

Restrictive Practices Authorisation Framework

Guidelines for NDIS Service Providers

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| Document title | Restrictive Practices Authorisation Framework |
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| Date approved | 16 December 2021 |
| Document review | Annually |
| TRM number | EDOC2019/280796 |

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1. Purpose

The NT Department of Health has developed these guidelines for National Disability Insurance Scheme (NDIS) service providers. They explain the process and principles behind applying for authorisation to use restrictive practices to support NDIS participants. Providers can apply to use restrictive practices where a participant's behaviour has the potential to harm themselves or other people. These guidelines, and the authorisation process, are the responsibility of the NT Senior Practitioner. This follows the *NDIS Authorisations Act 2019*.

2. Background

The NT [National Disability Insurance Scheme \(Authorisations\) Act 2019](#) (the Act) provides a set of standards for the authorisation of restrictive practices for NDIS participants.

This Restrictive Practices Authorisation Framework aims to make sure that NDIS participants in the NT are kept safe through our regulation of the authorisation of restrictive practices. It also aligns with:

- the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#) (NDIS Rules)
- the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector.

2.1. Restrictive practices

A restrictive practice is any practice or intervention a provider uses to restrict the rights or freedom of movement of people with disability. They are used to manage a person's behaviour in order to protect the person, other people or property from harm.

The restrictive practices that you need to be authorised to use are listed in the Act and NDIS Rules. There are five categories of restrictive practices. Table 1 explains these categories.

Table 1: Categories of restrictive practices

| Category | Description |
|----------------------|--|
| Seclusion | Where a person with a disability is confined on their own in a room or a physical space. It can be at any hour of the day or night and where their choice to leave is prevented or not supported. Or where they believe that they can't leave when they want to. |
| Chemical restraint | Using medication or chemicals specifically to change a person's behaviour. This doesn't include using medication prescribed by a doctor to treat, or to support treatment of: <ul style="list-style-type: none"> • a diagnosed mental disorder • physical illness • physical condition. |
| Mechanical restraint | Using a device to prevent, restrict, or minimise a person's movement specifically to change their behaviour. This doesn't include using devices for therapeutic or non-behavioural purposes. |

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| Physical restraint | Using physical force to prevent, restrict or minimise movement of a person's body, or part of their body, to change their behaviour. Physical restraint doesn't include using a hands-on technique to guide or redirect a person away from potential injury or harm in a way that is clearly taking care of the person. In the NT, we will not give authorisation to use supine (face up position) or prone (face down) restraint. |
| Environmental restraint | Where a person's access is restricted to any part of their environment. This includes their personal belongings, other items or preferred activities. |

2.2. Prohibited restrictive practices

Prohibited restrictive practices are those practices that we won't authorise in the NT under any circumstances. These practices:

- don't meet best practice
- may be unlawful or unethical
- violate the United Nations Convention on the Rights of Persons with Disabilities
- could cause injury or death.

Table 2 below explains the categories of prohibited restricted practice that are listed in the Act.

2.3. Behaviours of concern

Some people with disability may need extra supports to manage behaviours of concern. These behaviours are of such intensity, frequency or duration that the person's safety or the safety of others is at risk.

In some situations, these behavioural supports may include restrictive practices. The main reason to use restrictive practices must be to support a person's behaviour of concern and to protect that person or others from harm.

2.4. Positive behaviour support

The term 'positive behaviour support' describes a combination of the philosophy behind how disability services are provided with clinical behaviour analysis. Positive behaviour supports use evidence based strategies and methods that increase the person's quality of life and reduce challenging behaviour (Carr, et al., 2002; Singer & Wang, 2009).

Person centred behaviour support encourages inclusion, choice, participation and equality.

Behaviour support should also reduce or get rid of the need to use restrictive practices while providing support.

The NDIS Commission has developed requirements for providing positive behaviour support to participants. This is supported by its Behaviour Support Capability Framework, which includes guiding principles to help deliver positive behaviour support.

