



FAQs – Information for transitioned RAC Providers who are using restrictive practices

This fact sheet is for transitioned Residential Aged Care (RAC) providers. It has information about safeguarding arrangements relating to the use of restrictive practices with NDIS participants to whom they are providing residential aged care services.

Not sure whether your organisation is a transitioned RAC provider? Learn more about the transitional arrangements here: [NDIS participants in residential aged care | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](#)

How do the NDIS Commission's requirements apply in Residential Aged Care settings?

If your organisation is a registered NDIS provider delivering residential aged care services to a resident who is an NDIS participant, you have certain requirements and obligations relating to any use of restrictive practices with that person.

General information about these requirements is available here: [Behaviour support | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](#)

This FAQ deals with the requirements and obligations of **transitioned RAC providers only**.

Information on the requirements of transitioned providers in Western Australia can be found at [Behaviour support | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](#) and [Fact Sheet: Behaviour Support under the NDIS Commission](#).

If your organisation is supporting NDIS participants, it is important to familiarise yourself with your obligations. This document will assist in understanding your obligations and requirements.

How can I get further help?

Contact the NDIS Commission behaviour support team in your state or territory.

ACT Behaviour Support ACTBehaviourSupport@ndiscommission.gov.au

NSW Behaviour Support nswbehavioursupport@ndiscommission.gov.au

NT Behaviour Support NTBehaviourSupport@ndiscommission.gov.au

QLD Behaviour Support qldbbehavioursupport@ndiscommission.gov.au

SA Behaviour Support SABehavioursupport@ndiscommission.gov.au

TAS Behaviour Support TASBehaviourSupport@ndiscommission.gov.au

VIC Behaviour Support VICBehavioursupport@ndiscommission.gov.au

WA Behaviour Support WABehaviourSupport@ndiscommission.gov.au

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What are restrictive practices?

What are regulated restrictive practices?

The NDIS Commission regulates five types of restrictive practices. These regulated restrictive practices are defined in NDIS legislation. They are:

- seclusion
- chemical restraint
- mechanical restraint
- physical restraint
- environmental restraint

There is more information about [Regulated Restrictive Practices](#) on the NDIS Commission website, including the [Regulated Restrictive Practices Guide](#). The Guide explains each type of restrictive practice, including examples and case studies.

Any use of a restrictive practice presents a serious risk to the human rights of people with disability. For this reason, the NDIS Commission has oversight over all uses of regulated restrictive practices in the NDIS. If your organisation uses regulated restrictive practices while delivering supports to NDIS participants, under NDIS legislation your organisation is an “**implementing provider**”.

There is more information about [implementing providers](#) on the NDIS Commission website and in the [Behaviour Support and Restrictive Practices Fact Sheet](#).

Any use of these restrictive practices should be in accordance with [a behaviour support plan](#) and meet existing [authorisation requirements](#) outlined by relevant state or territory.

Why are there different definitions of restraint between the NDIS Commission and the Aged Care Quality and Safety Commission?

The NDIS and aged care services are delivered under different legislation, which contain different definitions of restraint.

The NDIS Commission regulates restrictive practices in the NDIS and defines five types of restrictive practices. You can find out more in the [Regulated Restrictive Practices Guide](#).

The Aged Care Quality and Safety Commission recognises two types of restraint. Information about requirements to minimise the use of restraints in aged care is available [here](#).

Why do I have to report to both the NDIS Commission and the Aged Care Quality and Safety Commission?

The NDIS Commission regulates all NDIS providers who deliver supports or services to persons with disability. This includes supports or services that are provided in the form of residential aged care services to NDIS participants.

The NDIS Commission also recognises the use of restrictive practices as a serious risk to the human rights of people with disability. For this reason, additional safeguards are in place to protect the rights of people with disability where they may be subject to restrictive practices.

I am using regulated restrictive practices with an NDIS participant but there is no authorisation or no behaviour support plan in place. What do I do?

