



**NDIS Quality
and Safeguards
Commission**

Restrictive Practice Guide

Safe Transportation

February 2022

Version 1



Acknowledgements

The Restrictive Practice Safe Transportation Guide was developed by the NDIS Quality and Safeguards Commission in consultation with:

- People with a lived experience of disability and their families
- Australian Government Department of Social Services Policy Branch
- National Disability Insurance Agency (NDIA)
- Australian Health Practitioner Regulation Agency (AHPRA)
 - Occupational Therapy Australia (OTA)
 - Australian Physiotherapy Association (APA)
- Representatives from the following state and territory agencies through the Senior Practitioner's Practice Leadership Group:
 - Community Services Directorate, Australian Capital Territory
 - Department of Communities and Justice, New South Wales
 - Department of Health, Northern Territory
 - Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, Queensland
 - Department of Human Services, South Australia
 - Department of Communities, Tasmania
 - Department of Families, Fairness and Housing, Victoria
 - Department of Communities, Western Australia

Suggested Citation

NDIS Quality and Safeguards Commission (2022). Restrictive Practice *Safe Transportation Guide*. Penrith, Australia: NDIS Quality and Safeguards Commission.

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Background

The NDIS Quality and Safeguards Commission (NDIS Commission) is an independent agency that was established to develop a nationally consistent approach to quality and safeguarding for people with disability receiving supports and services under the National Disability Insurance Scheme (NDIS). In fulfilling this role, the NDIS Commission is committed to promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by people with disability and promoting respect for their inherent dignity (United Nations, 2006). This includes providing leadership in behaviour support, monitoring the use of regulated restrictive practices and promoting their reduction and elimination.

Regulated restrictive practices include seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint. These practices or interventions have “the effect of restricting the rights or freedom of movement of a person with disability” (Australian Government, 2013). The use of regulated restrictive practices by registered NDIS providers is subject to conditions outlined under the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#).

Purpose of the guide

The purpose of this guide is to:

- promote the rights and inherent dignity of people with disability,
- assist in identifying the use of regulated restrictive practice for people with disability during transportation,
- highlight the special considerations and safeguards relevant to the use of safe transportation for people with disability,
- provide practice advice consistent with a positive behaviour support framework, contemporary evidence informed practice and intended to reduce and eliminate the use of restrictive practices, and
- assist registered NDIS providers NDIS behaviour support practitioners to meet their obligations under the [National Disability Insurance Scheme Act 2013 \(NDIS Act 2013\)](#) and relevant Rules.

Scope

This guide was developed for registered NDIS providers and NDIS specialist behaviour support practitioners supporting NDIS participants, but it may also be of interest to anyone who supports a person with disability. It provides further guidance on the use of mechanical restraint in the context of safe transportation. This guide should be read in conjunction with the [Regulated Restrictive Practice Guide](#) with particular attention to the section on mechanical restraint.

Legislative context

This guide furthers some of the NDIS Quality and Safeguards Commissioner's behaviour support function as set out in section 181H of the [NDIS Act 2013](#) relevantly:

"The Commissioner's behaviour support function is to provide leadership in relation to behaviour support, and in the reduction and elimination of the use of restrictive practices, by NDIS providers, including by:

...

(b) developing policy and guidance materials in relation to behaviour supports and the reduction and elimination of the use of restrictive practices;

(c) providing education, training and advice on the use of behaviour supports and the reduction and elimination of the use of restrictive practices;

...

(e) undertaking and publishing research to inform the development and evaluation of the use of behaviour supports and to develop strategies to encourage the reduction and elimination of restrictive practices by NDIS providers."

The NDIS Act 2013 gives effect to Australia's obligations under the [Convention on the Rights of Persons with Disabilities](#) (CRPD). The CRPD is the first binding international human rights treaty to recognise the rights of all people with disability. Australia signed the CRPD in 2008. The NDIS Commission is committed to promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by people with disability and promoting respect for their inherent dignity.

