



# Implementing providers engaging contractors

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## What is the issue?

Sometimes a registered NDIS provider may engage contractors to deliver supports and services on their behalf to NDIS participants. So, what are the obligations of the provider when these supports and services involve regulated restrictive practices?

## Why this position matters

In accordance with the [Provider Registration and Practice Standards Rules\\*](#), a person must be registered under [section 73E of the NDIS Act†](#) to provide a class of supports to a participant, if during the provision of the supports there is, or is likely to be, an interim or ongoing need to use a regulated restrictive practice. This includes completing an audit against Module 2A: Implementing Behaviour Support Plans.

In other words, providers are held accountable for the regulated restrictive practice used by their contractors.

## What the NDIS Commission says

If these supports and services involve the use of regulated restrictive practices, the **registered NDIS provider is at all times responsible for ensuring compliance with all requirements concerning their use**. Such requirements include those set out in the Behaviour Support Rules and Schedule 4 (Module 2A: Implementing Behaviour Support Plans) of the Provider Registration and Practice Standards Rules.

\* <https://www.legislation.gov.au/Details/F2021C01137>

† <https://www.legislation.gov.au/C2013A00020/latest/text>

# What providers must do

Where registered NDIS providers engage contractors, the registered NDIS provider must be the entity that:

- ◆ has entered into the service agreement with the NDIS participant; and
- ◆ receives funding from the NDIA for the delivery of any support or services that will or may involve the use of regulated restrictive practices.

Where there is, or is likely to be, an interim or ongoing need to use a regulated restrictive practice, the registered NDIS provider must do the following, whether or not they're using contractors:

- ◆ take all reasonable steps to facilitate the development of a behaviour support plan, including by working with the specialist behaviour support provider when they are undertaking a behaviour support assessment of the NDIS participant
- ◆ get authorisation for the use of the regulated restrictive practice in accordance with any state or territory authorisation requirements
- ◆ ensure that evidence of authorisation by the relevant state or territory body is lodged with the NDIS Commission as soon as reasonably practicable after the use of the regulated restrictive practice
- ◆ ensure that regulated restrictive practices are only used in accordance with a behaviour support plan

- ◆ ensure that the behaviour support plan is implemented in a way that meets the participant's behaviour support needs
- ◆ ensure that all support workers responsible for the implementation of a behaviour support plan have undergone training that covers positive behaviour support and regulated restrictive practices generally. The training should also cover the use of individualised strategies contained within that plan, including the safe use of regulated restrictive practices where required
- ◆ notify the specialist behaviour support provider if there has been a change in circumstances that requires the behaviour support plan to be reviewed
- ◆ regularly monitor and review behaviour support plans to ensure that the plan supports the participant's needs and is aimed at reduction and elimination of the use of regulated restrictive practices. In practice, a provider may monitor the implementation of a behaviour support plan using a combination of formal and informal approaches, such as getting feedback from the participant, team meetings, data collection, record-keeping and supervision, including with contractors
- ◆ notify the NDIS Commission of all reportable incidents relating to the unauthorised use of restrictive practices.
- ◆ report monthly to the NDIS Commission in relation to the use of regulated restrictive practices.

## Laws and rules that apply

- ◆ [National Disability Insurance Scheme Act 2013](https://www.legislation.gov.au/C2013A00020/latest/text) [https://www.legislation.gov.au/C2013A00020/latest/text]
- ◆ [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](https://www.legislation.gov.au/F2018L00631/latest/text) [https://www.legislation.gov.au/F2018L00631/latest/text]
- ◆ [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](https://www.legislation.gov.au/F2018L00632/latest/text) [https://www.legislation.gov.au/F2018L00632/latest/text]
- ◆ [National Disability Insurance Scheme \(Quality Indicators for NDIS Practice Standards\) Guidelines 2018](https://www.legislation.gov.au/F2018N00041/latest/text) [https://www.legislation.gov.au/F2018N00041/latest/text]
- ◆ [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](https://www.legislation.gov.au/F2018L00633/latest/text) [https://www.legislation.gov.au/F2018L00633/latest/text]

## Where to get more help

- ◆ [Implementing providers: Facilitating the development of behaviour support plans that include regulated restrictive practices](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-8378) [https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-8378]
- ◆ [Implementing Provider Checklist](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-10892) [https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-10892]
- ◆ [Policy Guidance: The Safe Reduction and Elimination of Regulated Restrictive Practices](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-8380) [https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/rules-behaviour-support-and#paragraph-id-8380]
- ◆ [Practice Guides around restrictive practices](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/behaviour-support-resources#paragraph-id-9168) [https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/behaviour-support-resources#paragraph-id-9168]

# Key terms

| Term or abbreviation  | Description  |
|---|--|
| Behaviour Support Plan also 'Positive Behaviour Support Plan' (BSP, PBSP) | A document, prepared by a behaviour support practitioner, in consultation with the person with disability, their family, carers, and other support people. The BSP contains person-centred, proactive and evidence-informed strategies to enhance the person's quality of life. It addresses the needs of the person and reduces the likelihood and impact of behaviours of concern. There are two types of BSPs, <a href="#">interim</a> and <a href="#">comprehensive</a> *. |
| Behaviour Support Rules   | <a href="#">National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 (Cth)</a> <sup>†</sup>   |
| Implementing provider   | An NDIS provider who, in the course of delivering NDIS supports, implements behaviour support plans and/or uses a regulated restrictive practice   |
| NDIS Act  | <a href="#">The National Disability Insurance Scheme Act 2013</a> <sup>‡</sup>   |
| NDIS provider   | A person, entity, business or organisation that receives NDIS funding or who is an NDIS provider as prescribed by the NDIS rules.  |
| Participant   | A person with disability who is a participant in the National Disability Insurance Scheme (NDIS). They have an NDIS plan and use the funding in that plan to purchase supports and services.   |
| Provider Registration and Practice Standards Rules                        | <a href="#">National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018</a> <sup>¶</sup>  |
| Regulated Restrictive Practice (RRP)                                      | A restrictive practice is a regulated restrictive practice if it is or involves any of the 5 types of restrictive practices subject to regulation and oversight by the NDIS Commission: (a) seclusion; (b) chemical restraint, (c) mechanical restraint, (d) physical restraint; (e) environmental restraint.  |
| Specialist behaviour support provider                                     | A registered NDIS provider whose registration includes Module 2, the provision of specialist behaviour support services (i.e. registration group 110)  |

\* <https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/behaviour-support-resources#paragraph-id-9177>

† <https://www.legislation.gov.au/F2018L00632/latest/text>

‡ <https://www.legislation.gov.au/C2013A00020/latest/versions>

¶ <https://www.legislation.gov.au/Details/F2021C01137>

