Restrictive Practice

Guideline

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For more information about the Office of the Senior Practitioner or the use of restrictive practices in Tasmania, please contact:

Email: seniorpractitioner@dpac.tas.gov.au

Phone: 6166 9199

Web: [www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner](http://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)

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# Introduction

## Purpose

This guideline is about the laws and practice principles that apply to the use and authorisation of restrictive practices in relation to people with disability in Tasmania. It has been prepared for disability services providers.

Section 46 of the *Disability Rights, Inclusion and Safeguarding Act 2024* states that the Senior Practitioner may issue guidelines in relation to restrictive practices. This guideline is a legal document and is issued under section 46.

This guideline provides information about how the laws and rules about restrictive practices are applied in practice.

Directions of the Senior Practitioner must be complied with by providers.

## Overview

The Tasmanian Government is committed to making Tasmania a more inclusive place and upholding the human rights of all Tasmanians, including people with disability. All Tasmanians have the right to feel safe and supported and to live a life free from violence, abuse and neglect. The *Disability Rights, Inclusion and Safeguarding Act 2024* (the Act) promotes a future where people with disability are equal participants in the economic, social and political life of our community.

The Act is based on a social model of disability, recognising that disability is created by societal barriers like attitudes, poor communication, and inaccessible environments, not by impairments.

The use of restrictive practices for people with disability can create serious human rights breaches. A restrictive practice is any action that restricts the rights or freedom of movement or behaviour of a person. Restrictive practices should only be contemplated within a contemporary positive behaviour support framework that includes person-centred and evidence-informed interventions. To protect the rights of a person with disability, restrictive practices should only be used in very limited and specific circumstances to protect the safety of the person with disability or others.

Where a disability services provider (provider) proposes to use a restrictive practice in relation to a person with disability, including children with disability, they must seek authorisation from the Senior Practitioner.

This guideline is about the use, authorisation, and monitoring of restrictive practices in relation to people with disability in Tasmania. It has been prepared for providers, but may be of interest to people with disability, their families and supporters.

This guideline includes information on:

* **Legislation, Principles and Practice**. This part explains the legislation, regulations and rules (the legal instruments) that apply to the use of restrictive practices in Tasmania, the rights of people with disability who are subject to restrictive practices and practice principles to be applied.
* **Restrictive Practices**. This part explains the practices that are restrictive practices and practices that are prohibited and cannot be used in relation to a person with disability in any circumstance.
* **Authorisation Process**. This part explains the authorisation process through the office of the Senior Practitioner, and the obligations of providers proposing to use restrictive practices.

The Tasmanian Government and the Office of the Senior Practitioner are committed to a system that places the rights of a person with disability at the centre of any decision made in relation to restrictive practices. While this guideline is about the authorisation of restrictive practices, the goal is to reduce and eliminate their use as much as possible.

## Senior Practitioner

The role of the Senior Practitioner is outlined in the Act. The Senior Practitioner provides leadership in relation to behaviour support and the reduction and elimination of restrictive practices in Tasmania. The role of the Senior Practitioner is to safeguard the rights of people with disability who are subject to restrictive practices, and to ensure that providers comply with legislative requirements and follow best practice standards relating to the use of restrictive practices.

The Senior Practitioner leads practice consultants and policy officers in the Office of the Senior Practitioner who are experts in restrictive practices and behaviour support and who assist the Senior Practitioner to perform their functions.

The Senior Practitioner is the single authorisation point for restrictive practices in Tasmania.

The Senior Practitioner:

* authorises, oversees and reports on the use of restrictive practices by providers in accordance with the Act
* ensures the rights of people who may be subject to restrictive practices are protected to the greatest extent possible
* ensures providers comply with any applicable guidelines and standards about the use of restrictive practices.

As part of their role the Senior Practitioner will:

* provide information in relation to the rights of people with disability who may be subject to restrictive practices
* develop guidelines and standards that are in accordance with best practice and the objects of the Act
* give directions to providers about the use of restrictive practices
* approve Appointed Program Officers (APO). An APO is an employee of a disability services provider and ensures that the use of restrictive practices by the provider and any employee involved in the implementation of a restrictive practice is done in accordance with the authorisation of the Senior Practitioner, any guideline or direction issued by the Senior Practitioner and the person’s behaviour support plan
* approve the appointment of Independent Persons. An Independent Person assists a person with disability to understand their rights under the Act, particularly in relation to the use of restrictive practices
* Give advice to providers to:
	+ Improve practices in relation to restrictive practices and the use of behaviour management techniques that may remove or minimise the need for restrictive practices.
	+ Enable the use of restrictive practices to be reduced and, where appropriate, eliminated.
	+ Monitor and evaluate the use of restrictive practices.

## Term

This guideline began on 1 July 2025 and continues in effect until it is withdrawn or modified by the Senior Practitioner.

## Application

All providers, as defined in section 7 of the Act (see section 2.4.1 below) must comply with this guideline.

## Guiding principles

The Act includes principles that promote the human rights of people with disability and reflect the United Nations Convention on the Rights of Persons with Disability. There are two principles specifically about restrictive practices:

**Principle one**. Restrictive practices should only be used in very limited and specific circumstances as a last resort and utilising the least restrictive practice and for the shortest period of time possible in the circumstances.

**Principle two**. Restrictive practices should only be used where they are proportionate and justified in order to protect the rights or safety of the person with disability or others.

These principles mean a restrictive practice should only be:

* used in very limited and specific circumstances
* used as a last resort
* the least restrictive practice possible
* used for the shortest time possible
* in proportion and justified to protect the rights and safety of the person with disability or others.

These principles apply to every person, entity and provider who is doing something covered by the Act.

# Legislative, principles and practice framework

## Legislative context

There are a number of laws and legal instruments that apply to the use of restrictive practices in Tasmania. At a state level, the legislation that applies to the use and authorisation of restrictive practices is the *Disability Rights, Inclusion and Safeguarding Act 2024* (the Act).

Where restrictive practices are used in relation to a National Disability Insurance Scheme (NDIS) participant, their use must also comply with national legislation including the *National Disability Insurance Scheme Act 2013* and the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*.

Both the Tasmanian Act and the nationally applicable legislation reflect Australia’s commitment to the United Nations Convention on the Rights of Persons with Disability, which is an international human rights law.

More information about these legal instruments is set out below.

### International legislation

The United Nations Convention on the Rights of Persons with Disability (CRPD) is an international convention that aims to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. It promotes respect for difference and acceptance of persons with disabilities as part of human diversity and humanity. Australia was one of the first countries to ratify the convention, voluntarily committing to be bound by its terms.

In relation to restrictive practices, the CRPD describes a person with disabilities right to:

* respect for their inherent dignity, individual autonomy including the freedom to make their own choices, and independence of person (Article 3)
* equal recognition before the law (Article 12)
* liberty and security of their person (Article 14)
* freedom from cruel, inhuman, or degrading treatment or punishment (Article 15)
* freedom from exploitation, violence, and abuse (Article 16)
* right to physical and mental integrity (Article 17)
* personal mobility (Article 20).