Key points

- The definition of mechanical restraint still applies where these practices are used to ensure safe transportation, however there are exceptions to the reporting requirements for the use of some devices in some circumstances.
- In Australia, everyone in a vehicle is required to wear an approved seat belt, child restraint or booster seat, however, special rules and considerations apply to people with disabilities or medical conditions.
- Ensuring the safety of the person with disability and others during transportation is crucial.
- Transportation should be provided in the least restrictive and least intrusive manner possible, giving due regard to the support needs and safety of the person being transported, the safety of others, and available resources.
- A risk assessment determining risk of harm to the person and others during transportation may be required.
- If a person displays behaviours of concern, mechanical or environmental restraint might be needed to support safe transportation if positive strategies alone are not sufficient to keep the person and others safe from harm.
- The use of restrictive practices by NDIS providers is subject to regulation, monitoring and oversight by the NDIS Commission.
- Regulated restrictive practices may ONLY be used as a last resort to reduce risk of harm to the person or others, after exploring and applying evidence-based, person-centred and proactive strategies. They must be the least restrictive response possible, proportionate to the risk of harm and used for the shortest time possible.
- All providers should work in the best interests of people with disability people to provide safe transportation, and have systems and processes in place to promote wellbeing and reduce the likelihood of harm.
- The [*NDIS \(Restrictive Practices and Behaviour Support\) Rules 2018*](#) outline registered NDIS providers' obligations in relation to behaviour support plans and the use, monitoring and reporting of regulated restrictive practices.
- Each state and territory has different authorisation, consent and reporting requirements consistent with their relevant legislation, policy and / or procedures. NDIS providers must actively seek and obtain authorisation where required.

Reducing and eliminating restrictive practices

Consistent with a positive behaviour support framework and the NDIS Act 2013, regulated restrictive practices should only be used as a last resort in response to risk of harm for the shortest time possible. Any use of a regulated restrictive should be used along with a clear plan to reduce and eliminate the use of regulated restrictive practices over time, replacing the practice with proactive and less restrictive alternatives based on an understanding of the person's needs and the function of the behaviour.

Australia is committed to the reduction and elimination of restrictive practices. The *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector* identified the following six core strategies for reducing and eliminating restrictive practices:

1. Person-centred focus
2. Leadership towards organisational change
3. Use of data to inform practice
4. Workforce development
5. Use of restraint and seclusion reduction tools (including evidence-based assessment, prevention approaches, emergency management plans, environmental changes and meaningful activities integrated into the individual's support plan)
6. Debriefing and practice review

The primary goal of positive behaviour support is to improve quality of life. Reduction of behaviours of concern is the secondary goal. Reducing and eliminating restrictive practices upholds the rights of people with disability, and is a critical part of promoting quality of life.

Legislation and Safe Transportation

Safe transportation for people with a disability is important to enable full participation in the community. It allows for social and economic engagement, fosters independence and autonomy of choice. The Convention on the Rights of Persons with Disabilities (CRPD) supports the right of people with disabilities to access transportation on an equal basis with others and acknowledges the centrality of transport for people with disabilities to access a range of services including homes, schools, healthcare facilities, workplace and leisure [CRPD Article 9].

There are a range of disabilities and medical conditions that may impact on a person's safe restraint in a motor vehicle. For example, people with a disability, which affects their posture, movement and positioning (e.g., cerebral palsy, neuromuscular conditions, spina bifida) often, require more supportive vehicle seating options.

Children with autism, intellectual disability, attention deficit hyperactivity disorder and those who engage in behaviours of concern often need special considerations for safe travel in a motor vehicle. Research has found that 74 percent of children with autism attempt to remove their seat belt, and more than 20 percent of parents report their child engages in aggressive or self-injurious behaviour during travel, impacting on their safety and others (Yonkman, et al., 2013).

People with a disability, the driver, passengers and others have the right to safe transportation. Safe transportation for people with a disability is important to enable full participation in the community. Contravening this could result in a breach of provider requirements under the NDIS Code of Conduct. Compliance with the NDIS Code of Conduct is a condition of registration for NDIS registered providers under section 73F(2)(b) of the NDIS Act.

