



June 2019 Roadshows

Behaviour Support Questions & Answers

Table of Contents

Behaviour Support	2
What is a restrictive practice?	2
Behaviour support in the NDIS Commission.....	3
NDIS behaviour support practitioners	5
Registration requirements for behaviour support	6
Transitional arrangements for existing behaviour support plans	7
Developing behaviour support plans	7
Authorisation	9
Lodging a behaviour support plan	9
Reporting on behaviour support plans	10
Reportable Incidents.....	11

Behaviour Support

The NDIS Quality and Safeguards Commission promotes the use of positive behaviour support practices as a first response to behaviours of concern (also termed challenging behaviour). Behaviours of concern are those of such intensity, frequency or duration that the physical safety of the person or others is likely to be placed in serious jeopardy, or behaviour which is likely to seriously limit the use of, or result in, the person being denied access to ordinary community facilities.

Positive behaviour support combines a range of proactive strategies to identify and address the underlying causes of behaviours of concern through an individual functional behavioural assessment and development of a behaviour support plan. Positive behaviour support strategies should include implementing changes to the environment and other targeted positive strategies based on the function of the behaviour.

Disability service providers should seek to understand the nature and function of a person's behaviour and to respond appropriately to that behaviour, ensuring the use of restrictive practices as a last resort intervention, used in proportion to the risk posed by the behaviour it is intended to address.

What is a restrictive practice?

What is the definition of a restrictive practice?

A restrictive practice is any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability displaying behaviours of concern, where the primary purpose of the intervention is to protect them, or others, from harm. Restrictive practices should only be used as a last resort intervention that occurs in the context of a positive behaviour plan.

If a practice is age-appropriate for the purposes of keeping a child safe, in that it would be considered reasonable for any child of the same age, then it is not considered a restrictive practice. For example, holding a child's hand while crossing the road would not be considered a restrictive practice.

See the NDIS Commission's website for more information about [types of regulated restrictive practice](#).

What is the definition of harm for behaviour support and reportable incidents?

Harm is defined broadly as harm to self and/or harm to others. Some behaviours are of such frequency, intensity and duration that the physical safety of the person or others is likely to be placed in serious jeopardy. It may also be harm caused to the person through emotional and financial abuse, exploitation and/or undue influence.

Where is the line between medication and chemical restraint?

Chemical restraint is the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. The most commonly used form of chemical restraint are 'psychotropics' which are medications that affect the mind, emotions and 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. For more information about what constitutes a restrictive practice, see the [NDIS Commission Behaviour Support video](#).

What type of restrictive practice is restricted access to objects?

Restricted access to objects is a type of environmental restraint. See the NDIS Commission's website for more information about [types of regulated restrictive practice](#) and the [Behaviour Support in the NDIS Commission video](#).

Is locking doors at night in a family home considered a restrictive practice?

If families are locking the doors of the house at night for safety and security of the household/ family, this is typically consistent with general community standards and is not a regulated restrictive practice. This advice is based on an assumption that by locking doors, it is referring to the front and back doors and not internal doors in the house.

However, if an NDIS funded service provider implements a behaviour support plan within the home that includes locked areas or restricted access to areas, then these would be environmental restraints that are regulated restrictive practices.

In early childhood settings, do fences and gates constitute a restrictive practice?

No, if these are age-appropriate practices that would apply to any child attending the childhood setting, not just to NDIS participants, they are not considered regulated restrictive practices.

Is locking car doors on children a restrictive practice?

No, if it is age appropriate and for the purpose of safe travel.

Behaviour support in the NDIS Commission

Who do the NDIS Commission's behaviour support requirements apply to? Does it apply in family settings or to self-managed participants with unregistered providers?

Restrictive practices represent a serious risk to the human rights of people with disability and there is a need to ensure there will be appropriate reporting and scrutiny of the use of restrictive practices. The delivery of specialist behaviour support services and the use of restrictive practices should only be undertaken by registered NDIS providers. Registration of providers gives the NDIS Commission the necessary level of oversight of behaviour support and restrictive practices.

This applies in any setting where restrictive practices are used by a registered NDIS provider including respite, day programs and family settings.

The NDIS Commission conditions of registration are outlined in the NDIS (Restrictive Practices and Behaviour Support Rules) 2018, available on the NDIS Commission [Legislation, rules and policies](#) webpage.

How does the NDIS Commission's behaviour support requirements interact with other state and territory regulatory requirements? For example, participants in out-of-home care (OOHC)?

