

Annual Report

2024-2025

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# 1 Executive Summary

As described in the *Disability Services Act 2011*, (the Act) the Senior Practitioner must provide to the Secretary by 1 September each year a report consisting of:

1. information on the performance of the functions, and the exercise of the powers, of the Senior Practitioner during the previous financial year.
2. data relating to the use of restrictive interventions during the previous financial year.

It is also a requirement of the Act that a report provided to the Secretary under Section 31 must not enable a person with disability to be identified.

Finally, the Secretary must ensure that a copy of the report provided to the Secretary under Section 31 is available to the public at an electronic website of the Department for at least twelve months after it is so provided. The Senior Practitioner’s reports are available at:

<https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner>

The report outlines the activities conducted by the Senior Practitioner to make recommendations about the provision of specialist disability services as well as the regulation of the use of restrictive interventions. This report details the data relating to the use of restrictive interventions from 1 July 2024 to 30 June 2025.

The data indicates some trends that require further examination and the development of guidelines and standards in accordance with best practice in the disability sector as related to the incidence of use of restrictive interventions.

The report concludes with some areas identified as priorities to assist the sector to provide improved services for those living with disability during the next reporting period.

In this reporting period there were increases in applications from disability service providers seeking approval to use restrictive interventions and significant increases in reports on the unauthorised use of restrictive interventions. The increase in activity is an encouraging sign that the efforts of the Office of the Senior Practitioner (OSP) and the NDIS Quality and Safeguards Commission (NDIS Commission) to raise awareness about the importance of protecting the rights of people with disability when restrictive intervention is required, continue to have a positive effect.

# **2 NDIS Quality and Safeguards Commission**

The NDIS Commission has been operating in Tasmania since 1 July 2019.

The Commission has several functions and responsibilities including:

* registering and regulating NDIS providers and overseeing provider quality.
* monitoring compliance with the NDIS Practice Standards and NDIS Code of Conduct.
* responding to concerns, complaints, and reportable incidents.
* advising providers on in-house complaints management and supporting participants to make a complaint.
* advising providers on incident management systems and how to report serious incidents to the NDIS Commission.
* working with people with disability, NDIS providers and workers to improve their skills and knowledge.
* monitoring the use of restrictive practices and educating providers and participants about behaviour support strategies.
* working with states and territories to design and implement nationally consistent NDIS worker screening.
* providing market oversight by monitoring changes in the market that need attention.
* sharing information with other regulatory bodies.

NDIS providers in Tasmania are operating under two separate legislative and regulatory frameworks the National Disability Insurance Scheme Act 2013 and associated Rules, as well as the Tasmanian Disability Services Act 2011. In relation to the use of restrictive interventions, NDIS registered providers need to report their use to the NDIS Commission monthly, if authorised and recorded in a behaviour support plan, or weekly if unauthorised or not in a behaviour support plan (a reportable incident). Where a restriction is not in the scope of Tasmania’s legislative authorisation requirements (e.g. use of chemical restraint) the action remains a reportable incident to the NDIS Commission until a behaviour support plan is developed which includes, or removes, the restriction.

The OSP continues in its role under section 6 of the Act, including the facilitation of approvals for the use of restrictive interventions and works with the NDIS Commission to further the goal of reducing and eliminating the use of restrictive interventions.

## 3 Processing of Applications

### 3.1 Background

A disability services provider (provider) or a funded private person must not conduct, in relation to a person with disability who is under their care or control, a restrictive intervention unless there is in force an approval under section 38 or section 42 of the Act.

Section 4 of the Act provides a definition of restrictive intervention as follows:

“restrictive intervention means any action that is taken to restrict the rights or freedom of movement of a person with disability for the primary purpose of the behavioural control of the person but does not include such an action that is –

(a) taken for therapeutic purposes; or

(b) taken to enable the safe transportation of the person; or

(c) authorised under any enactment relating to the provision of mental health services or to guardianship.”

Part 6 of the Act provides for the regulation and monitoring of restrictive interventions. The Act separates ‘restrictive interventions’ into two categories – ‘environmental restrictions’ and ‘personal restrictions.’

Personal restrictions can only be approved by the Tasmanian Civil and Administrative Tribunal (TASCAT) under section 42 of the Act, and they are also able to approve the use of environmental restrictions under the same section of the Act.

