

**Positive
Behaviour Support
and Restrictive
Practice
in the NDIS**





What is Positive Behaviour Support (PBS)?

PBS seeks to discover what a good life looks like for people, what is and is not working for them, how people may be communicating their unmet needs to others and what changes need to happen.

PBS is used when people, who use their behaviours to communicate their needs, require focused and intentional support to have a good life.

PBS can be used as a framework for working out why behaviours of concern get a person's needs met and then find other ways to make this happen.



What is a Behaviour of Concern?

As humans, we all use our behaviour to communicate and sometimes we can do this in a way that is not helpful to us or to those around us. It might include ways that are aggressive, intimidating and dangerous. These can be called behaviours of concern or challenging behaviours. This is relevant to everyone, not just people with disability.

Genuine person centred planning becomes critically important when people are at risk or vulnerable to being isolated or restricted in ways that impact on their human rights.

Strategies to increase a person's quality of life and reduce behaviours of concern can be included in a positive behaviour support plan.



What is a Positive Behaviour Support (PBS) plan?

People who use behaviours of concern may have a positive behaviour support plan. The plan will look at ways to improve the person's quality of life, identify any external or environmental factors, decrease behaviours of concern and keep them and those around them safe.

A restrictive practice may be necessary for the safety of the person or others.

If a PBS plan includes a restrictive practice, it must also include strategies to reduce and eliminate the use of the restrictive practice.

What is a Restrictive Practice?

When something is done to a person to stop them hurting themselves or others.

This takes away their rights and freedoms.



The primary purpose of a restrictive practice is to protect people and others around them from harm.

The NDIS Quality & Safeguards Commission regulates the use of five types of restrictive practice.

Types of Regulated Restrictive Practice

Seclusion

When a person is left on their own or put in a place which they can't leave or think they can't leave, when they want to.



- Own room
- Containment
- In car / vehicle
- Exclusionary time out
- Other room
- Outside
- Secure care setting
- Other

Types of Regulated Restrictive Practice

Chemical restraint

When a person is given medicine and the primary purpose of the medication is to change their behaviour.



If you are taking medication for a diagnosed physical or mental condition or illness, this is not chemical restraint.

If you don't know the purpose of your medication, ask for a medication review from your doctor.

Medicine given to change a person's behaviour should only be used as a last resort. There are lots of other ways to address a behaviour of concern.

Types of Regulated Restrictive Practice

Mechanical restraint

When another person puts something on or around someone's body to stop them moving freely.



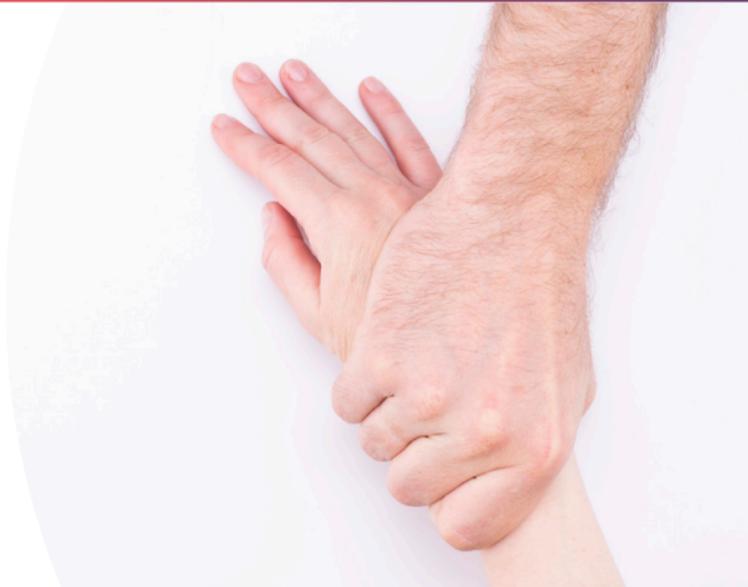
- Bed rails
- Belt
- Wheelchair seatbelt
- Buckle cover or harness
- Cuffs
- Restrictive clothing
- Splints
- Strap
- Protective headgear
- Tables / furniture
- Other

Does not include restraints used for therapeutic or non-behavioural purposes.

Types of Regulated Restrictive Practice

Physical restraint

When another person uses their hands or body to stop someone from moving or doing what they want.



- 1, 2 or 3 or more person restraint
- 1, 2 or 3 or more person physical escort
- Standing restraint
- Seated restraint
- Other

Does not include someone guiding or redirecting a person away from harm.