The NDIS Commission is responsible for the national oversight of practitioners and providers providing behaviour support to NDIS participants as well as the provision of best practice advice, and reviewing

and reporting on the use of restrictive practices. The NDIS Commission works closely with the states and territories.

Specialist behaviour support providers, practitioners, and implementing providers who use regulated restrictive practices need to meet the requirements outlined in the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018. This applies in relation to participants in OOHC receiving specialist disability supports who have transitioned to the NDIA.

Restrictive practices are prohibited in OOHC in Queensland. What are the Commission's requirements for children under guardianship orders in Queensland?

The current Department of Child Safety, Youth and Women (DCSY&W) policy position considers restrictive practices as a prohibited practice. If a child or young person is an NDIS funded participant in OOHC and in receipt of an NDIS funded service involving the use of restrictive practice, then the NDIS Commission's requirements apply. This would be an NDIS service provision context possibly involving vacation care, community access, vocational supports – it would not typically involve the 24/7 accommodation supports funded by the DCSY&W.

Implementing providers in the statutory OOHC sector may, prior to 1 July 2019 in Queensland, have had positive behaviour support plans in place involving the use of restrictive practices. These are not considered under the safeguards of the *Disability Services Act 2006/* Disability Services and Other Legislation (NDIS) Amendment Bill 2019 and as such are outside the state based authorisation process.

The key consideration from 1 July 2019 is the NDIS participant and NDIS funded service provision context. This is what compels compliance with the *NDIS Act 2013* and NDIS (Restrictive Practices and Behaviour Support Rules) 2018 in the case of children and young people in OOHC.

In Queensland, if a carer has care of a child and administers medication according to Department of Child Safety policy, how does this relate to the Commission's restrictive practice requirements?

If the carer is an NDIS provider, and they administer medication to influence the child's behaviour (chemical restraint) in the course of delivering NDIS supports, the carer needs to do so in accordance with a behaviour support plan and report monthly on the use of restrictive practices. Refer to the behaviour support [transitional arrangements for Queensland](#) webpage for more information.

However, if the child is in out-of-home care, the use of chemical restraint to control behaviour is a prohibited practice under Queensland legislation (Child Safety Policy No. 604-3, Department of Child Safety, Youth and Women), and the NDIS provider must not use the practice.

Note that not all children and young people in the custody of the DCSY&W have guardianship to the Chief Executive. As such, parents or kin with guardianship may make health care decisions including those around the use of medication in consultation with the prescribing medical practitioner.

What are the behaviour support requirements for participants under supervised treatment orders in Victoria?

The same requirements are in place as for other NDIS participants, however those participants under supervised treatment orders will still need to comply with that order.

How does funding for behaviour support work for in-kind participants?

If a participant is receiving in-kind supports they do not need to pay for them with their NDIS plan funds. Please refer to the [NDIS in-kind supports](#) webpage for further information.

NDIS behaviour support practitioners

What are the roles and responsibilities of each provider regarding behaviour support, who is responsible for what? Is it the NDIA's responsibility to ensure that there is funding for behaviour support in a participants plan?

NDIS behaviour support practitioners are responsible for developing the behaviour support plan and lodging this with the NDIS Commission.

Implementing providers are required to obtain the authorisation of the restrictive practices from the relevant state or territory body and provide this to the NDIS Commission as well as complete monthly reports on the use of restrictive practices to the NDIS Commission.

If there are insufficient funds, an NDIS plan review is required. This is the responsibility of the NDIA.

What training materials are available for behaviour support practitioners and implementing providers?

The NDIS Commission has recently released the [Positive Behaviour Support Capability Framework](#) for NDIS providers and behaviour support practitioners to assist in the professionalisation of the sector and raise the bar in clinical practice. There is also a [Compendium of Assessment Resources](#) on the website to assist practitioners to select appropriate assessment tools for use with participants.

This in addition to the [Worker Orientation Module](#), which is already available on the NDIS Commission website for all NDIS workers. It is an interactive online course that explains the obligations of workers under the NDIS Code of Conduct from the perspective of NDIS participants.

It is the providers' responsibility to ensure that any workers implementing behaviour support in accordance with a behaviour support plan have been appropriately trained to provide those supports.

When and how will behaviour support practitioners be assessed against the Positive Behaviour Support Capability Framework?

Practitioners who have been considered 'provisionally suitable' to deliver behaviour support will be notified by the NDIS Commission when they are required to go through the assessment process.

