NDIS Quality and Safeguards Commission

Regulated Restrictive Practices with Children and Young People with Disability

Practice Guide

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- People with a lived experience of disability and their families
- Peak bodies and their state and territory members including:
    - Children and Young People with Disability Australia (CYDA)
    - Inclusion Australia
    - Carers Australia
- Australian Human Rights Commission
- Australian Government Department of Social Services Policy Branch
- National Disability Insurance Agency (NDIA)
- Representatives from the following States and Territories and the Senior Practitioners Practice Leadership Group:
    - ACT Department of Community Services
    - NSW Department of Communities and Justice
    - Department of Health, Northern Territory Government
    - QLD Department of Communities, Disability Services and Seniors
    - Department of Human Services South Australia
    - Department of Communities Tasmania
    - Department of Health and Human Services Victoria
    - Department of Communities Western Australia.

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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 involve 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*.

The NDIS Commission have developed this practice guide to acknowledge that children and young people with disability require special considerations and safeguarding in order to protect them from harm whilst actively promoting their development and upholding their legal and human rights. Children and young people also represent a significant proportion of NDIS participants, with data at 30 June 2020 indicating that there are 189,048 participants aged 0-18 years. This equates to approximately 48% of all NDIS participants (National Disability Insurance Agency, 2020).

Currently children and young people with disability are under-represented in the data reported to the NDIS Commission in relation to the use of regulated restrictive practices. As of 30 June 2020, only 12.2% of behaviour support plans lodged with the NDIS Commission in the 2019/2020 financial year related to a participant aged under 18 years. This equates to less than 0.5% of NDIS participants aged under 18 years (NDIS Quality and Safeguard Commission, 2020). Whilst there is significant variability in the prevalence rates reported in the literature, the NDIS Commission suspect that the number of behaviour support plans lodged for children and young people is not an accurate reflection of current practice in the sector (Allen et al., 2009; Saloviita et al., 2016; Victoria, 2018; Westling et al., 2010). Rather the data may suggest that the use of regulated restrictive practices with children and young people is being overlooked, ignored and / or minimised. Educational resources such as this guide are therefore an important part of building capacity in the sector, improving the recognition of restrictive practices being used with children and young people with disability, acknowledging the impact of these practices on their human rights and then taking steps towards reducing and eliminating their use.

Purpose of the guide

The purpose of this guide is to:

- Promote the rights and inherent dignity of children, young people and their families
- Highlight the human rights implications on children and young people who are subject to restrictive practices
- Assist in identifying the special considerations and safeguards relevant to the use of regulated restrictive practices with children and young people
- Highlight the obligations of NDIS providers and NDIS behaviour support practitioners, thereby assisting them to meet the requirements under the *National Disability Insurance Scheme Act 2013 (NDIS Act 2013)* and relevant Rules
- Improve the reporting on the use of restrictive practices amongst children and young people in order to work towards the reduction and elimination of these practices
- Provide practice advice consistent with a positive behaviour support framework, contemporary evidence-informed practice, the *NDIS Act 2013* and associated Rules and acknowledging the State and Territory authorisation requirements (however described)
- Address the questions most frequently asked by families and NDIS providers in relation to the use of restrictive practices with children and young people.

Scope of the guide

This guide was developed for registered NDIS providers and NDIS behaviour support practitioners supporting NDIS participants. It may also be of interest to participants, their families, and others supporting children and young people with disability. An "easy read" version of this guide will also be made available.

This guide applies to children and young people aged under 18 years who are participants of the NDIS. The age of a child and young person have not been defined in this guide, as this varies across state and territory legislation.

This guide should be read in conjunction with the **Regulated Restrictive Practices Guide**.

Legislative context

The **Regulated Restrictive Practices with Children and Young People with Disability: Practice Guide** is in furtherance of the Commission's behaviour support function as set out in section 181H of the *NDIS Act 2013*, that relevantly states:

> "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:
>
> - developing policy and guidance materials in relation to behaviour supports and the reduction and elimination of the use of restrictive practices; and
> - providing education, training and advice on the use of behaviour supports and the reduction and elimination of the use of restrictive practices".

Key points

- ✓ Children and young people have rights protected under international, national, state and territory laws.
- ✓ Restrictive practices impinge on the rights and freedoms of children and young people with disability. Australia is committed to the reduction and elimination of these practices.
- ✓ 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.
- ✓ There are risks inherent in the use of restrictive practices.
- ✓ All providers should work in the best interests of children and young people to provide safe physical and online environments, and have systems and processes in place to promote wellbeing and reduce the likelihood of harm.
- ✓ A registered NDIS provider's *perceived* duty of care does not automatically omit a practice from being a regulated restrictive practice.
- ✓ Child safety and injury prevention practices (sometimes referred to as 'child-proofing' strategies) are not typically considered a regulated restrictive practice (particularly when used with younger children).
- ✓ The need for some child safety and injury prevention (or 'child-proofing' practices) naturally reduces with age as young people develop their skills, grow in independence and are afforded more dignity of risk (i.e., the right to take reasonable risks).
- ✓ The NDIS Commission does not regulate families nor their use of restrictive practices.
- ✓ The *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* outline registered NDIS provider's 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.
- ✓ Misuse of regulated restrictive practices may constitute abuse or neglect and may require reporting to police, the NDIS Commission, child protection, and reportable conduct schemes (if relevant).

The rights of children and young people with disability

United Nation conventions

> *"The CRPD is a human rights treaty that is designed to protect the human rights and inherent dignity of persons with disabilities. The CRPD is needed because so many persons with disabilities throughout the world are unable to fully enjoy all of the human rights which most non-disabled persons take for granted."* (McCallum, 2020, p.9).

All children and young people have rights protected under international, national, state and territory laws. In 1990 and 2008 respectively, Australia ratified the *United Nations Convention on the Rights of the Child (UNCRC)* and the *United Nations Convention on the Rights of Persons with Disability (CRPD)*. This means Australia is bound to protect and uphold the rights of children and young people with disability (Australian Government, 1986; Australian Government, 2012; Australian Human Rights Commission, 2019; Australia Government, 2013).

The UN Conventions include (but are not limited to) the following:

- the right of children with disability to fully enjoy all human rights and fundamental freedoms on an equal basis with other children and considering the best interests of the child (CRPD, Articles 3 and 7)
- the right of children to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate participation in the community (CRC, Article 23)
- the right of children to express their views freely on matters affecting them and for these views to be given due weight and consideration having regard to their evolving capacities (CRPD, Article 7 and CRC, Article 12)
- the right to equal recognition before the law (CRPD, Article 12)
- the right to liberty and security (CRPD, Article 14)
- the right to freedom from torture or cruel, inhuman or degrading treatment or punishment (CRPD, Article 15)
- the right to freedom and protection from exploitation, violence, abuse and neglect (CRPD, Article 16 and UNCRC, Article 19)
- the right to respect for their physical and mental integrity on equal basis with others (CRPD, Article 17)
- the right and responsibility of families to guide children as they develop (UNCRC, Article 5)
- the right to life and development to a child's full potential (UNCRC, Article 6)
- the right and responsibility of parents in bringing up their children considering what is in the best interests of the child (UNCRC, Article 18)
- the right to receive support so children can live a full and independent life (UNCRC Article 23).

