity and identify mechanisms for creating an enabling environment. Supporting people with disability to live positive lives of their choosing is often an important factor in minimising behaviours of concern that can increase a person's risk of being subject to restrictive practices.

The plans of any person subject to recommended restrictive practices must include the following key quality elements in relation to positive behaviour support:

- Plans must be in partnership with all key stakeholders including implementing providers
- The plan needs to clearly identify when, where, how, why regarding the use of restrictive practice(s)
- The plan identifies the known reasons for or causes of the behaviours of concern
- Environmental factors that trigger or support the behaviours of concern are identified
- The plan introduces both environmental change and supports new behaviour
- Reinforcement of new behaviours is identified
- The response to recurrence of behaviours of concern is described
- The plan contains a strategy to communicate between relevant persons.

Enhanced Lifestyles or Lifestyle Assistance and Accommodation Service may seek the expertise of psychologists and/or developmental educators in the development and implementation of individual support plans. An appropriate individual support plan must be in place before a restrictive practice is recommended.

Employees are to be advised and instructed on the individual support plan, which must be readily available in the person's file for ongoing use by employees when required.

It is a responsibility of the employees to record and report the use of any restrictive practice to the Authorised Reporting Officer. For Enhanced Lifestyles this is the Clinical & Governance Manager.

Employee Training and Information

Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service is responsible for ensuring ongoing training and education of employees. This training will cover the appropriate use of restrictive practices and employees must be familiar with the agreed upon regulated restrictive practices in the Customer/Client's behaviour support plan. Employees must understand the difference between routine regulated restrictive practices and PRN regulated restrictive practices, and only use PRN regulated restrictive practices as a last resort to prevent harm.

Employees must understand that the use of an unplanned restrictive practice which is not documented in a Customer/Client's behaviour support plan constitutes a Reportable Incident, and will inform an ARO within 24 hours of the incident occurring.

This training may also include, but is not limited to:

- Disability awareness
- Relevant legislation, policies, procedures and guidelines
- The acceptable and prohibited parameters of using restrictive practices, including consent and authorisation arrangements
- Alternative management strategies, including positive intervention strategies
- Duty of Care responsibilities
- Child development (where services are provided to children)
- Documenting and Reporting requirements

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General principles

- People with disability are informed of their inherent human rights and are supported to exercise these rights.
- People with disability have the right to participate in and contribute to the social, cultural, political and economic life of the community on an equal basis with others.
- People with disability have the right to live free from abuse, neglect, intimidation and exploitation.
- People with disability have the right to be respected for their worth, dignity, individuality and privacy.
- People with disability have the right to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development.
- People with disability have the right to have access to appropriate assistance and support that will enable them to maximise their capacity to exercise choice and control and realise their potential.
- People with disability are empowered to determine their own best interests, including the right to exercise informed choice and take calculated risks (Dignity of risk).
- The cultural and linguistic diversity of people with disability is respected.
- Intervention in the lives of people with disability occurs in the least intrusive way, with the smallest infringements on the fewest rights.
- Services and supports are based on contemporary evidence-based best practice with a strong focus on person-centred approaches.

Requirements for the Use of Regulated Restrictive Practices

Regulated Restrictive Practices must only be used as a last resort after other behaviour management methods have been tried.

The follow Restrictive Practices are not authorised to be used by the South Australian Government:

- Exclusion
- Aversive Restraint or Intervention
- Psycho-Social Restraint
- Withdrawal of food/water

- Leaving people in bed
- Immobilisation of mobility devices
- Withdrawal of communication devises
- Use of Supine (laying face up) or Prone (laying face down) Physical Restraint

Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service will ensure that services are delivered, and people are treated in ways that are respectful and uphold the human rights, wellbeing, inclusion, safety and quality of life of people with disability taking into consideration the particular situation and needs of each person receiving a service. This includes understanding the nature of, or triggers for, a person's particular behaviours or reactions and recognising that they may be a reaction to an issue or situation related to the delivery of service.

Restrictive practices restrict the liberty of individuals and should be considered only in exceptional circumstances where the health, safety and wellbeing of a person with disability and/or the safety of others is at risk and all other reasonable, less restrictive alternatives have been trialled.

In these rare instances, the use of restrictive practices must be time-limited, based on best practice and involve the least infringement of the person's rights.