The Assessment Resource Toolkit is in development. It outlines tools and resources to enable behaviour support practitioners to conduct a self-assessment against this framework and collect evidence that supports the assessment.

If a behaviour support practitioner is asked to create a BSP for a participant because they have a restrictive practice in place, however after undertaking an assessment, they find that the restrictive practice is not necessary? Should the practitioner decline to complete the BSP, or complete one which includes the restrictive practice with a plan for its reduction and elimination?

A restrictive practice can only be used when it is part of a behaviour support plan developed by an NDIS behaviour support practitioner. If a restrictive practice is used, it must be the least restrictive response possible in the circumstances. If it is identified in the functional assessment that preventative/ skills building strategies alone can manage the behaviour of concern without the use of a regulated restrictive practices, the practitioner needs to work with the implementing provider to develop fade out strategies of the restrictive practice.

Does the NDIS Commission have a list of supervisors for positive behaviour support by state and territory?

No. It is the responsibility of practitioners to source their own supervision depending on their assessed practitioner level .

Registration requirements for behaviour support

Who needs to be registered under the behaviour support category? For example, if I am an assistive technology (AT) provider who prescribes AT involving a restrictive practice do I need to be registered for behaviour support?

AT providers should not be prescribing assistive technology that involves a restrictive practice. Any person that is subject to any restrictive practices needs to have a behaviour support plan (including the restrictive practice) developed by an NDIS behaviour support practitioner.

We are a provider implementing a behaviour support plan. Do all staff who implement the plan have to be behaviour support practitioners?

An implementing provider is any NDIS service provider that uses a regulated restrictive practice in the course of delivering supports to a participant. Implementing providers are required to be registered with the NDIS Commission for the type of support they are providing. They do not need to be registered specifically as a behaviour support practitioner (Registration group 110).

Any workers implementing a behaviour support plan must be working for a registered provider, and should undergo training to implement behaviour support in accordance with a participant's behaviour support plan, however they are not required to be a behaviour support practitioner.

Transitional arrangements for existing behaviour support plans

What are the transitional arrangements for existing behaviour support plans?

Refer to the [transitional arrangements webpage](#) for more information about how existing plans will be recognised depending on the type of plan, authorisation process, and your jurisdiction.

Can we transfer existing behaviour support plans for children as we would with adult plans, if there is no authorisation process for them?

If there is an existing behaviour support plan in place that includes restrictive practices, then NDIS providers need to lodge the plan with the NDIS Commission on the Portal and commence monthly reporting on the use of the practices. See our website for instructions on [lodging a behaviour support plan](#).

Developing behaviour support plans

Currently in Victoria and Tasmania we can use RISE to determine whether a Restrictive Intervention Plan is required. Is this something we will be able to continue to use? Will the NDIS Commission create a similar tool?

Yes, the RISE can continue be used as a resource. Behaviour support is a joint responsibility, with the NDIS Commission monitoring the prevalence of restrictive practices, and states/ territories responsible for the authorisation of restrictive practices. States and territories can provide relevant resources for authorisation.

Who can write behaviour support plans which include restrictive practices? What about if a participant doesn't have funding for improved relationships in their plan?

A behaviour support plan can only be developed by practitioners who are considered suitable by the Commissioner to undertake functional behaviour assessments and develop behaviour support plans. Behaviour support practitioners will be considered suitable pending assessment against the [Positive Behaviour Support Capability Framework](#). Behaviour support providers (including sole providers) must be registered with the NDIS to provide specialist behaviour support (Registration group 110).

If there are insufficient funds, an NDIS plan review is required. This is the responsibility of the NDIA.

What are the timeframes for developing behaviour support plans and do they apply to the practitioner or the implementing provider?

This depends on whether there is an existing plan in place, and the state or territory in which you operate. For more detailed information about timeframes to develop new behaviour support plans, see the [transitional arrangements webpage](#).

Is it a requirement for a NDIS behaviour support practitioner to develop behaviour support plans that don't include a restrictive practice?

Yes. The provider still needs to be registered with the NDIS Commission and considered suitable to develop behaviour support plans. However any behaviour support plan that does not contain a regulated restrictive practice does not need to be lodged with the NDIS Commission.

What are the requirements for behaviour support plans for participants with mental health diagnoses, and prescriptions for therapeutic medications relating to these diagnoses?

Medication prescribed as treatment for a mental illness is not considered a restrictive practice, but should be included in any behaviour support plan if the participant requires one.

