

Restrictive Practices Authorisation Frameworks

Australian States and Territories



2023
Edition

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On 24 July 2020, the Disability Reform Council (now the Disability Reform Ministerial Council) agreed to the draft Principles for Nationally Consistent Authorisation of Restrictive Practices, either in full or in principle.

The principles build on the commitment of all governments to national consistency in restrictive practice regulation under the *National Framework for Reducing and Eliminating the use of Restrictive Practices in the Disability Services Sector* (2014). The principles are outcome focussed and allow for flexibility in state and territory government implementation while setting a high standard for restrictive practices regulation at a national level.

This document provides an overview of state and territory restrictive practices authorisation frameworks. It is designed to:

- Increase predictability and simplicity for people with disability and their families regardless of where they live in Australia.
- Clarify requirements for NDIS providers that provide services across states and territories and navigate multiple authorisation schemes.
- Provide consistent feedback to NDIS providers about the core elements that inform authorisation decision making.

Nothing in state and territory authorisation frameworks derogates from the obligation of NDIS providers to meet their legal requirements under national legislation, including:

- NDIS (Provider Registration and Practice Standards) Rules 2018
- NDIS Practice Standards and Quality Indicators
- NDIS (Restrictive Practices and Behaviour Support) Rules 2018
- Positive Behaviour Support Capability Framework

State and territory authorisation frameworks embed in legislation and / or policy the core principles that inform best practice for the reduction and elimination of restrictive practices, including:

- People with disability have the right to live free from abuse, neglect and exploitation, and to have their human rights upheld by the people and organisations who support them.
- People with disability are entitled to exercise choice and independence to the maximum extent possible about their own care and the services they receive. This includes being consulted about the behaviour supports and the restrictive practices used in their care (either directly or via supported decision making processes).
- Restrictive practices must only be used as a last resort, in limited circumstances where it is the least restrictive way to safeguard the person and others from harm
- The use of restrictive practices must be proportionate to the risk of harm in the circumstances
- The use of restrictive practices must be situated within broader supports that maximise the person's independence, dignity and quality of life.
- All reasonable endeavours must be made to reduce and eliminate the use of restrictive practices where it is safe to do so.

Legislative / Policy Framework	Legislative framework Senior Practitioner Act 2018
Authority Entity	Delegated Panel PBS plans are approved by independent panels registered with the Senior Practitioner, comprising: <ul style="list-style-type: none"> • a senior manager familiar with the operational protocols of the intended service setting • an independent, experienced clinician with experience in positive behaviour support • additional members with experience in the matters under consideration Restrictive Practices in PBS plans are only authorised once the plan has been registered by the Senior Practitioner.
Website and key contacts	Community Services Directorate (Office of the Senior Practitioner) W communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner E actseniorpractitioner@act.gov.au P (02) 6205 2811
ICT platform for authorisations	ACT Restrictive Intervention Database System (ACTRIDS)
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices.
Variances from NDIS regulated RPs	N/A
Prohibited Practices	ACT approach aligns with NDIS Commission's High Risk Practices with some punitive approaches included. A legally enforceable Prohibited Practices Regulation is being drafted and will soon be published.
Scope	Providers who provide any of the following services to another person: <ul style="list-style-type: none"> • Education • Disability • care and protection of children • a service prescribed by regulation The Act makes specific exemptions for persons receiving care under the Mental Health Act 2015, Mental Health (Secure Facilities) Act 2016 and those in custodial or prison detention.
NDIS Behaviour Support Plan required?	
Consent required?	Authorisation does not require consent.
Authorisation period	Up to 6 months for interim BSPs and up to 12 months for comprehensive BSPs.
Statutory Appeal	Reviewable decisions may be appealed to ACT Civil and Administrative Tribunal.
Additional statutory functions	<ul style="list-style-type: none"> • promote the reduction and elimination of the use of restrictive practices to the greatest extent possible • oversee the use of restrictive practices. • to ensure to the greatest extent possible that the rights of people subject to restrictive practices are protected, and providers comply with any applicable guidelines and standards • develop guidance and standards with respect to restrictive practices • provide education, information and direction with respect to restrictive practices, the rights of people subject to restrictive practices, positive behaviour support plans • develop links and access to professionals, professional bodies, and academic institutions to facilitate knowledge and training • undertake research into restrictive practices