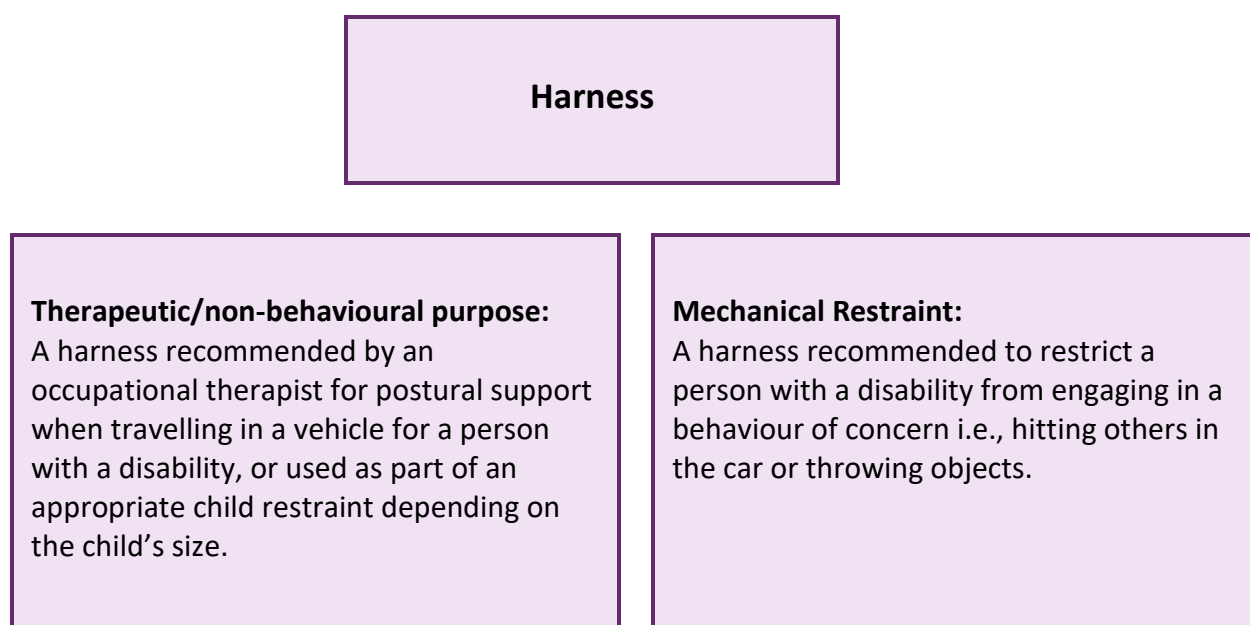
The laws of each Australian state and territory have specific rules in relation to the use of seatbelts, child restraints, booster seats and other safety measures. These rules vary depending on the age of the person travelling in a vehicle and whether the person has a disability or medical condition. It is important to be familiar with your state or territory road rules relating to how a person with disability or medical condition can travel including applicable restraint options. See [Appendix A](#) for links to Australian Standards for child restraints and road rules relevant to each state and territory. Complying with all applicable requirements imposed by a law of the state or territory is a condition of registration for NDIS providers under section 73F(2)(a) of the NDIS Act.

Mechanical restraint and safe transportation

Section 6(c) of the [*NDIS \(Restrictive Practices and Behaviour Support\) Rules 2018*](#) defines mechanical restraint as being “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”. Section 6 of the NDIS Rules provides that mechanical restraint is a regulated restrictive practice.

This definition applies to safe transportation. A device used for the sole purpose of therapeutic supports to support safe transportation for a person with disability is not a mechanical restraint. A device used for the purposes of preventing a behaviour of concern to support safe transportation is a mechanical restraint.

The below diagram illustrates an example of when a device is for therapeutic support/non-behavioural purposes and when it is for behaviours of concern.



Other examples:

- The use of a harness in a vehicle to keep a person calm and preventing them from taking off their seatbelt is a mechanical restraint.
- The use of a harness in a vehicle to prevent a person from interfering with other people in the vehicle is a mechanical restraint.
- The use of a lap belt on a wheelchair for postural support is not a mechanical restraint.

What does therapeutic or non-behavioural purpose mean?

Devices for therapeutic or non-behavioural purposes are not mechanical restraints. These are defined as devices that assist a person with everyday functional activities, improve their functional independence or help their injuries heal (Department of Health and Human Services, 2019). The definition of mechanical restraint does not include devices that have been prescribed by an appropriate professional after a thorough assessment and are used for the specific and approved purposes for which the devices were designed.