Under the NDIS Commission behaviour support plans need to focus on person-centred interventions to address the underlying causes of behaviours of concern, including any other diagnoses and aim to improve quality of life outcomes and minimise the use of restrictive practices.

Do home modifications such as gates need to be included in a behaviour support plan if it is related to a child's behaviour?

Perhaps. If the home modification restricts the freedom or access of the participant and if NDIS funds are being used to develop the behaviour support plan, then an NDIS behaviour support practitioner needs to develop the plan and lodge it with the NDIS Commission. If the modification is for promoting access for a participant, it is not a restrictive practice. Families do not have any monthly reporting requirements when they use the practice. This would change when NDIS funded service provision comes into the family home.

What happens where 'fade out plans' are not able to be actualised and a participant needs a continual restrictive practice in place to prevent harm to self and others?

The focus of positive behaviour support is to improve the person's quality of life which includes the use of the least restrictive alternative in relation to a participant and fade out over time if possible.

While restrictive practices are still in use, both the NDIS behaviour support practitioner and implementing provider are required to meet the reporting requirements outlined in the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018.

If a therapist has prescribed AT to an NDIS participant in the past, but a behaviour support plan was not developed at the time, does a behaviour support plan need to be developed for the use of this AT? Whose responsibility is it to develop a behaviour support plan? If the therapist is no longer providing supports to the participant, what obligation does the therapist now have?

This would depend on the function and purpose of the assistive technology (AT). Prescribed AT does not require a behaviour support plan unless it is a form of restrictive practice or part of an implementation strategy for a specific behaviour of concern. If the therapist is no longer involved, it is the implementing provider's responsibility (in consultation with the participant) to engage an NDIS behaviour support practitioner to develop a comprehensive behaviour support plan with the regulated restrictive practice.

Restrictive practices should only be used in the context of a behaviour support plan, based on an assessment of behaviour with the appropriate authorisation from the state/territory. Unauthorised use of restrictive practices is a reportable incident, in which case the provider must notify the NDIS Commission within five business days of becoming aware of the use.

What should providers do in the interim if there is a need for behaviour support, but there is a delay due to supply of behaviour support practitioners, time to receive authorisation, and/or timing issues relating to NDIA plan reviews?

It is important that in the interim period, providers monitor and document behaviours of concern, collecting data to inform the functional behaviour assessment. Restrictive practices should only be used in the context of a behaviour support plan, based on an assessment of behaviour.

If a regulated restrictive practice is in use in the absence of a behaviour support plan (or pending development) this is unauthorised and is a reportable incident. The provider must notify the NDIS Commission within five business days of becoming aware of the use.

Authorisation

In Queensland there is no authorisation process for under 18s for example for restricted access to sharps and chemical restraint. What is the Commission's position on this?

These are environmental and chemical restraints that are regulated restrictive practices under the NDIS (Restrictive Practices and Behaviour Support) Rules 2018. If they are used with children and young people under 18 years who are NDIS participants, the restrictive practices need to be included in a behaviour support plan that has been developed by an NDIS behaviour support practitioner.

The behaviour support plan needs to be lodged with the NDIS Commission, regardless of whether authorisation is required to be obtained. This applies to children and young people under 18 years in Queensland [See NDIS Restrictive Practices and Behaviour Support Rules, Section 24(2)]. The implementing provider is required to report the use of the regulated restrictive practice on a monthly basis.

Lodging a behaviour support plan

What is the process for lodging a behaviour support plan with the Commission? Where can we find guidance on how to do this?

The process for lodging a behaviour support plan is through the online portal. Once a plan has been developed and uploaded into the Portal, practitioners can enter details about the participant and regulated restrictive practices into the Portal. For detailed information about lodging a new behaviour support plan in the Portal, see the NDIS Commission [Portal User Guide for Lodging a Behaviour Support plan](#).

From 1 July 2019, do behaviour support plans need to be lodged with the NDIS Commission as well as the state or territory authorising bodies?

Yes, any behaviour support plan containing a regulated restrictive practice must be lodged with the NDIS Commission. NDIS service providers must regularly report the use of a regulated restrictive practice with an NDIS participant to the NDIS Commission.

States and territories remain responsible for the authorisation of restrictive practices which may require the behaviour support plan to be provided to the relevant state or territory.

Reporting on behaviour support plans

What is involved in the monthly report to the NDIS Commission?

Providers will require a PRODA account to access the Portal. Upon logging in for the first time, plans that have been lodged can be accepted. The next step is to submit monthly reports via the Portal. The monthly report is on the use of the restrictive practices for the preceding month.