Legislative / Policy Framework	Policy Framework NSW Restrictive Practices Authorisation Policy NSW Restrictive Practices Procedural Guide Introduction of new legislation to Parliament is planned for 2023.
Authority Entity	Delegated Panel A properly constituted RPA Panel authorises regulated restrictive practices and the authorisation process requires consent to implement the practice. Interim BSP Authorisation of RPs can be provided by a senior manager within the NDIS provider, in accordance with policy requirements Comprehensive BSP Authorisation by a Restrictive Practice Authorisation Panel (RPA Panel) convened by the implementing provider, comprising: <ul style="list-style-type: none"> • a senior manager familiar with RP use in the service setting (Panel Chair) • a specialist with expertise in behaviour support • an independent person (may be the same person as the behaviour support specialist) The RPA Panel's decision to authorise a regulated restrictive practice is to be unanimous.
Website and key contacts	W facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal E restrictivepracticesauthorisation@dcj.nsw.gov.au
ICT platform for authorisations	NSW Restrictive Practices Authorisation System W portal.dcj.nsw.gov.au
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices
Variances from NDIS regulated RPs	Does not include seclusion of children and young people, which is a prohibited practice.
Prohibited Practices	<ul style="list-style-type: none"> • Aversive practices that might be experienced as noxious, unpleasant or painful. • Overcorrection. • Misuse of medication (administration of medication contrary to the instructions of prescribing medical professional). • Denial of key needs. • Unauthorised restrictive practices. • Any practice that degrades or demeans, may be reasonably perceived as harassment or vilification, is unethical. • Corporal punishment of children. • Punishment that involves immobilisation, force feeding, depriving of food, humiliation or frightening the child / young person.
Scope	NDIS services.
NDIS Behaviour Support Plan required?	Yes.
Consent required?	Consent is required from the person with disability or their legal guardian.
Authorisation period	Up to 6 months or the expiration date of the interim BSP. Up to 12 months or the expiration date of the comprehensive BSP.
Statutory Appeal	No.

Legislative / Policy Framework	Legislative Framework National Disability Insurance Scheme (Authorisations) Act 2019
Authority Entity	Delegated Individual Senior Practitioner
Website and key contacts	Department of Health W health.nt.gov.au/professionals/restrictive-practices-authorisation E restrictive-practices.authorisation-unit@nt.gov.au
ICT platform for authorisations	Restrictive Practices Authorisation System.
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices.
Variances from NDIS regulated RPs	Does not include seclusion of children and young people, which is a prohibited practice.
Prohibited Practices	<ul style="list-style-type: none"> Pin downs, basket holds, take down techniques, any physical restraint that has the effect of restraining or inhibiting a person respiratory or digestive functioning, any physical restraint that has the effect of pushing the person's head forward onto their chest, any physical restraint that has the effect of compelling compliance through infliction of pain, hyperextension of joints, or applying pressure to the chest or joints. Prone or supine physical restraints. Aversive practices, overcorrection, misuse of medication, denial of key needs, practices that relate to degradation or vilification, practices that limit access to community, culture or language. Seclusion of a person under the age of 18 years.
Scope	NDIS providers providing NDIS supports to NDIS participants.
NDIS Behaviour Support Plan required?	Yes.
Consent required?	Authorisation does not require consent.
Authorisation period	Up to 6 months for interim BSPs and up to 12 months for comprehensive BSPs.
Statutory Appeal	Review by Chief Executive, Department of Health. May be escalated to NT Civil Administrative Tribunal.
Additional statutory functions	<ul style="list-style-type: none"> promote the reduction and elimination of the use of restrictive practices to the greatest extent possible ensure to the greatest extent possible that the rights of participants who are subject to restrictive practices are protected develop guidance and standards about the use of restrictive practices support NDIS providers to deliver practice innovation in the reduction and elimination of restrictive practices ensure that the authorisation of restrictive practices is consistent with the UN Convention on the Rights of People with Disabilities 2006 disseminate education and information about restrictive practices and the rights of participants provide advice regarding contemporary clinical practice developments in relation to safe elimination of restrictive practices build capacity in the disability sector in the reduction of restrictive practices develop and foster effective relationships with a diverse group of persons or entities to influence practice and enable positive change