National Disability Insurance Scheme Act 2013 (Cth)

In conjunction with other laws, the *National Disability Insurance Scheme Act 2013* gives effect to Australia's obligations under the CRPD, being the first binding international human rights treaty to recognise the rights of all people with disability, including children and young people.

General principles guiding action under the *NDIS Act 2013* are outlined in sections 4 and 5. They include:

- People with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development
- People with disability have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation
- People with disability should have their privacy and dignity respected
- The role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and respected.
- Positive personal and social development of people with disability, including children and young people, is to be promoted.
- People with disability should be involved in decision making processes that affect them, and where possible make decisions for themselves.
- The cultural and linguistic circumstances, and the gender, of people with disability should be taken into account.
- If the person with disability is a child – the best interests of the child are paramount, and full consideration should be given to the need to:
  - (i) protect the child from harm;
  - (ii) promote the child's development; and
  - (iii) strengthen, preserve and promote positive relationships between the child and the child's parents, family members and other people who are significant in the life of the child.

Practice Standards

Under the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, registered NDIS providers who provide early intervention supports to children who are participants (or prospective participants) of the National Disability Insurance Scheme must:

- promote and respect the child's legal and human rights, support skill development and enable inclusive and meaningful participation in everyday life (Schedule 5, sections 3 and 5)
- be family-centred, culturally inclusive and strengths based (Schedule 5, sections 3, 4 and5)
- be collaborative and meet the needs and priorities of the child and their family (Schedule 5, section 6)
- build capacity and support the child's learning and development (Schedule 5, section 7)
- be evidence-informed and outcome based (Schedule 5, sections 8 and 9).

In addition to the above, NDIS registered providers must meet all other Practice Standards relevant to their registration and the services they are providing.

What is a Restrictive Practice?

Section 9 of the *NDIS Act 2013* defines a **restrictive practice** as "any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability".

Under the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*, certain restrictive practices are subject to regulation and oversight by the NDIS Quality and Safeguards Commission. These are referred to as **regulated restrictive practices** and include seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint.

An overview of each type of regulated restrictive practice is below. For further information, see the **Regulated Restrictive Practices Guide**.

Seclusion

Section 6(a) of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* defines seclusion as:

> "the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted".

For example:

- "Time out" in a locked room (using doors, gates or barriers) where exit is prevented or not facilitated
- Being locked in their home alone
- Being sent to their room and told they cannot come out until they have calmed down (if they *believe* they are unable to leave)

Chemical Restraint

Section 6(b) of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* defines chemical restraint as:

> "the use of medication or chemical substance for the primary purpose of influencing a person's 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 example:

- Being prescribed medication for aggression, irritability or self-injury
- Being prescribed medication for emotion regulation difficulties in the absence of a mental health diagnosis
- Being prescribed medication for the management of behaviours of concern

Mechanical Restraint

Section 6(c) of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* defines mechanical restraint as:

> "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".

For example:

- Using splints, gloves or a helmet to prevent self-harming
- Using bodysuits or onesies to prevent a person from faecal smearing or accessing a part of their body
- Using belt straps to restrain any part of the body to stop a behaviour of concern

Physical Restraint

Section 6(d) of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* defines physical restraint as:

> "the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person".

For example:

- Holding a person's hand down to prevent them from hitting themselves
- Holding down any part of the body to stop a behaviour of concern
- Forcefully leading or pulling a person in a direction they do not want to go

It is essential to note all states and territories have either prohibited or agreed to prohibit some forms of physical restraint in relation to NDIS participants, as they are associated with high risk of injury and death. For more information, see the **Regulated Restrictive Practices Guide.**

Environmental Restraint

Section 6(e) of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* defines environmental restraint as practices:

> "which restricts a person's free access to all parts of their environment, including items or activities".

For example:

- Locking a door, cupboard or fridge to prevent a person's access
- Preventing a person from accessing their own possessions
- Preventing access to areas that would typically be freely accessible to a child or young person their age, such as the backyard, bathroom or their bedroom

Do restrictive practices apply to children and young people?

The *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* outline the requirements for registered NDIS providers in relation to the use, monitoring and reporting of regulated restrictive practices, the development of behaviour support plans and the reduction and elimination of restrictive practices over time. These Rules apply equally to children, young people and adults with disability who are participants receiving supports and services under the NDIS.

It is important to note that NDIS providers have a responsibility to take reasonable steps to ensure their conduct does not cause harm to children and young people in their care. This may require making changes to the environment or using other strategies that are restrictive in nature. Using a practice on *perceived* duty of care grounds does not automatically omit it from being a regulated restrictive practice.

The use of regulated restrictive practices with children and young people should never be taken lightly. When a regulated restrictive practice is necessary, sections 20 and 21 of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*, require NDIS registered providers to take all reasonable steps to consult with the child or young person. This must occur in an appropriately accessible format to ensure due consideration is given to the child or young person's views in the development, implementation and review of behaviour support plans, including those containing regulated restrictive practices.

What is a Prohibited Practice?

In some jurisdictions, there is a class of strategies referred to as prohibited practices. For example, in NSW prohibited practices include the use of physical punishment, practices intended to humiliate or frighten, and the use of seclusion with children and young people (under the age of 18 years).

Registered NDIS providers must adhere to both the NDIS Commission requirements as outlined in the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*, AND the state or territory legislation or policy requirements concerning prohibited practices.

The use of a prohibited practice by a registered NDIS provider in the course of delivering supports and services to a participant is a breach of a condition of its registration and may also constitute a reportable incident to the NDIS Commission. Registered NDIS providers should ensure they understand and comply with the relevant legislation, policy and procedures in the state or territory where the practice is used. For more information, see **Appendix A.**

Examples of regulated restrictive practices with children and young people

Determining what constitutes a regulated restrictive practice for children and young people with disability needs to be made on a case-by-case basis. This involves considering the context in which the practice is used and applying the definitions outlined in the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*. See **Appendix B** for a tool to guide decision making.

The following examples relate to the use of practices with children and young people only and should not be generalised to adults with disability (over the age of 18 years).

The examples demonstrate what the use of regulated restrictive practices with children and young people with disability could look like, however should not be taken to imply that the use of these practices is appropriate in all circumstances. Determining whether a regulated restrictive practice is the least restrictive option possible and proportionate to the potential risk of harm needs to be made on a case-by-case basis, and in the context of a positive behaviour support framework, which promotes the child's development and their right to take reasonable risks (i.e., dignity of risk).

