



Authorised Person - Policy and Practice Guidelines

The *Volatile Substance Abuse Prevention Act 2005* provides a range of powers to prevent volatile substance abuse and protect people from harm which may result from this abuse.

The Act allows the Minister for Family and Community Services to appoint people as Authorised Persons to exercise powers of search and seizure for volatile substances or items used for inhaling these substances. Authorised Persons may also have powers to apprehend without arrest, people who have been inhaling volatile substances and who should be detained to protect their or other's health or safety.

Police Officers can exercise all the powers of Authorised Persons.

Part A - Roles and Responsibilities of Authorised Persons

These Policy and Practice Guidelines summarise the roles and responsibilities of Authorised Persons. However, Authorised Persons should have a detailed understanding of the relevant sections of the *Volatile Substance Abuse Prevention Act 2005* and the Volatile Substance Abuse Prevention Regulations.

1. Objects of the Act

The *Volatile Substance Abuse Prevention Act 2005* aims to support child, family and social welfare and improve the health of people in the Territory. This is achieved by providing a legal framework for the prevention of volatile substance abuse and the protection of persons, particularly children, from harm resulting from volatile substance abuse.

2. Not an offence to inhale or possess a volatile substance or inhalant

People who have, or inhale, volatile substances or have inhalants (items used for inhaling these substance) do not commit an offence.

The Act does include offences:

- supply and sale of volatile substances to another person believing that this substance will be inhaled is an offence
- breaching a community Management Plan is an offence
- disclosing the identity of a person who informs Police about offences under this Act is also an offence.

Criminal behaviour, including by people intoxicated by volatile substances, will be managed through existing provisions of the criminal justice system.

**3. Three Categories of Authorised Person:**

There are three categories of Authorised Person, each of which has different powers [Section 60]. However, irrespective of the powers available, Authorised Persons must exercise discretion as to when to use their specific powers to prevent volatile substance abuse and to ensure protection of people from harm.

(a) Authorised Persons empowered to search, seize and dispose of volatile substances

Powers only to search for and seize volatile substances and inhalants and to remove or destroy these items.

(b) Authorised Persons empowered to apprehend person

Powers only to apprehend person who has inhaled a volatile substance and who should be apprehended to protect their or other's health or safety. This apprehension is to enable the person to be taken to a responsible adult, to place of safety or, as a last resort, into custody.

(c) Authorised Persons empowered to search, seize and dispose of volatile substances and apprehend person

Powers to:

- search for and seize volatile substances and inhalants
- apprehend people who have been or are inhaling and who are at risk, to take them to a responsible adult, to place of safety or into custody.

The Identity Card issued to each Authorised Person will contain a statement of the powers the person is authorised to exercise.

4. Geographical area where Authorised Person's powers may be exercised

An Authorised Person is only empowered to exercise their powers in the area specified in the notice of appointment. The area may be the whole of the Northern Territory or defined geographical area/s.

An Authorised Person may only exercise their powers:

- in public places
- where people abusing volatile substances are trespassing on private property
- on private premises if consent is given to enter the premises to the Authorised Person by the occupier, or if no occupier, by the owner of the premises.

**5. Discretion and Judgement**

An Authorised Person may decide to intervene within the limits of their powers or may decide to not intervene. Safety of the person misusing volatile substances; safety of the Authorised Person; and safety of the community - plus the best interests of the person abusing volatile substances - must be considered each and every time an Authorised Person works in the community. (The Authorised Person may therefore decide to do nothing if that is the safest and most appropriate course of action in the circumstances.)

6. Reasonable force

The Act allows Authorised Persons and Police to use reasonable force when searching for and seizing volatile substances, when apprehending a person or during protective custody.

Reasonable force is force that is fair, proper and reasonably necessary in the circumstances - therefore in determining whether force is reasonable or not the circumstances in which it is used must be considered. It is relevant that the objective of the Act is to protect people engaging in volatile substance abuse from harm. Excessive force is not reasonable force!

7. Procedures when searching person

The Act details procedures to be followed when searching and seizing volatile substance or inhalants. The Act allows Authorised Persons to search a person and seize volatile substances if they have reasonable grounds to believe the person has in their possession volatile substances or inhalants and have inhaled, or plan to inhale, a volatile substance.

Before searching a person or seizing volatile substances or inhalants the Authorised Person must, unless the person is unable to understand, or it is otherwise impracticable:

- show the person their Identity Card
- tell the person that it is not an offence to have volatile substances or inhalants
- tell the person that the Authorised Person may use reasonable force to search the person and seize a volatile substance or inhalant
- ask the person to give them such substances or items which are in their possession.

8. Procedures for disposal of seized substances or items

The Authorised Person must take any seized substances or items to a Police Station as soon as practicable for disposal or destruction.

If the Authorised Person believes that removing the substance or item may cause a risk to people they may dispose of or destroy the substance or item.



If the substance must be disposed of immediately, the Authorised Person must take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm. This means that volatile substances (such as petrol) can not be dispensed to a range of places including: water, land used for cultivation, private property, any surface that may hold the product in its original form, or in any way that might present a risk to any person.

9. Considerations before apprehending a person

The Act enables an Authorised Person to apprehend a person if they have reasonable grounds to believe the person is inhaling or has recently inhaled a volatile substance and they should be apprehended to protect the health and safety of the person or others. When exercising powers of apprehension the Authorised Person must always consider the best interests of the apprehended person.

