



# Fact Sheet I – Positive Behaviour Support and Restrictive Practices

Under the NDIS Commission, registered NDIS providers who develop positive behaviour support plans or use restrictive practices (implementing providers) are required to comply with the NDIS Quality and Safeguarding Framework, which is underpinned by the same high-level guiding principles, including human rights and a person-centred approach as the national framework - National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector.

Specialist behaviour support providers have certain obligations to deliver positive behaviour support under the NDIS Commission. These apply regardless of whether regulated restrictive practices (including seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint) are included in a positive behaviour support plan.

## 1. What is a Positive Behaviour Support Plan?

An NDIS positive **behaviour support plan** is a document developed for a person with disability by an [NDIS behaviour support practitioner](#).

It is developed in consultation with the participant, their family, carers, guardian, and other relevant people, as well as the service providers who will be implementing the plan.

A positive behaviour support plan specifies a range of evidence-based, person-centred and proactive strategies that focus on the individual needs of the participant. This includes positive behaviour support to:

- build on the person's strengths;
- increase their opportunities to participate in community activities; and
- increase their life skills.

## 2. What is a restrictive practice?

'Restrictive practice' means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability (including people with psychosocial disability), with the primary purpose of protecting the person or others from harm.

## 3. What are the regulated restrictive practices?

Under the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#), certain restrictive practices are subject to regulation.

There are five categories of regulated restrictive practices that are monitored by the NDIS Commission. These are the following:

- **Seclusion** - the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.
- **Chemical restraint** - the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition.
- **Mechanical restraint** - the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing a person's behaviour but does not include the use of devices for therapeutic or non-behavioural purposes.
- **Physical restraint** - the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person.
- **Environmental restraint** - which restrict a person's free access to all parts of their environment, including items or activities.

States and territories remain responsible for the authorisation of restrictive practices. Practitioners should assist implementing providers to understand the relevant state and territory legislative and/or policy requirements.

Unauthorised use of a restrictive practice by an implementing provider constitutes a reportable incident. The provider must notify the NDIS Commission within 5 business days of becoming aware of the use.

All applications of restrictive practices must be documented in a Positive Behaviour Support Plan developed by a registered Behaviour Support provider and authorised in accordance with the WA Department of Communities: Disability Services – Policy on Authorisation of Restrictive Practices: [www.disability.wa.gov.au/wa-ndis/wa-ndis/new-policy-on-authorisation-of-restrictive-practices/](http://www.disability.wa.gov.au/wa-ndis/wa-ndis/new-policy-on-authorisation-of-restrictive-practices/)

Example:

Provider B assists Participant A with daily living support in a 24-hour supported living option. Participant A can often be aggressive towards other participants and staff. When Participant A displays aggressive behaviour, it can easily escalate. Staff request Participant A to return to his bedroom and remain there until he has cooled down. He can't leave his room until he agrees with staff to refrain from aggressive behaviour.

This would be considered a restrictive practice and Provider B would need to either develop or engage a registered Behaviour Support Provider/Practitioner to develop a positive Behaviour Support Plan to address the restrictive practice appropriate to the behaviour. The requirements for developing the positive Behaviour Support Plan are different to implementing the Behaviour Support Plan and providers need to be clear about the role they will be undertaking and address the relevant criteria.

#### 4. What is the role of the Behaviour Support provider?

Behaviour Support providers are required to:

- Be registered for behaviour support (registration group 110) with the NDIS Commission.
- Engage support practitioners considered suitable by the NDIS Commission. (see NDIS Commission: [Positive Behaviour Support Capability Framework 2019](#)).

- Work with the implementing provider to ensure that regulated restrictive practices in the final positive behaviour support plan are authorised where required.
- Specify in the positive behaviour support plan that person-centred and least restrictive strategies must be applied first, with more approved restrictive practices used as a last resort in response to a risk of harm to the person or others.
- Develop positive behaviour support plans containing regulated restrictive practices in accordance with any state or territory authorisation and consent requirements.
- Lodge positive behaviour support plans containing regulated restrictive practices with the NDIS Commission.
- Help NDIS participants, their families, and other decision-makers to understand the NDIS Commission's behaviour support function.