Types of Regulated Restrictive Practice

Environmental restraint

When another person decides what someone can do, what they can get, who they can see or contact and where they can go.



- Electronic monitoring devices
- Locks on doors, cupboards, fridges, gates
- Restricted access to area, activities, items or objects
- Other
(e.g. restricted access to communication devices, phones, tablets, hearing aids etc.)

Prohibited Restrictive Practices in WA

Under the NDIS Quality & Safeguards Framework, the State Government is responsible for establishing arrangements for the authorisation of regulated restrictive practices in NDIS services.

The Authorisation of Restrictive Practices in Funded Disability Services Policy states which practices can **never** be used (or authorised) in Western Australia.

The following punitive approaches are prohibited:

- Aversive practices.
- Overcorrection.
- Denial of key needs.
- Practices related to degradation or vilification.
- Practices that limit or deny access to culture.
- Response cost punishment strategies.

The following physical restraints are prohibited:

- The use of prone or supine restraint.
- Pin downs.
- Basket holds.
- Takedown techniques.
- Any physical restraint that has the purpose or effect of restraining or inhibiting a person's 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 purpose or effect of compelling a person's compliance through the infliction of pain, hyperextension of joints, or by applying pressure to the chest or joints.

How Do We Know if We Are Using a Restrictive Practice?

- Is the primary purpose of the practice to address the behaviour of concern?
- Does the practice fit the definition of any of the types of restraints?
- Have you reduced or removed the person's ability to exercise choice and control?
- Does the practice impact on a person's human rights?
- Would you respond differently if the person did not have a disability?

If you have answered YES to any of these questions, you may be using a restrictive practice.

But it depends...

Context is everything. What might be a restrictive practice for one person, may not be for someone else. There are many factors to consider for each individual scenario based on each person's individual needs.

To explore the definitions of restrictive practice or provider obligations under the NDIS Behaviour Support Rules, look at the NDIS Commission's Regulated Restrictive Practices Guide. If you still have questions, contact WABehaviourSupport@ndiscommission.gov.au or call 1800 035 544.

If you have any questions about the reporting of unauthorised restrictive practices, implementing providers can contact the National URP Taskforce on URPnationaltaskforce@ndiscommission.gov.au



What is an Implementing Provider?

Any service provider that uses a restrictive practice in the course of delivering NDIS support.

Implementing providers **MUST** be registered with the NDIS Quality & Safeguards Commission and **MUST** go through authorisation, ongoing reporting and monitoring.

If there is an ongoing use of a restrictive practice to keep a person or others safe, an UNREGISTERED provider can:

1. Apply to the NDIS Commission to become registered.
2. Find a way to cease using the restrictive practice, if safe to do so.
3. Support the person to engage a registered provider to deliver the supports that involve the use of a restrictive practice.



Why Do Implementing Providers Need to Report?

The NDIS Quality & Safeguards
Commission keeps track of the use
of restrictive practices.

- To make sure people's human rights are protected.
- To make sure people have good lives with quality services.
- To make sure services find other ways to keep a person and those around them safe, including addressing any environmental factors that influence a person's behaviour.
- To get a better understanding of how restrictive practices are used and to work towards reducing and eliminating them.



Why A Person Might Need Behaviour Support Funding in Their NDIS Plan

Behaviour support can help a person discover what a good life looks like and reduce the need for restrictive practices. If an implementing provider is using an unauthorised restrictive practice, funding for behaviour support is required to develop a positive behaviour support plan.

A person can have funding for behaviour support in their NDIS plan even if restrictive practices are not in use.

Who Can Create a Behaviour Support Plan?

Specialist behaviour support, including the development of PBS plans with or without restrictive practices, can only be undertaken by:

- Providers that are registered for Specialist Behaviour Support (110); and
- Behaviour support practitioners who are considered suitable by the NDIS Commission to undertake functional behaviour assessments and develop behaviour support plans.

What is Tele PBS?

Specialist behaviour support can be delivered remotely

- by video conferencing,
- telephone,
- text messaging,
- emailing
- or a combination of these.

See the NDIS Commission website
for more information:

www.ndiscommission.gov.au/resources/telepbs

Capturing Restrictive Practices in a PBS Plan

Restrictive practices:

- can only be included in PBS plans written by registered Specialist Behaviour Support practitioners. All restrictive practices must be captured for regulatory purposes;
- need to be clearly identified in the PBS plan, including fade out strategies;
- can only be used as a last resort, to minimise harm, to be the least restrictive option and for the minimum period of time; and
- should be developed in consultation with the person and/or their representative. Best practice would be to use supported decision making with the person to gain consent.