Not a Restrictive Practice	Regulated Restrictive Practice*
Using hand over hand physical guidance to teach a child or young person a new skill	Using physical force to pull a young person in a direction they do not want to go (physical restraint)
Holding a child's hand while crossing the road	Using a two person escort to prevent a young person's movement during an outing (physical restraint)
Using a splint to treat a sprained wrist consistent with doctor's recommendations	Using a splint to prevent a child or young person from hitting themselves or self-injuring (mechanical restraint)
Using a pram to prevent a three year old from running away at the doctors	Using a wheelchair to prevent a 10 year old child who is ambulant from running away at the doctors (mechanical restraint)
Using child gates to prevent a toddler or child from falling down stairs	Using child gates to prevent a young person entering a room or a child being confined in a space where voluntary exit is prevented (environmental restraint or seclusion)
Using a child gate to prevent a toddler from accessing the kitchen while the stove / oven is in use	Using a child gate to prevent a young person from accessing the kitchen at all times (environmental restraint)
Restricting a toddler or younger child's access to sharps or matches	Restricting access to sharps for a young person who is developing their knife and cooking skills following a behavioural incident (environmental restraint)

Not a Restrictive Practice	Regulated Restrictive Practice*
Locking the front door to prevent a toddler or young child leaving on their own	Deadlocking the front door during the day to prevent a young person from leaving the house (environmental restraint; also a fire safety issue); or Locking the fridge and pantry to prevent a child or young person from accessing food (environmental restraint)
Mounting a TV to a wall or enclosing it in a TV cabinet with free access to remotes	Mounting a TV to a wall or enclosing it in a TV cabinet and locking away the remote (environmental restraint)
Using bed rails when transitioning a toddler from a cot to a bed	Using a cot style bed to prevent a child or young person them from getting out of bed (environmental restraint or seclusion)
A parent deciding they do not want their child or young person to have a mobile phone	An NDIS provider locking away a child or young person's mobile phone and access being contingent on behaviour (environmental restraint)
A young person (over the age of consent) requesting to take the contraceptive pill	Using medication for menstrual suppression for convenience or hygiene reasons (without the young person having any choice or control); or using medication with sedative quality for aggression (chemical restraint)
Using a child car restraint with a child under the age of 7	Using a harness with a 12 year old to prevent them hitting others whilst in transit (mechanical restraint)
A child being briefly unattended in a safe environment (e.g., for periods of <10mins) while their parent or carer is in the bathroom or another room but within hearing distance of the child	Confining a child or young person (on their own) in a locked house or in a locked room of a house or being locked alone in a vehicle (seclusion)

***** For further information on the use of regulated restrictive practices, see the section: *Requirements when using regulated restrictive practices* (page 20).

The impact of restrictive practices

The purpose of using regulated restrictive practices is to assist in managing risks and promoting safety when there are no other less restrictive options available. However, they must not be used in the absence of evidence-based, person-centred and proactive strategies. Their use must be monitored, proportionate to the possible risks of harm, and the practices reduced and eliminated over time. This requires careful consideration and balancing of the rights of the child or young person with disability, with the rights of other people impacted by the behaviour and the use of the regulated restrictive practice, and the risks to the safety of all parties.

Restrictive practices impinge on children and young people's human rights and present additional risks (Department of Health and Human Services, 2019; Surez, 2017). Impacts may include:

- Inhibiting a child's development by not promoting and supporting skill development
- Becoming punitive, aversive, abusive and / or illegal if used inappropriately
- Causing trauma and psychological harm (LeBel et al., 2012)
- Causing physical injury to the child or young person with disability and / or others (Williams, 2009)
- Resulting in catastrophic outcomes such as the death of the child or young person (Prince & Gothberg, 2019)
- Damaging relationships between the child, young person and those supporting them
- Infringing on the rights and safety of family members, carers and others
- Placing carers at risk of physical and psychological harm
- Increasing the risk of stress, compassion fatigue, carer burnout and the loss of important support networks
- Contributing to long term adverse impacts on health and wellbeing (Rigles, 2017)
- Leading to the use of additional restrictive practices
- Escalating behaviours of concern and failing to identify or address the underlying function of the behaviour (Department of Social Services, 2016; Webber et al., 2019)
- Damaging the physical environment if behaviours of concern are escalated
- Contributing to financial costs associated with the implementation of restrictive practices and their potential impacts

Restrictive practices and child protection

The use of restrictive practices within a positive behaviour support framework involves a delicate balance between promoting safety, improving quality of life and supporting children and young people with disability to develop to their full potential. This involves being aware of the risks inherent in the use of restrictive practices and their impact on human rights. The misuse of restrictive practices is particularly problematic and may constitute abuse or neglect.

It is widely acknowledged that children and young people with disability are at increased risk of abuse and neglect (Australia Institute of Health and Welfare, 2019; Byrne, 2017; Christoffersen, 2019; Jones et al., 2012). This necessitates safeguarding and a trauma-informed approach to all supports (Jackson & Waters, 2015; National Disability Services, 2020). NDIS providers must be mindful that the use of some restrictive practices may be potentially harmful and hence are inadvisable (i.e., contra-indicated) for children and young people with disability who have experienced trauma and abuse. For example, using physical restraint with a child who has experienced physical and sexual abuse; or using seclusion / exclusionary practices with a child who has experienced significant neglect and inadequate supervision. In circumstances such as these, the inappropriate use of a restrictive practice risks triggering and compounding the trauma, if not being abusive in and of itself.

Consistent with the *National Disability Insurance Scheme (Code of Conduct) Rules 2018*, NDIS providers and all persons employed or otherwise engaged by an NDIS provider must take all reasonable steps to prevent and respond to violence, neglect, abuse and sexual misconduct. Registered NDIS providers need to be aware of their reporting obligations under the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*, to notify the NDIS Commission of reportable incidents which extends to circumstances where they suspect, on reasonable grounds, the abuse or neglect, or alleged abuse or neglect, of a child or young person with disability.

Reporting child protection concerns may involve:

1. Contacting the police if the child is in immediate danger.
2. Completing a reportable incident to the NDIS Commission within 24 hours if the suspected abuse or neglect has occurred in connection to the provision of support by an NDIS provider. More information about **reportable incident requirements** for registered NDIS providers can be found on the website.
3. Contacting the agency responsible for child protection in the relevant state or territory. Note, each state and territory has a range of resources to assist in determining whether a risk of harm meets the threshold for reporting. See **Appendix C** for more information.
4. Reporting the incident to the state or territory authority responsible for the reportable conduct scheme if relevant and required by state and territory laws.

National Principles for Child Safe Organisations

In 2018, the Australian Human Rights Commission developed the *National Principles for Child Safe Organisations* in response to the findings of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. These principles have been endorsed by all Commonwealth, state and territory governments and provide a nationally consistent approach to embedding child safe cultures within organisations. It is important for providers supporting children both with and without disability to have an understanding of these principles.