### Australian legislation

At a national level, there are a number of legislative instruments that establish the responsibilities and obligations of registered NDIS providers delivering supports to NDIS participants, including in relation to restrictive practices. The Tasmanian authorisation process sits within the context of this legislative framework.

The *National Disability Insurance Scheme Act 2013* (NDIS Act) is the primary legislation which establishes the:

* National Disability Insurance Agency (NDIA)
* National Disability Insurance Scheme (NDIS)
* NDIS Quality and Safeguards Commission (NDIS Commission).

The *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* define a regulated restrictive practice. They also establish the conditions of registration for registered NDIS providers who use regulated restrictive practices in the course of delivering NDIS supports. These include:

* the use of a regulated restrictive practice (other than a single emergency use) must be authorised in accordance with the authorisation process of the relevant state or territory, and authorisation must be sought as soon as practicable
* a registered NDIS provider must lodge with the NDIS Commissioner evidence of that authorisation as soon as reasonably practicable after the use of the regulated restrictive practice
* the requirements for developing a behaviour support plan
* reporting the use of regulated restrictive practices.

Other relevant laws and legal instruments include:

* the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, which set out some of the conditions that providers must comply with to become and remain registered NDIS providers. It also sets out the NDIS Practice Standards that apply to all registered NDIS providers, and those that apply to providers delivering more complex services such as behaviour support
* the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* which establish the requirements to notify the NDIS Commission of reportable incidents, including the use of unauthorised restrictive practices
* the *National Disability Insurance Scheme (Code of Conduct) Rules 2018* sets out the NDIS Code of Conduct, which supports the rights of people with disability in the NDIS to have access to safe and ethical supports

#### NDIS Quality and Safeguards Commission

The NDIS Commission is responsible for quality and safeguards for NDIS participants in accordance with the NDIS Act and the NDIS Quality and Safeguarding Framework. It also has oversight of and monitors the use of restrictive practices for NDIS services.

The NDIS Quality and Safeguards Commissioner has an important role to provide leadership in relation to behaviour support, and in the reduction and elimination of the use of restrictive practices by NDIS providers.

For more information about the NDIS Commission and their resources relating to restrictive practices see the Commission’s website Behaviour support and restrictive practices | NDIS Quality and Safeguards Commission at [www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices](http://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices)

### Tasmanian legislation

The Act sets out the authorisation process for restrictive practices in Tasmania. It adopts the definitions of restrictive practices set out in the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* and is designed to operate in conjunction with the national legislation. Nothing in the Act substitutes or replaces a provider’s obligation to comply with national laws.

The Act applies a person-centred, human rights approach to the use of restrictive practices. It is grounded in a contemporary positive behaviour support model and aims to reduce and eliminate the use of restrictive practices.

The Act includes principles which promote the human rights of people with disability and reflect the CRPD. These principles apply to every person, entity and provider who is doing something covered by the Act.

Any use of a restrictive practice must be consistent with the principles. While all the principles must be observed, there are two that relate to restrictive practices. They are:

**Principle one**. Restrictive practices should only be used in very limited and specific circumstances as a last resort and utilising the least restrictive practice and for the shortest period of time possible in the circumstances.

**Principle two**. Restrictive practices should only be used where they are proportionate and justified in order to protect the rights or safety of the person with disability or others.

More information about how these principles should be applied is set out below in the section ‘Practice principles’.

#### Meaning of disability services provider

The Act requires any provider contemplating the use of a restrictive practice to apply for authorisation from the Senior Practitioner.

‘Disability services provider’ is defined by section 7 as:

* a person or organisation that receives funding under the National Disability Insurance Scheme (NDIS) or the Act to provide a service specifically for the support of people with disability
* or a person or body, or class of persons or bodies, prescribed as a disability services provider.

This means that a person or organisation will be considered a disability services provider if they are receiving:

* any payment from the NDIS to provide a service to any person with disability. It does not matter whether the payment comes from the person with disability, a plan manager, or directly from the National Disability Insurance Agency
* or funding provided under the Act.

Where a disability services provider receives NDIS funding to provide support to a person with disability, they are still considered a disability services provider under the Act even if some people they provide supports to are not NDIS participants, or specific services they provide are funded from another source. Authorisation for the use of a restrictive practice must be sought for all people with disability they provide a service to, even if they are funded to provide those services from another source.

The definition includes people and organisations who receive funding under the NDIS or the DRIS Act and who:

* are registered and unregistered NDIS providers
* operate on a for-profit and not-for-profit basis
* provide disability support services to children and/or adults
* provide accommodation and/or other support services.

The definition of disability services provider does not include:

* a person with disability who is in receipt of a disability support grant for the purpose of obtaining care, support or assistance
* a relative or friend of a person with disability who provides disability supports to that person
* a person or body, or class of persons or bodies, prescribed as being excluded from the definition of disability services provider.

The definition also enables the Tasmanian Government to prescribe specific people or bodies as disability services providers. Something that is prescribed becomes a legal requirement. This means that at a later date, a law may be made that says specific people or bodies are classified as disability services providers under the Act.

## Practice context

The restrictive practices authorisation process operates within the context of skilled and effective practice that promotes people’s human rights and is characterised by the following elements.

### Positive behaviour support

Positive behaviour support is an evidence-based therapeutic approach that includes strategies and supports to look at the reasons why people may have behaviours of concern. Behaviours of concern are behaviours of such frequency, intensity, or duration that they put the person or someone else at risk of physical or other harm.

Positive behaviour support provides a framework for assessment, planning and intervention that focuses on addressing a person’s needs to increase their quality of life and reduce behaviours of concern. It involves working with the person, their family, carers and professionals to develop a shared understanding of the behaviour, the needs that the behaviour is communicating, and the supports that are required to meet those needs in a positive way.

Positive behaviour support has a number of key components:

* **A person-centred approach** that is focused on the person with disability’s needs, goals, wishes and perspectives. Person-centred approaches respect the person’s dignity, autonomy and right to make decisions for themselves so that they can live meaningful and satisfying lives.
* **Partnership** with the person with disability, their family, carers and support professionals. Positive behaviour support recognises that behaviour occurs in the context of the person, their environment, and the relationships around them. Positive change can only occur when there is a shared understanding of behaviour and unmet needs, and a strengths-based approach to building the capacity that is needed to support the person. A partnership approach ensures that people with disability, their family, carers, support workers and other professionals are consulted and are able to contribute to the behaviour supports provided.
* **Evidence-based intervention** based on functional behaviour assessments. Examining when, where, why and what behaviour occurs, its antecedents and consequences, and the role of physical and social environments are central to reducing behaviours of concern. Behaviour support plans consolidate the assessment and interventions in a way that help the person with disability, their families, carers and professionals to support them in an agreed and consistent way.
* **Skills development** where people with disability are supported to learn, practice and embed new skills and functionally equivalent replacement behaviours that allow them to meet their needs in a safe and positive way.
* **Ongoing monitoring and review** is required to ensure positive behaviour support is not a static process. Continual review means progress towards behaviour goals can be adjusted in light of emerging needs and increasing capacity. The documentation of this review process allows people with disability, their families, carers and professionals to form a shared understanding of their progress towards eliminating restrictive practices.