Family Members Using Restrictive Practices

All restrictive practices must be included in a behaviour support plan and lodged with the NDIS Quality and Safeguards Commission. This includes both when families or when a paid worker/NDIS funded service use restrictive practices. The behaviour support practitioner is obliged to do this under the NDIS Quality and Safeguard Commission rules.

If families use a restrictive practice themselves, they do NOT need to do authorisation, ongoing reporting or monitoring.

Family Members Hiring Workers Using Restrictive Practices

If you are a person or family member who is directly hiring a worker and the worker is using a restrictive practice, you will need to choose a registered provider, or you can consider registering as an NDIS provider. This is being called “Services for One”.

www.inclusionaustralia.org.au/services-for-one-project

Who Can Authorise the Use of Restrictive Practices?

- The use of an unauthorised restrictive practice is a reportable incident. An implementing provider must seek authorisation for each restrictive practice in a behaviour support plan.
- States and territories remain responsible for the authorisation of restrictive practices. In WA, the Department of Communities has established the arrangements for the authorisation of restrictive practices.
- In WA, the implementing provider is responsible for obtaining authorisation. They must organise a Quality Assurance panel with at least 2 members: a senior manager or delegate from the implementing provider and an **independent** behaviour support practitioner (who is external to the implementing provider and did not write the behaviour support plan).

- The decision to recommend a restrictive practice must be supported unanimously by all decision-making panel members and recorded in the Authorisation Panel Outcome Summary Report as evidence of authorisation. The implementing provider lodges the report via the NDIS Commission portal.
- Queries about the authorisation process, including whether a specific practice would be authorised, can be sent to ARP@communities.wa.gov.au
- Concerns about the authorisation process can be raised with the implementing provider or the Department of Communities Consumer Liaison Officer on 1800 176 888 or clo@communities.wa.gov.au

What is the Process for Behaviour Support in the NDIS?

- Step 1:** If a person requires behaviour support, they must have funding for this in their NDIS plan. If they don't, they will need an unscheduled NDIS plan review. Providers can give the person evidence of the need for behaviour support to take to their plan review meeting.
- Step 2:** When an unauthorised restrictive practice (URP) is used, implementing providers should take *all reasonable steps* to ensure that an interim behaviour support plan is developed within 1 month and a comprehensive behaviour support plan within 6 months, after the first use of a restrictive practice.

- Step 3:** A behaviour support practitioner has 1 month from the date they are engaged to develop the interim behaviour support plan and 6 months from the date they are engaged to submit the comprehensive plan. Any plan which includes a restrictive practice must be lodged with the NDIS Commission.
- Step 4:** Up until they gain authorisation, the implementing provider must report each use of an unauthorised restrictive practice to the NDIS Commission within 5 days of key personnel becoming aware of the restrictive practice.
- Step 5:** The implementing provider gains authorisation for each restrictive practice and all staff are fully trained in support strategies.

- Step 6:** The implementing provider reports monthly to the NDIS Commission on the use of all authorised restrictive practice.
- Step 7:** The behaviour support plan is reviewed at least annually with a view to reducing and eliminating restrictive practice.
- Step 8:** Implementing providers must comply with the conditions imposed by the Quality Assurance Panel, including the authorisation period. Once the agreed authorisation period has expired, any continued use of a restrictive practice must be reported as a URP again up until new authorisation is obtained.

References

National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018
Australian Government
www.legislation.gov.au/Details/F2020C01087

NDIS Quality & Safeguards Commission Regulated Restrictive Practices Guide
www.ndiscommission.gov.au/document/2386

NDIS Quality & Safeguards Commission Regulated restrictive practices with children and young people with disability: Practice guide
www.ndiscommission.gov.au/document/2741

NDIS Quality & Safeguards Commission July 2021 Practices Proposed to be Prohibited
www.ndiscommission.gov.au/document/3091

Authorisation of Restrictive Practices in Funded Disability Services Policy, Government of Western Australia Department of Communities
www.wa.gov.au/government/document-collections/authorisation-of-restrictive-practices-resources

'Reasonable Steps' to facilitate the development of Behaviour Support Plans www.ndiscommission.gov.au/document/2156



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