**5. Implementing providers who use regulated restrictive practices** also have additional obligations which are detailed below.

- Be registered with the NDIS Commission for the type of support they are providing. They do not need to be registered specifically for behaviour support Registration Group 110.
- Submit monthly reports to the NDIS Commission on the use of restrictive practices.
- Ensure staff are appropriately trained to implement positive behaviour strategies or use restrictive practices.
- Notify the NDIS Commission in the event of any unplanned or unapproved use of a restrictive practice through the reportable incident process.
- Help their staff, NDIS participants, their families, and other decision-makers to understand the NDIS Commission's behaviour support function.

**6. Certification implications for registered providers who develop behaviour support plans or use (implement) restrictive practices**

In addition to the NDIS PS Core Module, registered providers who develop positive behaviour support plans or implement restrictive practices with participants, will be required to be audited against one or both of the following modules:

***Specialist Behaviour Support Module***

This module applies to NDIS providers who are registered to provide specialist behaviour support to NDIS participants. It has the following outcomes:

- **Behaviour Support in the NDIS** - Each participant accesses behaviour support that is appropriate to their needs which incorporates evidence-informed practice and complies with relevant legislation and policy frameworks.
- **Restrictive Practices** - Each participant is only subject to a restrictive practice that meets any state and territory authorisation (however described) requirements and the relevant requirements and safeguards outlined in Commonwealth legislation and policy.
- **Functional Behaviour Assessments and Behaviour Support Plans** - Each participant's quality of life is maintained and improved by tailored, evidence-informed positive behaviour support plans that are responsive to their needs.
- **Supporting the Implementation of the Positive Behaviour Support Plan** - Each participant's positive behaviour support plan is implemented effectively to meet the participant's behaviour support needs.

- **Positive Behaviour Support Plan Monitoring and Review** - Each participant has a current positive behaviour support plan that reflects their needs, improves their quality of life and supports their progress towards positive change. The plan progresses towards the reduction and elimination of restrictive practices, where these are in place for the participant.
- **Reportable Incidents involving the Use of a Restrictive Practice** - Each participant that is subject to an emergency or unauthorised use of a restrictive practice has the use of that practice reported and reviewed.
- **Interim Positive Behaviour Support Plans** - Each participant with an immediate need for a positive behaviour support plan receives an interim positive behaviour support plan which minimises the risk to the participant and others.

### ***Implementing Positive Behaviour Support Plans Module***

This module applies to NDIS providers who are registered to provide specialist behaviour support to NDIS participants. They also apply to providers using restrictive practices in the delivery of any NDIS supports and services. It has the following outcomes:

- **Behaviour Support in the NDIS** - Each participant accesses behaviour support that is appropriate to their needs which incorporates evidence-informed practice and complies with relevant legislation and policy frameworks.
- **Regulated Restrictive Practices** - Each participant is only subject to a regulated restrictive practice that meets any state and territory authorisation requirements (however described) and the relevant requirements and safeguards outlined in Commonwealth legislation and policy.
- **Supporting the Assessment and Development of Positive Behaviour Support Plans** - Each participant's quality of life is maintained and improved by tailored, evidence-informed behaviour support plans that are responsive to their needs.
- **Behaviour Support Plan Implementation** - Each participant's behaviour support plan is implemented effectively to meet the participant's behaviour support needs.
- **Monitoring and Reporting the Use of Regulated Restrictive Practices** - Each participant is only subject to a restrictive practice that is reported to the Commission.
- **Behaviour Support Plan Review** - Each participant has a current behaviour support plan that reflects their needs, and works towards improving their quality of life, reducing behaviours of concern, and reducing and eliminating the use of restrictive practices.
- **Reportable Incidents involving the Use of a Restrictive Practice** - Each participant that is subject to an emergency or unauthorised use of a restrictive practice has the use of that practice reported and reviewed. Unauthorised use of restrictive practice must be reported within 5 days to [State Body] and the NDIS Commission.
- **Interim Positive Behaviour Support Plans** - Each participant with an immediate need for a positive behaviour support plan receives an interim positive behaviour support plan which minimises the risk to the participant and others.