Requirements when using a therapeutic device for safe transportation

The use of a device for therapeutic or non-behavioural reasons is not a mechanical restraint and therefore does not require reporting to the NDIS Commission. There is no requirement that this practice be included in a behaviour support plan. While not a requirement, the use of therapeutic devices for safe transportation may be documented in various ways, including:

- Reports from a health practitioner qualified to prescribe therapeutic devices
- Risk assessments for safe transportation
- Participant files
- Other materials to support safe and effective implementation

Requirements when using mechanical restraint for safe transportation

The use of a device for behavioural purposes to enable safe transportation constitutes mechanical restraint and is a regulated restrictive practice. The following legislative instruments outline the reporting of and the conditions under which regulated restrictive practices can be used:

- [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#)
- [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#)
- [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](#)

Some of these conditions include that the use of a regulated restrictive practice must:

- a) be clearly identified in the behaviour support plan
- b) if the State or Territory in which the regulated restrictive practice is to be used has an authorisation process (however described) in relation to that practice, be authorised in accordance with that process
- c) be used only as a last resort in response to risk of harm to the person with disability or others, and after the provider has explored and applied evidence-based, person-centred and proactive strategies
- d) be the least restrictive response possible in the circumstances to ensure the safety of the person or others
- e) reduce the risk of harm to the person with disability or others
- f) be in proportion to the potential negative consequence or risk of harm
- g) be used for the shortest possible time to ensure the safety of the person with disability or others

What transport devices do not require reporting to the NDIS Commission?

The following devices do not require reporting to the NDIS Commission as they are considered reasonable measures for safe transportation.

- A child lock on vehicles
- Seat belt guards
- A dividing screen between the driver and the back seat

This applies to use of these devices in transportation only. If these devices are used at other times in response to behaviours of concern then this would constitute mechanical restraint. Although the NDIS Commission does not require reporting on these practices when they are used for safe transportation, it may be in the best interest of the person and those supporting them to better understand why these practices are in place and what the person's needs are using an evidence based positive behaviour support approach.

Considerations when using restraints for safe transportation

- Transport should be provided in the least restrictive and least intrusive manner possible, giving due regard to the support needs and safety of the person being transported, the safety of others, and the available resources.
- A comprehensive assessment of risk should also include the person's level of distress, agitation or aggression prior to transport and the potential for associated risks in transit.
- If substantial technical modifications are required, it may be advisable to consult an engineering firm with expertise in this area. Consultation with fire services may also be advisable as there could be issues regarding the safe removal of a mechanically restrained passenger in the event of a collision.
- Expressed wishes of the person and/or their family or carer.
- Involving the person with disability about decisions regarding their transport and care.
- Consultation with a physiotherapist or occupational therapist as appropriate.
- A comprehensive health assessment should be undertaken when there are changes in a person's behaviour, as these may be explained by conditions such as an ear infection, dizziness, travel sickness, pain or discomfort.
- Restraint options for children under the age of 16 years should be used in accordance with AS/NZS 4370:2013.

Assessing behaviours of concern during transportation

A person with disability may exhibit behaviours of concern when travelling. This can put the person and others at risk. It is important to assess the underlying reason for the behaviour by completing a functional behaviour assessment within a positive behaviour support framework.

Examples of behaviours of concern that can occur while being transported in a vehicle include:

- Hitting the windows/ seat/ others
- Trying to unlock the doors and attempting to get out whilst being driven
- Signs of protesting (trying to get out of their seats, rapid movement such as significant rocking)
- Screaming, yelling

Things to consider when a person displays behaviours of concern during transportation:

- What has previously worked and not worked in the past?
- A risk assessment determining risk of harm to the person and others during transportation, include various modes of transport available to the person, and the relative risks and benefits of each
- Distance to be travelled
- What need is the person trying to communicate?
- Is this a new behaviour or is there a history?
- Have there been changes to transport i.e., the route of travel, the distance, a change in routine, frequency, or mode of transport?
- Do they experience car sickness?
- Is the behaviour only observed when being transported or is it also observed in other parts of the person's environment?
- Is the person showing signs of distress, pain or discomfort?
- Is the person over stimulated? (Department of Health and Human Services, 2016)
- Do they have difficulty with transitioning e.g., transitioning in and out of the vehicle or between activities, not knowing where they are going and how long it will take (Department of Health and Human Services, 2019).
- Are there identifiable triggers to the behaviour?
- Are they experiencing sensory or physical discomfort?