The *National Principles for Child Safe Organisations* are as follows:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

More information about the child safe requirements, initiatives and resources in each state and territory can be found on the ***Child Safe Organisations* website** (see tools and resources).

Keeping children safe and restrictive practices

In Australia, injury is the leading cause of death in children aged 1-14 years (Australian Institute of Health and Welfare, 2020). In response, child safety and injury prevention practices are an essential part of protecting children both with and without disability. Sometimes these practices are referred to as 'child-proofing'.

Examples of child safety and injury prevention practices include (Child Accident Prevention Foundation of Australia, 2019a; Child Accident Prevention Foundation of Australia, 2019b; eSafety Commissioner, 2019):

- pool fences, non-climbable zones and self-closing, latching gates around pools and spas*
- fenced yards around houses or 'safe play area' separate from driveways
- security doors, fencing or gates to make access to driveways from the house difficult for young children
- holding a child's hand near roads, driveways and carparks
- wearing helmets when riding bikes*, scooters, skateboards, motorbikes* or horses*
- restricting access to quad bikes for children under 16 years
- ensuring toys, equipment and the physical environment comply with Australian Standards
- keeping small objects which present a risk of choking out of reach of small children
- storing chemicals, medicines**, sharps, batteries, matches and lighters in a locked and or out of reach cupboard
- the use of baby monitors with audio and / or video capability
- child gates on stairs and balconies
- window locks or security screens on second storey windows (when the floor below the window is more than 2 metres off the ground)*
- securing blind and curtain cords*
- guards around fires and heaters (and fixed to the wall)
- smoke alarms*
- non-flammable clothing
- bath temperatures between 37-38°C
- hot water temperature regulators set to 50 °C maximum*
- mounting to the wall or anchoring furniture at risk of tipping
- plug-in covers for electrical outlets
- hinge guards and door chocks / wedges
- the use of safety glass, security film over glass or similar
- locking tools and poisons in a shed, garage or cupboard
- child car restraints for children under 7 (or <145cm)*
- reversing sensors and cameras in cars

- never leaving children alone in a car
- preventing children from playing in cars
- supervising children's online activity
- using parental controls and safe search options appropriate to the age and experience of the child to monitor and filter access to online content
- ensuring screen time is balanced with other offline activities
- securely storing firearms in a locked gun safe*.

* Mandatory requirements under law in all states and territories.

** The safe storage of medication is a requirement of the NDIS Practice Standards for those registered NDIS providers responsible for administering medication to participants.

Are child safety and injury prevention practices regulated restrictive practices?

The above examples are reasonable child safety and injury prevention measures, particularly when supporting younger children. Child safety and injury prevention practices are age appropriate, in line with community standards and used irrespective of whether a child or young person has a disability. They are used to promote safety and wellbeing. Their use is not dependent on the presence of behaviours of concern. As such, child safety and injury prevention practices (sometimes also referred to as 'child-proofing') are not typically considered regulated restrictive practices and do not require reporting to the NDIS Commission.

From a developmental perspective, the need for some child safety and injury prevention practices naturally reduces with age, with the exception of those required by law. For example, whilst younger children may require restricted access to sharps it would be considered appropriate for most young people to have free access in order to build their skills and independence. This is consistent with the principle of dignity of risk; meaning the right of the young person to take reasonable risks.

The continued use of child safety and injury prevention practices with older children and young people with disability may constitute a regulated restrictive practice in some circumstances. For example, when the practice impinges on the rights or freedoms of movement of a child or young person and is implemented, specifically in response to behaviours of concern then this meets the definition of a restrictive practice under the *NDIS Act 2013*.

Restrictive practices and parenting practices

The NDIS Commission does not regulate families and their use of restrictive practices. Rather the role of the NDIS Commission is to safeguard participants by regulating NDIS providers delivering NDIS funded supports across all environments, including in the family home. The NDIS Commission acknowledge that this has implications for families and carers, and the supports their children and young people receive through the NDIS.

With respect to the complex intersections between restrictive practices and parenting, it is first and foremost important to acknowledge that families generally do what they believe is in the best interests of their children. They typically use restrictive practices as a last resort and in response to complex behaviours of concern and significant risks of harm. Families may independently identify and implement restrictive practices or the strategies may be recommended to them.

For example:

- A family may physically restrain their child to prevent them from hurting others without receiving training in or professional advice on specific restraint techniques.
- A family may use arm splints to prevent their child from self-harming on the recommendation of a friend who has used splints to good effect with their own child.
- A family may use PRN medication prescribed by a medical practitioner to reduce the intensity and duration of their child's behaviours of concern.

In some circumstances, families may inadvertently use high-risk strategies (including restrictive practices) in the absence of all relevant information and / or when they have inadequate support. This is where NDIS behaviour support practitioners have an important role. Working in a positive behaviour support framework, practitioners should work collaboratively with children, young people, their families and carers to (Australian Psychological Society, 2011):

- understand and respect their unique circumstances, culture, beliefs, goals and wishes
- understand and address the purpose of the behaviours of concern
- identify and implement least restrictive alternatives and support the reduction and elimination of restrictive practices
- provide education about what constitutes a restrictive practice and the associated risks
- develop and implement evidence-informed strategies that promote quality of life
- provide timely, responsive, appropriate and accessible information and resources as relevant
- refer families to support services (e.g., Carer Gateway if needed) to ensure they have access to the support they need in order to carry out their caring role safely and effectively
- document the advice provided (including any cautions against using a restrictive practice).

Note, registered NDIS providers delivering behaviour support within the family home must meet all of the NDIS Commission's requirements, including the need to be registered. In addition, they are encouraged to openly discuss their reporting obligations with participants, their families and carers. This may include outlining that the role of the NDIS Commission is to regulate NDIS providers and improve the quality and safety of supports. It may also be of interest to families to know that the NDIS Commission is bound by strict privacy and information disclosure rules. Any information given to the NDIS Commission cannot be disclosed to others unless these legal requirements are met.

Culturally sensitive practice

All people, including children and young people with disability have the right to enjoy and benefit from their own culture, practise their own religion and use their own language. Supports and services provided to children under the NDIS should be family-centred and culturally inclusive (Australian Government, 2018c). They should take into account the culture, religion, beliefs, linguistic circumstances and the gender of the child or young person, and their family (Australian Government, 2013). This reflects good practice and is consistent with the *NDIS Act 2013*, the *NDIS Code of Conduct*, the *NDIS (Provider Registration and Practice Standards) Rules 2018* and the values and principles outlined in the *Positive Behaviour Support Capability Framework*.

Data indicates that as of 30 June 2020, 6.4% of all NDIS participants identified as Aboriginal or Torres Strait Islander and 9.2% as culturally and linguistically diverse (National Disability Insurance Agency, 2020).

In providing culturally inclusive, safe and responsive services, NDIS providers should take steps to develop their cultural awareness and limit cultural bias. They should develop an understanding of the role and importance of culture, religion and beliefs in the life of the child and their family.