For information on training requirements for these modules, see the Fact Sheet *Training Requirements for NDIS Practice Standards*.

## 7. Relevance to the National Standards for Mental Health Services

Some organisations that have either registered, or are considering registering as NDIS providers, will be **accredited** against the NSMHS, in which one of the Key Principles is:

*‘mental health treatment and support should impose the least personal restriction on the rights and choices of consumers taking account of their living situation, level of support within the community and the needs of their carer(s).’*

Accordingly, there are some requirements relating to behaviour support or use of restrictive practices for which evidence is required to demonstrate compliance against the NSMHS. This evidence, which may be useful for certification against the NDIS PS, is associated with:

- **Criterion 1.9** - The MHS upholds the right of the consumer to be treated in the least restrictive environment to the extent that it does not impose serious risk to the consumer or others.
- **Criterion 2.2** - The MHS reduces and where possible eliminates the use of restraint and seclusion within all MHS settings.
- **Criterion 2.10** - Staff are regularly trained to, wherever possible, prevent, minimise and safely respond to aggressive and other difficult behaviours.
- **Criterion 10.5.5** - The MHS provides the least restrictive and most appropriate treatment and support possible. Consideration is given to the consumer’s needs and preferences, the demands on carers, and the availability of support and safety of those involved.

## 8. Western Australia arrangements

The roll-out of the NDIS will change the way disability support is funded and accessed in Western Australia (WA). As part of the NDIS, a quality and safeguarding system will be implemented that will include reporting and oversight arrangements to reduce and eliminate the use of restrictive practices. Current State Government arrangements will apply until 1 December 2020. The Authorisation of Restrictive Practices in Funded Disability Services Policy outlines the State’s authorisation arrangements which will be mandatory from 1 December 2020.

WA organisations that are registered or considering registering as NDIS providers that develop positive behaviour support plans or use/implement restrictive practices are encouraged to become familiar with requirements until and after the 1 December 2020.

Organisations intending to provide supports to NDIS participants with a psychosocial disability are encouraged to also maintain contact with the WA Mental Health Commission and the Office of the Chief Psychiatrist, particularly in relation to the use of restrictive practices in authorised hospitals under the *WA Mental Health Act 2014*.

For further information on behaviour support and restrictive practices (including for WA arrangements), go to:

WA Department of Communities: Disability Services – New Policy on Authorisation of Restrictive Practices: [www.disability.wa.gov.au/wa-ndis/wa-ndis/new-policy-on-authorisation-of-restrictive-practices/](http://www.disability.wa.gov.au/wa-ndis/wa-ndis/new-policy-on-authorisation-of-restrictive-practices/)

**Please note Service providers are encouraged to familiarise their organisation and other stakeholders with the contents of the Policy prior to the transition to the NDIS Commission on 1 December 2020.**

NDIS Commission – Regulated Restrictive Practices: [www.ndiscommission.gov.au/regulated-restrictive-practices#01](http://www.ndiscommission.gov.au/regulated-restrictive-practices#01)

The Office of the Chief Psychiatrist WA:

<https://www.chiefpsychiatrist.wa.gov.au/monitoring-reporting/reporting-episodes-of-seclusion-restraint/>

The Code of Practice for Elimination of Restrictive Practices: Third Edition (2019):

<http://www.disability.wa.gov.au/Global/Publications/For%20disability%20service%20providers/Guidelines%20and%20policies/Behaviour%20Support/Code-of-Practice-for-the-Elimination-of-Restrictive-Practices%202019.docx>

The Charter of Mental Health Care Principles:

[https://www.mhc.wa.gov.au/media/1450/poster-flyer\\_charter-of-mental-health-care-principles.pdf](https://www.mhc.wa.gov.au/media/1450/poster-flyer_charter-of-mental-health-care-principles.pdf)