Table 2: Categories of prohibited restrictive practices

| Category | Description |
|---|---|
| Aversion | Any practice or action that a person finds noxious, unpleasant or painful. |
| Overcorrection | Any practice where the response to an event or an issue is unequal to the event itself. |
| Misuse of medication | When medication is given to a person in a way that doesn't match the instructions of the doctor that prescribed it, specifically to change the person's behaviour, mood or arousal. |
| Denial of key needs | Any practice that stops a person from accessing basic needs or personal supports including: <ul style="list-style-type: none"> • family • friends • peers • advocates • possessions. |
| Practices related to degradation or vilification | Actions that: <ul style="list-style-type: none"> • are degrading or demeaning to the person • the person or their guardian see as harassment or vilification or defamation • are unethical. |
| Practices which limit or deny access to community, culture and language | Actions that limit a person's ability to take part or access community, culture and language, including denying them access to interpreters. |
| Seclusion of a person under the age of 18 years | This includes the isolation of a child or young person (under 18 years of age) in a place that they're not able to leave. |

2.5. Behaviour support plan

A behaviour support plan includes evidence-based and person-centred, strategies that focus on the needs of the participant. They includes positive behaviour support to:

- build on the person's strengths
- increase their opportunities to take part in community activities
- increase their life skills.

A behaviour support practitioner develops the plan after a thorough assessment of the participant's needs. The assessment includes consultation with the participant, their family, carers and guardian as well as all service providers who will be using the behaviour support plan.

The behaviour support plan can also include details of any restrictive practices that may be needed.

3. Restrictive Practices Authorisation Framework

In the NT, the Authorisation Framework applies to adults and children who:

- are NDIS participants
- have a behaviour support plan developed by a registered NDIS behaviour support practitioner.

The Framework guides NDIS providers who are applying for authorisation to use restrictive practices.

3.1. Principles

The principles of the Act are aligned with the United Nations Convention on the Rights of Persons with Disabilities, *Northern Territory Disability Services Act 1993*, *National Disability Insurance Scheme Act 2013* and the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector.

NDIS service providers need to consider the following principles when delivering services to NDIS participants:

- a) participants are individuals who have the right to respect for their worth and dignity
- b) participants, whatever their disability and the nature, type and degree of their disability, have the same human rights as all other Australians
- c) participants have the same rights as other Australians to reach their goals for physical, social, emotional and intellectual development
- d) participants have the same right as other Australians to services that will support them to achieve a reasonable quality of life
- e) participants and their families have the same right as other Australians to take part in decisions that affect their lives
- f) participants receiving services have the same right as other Australians to be able to decide what is in their best interests in relation to those services. This includes the right to make their own choices and manage what services they receive
- g) participants have the same right as Australians to be connected to family, community, culture and country
- h) participants have the same right as other Australians to be treated as equals and take part in decisions that will affect their lives, support and care, to the full extent of their ability. This includes in how their behaviour support is provided
- i) participants receiving services have the same right as other Australians to receive those services in a way that that least restricts their rights and opportunities

- j) participants should take part in decisions about their lives, support and care. This includes behaviour support that is evidenced-based and best practice.

Services must be provided in a way that:

- a) aims to reduce or eliminate the need to use restrictive practices
- b) recognises that:
 - i. restrictive practices should only be used in limited and specific situations
 - ii. restrictive practices should be used as a last resort
- c) uses the least restrictive practice for the shortest time possible in the situation
- d) makes sure that restrictive practices are used in a transparent and accountable way
- e) recognises that restrictive practices shouldn't be used harshly or in response to behaviour that doesn't harm the participant or others
- f) makes sure that any restrictive practices are only used in a way that meets a participant's behaviour support plan or interim behaviour support plan.

3.2. The role of the Senior Practitioner

The Senior Practitioner will be responsible for the management of the Authorisation Framework. The Act outlines what the Senior Practitioner will do. The Senior Practitioner will:

- a) authorise the use of restrictive practices
- b) reject inappropriate requests for restrictive practices
- c) produce and share policies, standards and guidelines to:
 - i. encourage best practice
 - ii. lead sector capacity building
 - iii. improve awareness about minimising the use of restrictive practices
- d) record the authorisation of restrictive practices that are found necessary.

3.3. Types of authorisation

The Authorisation Framework covers two types of authorisation:

- 1) **Interim authorisation** – for a participant with an interim behaviour support plan that includes the use of a restrictive practice. An interim authorisation is effective for up to six months.
- 2) **Authorisation** – for a participant that has a behaviour support plan that includes the use of a restrictive practice. An authorisation lasts for up to 12 months.

4. Authorisation process

4.1. Summary

Request for authorisation

An NDIS provider, who uses restrictive practices, submits a request for authorisation to use these practices to the Senior Practitioner. Their application will need to include the participant's behaviour support plan and other relevant documents.

