



Non-Intentional Risk

Authorisation of Restrictive Practices Information Sheet

This information sheet provides guidance on non-intentional risk and is part of a series of information sheets that have been developed to help everyone understand the 'Authorisation of Restrictive Practices in Funded Disability Services Policy' (the Policy) that applies in Western Australia.

For further information please refer to the [Authorisation of Restrictive Practices](#) website.

Non-intentional risk and restrictive practices

A restrictive practice is any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability.

There are a range of regulated restrictive practices outlined in the [Policy](#) which require authorisation. There are also other restrictive practices that are not considered within the scope of the Policy and do not require authorisation. These include those practices that may be applied to manage non-intentional risk behaviours.

Non-intentional risk behaviours are those which represent a risk to the person or others as a result of circumstances or conditions rather than as a result of the person seeking to address a functional need. In contrast, where the behaviour has a specific, identifiable function, it cannot be considered non-intentional, and any restrictive practices used in response must be considered to be in scope of the [Policy](#).

What are some examples of non-intentional risk behaviours?

Non-intentional risk behaviours are described in the Policy as:

- **Behaviours that create physical risk:** behaviours related to mobility, transitioning or accidental movement issues that involve a risk to the person. These risks are due to a physiological or neurological condition that can result in poor motor control (e.g. tardive dyskinesia) that may result in another person being inadvertently struck, the person accidentally hitting walls or other solid objects, or being at risk of falls.



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- **Resistance to support for activities of daily living:** behaviours that demonstrate discomfort associated with daily activities e.g. tooth brushing, or therapy routines. Assisting the person to complete activities of daily living may involve light physical support to assist the person to complete the activity. Resistance to this support may indicate that the person is experiencing an issue greater than discomfort, which will require further assessment to determine the cause of the resistance such as health/medical issues and the potential function of the behaviour.
- **Unsafe actions:** behaviours that unintentionally place the person at risk. This may include having 'no knife safety' or 'sun safety' awareness, inadvertently reaching for a hot kettle or stove, or wandering towards roads without awareness of safety issues.

Identifying non-intentional risk behaviour

It is recognised that non-intentional risk behaviours, with no specific function, may be approached in a different way to those to which the [Policy](#) applies. Strategies to manage non-intentional risk behaviours do not require authorisation and may emphasise minimisation of risk without directly addressing the behaviour.

To determine whether a behaviour is non-intentional, there must be a thorough assessment by an appropriately qualified person (e.g. medical practitioner or allied health professional) to ascertain that the behaviour is not seeking to meet a functional need. A functional behaviour assessment will also help to determine whether there may be a specific function to the behaviour.

It is important to work from an understanding that a person is seeking to address a functional need, unless evidence is gathered during the assessment process that clearly indicates otherwise. Avoiding any assumption to the contrary ensures that the person's needs are understood well before deciding whether non-intentional risk strategies may be appropriate. Non-intentional risk behaviour arises relatively rarely. Where there is doubt as to whether a behaviour is non-intentional, it must be viewed as intentional and any restrictions that are imposed to safeguard the person and/or others need to be regarded under the Policy as a regulated restrictive practice.

While some of the examples of non-intentional behaviours in the Policy (particularly unsafe actions) can be seen as functional in a broad sense, they do not have a function that is **specific to the behaviour that causes the risk**. For example:

- a person may be seeking to explore objects, and while they may inadvertently grab a knife while trying to meet that need, the knife could be an incidental object and not the specific target of the behaviour. Such a need may still be easily met by the same behaviour if the access to the risk is removed. Conversely, if the person needs the knife in order to prepare food, this function would be specific to the behaviour of picking up the knife and would be considered intentional.



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- a person may wander onto a road in a broader context of going out to enjoy some exercise but being on the road does not specifically contribute to the meeting of this need. The person would still be able to exercise freely if they were prevented from going close to the road. Conversely, if the person wanted to go on the road to get close to the cars, this would be a specific function which would be considered intentional.

In such cases, the behaviour could potentially be considered non-intentional, in the sense that there is a function only to a broader behaviour (as in the above examples of exploratory touching, exercising) that is not necessarily associated with the specific behaviour (grabbing a knife, wandering onto a road) that creates risk. However, the behaviour and circumstances must be carefully examined to ensure that there are no other functional needs that lead to the person's behaviour and subsequent exposure to the risk.

Responding to non-intentional risk using the principles of authorisation

While some restrictive practices may fall outside the scope of the Policy and therefore not require authorisation, the decision to use any practices that are in any sense restrictive should give careful consideration to the principles in Section 4.1.2 of the Procedure Guidelines (Stage Two) that may be relevant. For example, they should:

- be used only as a last resort in response to a risk of harm to the person with disability and/or others, and after the Implementing Provider has explored and applied other evidence-based, person-centred and proactive strategies
- be the least restrictive response possible in the circumstances to ensure the safety of the person and/or others:
 - when considering whether a restrictive practice is the least restrictive, it should be considered within a context of other alternatives that have an evidence base for being effective in addressing the presenting behaviour of concern.
- reduce the risk of harm to the person with disability and/or others
- be in proportion to the potential negative consequence or risk of harm
- be used for the shortest possible time to ensure the safety of the person with disability and/or others.

The information in this sheet is relevant to authorisation according to the Policy. While authorisation may not apply to some restrictive practices, it is important that Implementing Providers seek advice directly from the NDIS Quality and Safeguards Commission around any reporting and regulatory requirements that may be relevant in the case of non-intentional risk behaviours.



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Contact information

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