For detailed information about the Portal, please see the NDIS Commission [Portal User Guide for monthly reporting](#), and the instructions for [commencing monthly reporting for implementing providers in the ACT, QLD and VIC](#).

Who needs to complete monthly reporting for behaviour support? Who has to notify of unauthorised restrictive practices?

NDIS registered providers must report monthly on the use of regulated restrictive practices to the NDIS Commission. This applies to their use in the provision of supports or services regardless of the setting.

Where a participant has a behaviour support plan that includes a restrictive practice but that practice is not applied during the preceding month (for example PRN medication as chemical restraint), the provider is still required to report it as 'nil usage' in the monthly report. For more information about monthly reporting including a case study, see the [Behaviour Support in the NDIS Commission video](#).

It is the responsibility of the implementing provider to notify the NDIS Commission of an unauthorised restrictive practice as a reportable incident. For more information about reporting unauthorised restrictive practices, refer to the next page.

If you have reported the use of an unauthorised restrictive practice as a reportable incident, do you also have to report the use in monthly reporting?

This is different for different jurisdictions, see the [Implementing providers by states and territories](#) webpage.

Implementing providers are also required to complete monthly reporting on their usage. Refer to the [Reportable Incidents guidance](#) for more information about reporting the use of unauthorised restrictive practice as a reportable incident.

In Victoria, do we still need to report to RIDS as well as the NDIS Commission?

Check with your state and territory authorising agencies for reporting requirements. For contact details, refer to your [state/ territory specific page](#) on the NDIS Commission's website.

I am concerned about the costs relating to monthly reporting, reportable incident reporting, and additional training and supervision that staff will require for the new behaviour support requirements. What can I do to reduce these?

Practitioners have always been expected to provide training to implementing providers on a behaviour support plan, this is not a new requirement. Supervision of staff and recording incidents of participants were also required prior to the NDIS Commission's establishment.

Reportable Incidents

When do restrictive practices need to be reported to the NDIS Commission as a reportable incident?

The use or alleged use of a restrictive practice in relation to a person with disability, other than where the use is in accordance with an authorisation (however described) of a state or territory in relation to the person with disability must be notified to the NDIS Commission. This includes the emergency use of a restrictive practice. There are five occasions when this means that the use of a restrictive practice is reportable to the NDIS Commission:

- When the use of the restrictive practice for a person with disability does not have authorisation (however described) by the relevant state or territory body
- When the restrictive practice is used for a person with disability in a state or territory which does not have an authorisation process for that practice AND the practice is not used according to a behaviour support plan
- When the restrictive practice is used for a person with disability according to an authorisation (however described) by the relevant state or territory body BUT the practice is not used according to a comprehensive or interim behaviour support plan because the person does not have such a plan
- When the restrictive practice is being used according to an authorisation (however described) by the relevant state or territory body, but the restrictive practice used was not included in the person with disability's behaviour support plan
- When a restrictive practice is being used according to an authorisation (however described) by the relevant state of territory body, but the restrictive practice is being applied in a way which is inconsistent or contrary to the requirements or directions in the person's behaviour support plan

However, in circumstances where the state or territory in which the restrictive practice is used does not have an authorisation process for restrictive practices, and the restrictive practice is used according to the person's behaviour support plan, then this is not a reportable incident.

If one of the above situations apply, then the type of restrictive practice used, for example whether it was chemical restraint or physical restraint, does not affect whether its use should be reported as a reportable incident.

Whenever the use of a restrictive practice, whether or not authorised, results in serious injury to a person, this is a reportable incident requiring notification to the NDIS Commission as would be the case for any other incident resulting in serious injury to a person with disability.

Will we be required to report on incidents we witness, including chemical restraint?

A registered NDIS provider is only required to notify the NDIS Commission of reportable incidents that are connected to the service they are providing. If a registered NDIS provider (such as a support coordinator or allied health professional) witnesses an incident or conduct involving another NDIS provider this should be raised as a concern of 'provider non-reporting' to the reportable incidents team of the NDIS Commission by phone or email. A reportable incident form is not required. This may happen when:

1. They witness or become aware of an incident that is not in connection with the services they themselves are providing, such as seeing a worker of another NDIS provider abuse a person with disability
2. They believe the registered NDIS provider linked to the incident may not have notified the NDIS Commission

The NDIS Commission would then contact the NDIS provider to request a reportable incident notification if no notification had been submitted. For more information, refer to the updated [Reportable Incidents guidance](#).