The Secretary of the Department of Premier and Cabinet Tasmania (the Secretary) can only approve environmental restrictions under section 38 of the Act.

Under Section 36 of the Act a restrictive intervention that has not been authorised is only allowed to be used if:

* the action is used to protect a person from harm; and
* the action used is the least intrusive type of restriction; and
* the Senior Practitioner is notified as soon as practicable after use of the action; and
* the action is not used again for 72 hours.

### 3.2 Secretary Approvals for Restrictive Interventions

A provider or funded private person may apply to the Secretary for approval to conduct, in relation to a person with disability, a type of restrictive intervention that is an environmental restriction.

The Secretary can only approve an application if the Secretary is satisfied that consultation has occurred with the person with disability or a person nominated by the person, any persons who have expertise in the conducting of the proposed intervention and with the Senior Practitioner.

Before granting an approval, the Secretary must be satisfied that the restrictive intervention will be conducted only to ensure the safety, health or wellbeing of the person or other persons, and that the restriction is the least restrictive alternative available in the circumstances.

In reaching a decision whether to grant an approval the Secretary must have regard to several issues (detailed under section 38 of the Act) including the best interests of the person with disability, any alternative methods reasonably suitable to address the situation, and the nature and degree of risk to the person with disability. Approvals are only valid for three months.

During the 2024-2025 reporting period (previous reporting period in brackets):

* 80 (77) individuals were subject to the use of an approved environmental restriction, a 4% increase
* 264 (258) approvals were granted by the Secretary, an increase of 2%
* 35 (28) providers applied for approvals, an increase of 25%
* 15 (18) approvals ceased or were not reapplied for, a decrease of 17%
	+ 3 providers ceasing to support the individual
	+ 3 applications made to TASCAT in lieu
	+ 9 due to elimination of restrictions

The large numbers of approvals compared to individuals reflects the requirements of the Act that the approval period for the use of environmental restrictions is for 90 days, therefore individuals had multiple approvals during the 2024-25 financial year. The Act also requires each disability support provider to apply to use a restrictive intervention and it is common for individuals to be supported by more than one provider.

Figure1: Breakdown of type of Environmental Restriction Approvals for 2024 – 2025 period.

Figure 1 shows that the most common types of approved environmental restrictions used by providers in 2024 -2025 were restricting access to:

* food and drink (23%)
* sharps (23%)
* cigarettes and lighters (12%)
* locked doors and cupboards (10%)
* cleaning products (7%)
* electronic devices (5%)
* other (20%) which includes restricting access to items such as keycards, clothing, hotplates, and taps.

Figure 2: Comparison of environmental restriction approvals and participants between 2019-2025.

Figure 2 shows the trend over time in approvals being granted by the Secretary and the number of individuals subject to the use of environmental restrictions and the growing increase in both environmental approvals and individuals since the start of operation of the NDIS Commission in June 2019, namely:

* 2019/2020: 18 individuals and 23 approvals overall
* 2020/2021: 52 individuals and 139 approvals overall
* 2021/2022: 66 individuals and 201 approvals overall
* 2022/2023: 70 individuals and 238 approvals overall
* 2023/2024: 75 individuals and 258 approvals overall
* 2024/2025: 80 individuals and 264 approvals overall

It is likely that the safeguarding activities of the NDIS Commission (e.g. compliance notices) and ongoing training and consultation by the Office of the Senior Practitioner has increased awareness by providers about the use of restrictive interventions and the need to obtain authorisation.

### 3.3 Tasmanian Civil and Administrative Tribunal Approvals

A provider or funded private person may apply to the specialist Tribunal at TASCAT for approval to conduct, in relation to a person with disability, a type of restrictive intervention that is either a personal restriction or an environmental restriction. The application must contain a statement from the Senior Practitioner recommending why they are of the opinion the Tribunal ought to grant the approval sought. Approximately 88 percent of applications are changed following discussions between the provider, behaviour support practitioner, and the OSP.

An approval can only be granted if the Tribunal has consulted with the person with disability or a person nominated by the person and any persons who have expertise in the conducting of the proposed intervention. The Tribunal also needs to be satisfied that the type of restriction being considered is for the safety, health or wellbeing of the person and is the least restrictive on the person’s freedom of decision as practicable.