Legislative / Policy Framework	Legislative Framework Disability Services Act 2006 (Qld) Part 6 Guardianship and Administration Act 2000 (Qld) Chapter 5B Public Guardian Act 2014 (Qld) section 12
Authority Entity	Delegated Individuals Department of Child Safety, Seniors and Disability Services <ul style="list-style-type: none"> can provide short term authorisation for chemical, mechanical, physical, and environmental restraints Public Guardian <ul style="list-style-type: none"> can provide short term authorisation for the use of seclusion and containment A guardian for restrictive practice (general) <ul style="list-style-type: none"> can provide longer term authorisation for chemical, mechanical or physical restraint and environmental restraints Delegated Panel Queensland Civil and Administrative Tribunal (QCAT). Can authorise seclusion or containment in comprehensive BSPs.
Website and key contacts	W odc.disability.qld.gov.au/help_resources/resources_ext.aspx Disability Connect E enquiries_rp@dssdsatip.qld.gov.au P 1800 902 006 Office of the Public Guardian (for short term approvals) E OPG-PBS@publicguardian.qld.gov.au
ICT platform for authorisations	No.
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices. Disability Services Act 2006 (Qld) section 144 definition of restrictive practices.
Variances from NDIS regulated RPs	<ul style="list-style-type: none"> Environmental restraint is referred to as 'restricting access'. Containment means preventing the free exit of an adult with an intellectual or cognitive disability from premises where the adult receives disability services or NDIS supports or services, other than by secluding the adult. Locked doors, gates and windows are exempt from this definition where they are in response to an adult with a skills deficit.
Prohibited Practices	Any use of restrictive practices that is not in compliance with part 6 of the Disability Services Act 2006 (Qld) would be unlawful.
Scope	NDIS services and state disability services. Adults who have an intellectual or cognitive disability, and are at risk of harming themselves or others, and receive services from government provided or NDIS funded services.
NDIS Behaviour Support Plan required?	Yes, for longer term authorisation. Queensland requires a Positive Behaviour Support Plan, with template available from Department of Child Safety, Seniors and Disability Services.
Consent required?	Yes, consent is required from QCAT (for containment and/or seclusion) and a guardian for restrictive practice (general) for other types of restrictive practices (chemical, mechanical, physical or environmental restraint).
Authorisation period	Up to 12 months for containment and seclusion authorisations. The decision to approve or consent to a restrictive practice must be regularly reviewed, at a minimum of once per year. Queensland Civil and Administrative Tribunal has review and appeal jurisdiction where applicable.
Statutory Appeal	No.

Legislative / Policy Framework	Legislative framework Disability Inclusion Act 2018 (Part 6A) Disability Inclusion (Restrictive Practices – NDIS) Regulations 2021 Restrictive Practices Guidelines 2022
Authority Entity	Delegated Individuals Senior Authorising Officer – SAO (Restrictive Practices Unit) Authorised Program Officers – APO (NDIS implementing providers) for Level 1 RPs only.
Website and key contacts	Restrictive Practices Unit W rpd.sa.gov.au E DHSRestrictivePracticesUnit@sa.gov.au P 1800 862 004
ICT platform for authorisations	Restrictive Practices System (RPS) for use by NDIS implementing providers and the Restrictive Practices Unit only. W rps.sa.gov.au
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices.
Variances from NDIS regulated RPs	<p>RPs are categorised as Level 1 or Level 2.</p> <p>Seclusion can only occur in an emergency situation, is for the purpose of de-escalation / regulation, and can not exceed 2 hours.</p> <p>Environmental restraints that involve the locking of external gates and doors of residential premises where disability supports are provided on a 24 hour basis can only be authorised by the SAO where the person does not have supports to enable them to safely leave at their discretion.</p>
Prohibited Practices	<ul style="list-style-type: none"> • Prone and supine physical restraints. • Physical restraints that restrict or affect respiratory and digestive functions. • Physical restraints that force the head forward, inflict deliberate pain or discomfort, including hyperextension of the joints or apply pressure on the chest. • Restrictive practices that are implemented for a punitive or aversive purpose.
Scope	NDIS providers providing NDIS supports to NDIS participants.
NDIS Behaviour Support Plan required?	Yes.
Consent required?	Authorisation does not require consent.
Authorisation period	Up to 8 months from the start date of an interim BSP. Up to 15 months from the start date of a comprehensive BSP.
Statutory Appeal	<p>Yes, APO reviewable decisions may be appealed to the SAO.</p> <p>SAO reviewable decisions may be appealed to the SA Civil and Administrative Tribunal (SACAT).</p>
Additional statutory functions	<ul style="list-style-type: none"> • develop and review guidelines about restrictive practices • promote the reduction and elimination of restrictive practices in the disability sector • to provide education and training relating to the use of restrictive practices • to advise the Minister and others about restrictive practices in the disability sector.

Legislative / Policy Framework	<p>Legislative Framework Tasmanian Disability Services Act 2011 (currently under review)</p> <p>Policy Framework Restrictive Interventions in Services for People with Disability Policy 2020</p>
Authority Entity	<p>Delegated Individual Department of Premier and Cabinet (Assessed by the Senior Practitioner, authorised by the Secretary, Department of Premier and Cabinet)</p> <p>Delegated Panel Tasmanian Civil and Administrative Tribunal (TASCAT)</p>
Website and key contacts	<p>Senior Practitioner – Department of Premier and Cabinet E seniorpractitionerdisability@dpac.tas.gov.au P 0428 197 474</p>
ICT platform for authorisations	
Types of RPs regulated	<p>Environmental restraint (lack of free access to all parts of a person's environment).</p> <p>Personal restriction (physical contact to enable behavioural control, or taking an action that restricts a person's liberty of movement).</p>
Variances from NDIS regulated RPs	Does not include authorisation of chemical restraints.
Prohibited Practices	High Risk Practices as identified by the NDIS Commission.
Scope	NDIS and State disability services.
NDIS Behaviour Support Plan required?	No.
Consent required?	Authorisation does not require consent.
Authorisation period	<p>Environmental restrictions can be authorised by the Secretary for up to 90 days, or by TASCAT for up to 2 years after a hearing.</p> <p>Personal restrictions can be authorised by TASCAT for up to 90 days without a hearing, or up to 2 years after a hearing. This is done via the Senior Practitioner who must endorse the application.</p>
Statutory Appeal	Appeal to the Secretary, TASCAT, then the Magistrates Court.