Beyond this, culturally sensitive practice in behaviour support involves being aware of the potential impact of restrictive practices on people and communities who may have additional vulnerabilities. For example, Aboriginal and Torres Strait Islander peoples, migrants and refugees from war-torn or conflict zones, asylum seekers, people who have been involved with child protection or the criminal justice system, lesbian, gay, bisexual, transgender and intersex people, and women with disability are all more likely to have experienced trauma (Jackson & Waters, 2015). As such the use of restrictive practices risks being re-traumatising for these individuals and may amplify fear and mistrust of services.

Requirements when using regulated restrictive practices

The *NDIS (Provider Registration and Practice Standards) Rules 2018* and *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* outline the conditions under which regulated restrictive practices can be used.

Registration requirements include that:

- Providers who use (or are likely to use) regulated restrictive practices in the course of delivering NDIS supports and services must be registered with the NDIS Commission, which includes completing an audit against Module 2A: Implementing Behaviour Support Plans. These providers are referred to as implementing providers.
- Providers who undertake behaviour support assessments and develop behaviour support plans must be registered with the NDIS Commission to deliver specialist behaviour support (under registration group 110).

The use of Restrictive Practices must:

- reduce the risk of harm to the person with disability or others
- be the least restrictive response possible in the circumstances
- be used as a last resort after the provider has explored and applied evidence-based, person-centred and proactive strategies
- be proportionate to the potential negative consequences or risk of harm
- be used for the shortest time possible
- be clearly identified in a Behaviour Support Plan
- link to a clear plan for reducing and eliminating the restrictive practice over time.

Further to this Behaviour Support Plans must:

- be developed by an NDIS behaviour support practitioner (NDIS Quality and Safeguards Commission, 2019) who is engaged by an NDIS registered specialist behaviour support provider, or is a registered specialist behaviour support provider themselves
- be developed within 1 month for an interim plan or 6 months for a comprehensive plan, from the time the behaviour support practitioner is engaged
- be developed in consultation with the child or young person, their family, carers, and other support people including implementing providers
- be based on a functional behavioural assessment (if it is a comprehensive behaviour support plan)
- contain evidence-based, person-centred and proactive strategies that address the person's needs and the functions of the behaviour
- outline the use of any restrictive practices in detail and include plans for fading the practice, monitoring and review
- be lodged with the NDIS Commission if the BSP contains regulated restrictive practices
- be authorised in accordance with any state or territory requirements (however described), and evidence of such lodged with the NDIS Commission.

Implementing providers (including sole traders) must:

- be registered with the NDIS Commission if in the course of delivering NDIS funded supports or services to a participant they are likely to use regulated restrictive practices
- implement restrictive practices in accordance with the child or young person's behaviour support plan and consistent with any relevant authorisation requirements
- notify the NDIS Commission of a reportable incident within five business days if they use a regulated restrictive practice in the absence of a behaviour support plan or current authorisation
- monitor and keep records regarding the use of regulated restrictive practices including any adverse impacts on participants
- submit monthly reports to the NDIS Commission on their use of regulated restrictive practices.

Authorisation requirements

Whilst there is a move towards establishing nationally consistent restrictive practice authorisation principles, there are currently different restrictive practice authorisation requirements across each jurisdiction. Under the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018,* the use of regulated restrictive practices must be authorised in accordance with any state or territory legislation and / or policy requirements and evidence of such lodged with the NDIS Commission. NDIS behaviour support practitioners and implementing providers should consult the relevant legislation, policy and procedures in their state or territory for further information about their obligations in relation to their authorisation, consent and reporting of restrictive practices. See **Appendix A** for more information.

The NDIS Commission has no role in the authorisation of restrictive practices. The role of the NDIS Commission is to monitor the use of regulated restrictive practices and to promote the reduction and elimination of restrictive practices. To this end, behaviour support plans containing regulated restrictive practices must be lodged with the NDIS Commission, even if authorisation is not required as per the relevant state or territory requirements.

Reporting requirements in relation to restrictive practices

See **Appendix D** for a decision making tool on reporting requirements.

Families implementing restrictive practices

Families have no reporting obligations to the NDIS Commission.

NDIS specialist behaviour support providers

It is a condition of registration that NDIS funded specialist behaviour support providers lodge behaviour support plans containing regulated restrictive practices with the NDIS Commission (Australian Government, 2018e). This is required even if the practice is only used by family or by other mainstream services not funded under the NDIS. Behaviour support plans do not need to be lodged if they do not contain regulated restrictive practices or have been privately funded (i.e., not funded under a participant's NDIS plan).

NDIS providers implementing restrictive practices

Registered NDIS providers have reporting obligations to the NDIS Commission if they use regulated restrictive practices in the course of delivering NDIS funded services and supports to a participant. This includes when delivering supports within the family home. Implementing providers must complete monthly reporting on their use of regulated restrictive practices (Australian Government, 2018e). Use of restrictive practices in the absence of a behaviour support plan or current authorisation constitutes a reportable incident to the NDIS Commission within five business days (Australian Government, 2018b).

Settings outside of the scope of the NDIS Commission

Mainstream services that are not funded under the NDIS, such as schools, hospitals, child protection and other services (that are not registered NDIS providers) have no reporting obligations to the NDIS Commission. However, some of these settings fall within the scope of state and territory laws about the authorisation of restrictive practices (e.g., schools and child protection in ACT). Practitioners and providers should consult the legislation and policy in their state or territory for further information.

Cross-funded environments

Some children and young people with disability receive supports through multiple funding streams including the NDIS, health, child and family services, education and privately funded services. This can present additional complexities with respect to understanding the regulatory and reporting requirements. Put simply, reporting obligations are determined by the funding source. If regulated restrictive practices are used in the course of delivering NDIS-funded supports then the reporting requirements outlined above for NDIS providers implementing restrictive practices apply. If the worker / service does not receive any NDIS funding (e.g., all supports are state, territory or privately funded), then there are no reporting requirements to the NDIS Commission. This is the case even if the provider is registered with the NDIS Commission.

The reduction and elimination of restrictive practices

Consistent with a positive behaviour support framework and the *NDIS Act 2013*, regulated restrictive practices can only be used as a last resort in response to risk of harm. They must be proportionate and used for the shortest time possible.

Further to this, it is essential to acknowledge that restrictive practices impinge on the rights and freedoms of children and young people with disability. This highlights the need for clear plans to reduce and eliminate restrictive practices over time, replacing them with proactive and less restrictive alternatives based on an understanding of the child's needs and the function of the behaviour. In doing this, children and young people need to be given opportunities to participate in community activities, strengthen their relationships and develop new skills. They must also be consulted with in an appropriately accessible format, and their voice heard in the process of developing, implementing and reviewing behaviour support strategies including the use of any restrictive practices.

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 six core strategies for reducing and eliminating restrictive practices (Australian Government, 2014). They are:

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.