Any recommendation of the use of restrictive practices with a child must critically consider the potential impact on that child's opportunities for development.

The use of a restrictive practice within a disability service requires the following:

- Behaviour Support Plan by NDIS Registered Behaviour Support Practitioner
- Comprehensive bio-psychosocial assessment
- Recommendation of the restrictive practice by an appropriate professional, within the context of a holistic individual support plan for the person with disability
- Informed consent by a person with legal authority
- Where required, authorisation by the South Australian Civil and Administrative Tribunal (SACAT)
- Application of the restrictive practice by appropriately trained disability services employees, to the extent legally authorised

- Regular review of the use of the restrictive practice as part of individual support planning with the person.

The specific elements of each of these requirements are outlined below.

Recommendation of Restrictive Practices

Within disability service settings, the use of a restrictive practice requires recommendation by:

- a practitioner, being a medical practitioner, relevant health professional or manager of the relevant service unit or area; **and**
- A senior manager of the disability service.
- Child and Youth Service and relevant funding body must be informed of and involved in decision-making relating to the use of restrictive practices with children.
  - Certain restrictive practices must be recommended by practitioners within particular professional categories, as follows:
  - Seclusion - recommended by a psychologist or psychiatrist
  - Mechanical restraint – recommended by a treating health professional (as defined in the *Guardianship and Administration Act 1993,* for example a physiotherapist, occupational therapist or psychologist)
  - Chemical restraint – ongoing or PRN medications that constitute chemical restraint must be recommended (prescribed) by a medical practitioner, for example a general practitioner (GP) or psychiatrist.

Any recommendation of a restrictive practice must be made within the context of a person- centred, individual support plan for the person with disability.

Restrictive practices that constitute aversive restraint, psycho-social restraint or exclusion are inconsistent with rights-based and person-centred service delivery to people with disability and must not be recommended or used in any circumstances.

Consent and Authorisation of Restrictive Practices

In all instances, a person with decision-making capacity must have all decisions regarding the use of restrictive practices deferred to them. When a person with decision-making capacity consents to the use of restrictive practices, care should be taken to ensure that such consent is voluntary and not the subject of undue influence by people on whom the person with disability relies.

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Restrictive practices applied in the support of children and young people under 18 years of age can be consented to by that child or young person's parent or another person with legal authority to make decisions on behalf of that child or young person.

For an adult with impaired decision-making capacity, the application of a restrictive practice must be authorised by SACAT under Section 32 of the *Guardianship and Administration Act 1993.*.

Requirements for the consent and authorisation of restrictive practices applied in the support of an adult with impaired decision-making capacity are outlined below.

Section 32 of the Guardianship and Administration Act 1993

Under Section 32 of the *Guardianship and Administration Act 1993,* on application by the person's guardian or substitute decision-maker, SACAT may:

- Direct that the person resides:
- with a specified person or in a specific place; or
- with such person or in such place as the guardian or substitute decision maker from time to time thinks fit
- Authorise the detention of the person in the place in which he or she will so reside
- Authorise the persons from time to time involved in the care of the person to use such force as may be reasonably necessary for the purpose of ensuring the proper medical or dental treatment, day-to-day care and wellbeing of the person.

It is important to note that an order by SACAT under Section 32 does not constitute consent to medical or dental treatment.

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Consent to chemical restraint where the person is not resisting or objecting to the medication

For a person with impaired decision-making capacity, consent to chemical restraint *where the person is not resisting or objecting to the medication* can be provided by the person's substitute decision-maker, subject to any instructions or directions in an advance care directive.

Where there is no substitute decision-maker, consent can be provided by a 'person responsible' (as defined within the *Consent to Medical Treatment and Palliative Care Act 1995* with the exception of someone charged with overseeing the person's ongoing day to day supervision, care and wellbeing, and only where the person responsible is available and willing to provide consent.

The *Consent to Medical Treatment and Palliative Care Regulations 2014* explicitly prohibit a service provider charged with the day to day care and well-being of the person from providing consent to chemical restraint.

Pre-procedural medication is not considered chemical restraint where it is administered for the *principal purpose of reducing the person's anxiety regarding the procedure,* and where the person is not resisting the medication. In this instance, the regular 'person responsible' hierarchy for consent to medical treatment applies.