Restrictive practices can only be authorised by the Senior Practitioner when they are consistent with and supported by a behaviour support plan. Restrictive practices that are not authorised may constitute an assault against a person with disability and may be subject to criminal sanctions or a fine.

### Continuum of responses

Restrictive practices are a reactive, time-limited intervention intended to provide safety as a last resort when no other strategy is effective or appropriate. Restrictive practices must be situated within a continuum of support for a person with disability that includes:

* **Preventive strategies** that promote quality of life and reduce the unmet needs that give rise to behaviours of concern. These include adjustments to the persons:
* environment. To increase predictability, accessibility, and comfort
* routines. To provide opportunities for recreation, stimulation, and social interactions
* ways of engagement. To support participation and decision-making at a level the person with disability feels most comfortable.
* **Early intervention** when there are indicators that needs are not being met. Early intervention relies on understanding a person’s individual signs of unmet needs which may be more subtle than behaviours of concern, and providing opportunities for targeted support, connection, and care.
* **Reactive strategies** to redirect, intervene and minimise behaviours before the use of restrictive practices.

### Relationship-based practice

Behaviour support (including restrictive practices) must be undertaken within a safe, trusting, and respectful relationship between the person with disability and their support workers. The use of restrictive practices, particularly physical restraint and seclusion, may cause ruptures in this relationship. This applies to those who are the subject of the restrictive practice, those who apply the practice, and others who may witness or are indirectly affected by it. Debriefing and restorative actions are essential to ensure these ruptures are acknowledged and repaired so they do not compromise the ongoing relationship between people with disability and their support workers.

Relationship-based practice is especially important as people with disability often having large numbers of family members, carers, and professionals who form their support network. Positive, trusting, and respectful relationships between these people are essential to providing consistent and seamless care that places the person with disability at the centre.

### Trauma-informed practice

Trauma occurs when a person experiences stress that overwhelms their body’s capacity to cope. Restrictive practices, particularly physical restraint and seclusion, may constitute a trauma when they occur in the context of ongoing relationships, involve multiple incidents over time, or a significant one-off event. This often results in feelings of stigma and shame by the person who is restricted.

Restrictive practices can also compound the effects of past trauma including experiences of abuse and neglect, sexual violence, family violence, intergenerational trauma, and restrictive practices in different settings (child protection, justice and corrections, aged care, mental health). There is a high prevalence of trauma experiences among people with disability and this is higher for people with disability who are Aboriginal, from culturally and linguistically diverse backgrounds, women, and people who have a mental health condition.

A trauma informed approach is welcoming of all form of diversity and attuned to how restrictive practices may be experienced by gender diverse people and those from the LGBTQI+ community. All people, including LGBTQI+ people, have the right to express their identity and access culturally safe support. Support should celebrate diversity and affirm an individuals identity and lived experience.

A trauma-informed approach recognises this prevalence of trauma, how it affects a person’s experiences of restrictive practices, and the importance of not re-traumatising the person. A trauma-informed approach focuses on how services are provided, not just on what services are provided. It emphasises five key principles of safety, trustworthiness, choice, collaboration and empowerment when working with people who have experienced trauma.

Trauma-informed approaches also recognise that a person’s cognitive capacity can fluctuate depending on their emotional, psychological, and physical state. This means that a person with disability may be able to use language and reasoning to make informed decisions for themselves when they feel calm, regulated, safe and supported but may not be able to do so in a heightened state of distress. They may not be able to remember what happened during a behaviour emergency and may need support to remember and understand why service providers have responded in a particular way. Trauma-informed approaches are based on unconditional positive regard for the person at all times.

While the traumatic impact of physical restraint and seclusion may be well understood, the cumulative impact of other restrictive practices such as environmental restraints should not be underestimated. People with disability have highlighted the emotional complexity of restrictive practices, and its impact on their sense of agency and quality of life.

Trauma-informed responses to restrictive practices emphasise the importance of debriefing shortly after critical incidents, and providing supports to address the impact of restrictive practices, including:

* physical impacts, such as weight loss or weight gain, headache, constipation, sexual dysfunction, dry mouth, low blood pressure, and insomnia
* psychological impacts, such as anxiety, distress, learned helplessness, hypervigilance, and depression
* social and relational impacts, such as avoidance, clinginess, mistrust, and withdrawal.

### Cultural safety and competence

Cultural safety refers to ensuring policies and practices respect people’s cultural values and beliefs and allows people to fully participate in their cultural identify. The effective use of restrictive practices must be situated in a broader understanding of the impact of power dynamics, systemic disadvantage, and historical trauma. Providers must ensure culturally safe practices are embedded in all disability support services, including in the use of restrictive practices.

Aboriginal and Torres Strait Islander people may have different ideas of what represents behaviours of concern and what is required to support positive behaviours. What may be seen as behaviours of concern may reflect broader needs for an Aboriginal person with disability to be connected with culture, country and land. This can be especially challenging in residential disability settings.

People from culturally and linguistically diverse backgrounds may experience the use of restrictive practices differently. It is important to understand how cultural identity influences the expression and interpretation of behaviours of concern. Cultural safety involves creating environments that are respectful and inclusive of a person’s cultural identity, especially for Aboriginal and Torres Strait Islander peoples and culturally and linguistically diverse (CALD) communities.

To provide culturally safe and competent support, providers need to work with the person with disability, as well as their family, carers, and people with cultural authority.

It’s important to understand the person’s behaviours and unmet needs, who should be involved in addressing them, and what support is needed to help the person feel well.

Providers should tailor supports to reflect the cultural values and priorities of individuals and their communities.

### Communicating with the person with disability

When discussing the use of restrictive practices, it is important to communicate with the person in a way that respects their rights, dignity, and decision-making capacity. Wherever possible, conversations should take place in a quiet, private setting that is familiar and comfortable for the person.

Providers are encouraged to consider what additional supports the person may need, such as having a trusted support person, advocate, or family member present to help them feel comfortable and understood.

Communication methods should be accessible to support the person to understand the use of a restrictive practice. Using the person’s preferred communication method, such as spoken language, gestures, Auslan, visual aids, easy-read materials, social stories, videos, or augmentative devices, will help ensure they understand the information.

Providers should use plain and simple language and speak directly to the person, encouraging them to express their views, concerns, and preferences about the restrictive practice. It is important to recognise that discussing restrictive practices may cause distress, and communication should always occur in a way that is safe and supportive for the person. If the person does not wish to engage in the conversation, their choice must be respected.

If the Independent Person considers that the person with disability is not able to understand the use of the restrictive practice or the requirements of the Act are not being complied with, the Independent Person must contact the Senior Practitioner.

## Service improvement

The use of restrictive practices must occur within a context of ongoing service improvement in organisations to ensure high quality supports and services. This involves:

* ensuring that organisations have policies, procedures and practices that comply with national and state laws, policies, and guidelines
* reflective practice, supervision, and ongoing professional development for staff to create an organisational culture to reduce and eliminate the use of restrictive practices
* the evaluation of data about behaviours of concern and the authorisation and use of restrictive practices to inform systems improvement.