If you do not have state/territory authorisation, or the participant does not have a behaviour support plan, any use of a regulated restrictive practice is an Unauthorised Restrictive Practice. This is a [reportable incident](#) and must be notified to the NDIS Commission within five business days. Information on how to report is available on the NDIS Commission website [here](#), under Step 2.

In the meantime, you need to:

- Cease the use of any restrictive practice that is prohibited in your state or territory (information about prohibited practices is available in the [Regulated Restrictive Practices Guide](#))
- Obtain authorisation for the use of any restrictive practice in accordance with any state or territory authorisation requirements as soon as practicable (information about the relevant authority in your state or territory is below under “**Where do I get authorisation?**”)
- Lodge evidence of this authorisation with the NDIS Commission as soon as practicable after it is received
- Take all reasonable steps to facilitate the development of a behaviour support plan for the participant. (More information about how to do this is available at the following fact sheet: [Facilitating the development of behaviour support plans that include regulated restrictive practices.](#))
- An **interim** behaviour support plan must be completed within 1 month and a **comprehensive** behaviour support plan must be developed for the participant within 6 months after the first use of the regulated restrictive practice
- Once a behaviour support plan has been developed for a participant and lodged in this NDIS Commission Portal, you must begin monthly reporting of any restrictive practice use, through the Portal. Information on how to make monthly reports is available [here](#)

What are behaviour support plans?

What is a behaviour support plan?

A behaviour support plan is a document developed for a person with disability who has behaviours of concern that may place themselves or others at risk. A behaviour support plan contains individual strategies to address the person with disability’s needs, in a way that reduces and eliminates the need to use regulated restrictive practices.

In the NDIS, behaviour support plans are developed by registered specialist behaviour support providers, who engage behaviour support practitioners considered suitable by the NDIS Commissioner. NDIS participants who have behaviours of concern can request behaviour support funding in their NDIS plan. This will pay for the development of a behaviour support plan.

Any use of a regulated restrictive practice must be contained in a behaviour support plan.

In some circumstances, a [nursing care plan](#) or a [medical care or a health-care plan](#) can be used as an interim behaviour support plan.

Who needs a behaviour support plan?

Any NDIS participant who has behaviours of concern and is subject to, or is likely to be subject to, regulated restrictive practices.

How do I facilitate getting a behaviour support plan for an NDIS participant?

You as an implementing provider are required to take all reasonable steps to facilitate the development of a behaviour support plan by a specialist behaviour support provider.

Information is available at the following fact sheet: [Facilitating the development of behaviour support plans that include regulated restrictive practices](#).

Does my organisation have to pay for the behaviour support plan?

No. The participant's NDIS funding will pay for the behaviour support plan.

My organisation is using restrictive practices with a participant who does not have behaviour support funding in their NDIS plan. Does the participant need to request an NDIS plan review for additional funding?

Yes.

The NDIA currently has a process in the place for NDIS participants in residential aged care who require behaviour support funding. You can find more information about this on the RAC NDIS Support Hub [here](#).

Who can develop a behaviour support plan for an NDIS participant living in residential aged care?

NDIS providers who are registered to provide specialist behaviour support services (registration group 110).