 Table 2 (below) shows:

* that 126 individuals were subject to the use of approved restrictions, an increase of 17% compared to the previous reporting period (108)
* an increase of 11% in the total number of applications approved by the Tribunal (147) compared to the previous reporting period (132).

|  |
| --- |
| Tribunal Orders – Personal and Environmental Restrictions1 July 2024 to 30 June 2025 |
| Number of individuals with approvals | 126 (108) |
| Total number of approvals | 147 (132) |
| Number of ceased approvals | 35 (10) |
| Number of Providers | 33 (33) |

Table 2: Applications approved by the Tribunal.

The larger number of approvals (147) compared to individuals being subjected to the use of restrictions (126) reflects the fact that the Act requires each provider to apply for approval to use a restrictive intervention, and an individual may have more than one provider implementing the same restriction. In the current reporting period 13.5% of individuals with approvals were supported by more than one provider. The number of providers implementing a restrictive practice (33) did not change over the reporting period.

A number of Tribunal approvals (35) ceased;

* restrictions were no longer required (16),
* individuals with restrictions moved to a different provider (10),
* personal but not environmental restrictions eliminated with subsequent application for approval to the Secretary (5), and
* due to the death of the individual (4).

The most common types of Tribunal-approved restrictive interventions used by providers in the current reporting period (2023-2024 in brackets):

* locked external exits – 89 (70)
* locked gates – 69 (62)
* doors locked to keep others safe - 16 (14)
* locked internal doors and cupboards – 45 (33)
* restricted access to food and drink – 42 (38)
* restricted access to cleaning chemicals – 15 (12)
* locked sharps – 31 (27)
* information technology and television - 6 (9)
* cigarettes and lighters – 6 (5)
* use of belts and harness – 14 (10)
* physical intervention 70 (61)
* limit access to community – 5 (6)
* limit access to personal items – 11 (12)
* use of bodysuit – 8 (9)
* other - 11 (27)

Section 42 of the Act enables the Tribunal to approve the use of environmental restrictions as well as personal restrictions and in this reporting period the OSP has used this provision to minimise the regulatory burden for providers and achieve efficiencies for the OSP.

Figure 4: Comparison of number of individuals and restrictive interventions approved by the Tribunal for 2019-2025.

Figure 4 shows the trend over time in applications that have been approved by the Tribunal and the number of individuals subject to the use of restrictive interventions between 2019 to 2025 namely;

* 2019/2020: 17 individuals and 22 Tribunal approvals overall
* 2020/2021: 22 individuals and 32 approvals
* 2021/2022: 79 individuals and 99 approvals
* 2022/2023: 107 individuals and 129 approvals
* 2023/2024: 108 individuals and 132 approvals
* 2024/2025: 126 individuals and 147 approvals

Like Figure 2, Figure 4 shows an increase since 2019 in the number of individuals with Tribunal authorised restrictive practices and in the number of approvals.

### 3.4 Unauthorised Restrictive Interventions

Under Section 36 of the Act, it may be a defence to the offence of using an unauthorised restrictive intervention if certain conditions are met. Included in those conditions is the need for the Senior Practitioner to be notified by the provider or funded private person as soon as practicable after a restrictive intervention is conducted. Table 3 (see below) shows those unauthorised interventions notified during 2024-2025.

The OSP received 1158 reports detailing the use of 7157 unauthorised restrictive practices (URPs). A report often includes the use of more than one restriction during an incident. The total of 7157 represents a 307.6% increase when compared to the 2023-2024 period. The significant increase in the number of URPs may be attributed to several factors including, but not limited to:

* URP data was collected during the period between receipt of application of approval of restrictive practices and the approval date, in contrast to previous reporting periods.
* increased training and consultations undertaken by the Office of the Senior Practitioner raising awareness of restrictive practices, including the need to report unauthorised practices
* increased site-visits by the Office of the Senior Practitioner, leading to higher identification of un-identified restrictive practices
* discrepancies between the restrictions noted in the application for authorisation, the behaviour support plan, and information identified in the site visit which contributed to delays in processing applications

Of the URP reports received, 68% were personal restrictions compared to 32% for environmental restrictions, in contrast to the previous reporting period of 84% and 16% respectively. This proportional data of personal and environmental restrictions reflects the reality of supporting people with complex needs, in that physical interventions are more likely required in situations where the immediate safety and wellbeing of persons must be prioritised, in contrast to environmental restrictions that are more likely to be planned with appropriate approvals obtained.