It is essential to remember that the primary goal of behaviour support is to improve quality of life; with the reduction of behaviours of concern being the secondary goal. Reducing and eliminating restrictive practices upholds the rights of children and young people with disability, and is a critical part of promoting quality of life.

Case example

Tahnee (aged 14) loves online gaming, music and animals. She has diagnoses of autism spectrum disorder and post-traumatic stress disorder. As an infant, Tahnee was exposed to significant domestic violence and physical abuse. She has been living with her foster carers for the past 10 years and attends a school, which specialises in supporting children and young people with emotional and behavioural difficulties. Tahnee has long-standing difficulties with emotion regulation and aggression towards others including hitting, kicking and making threats with weapons. Tahnee has an NDIS behaviour support practitioner who has developed an interim behaviour support plan that includes restricted access to sharps (environmental restraint) and physical restraint as part of her broader crisis management strategy. There are no plans to fade or reduce the use of these restrictive practices at this time. Tahnee was not consulted in the development of her behaviour support plan and the use of the regulated restrictive practice has not been authorised in accordance with the relevant state or territory requirements. It is not clear whether Tahnee's foster carers, school or NDIS funded support workers have received any training to safely and reliably implement her behaviour support plan. Data indicates that the duration of incidents is longer when Tahnee is physically restrained and on several occasions, incidents have resulted in injuries to Tahnee, her foster mother, teacher and NDIS funded support workers.

Human Rights considerations:

Tahnee has the right to liberty, security and protection from violence and abuse. She has the right to express her views on matters that affect her and for these views to be taken into account when determining what is in her best interest. Tahnee has a right to be supported to live a full, independent and decent life with dignity and to enjoy all human rights on an equal basis with other children. These rights are outlined under sections 4(6), 5(a) and 5(f) of the *NDIS Act 2013* and are not currently being adequately upheld.

Requirements under the NDIS Commission:

- An interim behaviour support plan containing regulated restrictive practices must be developed within 1 month of the specialist behaviour support provider being engaged and be lodged with the NDIS Commission as soon as practicable after it is developed (NDIS (Restrictive Practices and Behaviour Support) Rules 2018, sections 19 and 24)
- In developing a behaviour support plan the specialist behaviour support provider must take all reasonable steps to consult with Tahnee, and must provide her with details of the intention to include a regulated restrictive practice in the behaviour support plan in an appropriately accessible format (NDIS (Restrictive Practices and Behaviour Support) Rules 2018, section 20)
- Regulated restrictive practices must be clearly identified in Tahnee's behaviour support plan alongside proactive, person-centred and evidence informed interventions. They must be authorised in accordance with any state or territory requirements (however described); used only as a last resort in response to risk of harm, be the least restrictive option possible, reduce the risk of harm to Tahnee and others, be proportionate to the risk of harm and be used for the shortest time possible (NDIS (Restrictive Practices and Behaviour Support) Rules 2018, section 21)

- Registered NDIS providers implementing regulated restrictive practices need to use them in accordance with Tahnee's behaviour support plan, obtain authorisation consistent with the relevant state or territory requirements (however described) and lodge evidence of authorisation with the NDIS Commission (NDIS (Restrictive Practices and Behaviour Support) Rules 2018, sections 9 and 10)
- Registered NDIS providers implementing regulated restrictive practices need to keep records on their use of restrictive practices with Tahnee and report use to the NDIS Commission (NDIS (Restrictive Practices and Behaviour Support) Rules 2018, sections 14 and 15)
- Use of environmental restraint and physical restraint by registered NDIS providers with Tahnee is not currently authorised and therefore is a reportable incident to the NDIS Commission within 5 business days as use of an unauthorised restrictive practice (NDIS (Incident Management and Reportable Incidents) Rules 2018, sections, 16 and 21)
- Tahnee's foster family and school have no reporting obligations to the NDIS Commission.

Good practice next steps:

- The registered NDIS provider completes a reportable incident in relation to their use of regulated restrictive practices and contacts the NDIS Behaviour Support Practitioner to discuss the need to update Tahnee's behaviour support plan to meet her current needs.
- The NDIS Behaviour Support Practitioner reviews the available incident data and works in close collaboration with Tahnee, her foster carers, school and NDIS support workers to review the adequacy of the current behaviour support strategies in keeping everyone safe. There is agreement that the behaviour support plan needs to be reviewed and updated before the functional behaviour assessment and comprehensive plan can be undertaken.
- Tahnee's voice is captured in the behaviour support plan including ways she would like to be supported by others when she is calm and when she is upset.
- Person-centred, proactive and evidence informed strategies are outlined in the behaviour support plan.
- The practitioner reconsiders whether the restrictive practices are the least restrictive options available, whether they are proportionate and whether they are reducing the risk of harm to Tahnee and others.
- The practitioner also re-considers the appropriateness of the physical restraint strategy given Tahnee's history of early adverse experiences, its impact on her human rights and the risk of harm this strategy poses to Tahnee and others. This results in the practice of physical restraint being ceased, and removed from Tahnee's behaviour support plan.
- The practitioner provides alternative response strategies to help keep Tahnee safe and assist her to co-regulate when in a distressed state, without resorting to the use of physical restraint.
- The revised interim behaviour support plan continues to contain environmental restraint. However, additional details are added including a protocol which outlines when and how this restrictive practice will be implemented, the risks and impacts associated with its use and a clear plan for how the practice will be reduced and eliminated over time.
- The NDIS behaviour support practitioner lodges the revised plan with the NDIS Commission.

- The registered NDIS provider seeks authorisation and provides evidence of this to the NDIS Commission.
- The practitioner provides training for all settings in the behaviour support strategies contained in Tahnee's interim behaviour support plan. The practitioner ensures to highlight the use of regulated restrictive practices, the impact on Tahnee's human rights and the risks associated with their use.
- The registered NDIS provider uses the regulated practices in accordance with Tahnee's behaviour support plan and authorisation.
- Data is collected in relation to Tahnee's behaviour and developmental history to inform the functional behaviour assessment.
- The NDIS behaviour support practitioner reviews previous assessments and works closely with Tahnee, her foster carer, school and support workers to better understand the factors contributing to and maintaining the presenting difficulties.
- Once a shared understanding of Tahnee's behaviour is developed, the practitioner will develop a comprehensive behaviour support plan that includes opportunities for Tahnee to develop new skills which will have the potential to reduce or eliminate the need for restrictive practices in the future.

Concluding remarks:

These good practice next steps are just the starting point but they serve to demonstrate how regulation and oversight of restrictive practices and behaviour support can increase both the quality and safety of services provided under the NDIS.

For Tahnee these next steps have led to more of her human rights being upheld, and improvements in her quality of life by reducing the use of restrictive practices, listening to her voice, developing strategies to better meet her needs and a plan of action to bring about long lasting and positive change.