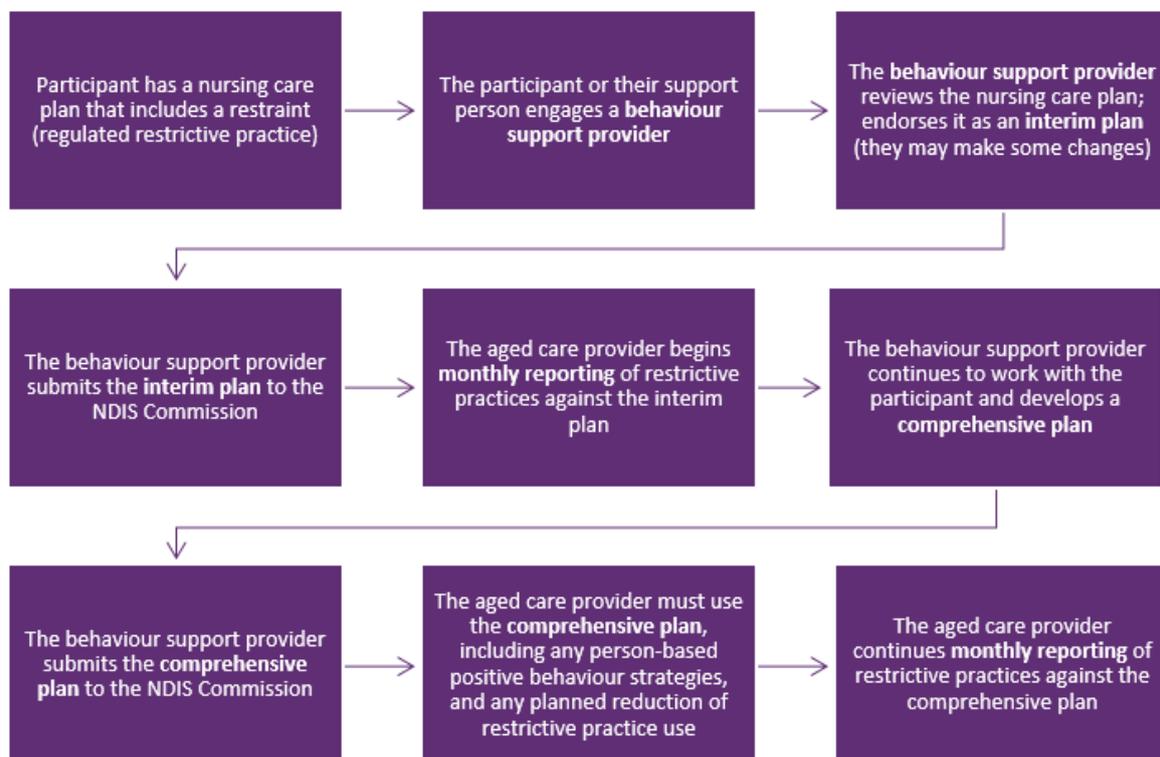
I already have a nursing care plan that outlines the use of the restrictive practice. Can I use this as a behaviour support plan under the NDIS Commission?

A nursing care plan that outlines the use of the restrictive practice can be accepted as an interim behaviour support plan if it is **reviewed and endorsed by a practitioner engaged by an NDIS specialist behaviour support provider**.

Once engaged, a specialist behaviour support provider must develop a comprehensive behaviour support within 6 months.

The steps involved in reviewing an existing nursing care when developing an interim behaviour support plan are outlined in Figure 1.

Figure 1: Steps involved in reviewing an existing nursing care plan when developing an interim behaviour support plan.



A participant I work with has a medical care or a health-care plan that has a chemical restraint according to the definition provided by the Aged Care Quality and Safety Commission. Can I use this plan as a behaviour support plan?

A medical care plan or health care plan that contains a chemical restraint may be accepted as an interim behaviour support plan if it is **reviewed and endorsed by a practitioner engaged by an NDIS specialist behaviour support provider**.

Once engaged, a specialist behaviour support provider must develop a comprehensive behaviour support within 6 months.

See Figure 1 above.

Can a nursing staff member write a behaviour support plan?

Only if your organisation is registered to deliver specialist behaviour support and the person is considered suitable by the NDIS Commissioner as an NDIS behaviour support practitioner.

More information about registration requirements is available [here](#).

The NDIS Commission is currently rolling out its assessment process for considering practitioners suitable to deliver specialist behaviour support. You can find out more about the Positive Behaviour Support Capability Framework and the national implementation program [here](#).

Alternatively, your organisation can assist the participant to engage a registered behaviour support provider to develop a behaviour support plan. More information on this process is available at the following fact sheet: [Facilitating the development of behaviour support plans that include regulated restrictive practices](#).