## Practice principles

### Human rights, dignity and respect

People with disability have a right to the full and equal enjoyment of all human rights and fundamental freedoms. Restrictive practices limit the freedom of movement, choice, and bodily integrity of people with disability. To protect the rights or safety of the person with disability or others, restrictive practices should only be used in very limited and specific circumstances.

People with disability have a right to be treated with dignity and respect, and to have their identity, culture and diversity valued. This means being able to exercise choice and independence to the greatest extent possible about their:

* own care and the services they receive
* relationship with family, friends, carers and others
* participation in the community, including recreation and social activities.

People with disability must be encouraged and supported to participate at all stages in the delivery of services. This includes contributing to the development of their behaviour support plan and contributing to decisions about restrictive practices.

### Safety

Restrictive practices should only be used to protect the safety of the person with disability or others where there is a risk of harm due to behaviours of concern. Some restrictive practices may have safety implications for the person subject to the practice, and for the person implementing the practice. The use of restrictive practices may also introduce new behaviours of concern.

Risk assessments should be undertaken as part of behaviour support planning to:

* identify risks
* assess the severity and likelihood of these risks
* balance the risks arising from behaviours of concern and the risks that are introduced through the use of restrictive practices
* develop proportionate strategies to mitigate these risks.

As behaviour interventions take effect, the nature and degree of risk should change. Risk assessments should be reviewed regularly as part of the behaviour support planning process to ensure that they remain relevant and accurate.

Restrictive practices should not be used to address all risks, but only the risk of harm from behaviours of concerns that cannot be managed in a less restrictive way. Where possible, people with disability should be supported to understand and manage the daily risky choices that are made by all members of the community.

The risk assessment process should respect a person’s dignity of risk and balance their right to choose some risk in engaging in life experiences.

### Least restrictive and last resort

Restrictive practices are considered to be an intervention of last resort in a limited number of circumstances where there is no reasonable alternative to protect a person with disability and others from behaviours of concern. Where restrictive practices are required, they must be proportionate to the negative consequences and risk of harm and apply the least amount of force for the least period of time.

The principle of “last resort” must be applied at two levels:

1. The use of the behaviour support planning process to evaluate the use of preventative, early intervention and reactive strategies to address behaviours of concern to ensure that the use of restrictive practices is avoided where possible. The behaviour planning process should demonstrate that there have been reasonable and concerted efforts over time to support behaviour change, and why these have not been sufficient to secure safety.
2. The stages of a behaviour incident for a person with disability must be understood, so that opportunities to prevent incidents, identify and respond to early signs of concerning behaviours, and redirect or minimise behaviours of concern before incidents escalate to the unsafe level where restrictive practices are required.

Authorised restrictive practices must be regularly reviewed to explore opportunities to practice new skills and trial incremental reductions in restriction.

Where restrictive practices are applied in shared residential settings, efforts must be made to reduce the impact on others living in the same house. This may include providing keys or access codes to other residents who do not require the same restrictive practices.

### Reducing and eliminating restrictive practices

Providers implementing restrictive practices need clear plans to reduce and eliminate them over time, replacing them with proactive and less restrictive alternatives based on an understanding of the person’s needs and the function of the behaviour.

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

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

The primary goal of behaviour support is to improve a person’s quality of life. Reducing and eliminating restrictive practices upholds the rights of people with disability and is a critical part of promoting quality of life.

### Transparency and accountability

People with disability are entitled to equal treatment and equal protection under the law and are entitled to transparency and accountability in the decisions that are made about restrictive practices.

The authorisation process provides transparency and accountability in setting out:

* who has the authority to make decisions about restrictive practices
* the criteria that must be used to make these decisions
* how decisions are communicated to people with disability, their family members, legal guardians, and providers
* how these decisions are implemented by providers
* the means of review and appeal, and
* the reporting requirements at an individual, organisational and government level.

### The use of restrictive practices with children and young people

The Act sets out a number of principles that must be applied, as far as practicable, where supports are provided to children and young people with disability. These are:

* the evolving capacities of the child are to be respected
* the right of the child to preserve the child’s identity is to be respected
* the wishes of the child, however expressed, are to be taken into account
* the child is to be provided with disability and age-appropriate support in decision-making
* regard is to be had, and appropriate weight given to, the views of the child
* the best interests of the child are paramount, and full consideration must be given to the need to:
	+ protect the child from harm
	+ promote the child’s development
	+ 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.

These principles recognise that the needs of children and young people are distinct from those of adults and must be considered within their developmental context. The use of restrictive practices for children and young people must be situated within community standards about the reasonable measures that adults should take to keep children and young people safe. Reasonable steps to lock doors to prevent young children from wandering onto the road may become unreasonable as children develop road safety skills and learn to navigate their environments. Learning to take appropriate risks safely is an important developmental step for young people, and the overuse of restrictive practices may impede this important learning process.

Children are at heightened risk of adverse effects from restrictive practices, particularly physical restraint and seclusion. The use of these restrictive practices may jeopardise children’s ability to form safe and trusting relationships with adults and compromise their ability to self-regulate and self-manage. The use of restrictive practices may also contribute to children and young people’s experiencing feelings of anxiety, fear, helplessness, and hypervigilance.

Children and young people with disability who have experienced physical restraint, seclusion and other restrictive practices should be supported to have discussions and debriefing outside of the incident, wherever possible. These discussions and debriefs should be aimed at helping the child and young person understand why, when and how a restrictive practice will be used, and support the restoration of relationships with safe and caring adults.

The Regulated Restrictive Practices with Children and Young People with Disability Practice Guide (2021), published by the NDIS Commission, provides comprehensive guidance about the use of restrictive practices with children and young people. The Office of the Senior Practitioner endorses the Practice Guide and requires providers to implement restrictive practices in accordance with its guidance. A copy of the Practice Guide can be viewed on the NDIS Commission’s website: [www.ndiscommission.gov.au/sites/default/files/2022-02/rrp-children-and-young-people-disability\_0.pdf](http://www.ndiscommission.gov.au/sites/default/files/2022-02/rrp-children-and-young-people-disability_0.pdf)

The unauthorised use of a restrictive practice or a prohibited practice on a child or young person may constitute an offence. All employees of a disability services provider have an obligation to report all child safety concerns.

If there is an immediate concern for the safety of the child or young person, call 000 (Tasmania Police) immediately.

Reporting of child safety concerns should be directed to the Strong Families, Safe Kids - Advice and Referral Line and Tasmania Police. Online advice on making a report is available at [www.keepingchildrensafe.tas.gov.au/make-a-report](http://www.keepingchildrensafe.tas.gov.au/make-a-report). If the concern relates to the conduct of a worker, a report must also be made to the Office of the Independent Regulator: [www.oir.tas.gov.au/report-a-concern](http://www.oir.tas.gov.au/report-a-concern)

Disability services providers that provide services to children and young people are legally required to comply with Tasmania’s Child and Youth Safe Organisations Framework . The Framework sets out clear expectations for how organisations promote and prioritise the safety and wellbeing of children and young people and how they respond when concerns about child safety or allegations of abuse are raised.