Legislative / Policy Framework	Legislative Framework Disability Act 2006
Authority Entity	<p>Delegated Individuals</p> <p>Authorised Program Officers can authorise chemical and environmental restraints.</p> <p>Additional authorisation is required from the Victorian Senior Practitioner for the use of seclusion, physical restraint, mechanical restraint and regulated RPs for people with psychosocial disabilities.</p> <p>In an emergency, the person in charge of a registered NDIS provider can authorise the use of a regulated RP to prevent an imminent risk of serious physical harm.</p>
Website and key contacts	<p>W dffh.vic.gov.au/victorian-senior-practitioner</p> <p>E victorianseniorpractitioner@dffh.vic.gov.au</p> <p>P (03) 9096 8427</p>
ICT platform for authorisations	<p>Restrictive Interventions Data System (RIDS)</p> <p>E rids.helpdesk@dhhs.vic.gov.au</p> <p>P (03) 9096 8427</p>
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices.
Variances from NDIS regulated RPs	<p>Detain, in Part 8, means a form of restrictive practice used on a person for the purpose of reducing the risk of violence or the significant risk of serious harm the person presents to another person and includes—</p> <p>(a) physically locking a person in any premises; and</p> <p>(b) constantly supervising or escorting a person to prevent the person from exercising freedom of movement.</p>
Prohibited Practices	<ul style="list-style-type: none"> • Prone or supine restraints. • Pin downs, basket holds, take downs. • Physical restraints that restrict or affect respiratory and digestive functions. • Physical restraints that force the head forward, inflict deliberate pain or discomfort, including hyperextension of the joints or apply pressure on the chest.
Scope	NDIS and state disability services.
NDIS Behaviour Support Plan required?	Yes. Template on RDIS for state-funded services.
Consent required?	Authorisation does not require consent. Administrative model including independent person.
Authorisation period	Up to 6 months for interim BSPs and up to 12 months for comprehensive BSPs.
Statutory Appeal	Appeal to the Office of the Senior Practitioner, and Victorian Civil and Administrative Tribunal.
Additional statutory functions	<ul style="list-style-type: none"> • develop guidance and standards with respect to restrictive practices, community treatment and appointment of APOs • promote the reduction and elimination of the use of restrictive practices to the greatest extent possible • provide education, information and advice with respect to restrictive practices, compulsory treatment, rights of people with disability, behaviour support plans, treatment plans • to give directions to disability service providers and registered NDIS providers e.g. physical restraint direction paper • develop links and access to professionals, professional bodies, and academic institutions to facilitate knowledge and training • undertake research into restrictive practices and compulsory treatment • evaluate and monitor the use of restrictive practices.

Legislative / Policy Framework	Policy Framework Authorisation of Restrictive Practices in Funded Disability Services Policy 2020
Authority Entity	Delegated Panel Quality Assurance Panel Comprised of a senior manager of the Implementing provider and an independent NDIS Behaviour Support Practitioner who is not the author of the BSP.
Website and key contacts	Department of Communities E arp@communities.wa.gov.au P 1800 176 888 or (08) 6217 6888
ICT platform for authorisations	
Types of RPs regulated	NDIS (Restrictive Practices and Behaviour Support) Rules 2018 definition of regulated restrictive practices.
Variances from NDIS regulated RPs	N/A.
Prohibited Practices	<ul style="list-style-type: none"> • Prone or supine restraints. • Pin downs, basket holds, take downs. • Physical restraints that restrict or affect respiratory and digestive functions. • Physical restraints that force the head forward, inflict deliberate pain or discomfort, including hyperextension of the joints or apply pressure on the chest. • Restrictive practices that are implemented for a punitive purpose, including aversive approaches, overcorrection, denial of key needs, practices that relate to degradation and vilification, practices that limit access to culture, response cost strategies.
Scope	NDIS and state disability services.
NDIS Behaviour Support Plan required?	Yes.
Consent required?	Authorisation does not require consent.
Authorisation period	Up to 5 months from the start of an interim BSP, and up to 12 months for comprehensive BSPs. Up to the expiration of the BSP.
Statutory Appeal	No.