Questions about restrictive practice authorisation

What is the difference between authorisation and a behaviour support plan?

Authorisation relates to the specific use of a restrictive practice. State and territory governments are responsible for authorising the use of a restrictive practice by an implementing provider.

A **behaviour support plan** contains individualised positive behaviour support strategies to address the person with disability's needs, in a way that reduces and eliminates the need to use regulated restrictive practices. Any use of a regulated restrictive practice must be contained in a behaviour support plan.

Some state or territory authorising bodies require a behaviour support plan to be developed before they will grant authorisation for the use of a restrictive practice.

Why do I need authorisation?

It is a requirement under the NDIS legislation that registered NDIS providers obtain state/territory authorisation for the use of a regulated restrictive practice. Implementing providers are required to lodge evidence of authorisation by state and territory bodies with the NDIS Commission.

Where do I get authorisation?

It depends on the state or territory where you deliver services. For more information for your state/territory, please see:

- ACT – ACT Senior Practitioner website (<https://www.communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner>)

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- NSW – Restrictive Practices Authorisation Portal (<https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal>)
 - NT – Department of Health website (<https://health.nt.gov.au/professionals/restrictive-practices-authorisation>)
 - QLD – Contact the Disability Connect Queensland (DCQ) team (ph:1800 902 006 or email: enquiries_DSA_RP@communities.qld.gov.au) and / or see the short term approvals and other resources on the DCDSS website (<https://www.communities.qld.gov.au/disability/national-disability-insurance-scheme/ndis-quality-safeguard-requirements-providers/restrictive-practices/publications-resources>). For the authorisation of seclusion contact the Office of the Public Guardian (<https://www.publicguardian.qld.gov.au/restrictive-practices/restrictive-practices-approval>)
 - SA – Contact the Office of the Public Advocate (08 8342 8200)
 - TAS – Department of Health Senior Practitioner website (https://www.dhhs.tas.gov.au/disability/senior_practitioner)
 - VIC – Authorisation process for the use of regulated restrictive practices (<https://providers.dhhs.vic.gov.au/authorisation-process-use-regulated-restrictive-practices-registered-ndis-providers>) and /or the DHHS website (<https://providers.dhhs.vic.gov.au/restrictive-interventions>)
 - WA – WA Department of Communities and the Authorisation of Restrictive Practices in Funded Disability Services Policy 2020 (<http://disability.wa.gov.au/wa-ndis/wa-ndis/new-policy-on-authorisation-of-restrictive-practices/>)

What happens if I don't have authorisation?

Any use of a regulated restrictive practice without authorisation is an Unauthorised Restrictive Practice. This is a reportable incident and must be reported to the NDIS Commission within five business days. Information on how to report is available on the NDIS Commission website [here](#), under Step 2.

My NDIS provider registration

My organisation is using restrictive practices with an NDIS participant. Does that mean we are required to be registered under a particular registration group?

Any provider that uses regulated restrictive practices with an NDIS participant must be registered with the NDIS Commission. They are only required to be registered for the type of support they are providing.

In addition to being registered, any provider using or likely to use regulated restrictive practices must be audited against the NDIS Practice Standards Module 2A: Implementing behaviour support plans. You can find more information about registration and audit on the NDIS Commission website [here](#).

Can an aged care nursing staff member be considered a behaviour support practitioner?

Only if your organisation is registered to deliver specialist behaviour support and the person is considered suitable by the NDIS Commissioner as a behaviour support practitioner.

More information about registration requirements is available [here](#).

Practitioner suitability requirements, including information about the Positive Behaviour Support Capability Framework, is available [here](#).

Alternatively, your organisation can assist the participant to engage a registered behaviour support provider to develop a behaviour support plan. More information on this process is available at the following fact sheet: [Facilitating the development of behaviour support plans that include regulated restrictive practices](#).