More information about the Framework and organisation obligations can be found on the Office of the Independent Regulator website at [www.oir.tas.gov.au](file:///C%3A%5CUsers%5Crhys.waterhouse%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5C1DR48XRQ%5Cwww.oir.tas.gov.au).

### Records management

The provider is responsible for maintaining accurate, complete, and timely records of all relevant actions and decisions relating to the use of restrictive practices. These records must be securely stored. The Senior Practitioner can request access and copies of these records under section 58 of the Act and a provider must comply with the request.

# Restrictive practices

## What are restrictive practices

The Act defines a restrictive practice as a practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability that is:

* a regulated restrictive practice within the meaning of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*
* or a practice or intervention determined by the Senior Practitioner under section 45 of the Act to be a restrictive practice.

The use of restrictive practices in Tasmania must be authorised by the Senior Practitioner.

Regulated restrictive practices are defined by the NDIS Rules as:

* **Chemical restraint**. 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.
* **Environmental restraint. R**estricting a person’s free access to all parts of their environment, including items or activities.
* **Mechanical restraint**. 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.
* **Physical restraint**. 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.
* **Seclusion.** 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.

The NDIS Regulated Restrictive Practices Guide (Guide) provides comprehensive information about each of the practices listed above including examples of the practices in use. The Office of the Senior Practitioner endorses the Guide and expects providers to implement restrictive practices in a manner that is consistent with the Guide. A copy of the Guide can be viewed on the NDIS Commission’s website: [www.ndiscommission.gov.au/sites/default/files/2024-09/regulated-restrictive-practice-guide-rrp-20200\_0.pdf](http://www.ndiscommission.gov.au/sites/default/files/2024-09/regulated-restrictive-practice-guide-rrp-20200_0.pdf)

Providers considering the use of a restrictive practice should review the Guide in full and continually refer back to it when implementing restrictive practices.

## Other practices

The Act allows the Senior Practitioner to determine that a practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability is a restrictive practice for the purposes of the Act. These practices will be published on the Office of the Senior Practitioner website.

## Prohibited practices

Some practices place a person with disability at a high risk of physical or psychological injury or death. These practices include certain types of physical restraint and punishments and may constitute abuse and/or neglect and subject to criminal charges and fines. These practices are known as prohibited practices under the Act.

Prohibited practices must never be used as they carry a very high risk of causing harm to a person with disability or restricting their human rights. Prohibited practices cannot be used in relation to a person with a disability in any circumstances and cannot be authorised by the Senior Practitioner.

The NDIS Quality and Safeguarding Commission also bans high-risk restrictive practices by both registered and unregistered NDIS providers. The use of high-risk restrictive practices, including prohibited practices, is considered a serious breach of the NDIS Code of Conduct.

The Act defines prohibited practices asa ‘practice or intervention including, but not limited to, specific forms of physical restraint and coercive and punitive approaches that is of a type, or class, of practice or intervention that is prescribed for the purposes of this definition*.’*

Prohibited practices are prescribed in the *Disability Rights, Inclusion and Safeguarding Regulations 2025*, and align with the NDIS Quality and Safeguarding Commission’s position on high-risk practices available at: [www.ndiscommission.gov.au/sites/default/files/2022-02/attachment-practices-proposed-be-prohibited.pdf](http://www.ndiscommission.gov.au/sites/default/files/2022-02/attachment-practices-proposed-be-prohibited.pdf).

These are known as physical restraints and punitive approaches.

### Physical restraints

Prohibited physical restraints are:

* subduing a person by forcing the person into a face-down position (known as a prone restraint)
* subduing a person by forcing the person into a face-up position (known as a supine restraint)
* subduing a person by holding down the person’s limbs or any part of the body, such as their arms or legs (known as a pin down)
* subduing a person by wrapping your arms around the person’s upper or lower body (known as a basket hold)
* subduing a person by forcing them to free-fall to the floor or by forcing them to fall to the floor with support (known as a takedown technique)
* any physical restraint that has the purpose or effect of restraining or inhibiting a person’s respiratory or digestive functioning
* any physical restraint that has the effect of pushing the person’s head forward onto their chest
* any physical restraint that has the purpose or effect of compelling a person’s compliance through the infliction of pain, hyperextension of joints, or by applying pressure to the chest or joints.

### Punitive approaches

Prohibited punitive approaches are:

* any practice which might be experienced by a person as noxious or unpleasant and potentially painful (known as an aversive practice). For example, threats, deliberate cold baths, applying chilli powder to the hands to prevent biting, sitting on a person to prevent them from self-harming
* any practice where a person is required to respond disproportionately to an event, beyond that which may be necessary to restore a situation to its original condition (known as overcorrection). For example, a person makes a small mess in a bathroom and is made to clean the whole house
* preventing a person from accessing basic needs, or supports, including possessions, family, peers, friends and advocates. For example, denying access to toilet paper or sanitary items or stopping a person from seeing family or friends
* practices related to degradation or vilification
* practices that limit or deny access to culture. For example, the denial of access to interpreters or other actions that limit participation opportunities or access to community, culture and language
* punishment of a person by causing the person to forego a positive item or activity because of the person’s behaviour (known as a response cost). For example, a planned outing being cancelled because the person is not following the morning routine.

## What if a prohibited practice is currently being used?

The use of any prohibited practice, including as an emergency measure, is unacceptable and is an offence under the Act.

If prohibited practices are currently in use, providers must immediately cease using them and appropriate action must be taken to ensure the persons safety, health and well-being. This should include the development, approval and use of alternative strategies.

Providers, support workers, participants and any person with responsibilities under the Act, should inform the Senior Practitioner and other relevant authorities of the use of a prohibited practice or if they are aware of the practice being used by others. These authorities may include:

* Tasmania Police
* National Disability Insurance Agency
* NDIS Quality and Safeguarding Commission
* Registration to Work with Vulnerable People
* other authorities with safeguarding responsibilities as appropriate.

If there is an immediate concern for the safety of the person, call 000 (Tasmania Police) immediately.

If the person with disability is a child or young person, additional reporting obligations apply. Reporting of child safety concerns should be directed to the Strong Families, Safe Kids - Advice and Referral Line and Tasmania Police. Online advice on making a report is available at [www.keepingchildrensafe.tas.gov.au/make-a-report](http://www.keepingchildrensafe.tas.gov.au/make-a-report). A report on the conduct of a worker must also be made to the Office of the Independent Regulator: [www.oir.tas.gov.au/report-a-concern](http://www.oir.tas.gov.au/report-a-concern).

If you have concerns a person with disability is experiencing or at risk of abuse, neglect, exploitation or coercion, you can make a report to Disability Commissioner Tasmania. Online advice about making a report is here: [www.disabilitycommissioner.tas.gov.au/report/about-making-reports](http://www.disabilitycommissioner.tas.gov.au/report/about-making-reports).

Providers must notify the Senior Practitioner of the use of all unauthorised restrictive practices, including prohibited practices, within five business days.

# Authorisation process

## Overview

The following is an overview of the process for authorising restrictive practices under the Act. Each aspect of the process is set out in further detail below.

A provider seeking to use a restrictive practice must apply to the Senior Practitioner for authorisation under section 51 of the Act. An application must include a behaviour support plan prepared in accordance with section 57.