For further information or support

Contact the **NDIS Quality and Safeguards Commission**

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

Phone: 1800 035 544 (Mon-Fri)

Email: BehaviourSupport@ndiscommission.gov.au

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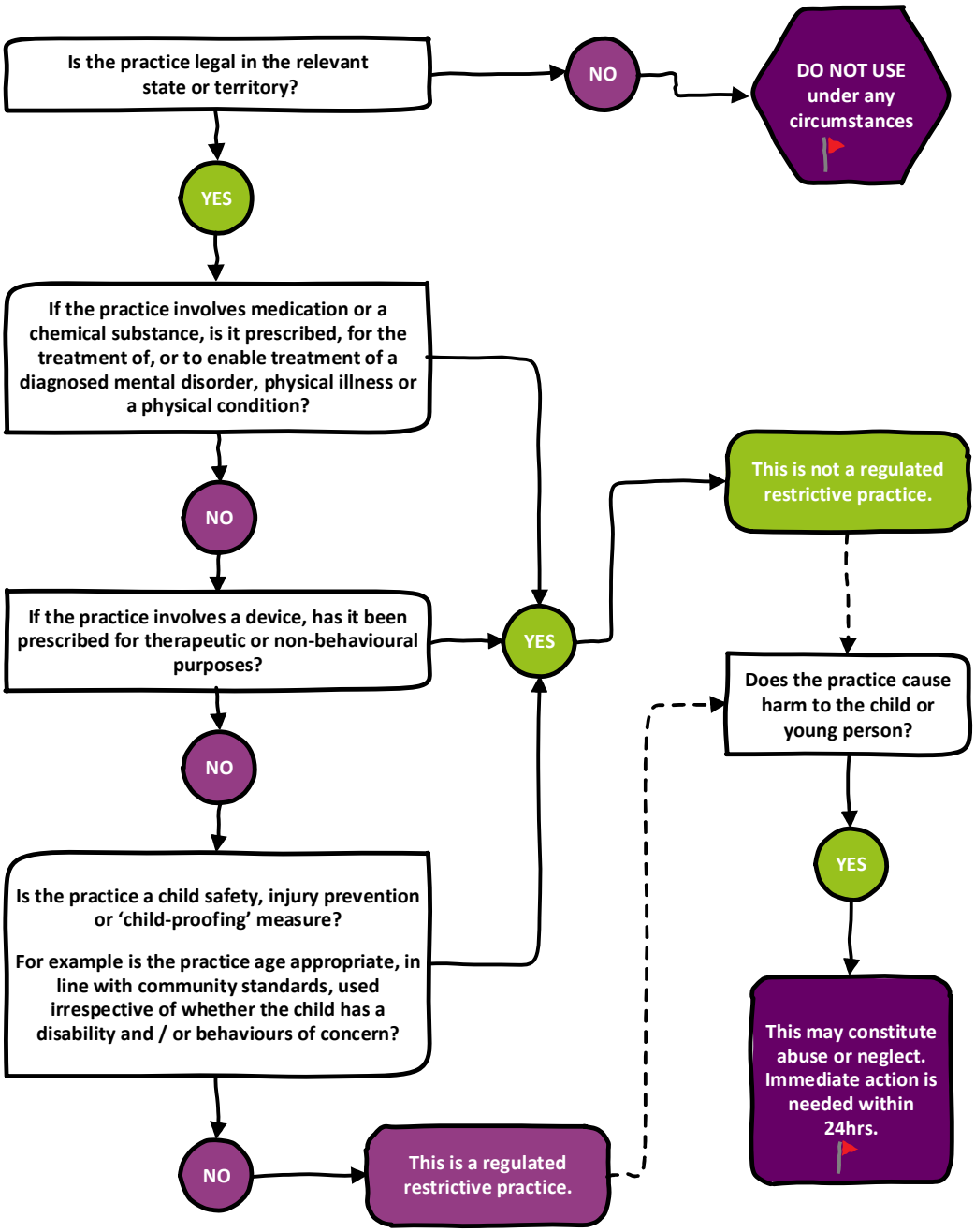
Appendix A: State / Territory authorisation requirements

State / Territory	Legislation, policy or procedure	For more information about authorisation, consent and reporting requirements
ACT	Senior Practitioner Act 2018	See: ACT Senior Practitioner website
NSW	RPA Policy and Procedural Guide * Persons with Disability (Regulation of Restrictive Practices) Bill 2021	See: NSW Restrictive Practices Authorisation Portal
NT	National Disability Insurance Scheme (Authorisations) Act 2019	See: NT Department of Health website
QLD	*Note: as at December 2020, there is no state based authorisation available for the use of regulated restrictive practices for participants under 18 years in QLD.*	
SA	South Australian Civil and Administrative Tribunal Act 2013, Guardianship and Administration Act 1993, Advance Care Directives Act 2013, Mental Health Act 2009, Consent to Medical Treatment and Palliative Care Act 1995, The Children and Young People (Safety) Act 2017 (SA); Disability Inclusion Act 2018; Family Law Act 1975 (Cth) ss 66B and 66C. * Draft Disability Inclusion (Restrictive Practices-NDIS) Amendment Bill 2020	Contact the Office of the Public Advocate – ph:08 8342 8200
TAS	Disability Services Act 2011	See: Office of the Senior Practitioner
VIC	Disability Act 2006, Disability Amendment Act 2012, Disability (National Disability Insurance Scheme Transition) Amendment Act 2019	See: Restrictive interventions - DFFH Service Providers
WA	Authorisation of Restrictive Practices in Funded Disability Services Policy 2020	See: WA Authorisation of Restrictive Practices web page and / or contact the Authorisation of Restrictive Practices email: ARP@communities.wa.gov.au

* Please note there are draft bills related to the authorisation of restrictive practices in both NSW and SA. Once passed this legislation will supersede the current authorisation arrangements.

Appendix B - What constitutes a regulated restrictive practice for children and young people? (Decision Tree)

This decision making tool was developed to assist in determining whether a practice constitutes a regulated restrictive practice. It specifically focuses on the use of practices with children and young people only and should not be generalised to adults with disability (over the age of 18 years). When in doubt as to whether a practice constitutes a regulated restrictive practice, please consult with your manager or clinical supervisor in the first instance and then contact the NDIS Commission if required.



Consult the NDIS (Incident Management and Reportable Incidents) Rules 2018, the relevant child protection guidelines and reportable conduct scheme in your state or territory.

Appendix C – Child protection and reportable conduct schemes

Mandatory notifications regarding child protection concerns should be made to the relevant child protection agency in accordance with any state or territory legislation, policy or practice guidelines. Some jurisdictions also have reporting requirements under reportable conduct schemes.