Where there is a risk that the principal purpose of pre-procedural medication is to prevent the person with disability from refusing or resisting the procedure, administration of the medication may constitute chemical restraint.

Consent and authorisation of chemical restraint where the person is resisting or objecting to the medication

- For a person with impaired decision-making capacity, consent to chemical restraint *where the person is resisting or objecting to the medication* can be provided by the person's substitute decision-maker (subject to any instructions or directions) or guardian for healthcare (subject to any conditions or limitations), where SACAT has made the relevant authorisation under Section 32.
- The requirement for SACAT authorisation includes the concealment of medication in food where the person would otherwise refuse or resist its administration.

Consent and authorisation of detention or seclusion

- Consent to the detention or seclusion of a person with impaired decision-making capacity can be provided by the person's guardian or substitute decision-maker where appropriate authorisation has been made by SACAT under Section 32. The detention or seclusion can only be to the extent authorised by SACAT.

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Consent and authorisation of physical or mechanical restraint

- Consent to physical or mechanical restraint for a person with impaired decision-making capacity can be provided by the person's substitute decision-maker or guardian, where appropriate authorisation has been made by SACAT under Section 32. The restraint can only be to the extent authorised by SACAT.
- Where a person resists or objects to the use of a therapeutic or safety device, application of the device is considered a mechanical restraint and therefore requires authorisation by SACAT.

Consent and authorisation of environmental restraint

- Consent to environmental restraint for a person with impaired decision-making capacity can be provided by the person's substitute decision-maker or guardian, where appropriate authorisation has been made by SACAT under Section 32. The restraint can only be to the extent authorised by SACAT.

Application of restrictive practices in an emergency

- In emergency situations, the primary consideration for all employees must be the immediate safety and wellbeing of the person and others.
- As far as possible, the application of restrictive practices in an emergency should be consistent with any advance care directive and the person's individual support plan.
- Once the safety of all parties is ensured, employees must brief their supervisor or manager and document the emergency and restrictive practice applied as soon as practicable.
- Where a restrictive practice is required to administer emergency medical treatment to a person with impaired decision-making capacity, a medical practitioner may consent to the restrictive practice on that person's behalf.
- Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service will ensure that debriefing of both people with disability who are subject to emergency restrictive practices and employees occurs as soon as practicably possible.
- Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service must ensure that steps are taken to meet the requirements of this policy as soon as practicable in relation to a restrictive practice initially applied on an emergency basis.

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Distinguishing therapeutic or safety devices/practices from restrictive practices

Devices/practices applied or undertaken for therapeutic or safety purposes are not considered restrictive practices and can be consented to by the person or the person providing consent on their behalf. However, there is the potential for such devices or practices to be misused as a restrictive practice within disability services. For example:

- Bed rails to prevent accidental falls are a safety device while bed rails to stop a person from getting out of bed primarily for behavioural reasons are considered mechanical restraint.
- While wheelchair brakes are applied from time to time for safety reasons, the application of brakes to restrict a person's free movement primarily for behavioural purposes is considered mechanical restraint.
- Splints are used for therapeutic purposes (e.g. to prevent contraction of muscles or tendons) but the use of splints to stop a person from reaching a part of their body for behavioural purposes is considered mechanical restraint.
- Sensor mats or 'Walkabout' alarms used for safety purposes are environmental modifications but actively preventing someone who wishes to access a part of their environment (e.g. a communal area of their home) from doing so is considered environmental restraint.
- Locking a house to prevent harm to a person who lacks road safety awareness may be consistent with a service provider's duty of care to that person. However, locking a house for the primary purpose of restricting the free movement of a person wishing to leave the house is considered detention.

Individual analysis and, if necessary, further consultation and review is likely to be required to determine whether a device or practice is being used solely for therapeutic or safety purposes. If the primary purpose of the device or practice is to control or restrict the person's behaviour or free movement, it is considered a restrictive practice.

Where a person resists or objects to a therapeutic or safety device/practice, its application is considered a restrictive practice and therefore requires authorisation by SACAT

Recording and Reporting

Under this policy, Enhanced Lifestyles (EL) and Lifestyles Assistance and Accommodation Service (LAAS) is required to comply with all legislative, contractual or organisation- specific monitoring and reporting requirements.