A provider seeking to use a restrictive practice must also:

* appoint an Appointed Program Officer
* ensure the person with disability has an Independent Person.

The Senior Practitioner may approve or refuse the application. If the Senior Practitioner approves the application they may attach conditions to the authorisation.

## National Disability Insurance Scheme requirements

While these guidelines deal with the authorisation of restrictive practices under the Act it is important for disability services providers to understand that where the person with disability is an NDIS participant, the use of restrictive practices must also comply with Australian legislation including the *National Disability Insurance Scheme Act 2013* (NDIS Act) and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* (NDIS Rules). More information about the applicable NDIS legislation can be found on the NDIS website: [www.ndis.gov.au/governance/legislation](http://www.ndis.gov.au/governance/legislation).

The NDIS Act and the NDIS Rules require providers who implement regulated restrictive practices to be registered with the NDIS Quality and Safeguards Commission. These providers are required to:

* be registered with the NDIS Commission for the type of support they are providing
* be assessed and audited against Practice Standard Module 2A: Implementing behaviour support plans
* take all reasonable steps to facilitate the development of a behaviour support plan
* notify the NDIS Commission of any reportable incidents in relation to the use of regulated restrictive practices
* obtain authorisation in accordance with any state or territory authorisation requirements and lodge evidence of authorisation with the NDIS Commission
* report monthly to the NDIS Commission on the use of regulated restrictive practices.

It is a breach of the NDIS Rules for an unregistered provider to use regulated restrictive practices. The NDIS Commission can take a range of actions against breaches, including education, enforcement, or banning providers from operating in the NDIS market.

The NDIS Act and NDIS Rules also contain requirements relating to the preparation of behaviour support plans.

## Appointed Program Officer

An Appointed Program Officer (APO) is an important role to ensure the human rights of the person with disability are protected, as described in the principles of the Act. The APO ensures that restrictive practices are only used as a last resort, are the least restrictive practice possible and are used for the shortest period of time.

A disability services provider intending to use a restrictive practice must appoint an APO.

An APO:

* is an employee of the provider who proposes to implement a restrictive practice. Wherever possible, the APO should not be the person(s) who implements the restrictive practice, such as the person’s support worker
* must be appointed if a provider intends to use a restrictive practice. The Senior Practitioner will not authorise the use of a restrictive practice if an APO has not been appointed
* must act in accordance with the Act, its principles, and any relevant guidelines issued by the Senior Practitioner
* may have responsibility for oversight of all restrictive practices for the provider or may have responsibility for only some. Larger providers may choose to appoint more than one APO
* is protected from liability in relation to the Act if the action was done in good faith and in the performance of a function imposed by the Act needs to be appropriately qualified and trained and have a sound understanding of contemporary positive behaviour support and the NDIS available here: [www.ndiscommission.gov.au/sites/default/files/2024-09/regulated-restrictive-practice-guide](https://www.ndiscommission.gov.au/sites/default/files/2024-09/regulated-restrictive-practice-guide).

### What does an APO do?

The main role of an APO is to promote and protect the human rights of people with disability.

The APO helps to map out a path towards the reduction and elimination of restrictive practices and ensures that any restrictive practice is only used in line with an authorisation issued by the Senior Practitioner and the person’s behaviour support plan.

The APO ensures that the Act, including its principles, and any relevant rules, directions and guidelines in relation to the use of restrictive practices are followed by the provider and any employees involved in the implementation of the restrictive practice.

A provider may appoint more than one APO. The number of APOs appointed by a provider should be proportionate to the size and scale of the provider and the scope and complexity of supports provided.

An APO must be appointed for each provider proposing to use a restrictive practice, even if that provider is not the primary provider, or the provider who makes the application for a restrictive practice.

In identifying a suitable APO, providers should have regard to the guidelines for APOs published on the Office of the Senior Practitioner website. An APO must have a current Tasmanian Working with Vulnerable People registration with NDIS worker endorsement.

### Approval by the Senior Practitioner

The appointment of an APO must be approved by the Senior Practitioner. Where a provider proposing to implement a restrictive practice does not have an APO, the Senior Practitioner can direct the provider to appoint one.

The process of approval begins by the provider making an application to the Senior Practitioner using the Appointed Program Officer Nomination Form, available on the Office of the Senior Practitioner website. The applicant must be an employee with the appropriate authorisation to nominate an APO. An employee cannot nominate themselves for the role of APO.

The form includes information that will be considered by the Senior Practitioner in approving or refusing the appointment. Information to be provided includes relevant education and training attainment by the proposed APO as well as relevant work experience in positive behaviour support, the use of restrictive practices and the role of the APO. A concise resume is also required.

In considering an application the Senior Practitioner may:

* approve the appointment, including imposing conditions or limitations
* amend the approval by changing or adding conditions or limitations
* refuse an application or revoke a previously approved application.

If the Senior Practitioner refuses an application to approve an APO, they must provide written notice informing the provider who made the application, including the reasons for the decision.

A register of all approved APOs will be kept by the Senior Practitioner.

If an approved APO ceases their role, the disability services provider must inform the Senior Practitioner as soon as practical.

### Review of decision

If the provider does not agree with the decision of the Senior Practitioner, they can ask for a review. In the first instance, reviews will be undertaken by the Office of the Senior Practitioner. If the provider is not satisfied with the outcome of the review, they can lodge an appeal with the Tasmanian Civil and Administrative Tribunal.

## Behaviour support plan

An application to the Senior Practitioner to use a restrictive practice must be accompanied by a behaviour support plan prepared by a registered NDIS behaviour support practitioner. Section 57 of the Act sets out the requirements for the preparation of behaviour support plans. The behaviour support plan must:

* state the circumstances in which the proposed type of restrictive practice is to be used for behaviour support
* explain how the use of a restrictive practice will impact on the person with disability
* demonstrate that the use of a restrictive practice is the option which is the least restrictive of the person as is possible in the circumstances
* include strategies to reduce or eliminate the need for a restrictive practice to be used on the person with disability
* take into account any:
	+ previous behaviour assessments
	+ other relevant assessments
* include the changes to be made to the environment of the person to reduce or eliminate the need for the restrictive practice to be used on the person.

These requirements mirror those of the NDIS that require registered NDIS providers who intend to use regulated restrictive practices in relation to an NDIS participant to develop an NDIS behaviour support plan by a registered NDIS behaviour support practitioner.

The *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* set out the minimum requirements for behaviour support plans developed by NDIS behaviour support practitioners. These include that a behaviour support plan must:

* clearly identify the use of any restrictive practices in detail and include plans for reducing and eliminating the practice as well as monitoring and reviewing the plan
* 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 participant, their family, carers, implementing provider and any guardian or other relevant persons such as support persons
* be based on a behaviour support assessment, including a functional behaviour assessment (if it is a comprehensive plan)
* contain evidence-based, person-centred and proactive strategies that address the person's needs and the functions of the behaviour
* be lodged with the NDIS Quality and Safeguards Commission if the plan contains regulated restrictive practices.