Assessment

The Senior Practitioner assesses the application in line with the assessment criteria including that the application:

- follows the principles of the Act
- follows the NDIS Rules
- includes opportunities, relevant to the participant's needs and abilities, to take part in community activities and develop new skills that can help reduce or eliminate the need for restrictive practices as part of their support plan
- includes strategies to reduce or eliminate the use of restrictive practices over time.

Additional information

The Senior Practitioner may sometimes need additional information to help them assess the application.

Assessment outcome

The Senior Practitioner will let the provider, behaviour support practitioner, participant and guardian know the outcome of the application. It will be either:

- Authorisation is granted** (length of authorisation will be included)
- Authorisation is not granted**
- An alternate practice is recommended.**

Request for review

All decisions the Senior Practitioner makes can be reviewed.

The participant, their guardian, behaviour support practitioner or provider can submit a request for review to the CEO of the Department of Health.

You can find more detail about each of these steps and how to ask for a review in the following content.

4.2. Application for authorisation

Registered NDIS service providers must apply for authorisation to use a restrictive practice. They need to submit their application to the Senior Practitioner on the [Restrictive Practices Authorisation System](#).

4.3. Assessment of applications

The Senior Practitioner will assess the application.

To make their decision the Senior Practitioner will look at:

- **The participant's behaviour support plan**

They will make sure the plan:

- follows the principles of the Act
- follows the NDIS Rules
- includes opportunities, relevant to the participant's needs and abilities, to take part in community activities and develop new skills that can help reduce or eliminate the need for restrictive practices as part of their support plan
- includes strategies to reduce or eliminate the use of restrictive practices over time
- is a good quality plan overall using the Behaviour Support Plan Quality Evaluation Tool version II.

If parts of the behaviour support plan don't meet the criteria above, the Senior Practitioner may contact the behaviour support practitioner and provider and ask them to review the behaviour support plan.

- **The restrictive practice(s)**

They will make sure each restrictive practice:

- is necessary to stop the participant or others being harmed
- is only used in time limited and specific circumstances
- is used as a last resort
- is the least restrictive option available for the participant
- can be used safely.

4.4. Outcome of assessment

After the assessment of the application, there are three possible outcomes:

- 1) authorisation is granted
- 2) authorisation is refused
- 3) an alternative restrictive practice is suggested.

The Senior Practitioner will send a Notice of Authorisation with their decision to the:

- NDIS participant and their guardian
- behaviour support practitioner
- NDIS provider(s).

4.5. Period of authorisation

Authorisation lasts for up to 12 months. An interim authorisation lasts for up to six months from the date the interim authorisation is granted. The Senior Practitioner will include the time period for the authorisation in the Notice of Authorisation.

4.6. Cancellation of authorisation

The Senior Practitioner may become aware of a situation that means they need to cancel their authorisation for a restrictive practice. This may include:

- not complying with the Act
- an issue with the provider's NDIS registration
- any other circumstances that the Senior Practitioner believes is relevant.

The Senior Practitioner may cancel an authorisation or interim authorisation at any time. If this happens, the Senior Practitioner will give written notice of the cancellation explaining the reasons to the participant, their guardian and the NDIS provider.

An NDIS participant, their guardian, NDIS behaviour support practitioner or the service provider can contact the Senior Practitioner to discuss their situation at any time. You can email them at restrictive-practices.authorisation-unit@nt.gov.au.

4.7. Change in circumstances

If an NDIS participant has a change in circumstances, which means they no longer need a restrictive practice, the provider must tell the Restrictive Practice Authorisation Unit via email as soon as possible. Changes in circumstances can include:

- getting rid of restrictive practices
- moving interstate
- leaving the NDIS
- the participant passing away.

4.8. Authorisations only apply to people living in the NT

If an NDIS participant with restrictive practices moves to the NT from another state, they will need to apply for authorisation to use the practices in the NT. The application to the Senior Practitioner will make sure the restrictive practice meets the Authorisation Framework.

5. Review of authorisation decisions

All decisions the Senior Practitioner makes can be reviewed. The participant, their guardian, behaviour support practitioner or service provider can submit a request for review to the Chief Executive Officer of the Department of Health. You can send your request for review to RPAU.Review@nt.gov.au.

You must make the application for review within 28 days of receiving the decision. This is unless the decision is to authorise the restrictive practice, then you can make an application for review at any time.

If you're not happy with the outcome of the review, you can apply to the Northern Territory Civil Administration Tribunal (NTCAT). You can find more information about the process on the [NTCAT website](#).