The main function of reporting unauthorised restrictive interventions is to monitor regular usage on an individual basis. In this regard the OSP can identify individuals where unauthorised restrictions were being used regularly and worked collaboratively with the provider and behaviour support practitioner to reduce, eliminate, or gain authorisation for the restriction being used. A contributing factor to the use of unauthorised restrictive practices is the length of time needed to authorise a personal restriction through the Tribunal compared to the authorisation of environmental restrictions through the Secretary. Once the Secretary receives the application for authorisation of environmental restrictions, which is accompanied by advice from the Senior Practitioner, approval generally occur within 2 weeks. Whereas once TASCAT receives the application, which is accompanied by a statement from the Senior Practitioner, authorisation of personal restrictions generally occurs within 12 weeks.

In this reporting period a total of 50 service providers notified the OSP about using an unauthorised restrictive intervention compared to 36 in the previous reporting period, representing a 39% increase. During 2024-2025 additional NDIS registered and unregistered providers entered the market.

### 3.5 Consultations

The OSP team responded and gave advice in relation to 3504 (1602) telephone and email enquires relating to restrictive interventions and related topics in the current reporting period, representing an overall increase of 118% compared to the previous reporting period. The smaller number of enquiries (3504) compared to category of consultation (3650) reflects the fact that each enquiry often includes more than one category or query.

In comparison to the previous reporting period (2023-2024 in brackets), consultations increased in all categories except audits which did not change.

* Site visits by request - 93 (64)
* Personal restrictions - 1339 (560)
* Environmental restrictions - 886 (355)
* Chemical restraint - 364 (79)
* Policy and legislation - 289 (254)
* Therapeutic - 162 (87)
* Positive behaviour support - 330 (131)
* Transport - 182 (67)
* Audit - 5 (5)

During 2024-2025, each provider using approved restrictive practices was allocated to a member of the OSP, as their primary contact. The increase in consultations, and ongoing provision of training (see 3.6), is likely attributable to the provider-centric support and an increase of an additional OSP member of staff providing support. The approachability of the OSP has led to disability service providers and behaviour support practitioners seeking advice about topics over and above the use of restrictive interventions and this includes guidance about positive behaviour support (PBS) and feedback relating to policy/procedure issues and documentation.

### 3.6 Information and Education

In 2024-2025 the OSP presented 58 information and education sessions to 50 groups and organisations across Tasmania. These groups and organisations were predominantly providers but also included TasTAFE, behaviour support practitioners, Public Trustee, and support coordinators. This activity was a slight increase in the number of sessions and groups compared to the previous reporting period, 58 and 40, respectively. In addition, the total number of people who attended increased from 518 (2023/24) to 575 (2024/25). Information and education were also provided during monthly Communities of Practice (see 4.3).

The core work of the OSP is reviewing and processing applications. The allocation of a primary contact person to disability support providers and the significant increase in consultations likely attributed to the ongoing demand for education. Topics requested by and presented to providers, behaviour support practitioners and support coordinators were predominantly ‘Restrictive Interventions and Rights’ with requests for ‘Positive Behaviour Support’ from TasTAFE (nursing, disability support & aged care).

# 4 Key Issues

## 4.1 Unauthorised use of a restrictive intervention

During this reporting period the OSP has continued to work with the Commission and providers. The definition of restrictive interventions (i.e., personal & environmental) under the DSA differs from the Commission (i.e., environmental, mechanical, chemical, seclusion, physical). Reporting of unauthorised use of restrictive practices will be significantly different in the next reporting period, following the commencement of the Disability Rights, Inclusion and Safeguarding Act 2024.

## 4.2 National Action Plan – Developing the NDIS Specialist Behaviour Support Market

The aim of the National Action Plan is to ensure that NDIS participants with behaviour support needs have timely access to quality specialist behaviour support services in a robust provider market. Tasmania endorsed the Action Plan in December 2020 and during this reporting period the OSP continued one project to support Objective 3 of the Plan, namely *‘*Build behaviour support provider and practitioner capability – improving quality of behaviour support.’This is described below.

### 4.3 Communities of Practice

The OSP initiated the creation of two Communities of Practice (CoP) groups (South & North-West) in the 2019-2020 reporting period and since then has consolidated operations into one state-wide meeting held via MS teams. Most members are behaviour support practitioners and average attendance is 83 (range 66-103) per monthly meeting. This equates to approximately 45% of all practitioners registered as practicing primarily in Tasmania. A representative from the NDIS Commission Practice Quality Division currently attends on average once every 3 months.

