

# Authorisation of Restrictive Practices in Funded Disability Services Policy



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## 2.2 Regulated restrictive practices

This Policy applies to practices that are defined as regulated restrictive practices in the NDIS (Restrictive Practices and Behaviour Support) Rules 2018 (reproduced at **Appendix 2**). The five categories of regulated restrictive practices that require authorisation are seclusion, chemical restraint, physical restraint, mechanical restraint and environmental restraint.

## 2.3 Out of scope

### 2.3.1 Prohibited practices

The use of prohibited practices (outlined in **Appendix 2**) must not be authorised under this Policy.

### 2.3.2 Therapeutic or safety devices or practices

Some devices or practices used for therapeutic or safety purposes impose a level of

However, where the person with disability objects to a therapeutic or safety device or practice, its application is considered a regulated restrictive practice and authorisation is required in accordance with this Policy.

### 2.3.3 Management of non-intentional risk

Some behaviours that represent a risk to the person or others occur as a result of circumstances, rather than as a result of the person seeking to address a functional need. Strategies to manage non-intentional risk behaviours (defined in **Appendix 2**) do not require authorisation under this Policy. Implementing Providers must ensure an appropriate medical or allied health assessment is undertaken to identify whether behaviours do not serve a function for the person and are non-intentional risk behaviours.

Implementing Providers may seek advice from the NDIS Commission or the Department as appropriate regarding whether the circumstances require a Behaviour Support Plan and compliance with the NDIS (Restrictive Practices and Behaviour Support) Rules 2018.

### 2.3.4 Court orders

Where a practice that would otherwise be a regulated restrictive practice is in place due to a court order, authorisation is not required under this Policy.

Implementing Providers may seek advice from the NDIS Commission or the Department as appropriate regarding whether the circumstances require a Behaviour Support Plan and compliance with the NDIS (Restrictive Practices and Behaviour Support) Rules 2018.

## Principles

- live free from abuse, neglect and exploitation
- have respect for their culture, individual worth and dignity
- determine their own best interests and exercise choice and control and
- access the support they need to make decisions and communicate their needs and choices.

Positive outcomes and quality of life improvements for people with disability must be central in decision-making processes.

People with disability are presumed to have capacity to make decisions, unless proven otherwise for a specific decision at a specific time.

All people have the right to live and work in a safe environment and have access to the community.

People with disability must have access to effective person-centred behaviour support, with restrictive practices only occurring as a last resort where they are proportionate and necessary to protect the rights or safety of the person and/or others.

The vital role of families, carers and other significant persons with whom people with disability choose to share their life, is acknowledged and respected.

## Policy requirements

### 4.1 Use of a regulated restrictive practice must be authorised

Authorisation must be obtained by an Implementing Provider for each regulated restrictive practice that is proposed to be implemented for a person with disability by complying with the authorisation requirements contained in this Policy and the Authorisation Policy Procedural Guide, which provides more detailed information about the requirements for each stage.

In recognition of the changing regulatory environment, a staged approach to the implementation of authorisation requirements is being taken in WA. The authorisation requirements and evidence for each stage is summarised in **Table 1**.

This Policy must be read in conjunction with the Guidance Notes at **Appendix 3** and the Authorisation of Restrictive Practices in Funded Disability Services Policy Quick Reference Guide and Procedural Guide.

**Table 1: Authorisation and evidence requirements**

<b>Stage</b>	<b>BSP commencement or review date</b>
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## 4.2 Unauthorised use of a regulated restrictive practice

Where a regulated restrictive practice is used without authorisation as required under this Policy (noting prohibited practices cannot be authorised under any circumstances):

in the context of an NDIS service, the Implementing Provider must refer to the NDIS Commission and comply with the NDIS (Incident Management and Reportable Incidents) Rules 2018

in the context of a State-funded disability service, the Implementing Provider must provide a Serious Incident Report (SIR) to the Department.

## 4.3 Complaints management

If a person has a complaint regarding any aspect of the authorisation process, the person may raise the matter with the Implementing Provider in the first instance. Recognising that a complaints process for some individuals may be challenging, particularly those with complex needs, the person may need the support of advocates, guardians and/or a representative. Further information is available in the Authorisation Policy Procedural Guide.

Where the complaint cannot be resolved by the Implementing Provider, the person may raise the issue with the Department.

# Responsibilities

## 5.1 Implementing Providers

Comply with Authorisation Requirements set out in this Policy and the Authorisation Policy Procedural Guide.

### Stage One Authorisation:

Develop internal policies and procedures to:

- o

### **5.3 Department of Communities**

Provide advice and support relating to the authorisation of restrictive practices, including assisting providers to develop their internal policies and procedures. Support the development of the behaviour support practitioner market in WA, in partnership with people with disability, families and carers, guardians, providers, the NDIS Commission and other stakeholders.



## Appendix 2: Definitions

### Implementing Provider

Implementing Provider means any service provider that is funded through the NDIS or by the Department of Communities to deliver disability services to a person with disability.

### NDIS Behaviour Support Practitioner

NDIS Behaviour Support Practitioner means a person employed by a registered specialist behaviour support provider (registration group 110) or registered themselves under registration group 110 with the NDIS Commission, who the NDIS Commissioner considers suitable to undertake behaviour support assessments (including functional behavioural assessments) and to develop BSPs that may include the use of restrictive practices.

### Non-intentional risk behaviours

Non-intentional risk behaviours are those behaviours that occur as a result of circumstances and do not serve a purpose for the person. These include:

**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.

**Resistance to support for activities y siitng**