The ARO will be in charge of providing regular monthly reports to the NDIS Commission regarding the use of regulated restrictive practices by the provider for that period. A copy of the report or record of it's submission will be maintained by EL/LAAS in the Customer/Client's folder for record keeping and internal auditing purposes.

Any use of restrictive practices that constitute a Reportable Incident must be reported to the NDIS Commission as per the organisations Incident Management System.

If the organisation obtains a short term approval from a state for the use of a RRP, then the provider must report to the NDIS Commission on the RRP every 2 weeks while the approval is in force.

All use of RRP will be documented and records must be kept for a minimum of seven years from the date of their creation in accordance with the NDIS Restrictive Practice and Behaviour Support Rules 2018.

The following information must be kept:

- A description of the use of the regulated restrictive practice including:
    - The impact on the person with disability
    - Any injury to the person with disability
    - Whether the use of the restrictive practice was a reportable incident
    - Why the regulated restrictive practice was used
- A description of the behaviour of the person with disability that lead to the use of the regulated restrictive practice
- The time, date and place at which the use of the regulated restrictive practice started and ended
- The names and contact details of the person with disability involved in the use of the regulated restrictive practice
- The names and contact details of any witnesses to the use of the regulated restrictive practice
- The action taken in response to the use of the regulated restrictive practice

- What other less restrictive options were considered or used before using the regulated restrictive practice
- The actions taken leading up to the use of the regulated restrictive practice, including any strategies used to prevent the need for the use of the practice

Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service is required to ensure that a person's specific consent and/or authorisation arrangements, including the details of a person's substitute decision-maker or guardian, or any orders by SACAT, are clearly documented to inform employees about arrangements relating to the use of restrictive practices.

Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service will also maintain a register of all people who have an individual support plan that includes the use of restrictive practices. In addition to maintaining awareness of their respective Boards as to the use of restrictive practices by the organisation.

Unauthorised Use and Incident Reporting

The use of any Restrictive Practice must have the appropriate authorisation in place for the state of South Australia. To be correctly authorised to use a Restrictive Practice a appropriately qualified health professional must recommend its use as part of a Behaviour Support Plan or Interim Behaviour Support Plan **and** if required by State legislation an authorisation by SACAT relating to the Customer/Client.

The use of a Restrictive Practice with a Customer/Client when there is no authorisation by the State of South Australia is a Reportable Incident, unless there is no authorisation process for that practice in the State of South Australia.

The use of a Restrictive Practice with a Customer/Client that is not in accordance with a Behaviour Support Plan for that Customer/Client is a Reportable Incident.

The use of an unauthorised Restrictive Practice that is a Reportable Incident must be notified to EL/LAAS management as soon as possible and will require reporting to the NDIS Commission with 24 hours of this notification. All Reportable Incidents should be managed according to the P325 – Incident Management Procedure.

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Policy context: This policy relates to	
Legislation or other requirements	Advance Care Directives Act 2013 (SA) Children's Protection Act 1993 (SA) Consent to Medical Treatment and Palliative Care Act 1995 (SA) Consent to Medical Treatment and Palliative Care Regulations 2014 (SA) Criminal Law Consolidation Act 1935 (SA) Disability Discrimination Act 1992 (Cth) Disability Services Act 1986 (Cth) Disability Services Act 1993 (SA) Equal Opportunity Act 1984 (SA) Freedom of Information Act 1991 (SA) Guardianship and Administration Act 1993 (SA) Health and Community Services Complaints Act 2004 (SA) Privacy Act 1988 (Cth) Privacy Amendment (Private Sector) Act 2000 (Cth) Work, Health and Safety Act 2012 (SA) National Disability Standards – 1 Rights DCSI Safeguarding People with a Disability Restrictive Practices Policy NDIS Restrictive Practices and Behaviour Support Rules 2018
Contractual obligations	

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Documentation

Documents related to this policy	
Related policies	Q102 Customer Rights and Service Charter Q108 Privacy Policy Q009 ISG Appendix Q308 Behaviour Management Policy P308 Behaviour Management Procedure Q325 Incident Management Policy P325 Incident Management Procedure
Forms, record keeping or other organisational documents	Work, Health and Safety Management System