Examples of non-restrictive strategies for safe transportation

- Distraction, engaging the person in self-directed activities, i.e., listening to relaxing music, sensory items, iPad, books, audiobooks, video players, playing games like "I spy"
- Having snacks available where appropriate
- Reducing potential triggers, for example, checking temperature, noise, less crowding or people in the vehicle
- Pre-planning before travel, communicating where they will be going, how long they will be in the vehicle for, where they are going
- Shortening travel routes where possible

- Using social stories and visual aids to teach about safe traveling in a vehicle
- Using de-escalation techniques, and where possible having a person they have a positive relationship with accompany them in transit, can help keep them calm
- Check if environmental factors or sensory factors are negatively affecting the person. Strategies to lessen these factors could include noise (headphones, earmuffs), light (sunglasses, sunshades), weather (temperature control of vehicle) (Department of Health and Human Services, 2016)
- Schedule sufficient breaks, including opportunities to get out of the car, toileting breaks, planning stops on the way
- Monitoring emotions and behaviour, and looking for early warning signs of distress and agitation
- Developing the person's travel training skills. This might include 'desensitisation' i.e., moving from sitting in a parked vehicle through short trips to locations valued by person, to longer trips to valued locations

Further information or support

Contact the NDIS Quality and Safeguards Commission

Website: www.ndiscommission.gov.au/providers/behaviour-support

Phone: [1800 035 544](tel:1800035544) (Mon-Fri)

Email: BehaviourSupport@ndiscommission.gov.au

ACTBehaviourSupport@ndiscommission.gov.au

NSWBehaviourSupport@ndiscommission.gov.au

NTBehaviourSupport@ndiscommission.gov.au

QLDBehaviourSupport@ndiscommission.gov.au

SABehaviourSupport@ndiscommission.gov.au

TASBehaviourSupport@ndiscommission.gov.au

VICBehaviourSupport@ndiscommission.gov.au

WABehaviourSupport@ndiscommission.gov.au

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- Australian Government. (2018a). [National Disability Insurance Scheme \(Code of Conduct\) Rules 2018](https://www.legislation.gov.au/Details/F2018L00629). Retrieved from <https://www.legislation.gov.au/Details/F2018L00629>
- Australian Government. (2018b). [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](#).
- Australian Government. (2018c). [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#).
- Australian Government. (2018d). [National Disability Insurance Scheme \(Quality Indicators\) Guidelines 2018](#).
- Australian Government. (2018e). [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#)
- Department of Health and Human Services (2019) Recognising and Reducing Mechanical Restraint Practice guide. State of Victoria.
- Department of Health and Human Services (2016) Transportation of children with disabilities who display behaviours of concern. Clinical reasoning guide for occupational therapists. Victoria State Government.
- United Nations (2006). [United Nations Convention on the Rights of Persons with Disability](#).
- Yonkman J, Lawler B, Talty J, O'Neil J, and Marilyn B (2013). *Safely transporting children with autism spectrum disorder: evaluation and intervention*. American Journal of Occupational Therapy, 67 (6): 711–716.

Appendix A: Australian Standards and relevant road rules

Australian Standards

Australian Standards provide guidelines for good practice. Australian Standards are documents that set out specifications and guidelines for products, services and systems to be safe, reliable and consistent in their function (REF) .Australian Standards are not legal documents, unless mandated by government.

Australian Standards relevant to child vehicle restraints include:

- **AS/NZS 1754** Child restraints systems for use in motor vehicles
- **AS/NZS 8005** Accessories for child restraints for use in motor vehicles
- **AS/NZS 4370** Restraint of children with disabilities, or medical conditions, in motor vehicles.

Relevant Road Rules Links:

The National Transportation Commission

[National Transport Commission](#)

ACT

[Road Transport \(Safety and Traffic Management\) Booster Seat, Child Restraint and Child Safety Harness Approval 2020\(No 1\)](#)

NSW

[Vehicle Standards Information VSI.49 | Rev 1 | 1 November 2007](#)

South Australia

[Road Traffic \(Miscellaneous\) Regulations 2014 \(legislation.sa.gov.au\)](#)

Tasmania

[Road Amendment Rules 2016](#)

Victoria

[Children with additional needs: VicRoads](#)

Queensland

Transport Operations (Road Use Management—Road Rules) Regulation 2009

Western Australia

Seats and seat belts

Northern Territory

Child safety on WA roads