

**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 in 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?

Sometimes certain practices are used to stop a person hurting themselves or others. These may be **restrictive** and take away the person's 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 monitors restrictive practices used in the delivery of NDIS services and supports.

Restrictive Practices

regulated by the NDIS Commission

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

Restrictive Practices

regulated by the NDIS Commission

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.

Restrictive Practices

regulated by the NDIS Commission

Mechanical restraint

When something is put on or around a person 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.

Restrictive Practices

regulated by the NDIS Commission

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.

Restrictive Practices

regulated by the NDIS Commission

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

Some practices are associated with a high risk of adverse and catastrophic outcomes for people. These may be **prohibited practices** and can never be used in the delivery of NDIS services and supports.

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 practices are prohibited in WA:

- Specific forms of physical restraint such as prone or supine restraint, pindowns or basket holds.
- Punitive approaches such as unpleasant, painful or disproportionate responses, degrading or demeaning acts, denial of key needs or access to culture.

www.wa.gov.au/system/files/2021-07/Prohibited-practices.pdf

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



IMPORTANT!

The use of regulated restrictive practices is considered high-risk support. An NDIS provider that uses a restrictive practice when delivering NDIS supports is called an ‘implementing’ provider.

Implementing providers **must be registered** with the NDIS Commission. They are responsible for the monitoring, reporting and authorisation of the restrictive practices they use.

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

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



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 a behaviour of concern is persistent and/or a restrictive practice is used as an ongoing strategy, funding for specialist behaviour support may be required.

Who Can Create a BSP?

Specialist behaviour support, including the development of BSPs 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 BSP

Restrictive practices:

- need to be clearly identified in the BSP, including fade out strategies;
- must 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.

The NDIS registered behaviour support practitioner must capture the use of any restrictive practice in the BSP for regulatory purposes.

Family Members Using Restrictive Practices

Whether it is a family member, unpaid or paid support using a restrictive practice, this must be captured in the BSP and lodged with the NDIS Commission. The behaviour support practitioner is obliged to do this under the NDIS Quality and Safeguard Commission rules.

If the restrictive practice is used by a family member or unpaid support **only**, the restrictive practice does not need to be authorised or reported to the NDIS Commission.

Family Members Hiring Workers Using Restrictive Practices

If you are a person or a family member who is directly hiring a worker, and that NDIS funded worker is using a restrictive practice, you have 3 choices:

1. Find a way to stop using the restrictive practice, if safe to do so.
2. Use a registered provider to deliver the supports that involve the use of the restrictive practice (You could consider a shared management approach); or
3. Apply to the NDIS Commission to become a registered provider yourself.

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

Who Can Authorise the Use of Restrictive Practices in WA?

- The unauthorised use of 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 these arrangements.
- The implementing provider is responsible for organising 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 who did not write the behaviour support plan).

- The decision to authorise a restrictive practice must be supported unanimously by all decision-making panel members.
- The implementing provider lodges evidence of authorisation in 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 reassessment. Supporting evidence of the need for behaviour support (e.g. incident reports) can be provided for the reassessment.
- 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.

For more information, see WAI S booklet
“Unauthorised to Authorised Restrictive Practices”.

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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