The conditions under which regulated restrictive practices can be used include that the use of a regulated restrictive practice must:

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

If a behaviour support plan has not been developed, or cannot be provided with an application, an authorisation cannot be made. Providers are encouraged to discuss this situation with the Senior Practitioner.

If there is a delay in receiving a behaviour support plan, the use of restrictive practices without authorisation must be reported to the Senior Practitioner as an unauthorised restrictive practice.

### Changes to behaviour support plans

If a provider seeks to change a behaviour support plan, the APO must ensure that the Independent Person explains to the person with disability:

* the details of the changes
* if the changes include more restrictive types or use of a restrictive practice
* any matter related to the inclusion of the restrictive practice.

However, this is not required if:

* it is not proposed, as a result of a review, that a more restrictive type or use of restrictive practice be included in the behaviour support plan
* if the behaviour support plan has been reviewed in the last 12 months by the provider or behaviour support practitioner, and the Independent Person was part of the review process.

## Independent Person

If a provider is granted authorisation to use a restrictive practice, the APO must ensure that the person with disability has an Independent Person.

An Independent Person is an important, voluntary role in promoting the human rights of a person with disability for whom a restrictive practice is being considered or implemented. The Independent Person supports the safety, wellbeing and health of the person for whom a restrictive practice is being proposed or used.

An Independent Person:

* is ideally a person known to the person with disability and who has a significant interest in their wellbeing
* must be appointed when a disability services provider plans to use a restrictive practice
* must act in accordance with the DRIS Act, including its Principles, and any relevant guidelines issued by the Senior Practitioner.

An application for approval of a restrictive practice cannot be approved unless an Independent Person has been appointed.

### What does the Independent Person do?

The Independent Person assists a person with disability to understand their rights under the Act. This includes to assist a person with disability to:

* understand the proposed use of a restrictive practice
* express their will and preference in relation to the decision to authorise, and implement, a restrictive practice
* understand that they may seek a review, amendment or to overturn a decision made by the Senior Practitioner
* understand changes to a behaviour support plan if those changes involve the use of restrictive practice or a more restrictive type of restrictive practice.

To assist the Independent Person carry out their role, they will be given a copy of any decision made by the Senior Practitioner, including an explanation of any authorised restrictive practices.

The Independent Person must inform the Senior Practitioner if they consider that the:

* person with disability is not able to understand a proposal to use a restrictive practice
* requirements of the Act are not being complied with
* requirements of NDIS legislation and rules are not being complied with.

The Independent Person is encouraged to fulfil the role to the best of their ability and support is available from the Senior Practitioner if required (see section 2.6 – Training and Support). There are no penalties if an Independent Person is unable to undertake the role in accordance with the requirements of the Act. Any difficulties should be discussed with the Senior Practitioner.

### Who can be an Independent Person?

The Independent Person role is generally best suited to someone from the person with a disability’s immediate social network such as a family member, guardian, or friend who has an interest in their wellbeing.

A person is not suitable to be appointed as the Independent Person if:

* they are a disability services provider for the person with disability
* the person is an employee or member of the governing body of a disability services provider for the person with disability
* the person has an interest in a disability services provider for the person with disability
* the person has had responsibility for the development or review of the behaviour support plan for the person with disability.

### Identifying a suitable Independent Person

It is the role of the APO to identify someone suitable to be an Independent Person. The APO must consider the person’s will and preference in determining the best person to perform the role. The person with disability can also choose their own Independent Person in consultation with the APO.

If the person with disability does not have someone suitable to be appointed as the Independent Person, the APO must advise the Senior Practitioner, and the Senior Practitioner will appoint a suitable person.

### Appointment of the Independent Person

Once an Independent Person has been chosen, the APO must submit the proposed appointment to the Senior Practitioner for approval. This can be done at the time an application for authorisation to use restrictive practices is made. The Senior Practitioner may approve, either fully or with conditions, or refuse to approve the appointment. The Senior Practitioner will advise the person with disability and the APO of the nominated Independent Person of their decision.

If a person does not agree with the decision of the Senior Practitioner, they can ask for a review. In the first instance, reviews will be undertaken by the Office of the Senior Practitioner. If the person is not satisfied with the outcome of the review, they can lodge an appeal with the Tasmanian Civil and Administrative Tribunal.

The Senior Practitioner may revoke or amend the approval of the appointment of an independent person if they consider that it is appropriate to do so.

## Application process

### Application

A provider seeking to use a restrictive practice may apply to the Senior Practitioner for authorisation under section 51 of the Act. An application to use a restrictive practice must be:

* made using a form approved by the Senior Practitioner, which can be found on the Office of the Senior Practitioner website at: [www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner](http://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)
* accompanied by a behaviour support plan that is prepared for the person with disability in accordance with the requirements set out above.

### Consideration by Senior Practitioner

The Senior Practitioner may only grant authorisation to use a restrictive practice if:

* the Senior Practitioner or their delegate has consulted with:
	+ the person with disability in respect of whom the restrictive practice is to be used, or a person nominated by that person
	+ people, if any, who have expertise in the use of the restrictive practices proposed to be used.
* the Senior Practitioner is satisfied that:
	+ the type of restrictive practice will be used only for the primary purpose of ensuring the safety, health or wellbeing of the person or other persons
	+ the restrictive practice is the type of restrictive practice that is the least restrictive of the person’s freedom of decision and action as is practicable in the circumstances.

In deciding whether to grant authorisation for the use of a restrictive practice the Senior Practitioner must have regard to:

* the will and preferences of the person with disability
* the consequences to the person with disability if a restrictive practice of that type is used in relation to the person
* the consequences to the person with disability, or other persons, if a restrictive practice of that type is not used in relation to the person with disability
* any alternative method reasonably suitable and able to be used in relation to the person and which responds to the behaviour of concern for which the type of restrictive practice has been proposed
* the nature and degree of any significant risks to the person with disability if the restrictive practice is used
* whether, and the extent to which, use of the restrictive practice will promote or reduce the safety, health and wellbeing of the person with disability
* the behaviour support plan that has been prepared for the person with disability and submitted to the Senior Practitioner.

### Authorisation

The Senior Practitioner may grant an authorisation for the use of a restrictive practice subject to any conditions or limitations. This may include conditions requiring that reports in relation to the use of the restrictive practice be provided to the Senior Practitioner.

An authorisation for the use of a restrictive practice may be for a specified period of time, not exceeding 12 months.

If the provider does not agree with the decision of the Senior Practitioner, they can ask for a review. In the first instance, reviews will be undertaken by the Office of the Senior Practitioner. If the provider is not satisfied with the outcome of the review, they can lodge a review with the Tasmanian Civil and Administrative Tribunal.

### What if there is more than one provider?

Where there is more than one provider proposing to use a restrictive practice for a person with disability, a single provider can make an application on behalf of all the providers who will be implementing the practice.

Alternatively, each provider proposing to use the restrictive practice can make an individual application to the Senior Practitioner.

All providers implementing the practice must ensure they have each appointed an APO that has been approved by the Senior Practitioner.

Only one Independent Person is required for each person with disability.

The Senior Practitioner may authorise the use of a restrictive practice by the provider who made the application or by all providers who provide services to the person with disability.