10. Procedures when apprehending a person

The Act requires that when apprehending a person the Authorised Person:

- must show the person their Identity Card
- must tell the person that they are not under arrest for any alleged offence; they are being apprehended to protect their or other's health or safety and that it is intended that they will take the person to a responsible adult or to a place of safety
- must, as soon as practicable after apprehending the person, take that person to a place of safety to be released into the care of a person at that place; or take them to a responsible adult and if that adult agrees, to release the person into their care; or as a last resort, the person can be taken to a Police Station to be held in protective custody
- if the person is a child who is released at a place of safety or into the care of a responsible person who is not the child's parent or guardian, or taken into protective custody, the Authorised Person must, if practicable, inform the child's parent or guardian.

If the apprehended person is considered by the Authorised Person to no longer pose a risk they may release the person in a suitable place. (A suitable place will be determined in the circumstances – issues to be considered may include vulnerability of the person who is to be released, proximity to person's home, time of day/night, access to transport, other nearby events and activities, etc.)

11 Records to be kept

Volatile Substance Abuse Prevention Regulations detail those records which are to be kept of actions of Authorised Persons.

(a) Records of actions in relation to search and seizure must include:

- brief description of the actions
- the authorised person's name



- the date, time and place of the actions
 - the age (or approximate age) of the person
 - the gender of the person
 - the details of any volatile substance given to or seized by the authorised person
 - the records may include other information relevant to the actions.
- (b) Records of actions in relation to an apprehended person must include:
- a brief description of the actions
 - the authorised person's name
 - the date, time and place of the apprehension
 - the name (if given) and age (or approximate age) of the apprehended person
 - the gender of the apprehended person
 - if the apprehended person is released under section 21(1)(a) of the Act into the care of a person (the "carer") at a place of safety – the name of the carer and the address of the place
 - if the apprehended person is released under section 21(1)(b) of the Act into a responsible adult's care – the name, address and other relevant particulars of the responsible adult
 - if section 21(2) of the Act applies – whether a parent or guardian of the apprehended person has been informed and, if not, the efforts made to inform a parent or guardian
 - if the apprehended person is released under section 22(2) of the Act – the time and place of the release
 - if section 22(4) of the Act applies – whether a parent or guardian of the apprehended person has been informed and, if not, the efforts made to inform a parent or guardian
 - the records may include other information relevant to the actions.

Records may be kept in paper or electronic form - depending on the technology available to Authorised Persons and their individual skills and preferences - and forwarded to the Alcohol and Other Drugs Program of the Department of Health and Community Services for collation, analysis and reporting.

12 Other Activities

Authorised Persons have clearly defined powers and responsibilities under the Act and Regulations. Through their work they will develop a comprehensive understanding of the nature and extent of volatile substance misuse within their communities, the people who are abusing these substances, local prevention programs, and treatment and other intervention services. They will therefore be in a very strong position to advise and support other community initiatives to reduce volatile substance misuse and to alert authorities about changes in patterns of misuse and risks associated with this misuse.



Part B – Application, Training, Assessment and Appointment of Authorised Persons

As Authorised Persons:

- have significant powers – to search people and seize volatile substances or inhalants and to apprehend intoxicated and at-risk people, including young people;
- are empowered to use reasonable force in the execution of these duties
- may work in a range of environments – from small communities to larger population centres
- may work relatively independently or as part of a team with other Authorised Persons, Police Officers or other community agencies
- it is imperative that only people with adequate skills, knowledge and experience are appointed to these positions.

It is likely, although not essential, that applicants will have a background in law enforcement, community patrols, youth services, alcohol and other drug programs or local government.

A selection and training program has been developed to assesses potential Authorised Persons and to provide the particular skills and knowledge required to perform their duties in an effective, sensitive and appropriate manner.

1 Application Form

An **Authorised Person Application Form** has been developed for people to formally express their interest in becoming an Authorised Person. This form requires the applicant to provide various details including identification, contact points, employment history, general health information, educational qualifications, details of community involvement, and referees.

The applicant must also consent to enquiries being made into their background to help ascertain their suitability for appointment. The Application Form must therefore also include a signed **Consent and Authority to Undertake Background Enquiries** form.

To ensure that the applicant is of sufficient health to carry out the relevant functions of an Authorised Person, a health assessment must also be made by a medical practitioner.

The Application Form, and all other required documents, are to be provided to the Assessment Panel (comprised of officers of the Department of Health and Community Services and Police).



2. Training

A training program has been developed by the Alcohol and Other Drugs Program of the Department of Health and Community Services for people who have been assessed by the Assessment Panel as potentially suitable to be appointed as Authorised Persons and for people who have not completed the preliminary assessment process but have an interest in becoming an Authorised Person.

The one-week program covers first aid, working with alcohol and or other drug affected clients in a range of settings, *Volatile Substance Abuse Prevention Act* and Regulations, and education about inhalants.

Issues covered include:

- volatile substance use - effects and symptoms
- protective and risk management strategies
- communication with intoxicated people
- conflict resolution and negotiation and strategies for dealing with aggressive clients
- self protection
- statutory and organisational requirements for dealing with clients affected by alcohol and other drugs
- other agencies and services provided
- concurrent medical illnesses which may mimic/mask withdrawal.

The course also includes the senior first aid certificate.

3. Appointment

The Assessment Panel will provide advice to the Minister for Health and Community Services regarding individual applicants.

The Minister may appoint a person as an Authorised Person under the Act and specify the powers that the person may exercise and where these may be exercised.

Each Authorised Person will be issued with an Identity Card which will include the photograph of the person and the powers the person is authorised to exercise.

If the person ceases to be an Authorised Person they must return the Identity Card to the Minister.