State / Territory	Child Protection Agency	Reportable Conduct Schemes
ACT	131 444 Child and Youth Protection Services See: Keeping Children & Young People Safe Guide	ACT Ombudsman – See: ACT Reportable Conduct Scheme
NSW	132 111 Department of Communities and Justice See: NSW Mandatory Reporter's Guide	Office of the Children's Guardian – See: NSW Reportable Conduct Scheme
NT	1800 700 250 Territory Families See: Report Child Abuse	n/a
QLD	1800 177 135 Department of Child Safety, Youth and Women See: QLD Child Protection Guide	n/a
SA	131 478 Department for Child Protection See: Reporting suspected harm of children and young people	n/a
TAS	1800 000 123 Department for Education, Children and Young People See: Need help now? - Department for Education, Children and Young People	n/a
VIC	After hours - 13 12 78 North Division[1] - 1300 664 977 South Division[2] - 1300 655 795 East Division[3] - 1300 360 391 West Division Rural and Regional[4] - 1800 075 599 West Division Metropolitan[5]- 1300 664 977 Department of Health and Human Services See: Reporting Child Abuse	Commission for Children and Young People – See: VIC Reportable Conduct Scheme
WA	1800 273 889 Department of Communities Child Protection and Family Support See: Reporting your Concern	n/a

[1] **Northern Division LGAs:** Banyule, Buloke, Darebin, Campaspe, Central Goldfield, Gannawarra, Greater Bendigo, Hume, Loddon, Macedon Ranges, Mildura, Moreland, Mount Alexander, Nillumbik, Swan Hill, Whittlesea, Yarra.

[2] **Southern Division LGAs:** Bass Coast, Baw Baw, Bayside, Cardinia, Casey, East Gippsland, Frankston, Glen Eira, Greater Dandenong, Kingston, Latrobe, Mornington Peninsula, Port Phillip, South Gippsland, Stonnington, Wellington.

[3] **East Division LGAs**: Alpine, Benalla, Boroondara, Greater Shepparton, Indigo, Knox, Manningham, Mansfield, Maroondah, Mitchell, Moira, Monash, Murrindindi, Strathbogie, Towong, Wangaratta, Whitehorse, Wodonga, Yarra Ranges.

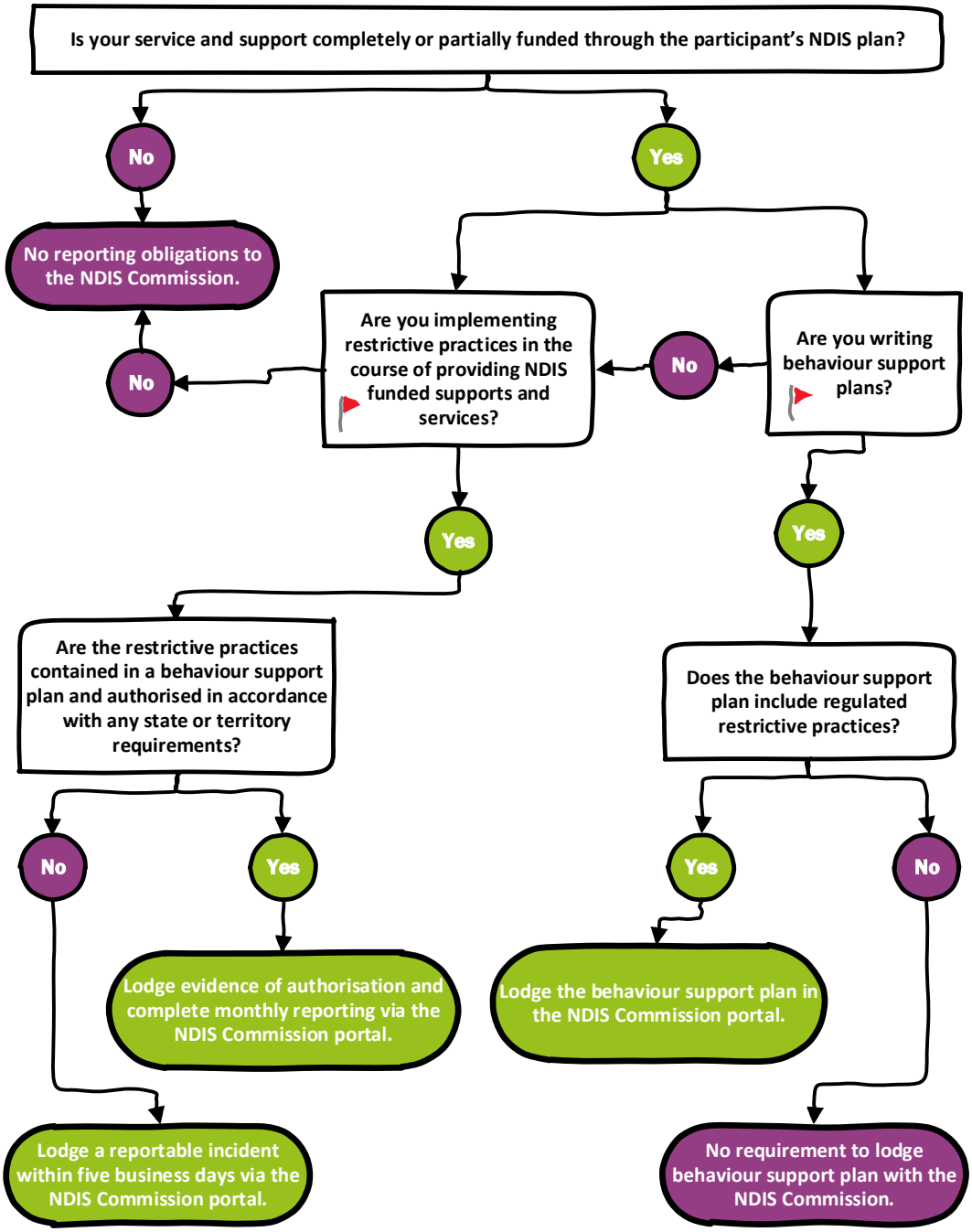
[4] **West Division Rural &r Regional LGAs**: Ararat, Ballarat, Colac-Otway, Corangamite, Glenelg, Golden Plains, Greater Geelong, Hepburn, Hindmarsh, Horsham, Moorabool, Moyne, Northern Grampians, Pyrenees, Queenscliffe, Southern Grampians, Surf Coast, Warrnambool West Wimmera, Yarriambiack.

[5] **West Division Metropolitan LGAs**: Brimbank, Hobsons Bay, Maribyrnong, Melbourne, Melton, Moonee Valley, Wyndham.

To notify the NDIS Quality and Safeguards Commission of a reportable incident via the portal follow the steps in the Immediate Notification Quick Reference Guide or phone 1800 035 544.

Appendix D - Reporting requirements (Decision Tree)

This decision making tool was developed to assist in determining the reporting requirements in relation to restrictive practice. It relates to children, young people and adults with disability who are subject to regulated restrictive practices as defined under the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*. When in doubt about the reporting requirements, please consult with your manager or clinical supervisor in the first instance and then contact the NDIS Commission if required.



Behaviour support and the use of regulated restrictive practices are considered high risk categories of support and require providers to be registered with the NDIS Commission, consistent with the NDIS (Provider Registration and Practice Standards) Rules 2018