Activities that have occurred over the current reporting period include:

* presentations of case studies.
* specialist topics for discussion (e.g., case formulation; blocking; line of sight; chemical restraint).
* guest speakers (e.g., mealtime management, interplay with behaviour; Non- Aversive Reactive Strategies; Senior Practitioner; Director of Engagement NDIS Commission; behaviour support plans for clients who have a psychosocial diagnosis).

In addition, the OSP facilitates monthly face-to-face peer support for behaviour support practitioners in the North and North-west of Tasmania. Following consultation with CoP members, peer support for practitioners in Hobart is being reviewed.

### 4.3 Reference Groups

During this reporting period the Senior Practitioner was a member of two Reference Groups as follows:

##### The Right Direction: Strengthening participant and provider Connections to improve Behaviour Support Outcomes

The Right Direction: Strengthening participant and provider connections to improve behaviour support outcomes project, is a national project commissioned by the NDIS Quality and Safeguards Commission (NQSC) to co-design, test, and deliver resources to support communication and consultation with people with disability concerning their behaviour support plans and any proposed or actual use of regulated restrictive practices. The Senior Practitioner is a member of the Advisory Group who meet bi-monthly providing strategic advice throughout the project and assistance with planning the launch and dissemination of the final products.

##### Senior Practitioner Leadership Group.

The Senior Practitioner is a member of the Senior Practitioner Leadership Group, a committee chaired by the Senior Practitioner, NDIS Commission. The primary purpose is to a practice-focused collective developing contemporary evidence-based best practice advice, aligned with the Convention on the Rights of People with Disability, regarding behaviour support and the reduction and elimination of restrictive practices in the NDIS and to achieve National consistency. Meetings are held quarterly with meeting locations rotated through the States and Territories.

# 5 Priorities for 2025 -2026

## 5.1 Disability Rights, Inclusion and Safeguarding Act 2024

The Disability Rights, Inclusion and Safeguarding Act 2024 commences on 1 July 2025. The Senior Practitioner will continue working with all relevant stakeholders in the next reporting period to advance the human rights of people with disability and to create a safe and inclusive Tasmania for people with disability.

Under the new Act, the role of the Senior Practitioner is elevated to that of decision maker for the authorisation of restrictive practices used by disability service providers and regulates the use of restrictive practices by disability service providers, including but not limited to:

* authorising, overseeing, and reporting on the use of restrictive practices
* regulating the use of restrictive practices by disability service providers
* promoting the reduction and elimination of the use of restrictive practice to the greatest extent possible
* providing guidelines and directions in accordance with best practice, including education, advice and information on restrictive practices and the use of behaviour management techniques that may obviate or minimise the need for restrictive practices.

The Act aligns with existing NDIS legislation and contemporary practices in disability support and there will be a focus on implementation of the new Act. In addition, the Act will introduce several new measures for Tasmania, including:

* creating the position of a Tasmanian Disability Commissioner – the first for Tasmania;
* establishing a mechanism for the formal inclusion of people with disability in leadership through the creation of a Disability Inclusion Advisory Council;
* promoting a social model of disability and the human rights expressed within the United Nations Convention on the Rights of Persons with Disability (UNCRPD) and Australia’s Disability Strategy (ADS);
* formalising requirements relating to consultation, planning, and reporting of progress in delivering actions through a legislated Tasmanian Disability Inclusion Plan and associated action plans for defined entities such as Government Departments and GBEs;
* making provision for a Community Visitor Scheme to be established in the future in response to a recommendation from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability;

Many measures in the Act align with the recommendations handed down by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

## 5.2 Fact/information sheets

In the next reporting period Fact Sheets, Guidelines, Policy and Procedures for use of Restrictive Interventions will be reviewed to incorporate changes in the Disability Rights, Inclusion and Safeguarding Act 2024 and to reflect the contents of nationally agreed positions on restrictive practices.

## 5.3 Priorities 2025-2026

* Establishment of the new Office of the Senior Practitioner
* Establishing the new regulatory environment of the OSP
* Redevelopment of the OSP website
* Scoping and development of an information system and data collection
* Developing information and education presentations on restrictive practice.
* Developing ‘online’ information and education resources.



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