# Review of the Senior Practitioners decision

The following decisions of the Senior Practitioner are ‘reviewable decisions’ under the Act. A decision to:

* approve, or refuse to approve, the appointment of an APO
* impose any conditions or limitations on an approval to appoint an APO
* amend or revoke an approval to appoint an APO
* approve, or refuse to approve, the appointment of an Independent Person;
* impose any conditions or limitations on an approval to appoint an Independent Person
* amend or revoke an approval to appoint an Independent Person
* authorise, or refuse to authorise, the use of a type of restrictive practice, or a specific restrictive practice
* impose any condition or limitation on the grant of an authorisation for the use of a type of restrictive practice
* amend or revoke an authorisation to use a restrictive practice.

### Internal review

A person who does not agree with the outcome of a reviewable decision can apply in writing to the Senior Practitioner for an internal review. In undertaking a review, the Senior Practitioner must ensure that any delegate of the Senior Practitioner who is engaged in the review process was not involved in making the original decision. If the Senior Practitioner made the original decision, a delegate will perform the review.

After reviewing a decision, the Senior Practitioner may retain the original decision or amend or revoke the original decision. The Senior Practitioner must notify the person who asked for an internal review of the outcome of the review. While a decision is being reviewed the original decision remains in force.

### External review

If a person does not agree with the outcome of an internal review undertaken by the Senior Practitioner, that person may apply in writing to the Tasmanian Civil and Administrative Tribunal (TASCAT) for an external review of the decision.

Unless TASCAT decides otherwise, an application for external review must be in writing and must be made within 28 days of the person making the application being informed of the outcome of an internal review.

An external review by TASCAT is undertaken in accordance with the *Tasmanian Civil and Administrative Tribunal Act 2020* and TASCAT’s practices and procedures. More information about TASCAT can be found on its website at [www.tascat.tas.gov.au](https://tascat.tas.gov.au)

While an external review is being undertaken the original decision of the Senior Practitioner, or decision made following an internal review, remains in force.

# Powers of the Senior Practitioner

### Powers to monitor, oversee and evaluate the use of restrictive practices

Under the Act, the Senior Practitioner is responsible for monitoring, overseeing and evaluating the use of restrictive practices. The Senior Practitioner also has a role in ensuring the rights of people with disability who are subject to restrictive practices are protected to the greatest extent possible and that providers comply with these guidelines and any applicable standards on the use of restrictive practices. To support these roles and functions the Senior Practitioner has the power to:

* require a provider or a member of the staff or management of a provider to give the Senior Practitioner reasonable assistance to enable the Senior Practitioner to fulfil their role under the DRIS Act. In providing such assistance, a provider, or member of the staff or management of a provider must give full and true answers to the best of the provider’s, or member of staff or management’s, knowledge to any question asked by the Senior Practitioner in the performance or exercise of a function or power of the Senior Practitioner under the Act
* visit and inspect any place where a provider is providing disability services
* to see any person in relation to whom a restrictive practice has been, or is being used by a provider
* investigate, audit and monitor the use of restrictive practices by a provider
* to inspect and make copies of, or take extracts from, any document held by the provider relating to any person in relation to whom a restrictive practice has been, or is being used
* to see, upon request, any person involved in the development, implementation or authorisation of any restrictive practice by a provider
* to request a provider to provide information about any restrictive practice carried out by the provider.
* notify the NDIS Commissioner of any matter relating to an NDIS provider that has come to the attention of the Senior Practitioner in the course of carrying out their role.

### Offences

Failing to comply with the requirements of the Act may be an offence in some circumstances. The Act creates the following specific offences relating to restrictive practices:

* failing to provide reasonable assistance to the Senior Practitioner, if it is requested under section 50 of the Act
* using a Prohibited Practice in relation to a person with disability
* using an unauthorised restrictive practice in relation to a person with disability, unless:
	+ it is used in an emergency where it is required to protect the person, or others, from serious and imminent harm, and
	+ the restrictive practice(s) used was the least restrictive option for protecting the person, or others, from serious and imminent harm, and
	+ it is reported to the Senior Practitioner within five business days
* failing to comply with a direction of the Senior Practitioner given to a provider under section 59 of the Act.

If a provider commits an offence, the Senior Practitioner may take action against the provider. This may include:

* issuing a compliance notice requiring the provider to take corrective action
* increased auditing of the provider’s use of restrictive practices
* action against the provider in the Magistrates Court of Tasmania or the Supreme Court of Tasmania. The courts may impose a fine.

The NDIS Quality and Safeguarding Commission can also take action against a provider if the provider does not comply with certain sections of the NDIS Act or NDIS rules. Action may include education, enforcing the requirements of the legislation, or banning providers from operating in the NDIS market.

# Reporting obligations

### Reporting of authorised restrictive practices

The provider must report the use of authorised restrictive practices to the Office of the Senior Practitioner if required to do so as a condition of the authorisation. Providers must keep accurate records and written information about the use of restrictive practices and provide that information to the Senior Practitioner if requested.

The reporting of authorised restrictive practices can be in any format provided the required information is included. It is permissible to report to the Senior Practitioner using the same forms and format required by the NDIS Commission.

All providers have an obligation to report to the Office of the Senior Practitioner including registered and unregistered NDIS providers.

### Reporting of unauthorised restrictive practices

The use of an unauthorised restrictive practice may be necessary in some circumstances such as:

* in an emergency and as a last resort
* to protect a person with disability, or another person, from serious and imminent harm.

If this occurs the:

* practice used should be the least restrictive possible to protect the person, or another person, from harm
* use of the practice must be reported to the Senior Practitioner within five business days of it occurring. If an application to use a restrictive practice has been lodged, the provider must still report the use of unauthorised restrictive practices while the application is being processed.

The repeated and consistent use of an unauthorised restrictive practice may be considered an offence.

A report to the Senior Practitioner regarding the use of an unauthorised restrictive practice must contain the following information:

* the name of the provider using the restriction
* the date and location the restriction was used
* the form of restrictive practice used
* the reasons why the restrictive practice was used
* the effect on the person to whom the restrictive practice was applied.

Unauthorised restrictive practices can be reported using the *Unauthorised Restrictive Practice Report* form available on the Senior Practitioner’s website or any other form currently used by the provider so long as it contains the required information. It is permissible to report unauthorised restrictive practices to the Senior Practitioner using the same forms and format required by the NDIS Commission, including the reportable incident format.

All providers have an obligation to report to the Office of the Senior Practitioner including registered and unregistered NDIS providers.

### NDIS reporting

Registered providers implementing authorised restrictive practices must submit monthly reports on the use of regulated restrictive practices to the NDIS Commission. This includes when a practice is not used.

It is a breach of the NDIS Rules for an unregistered provider to use regulated restrictive practices. The NDIS Commission can take a range of actions against breaches, including education, enforcement, or banning providers from operating in the NDIS market.

The *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (NDIS Reportable Incidents Rules) also require certain incidents that happen, or are alleged to have happened, in connection with the provision of supports or services by registered NDIS providers to be reported to the NDIS Commission. These are known as ‘reportable incidents’.

Under the NDIS Reportable Incidents Rules, the following are reportable incidents:

* the use of a restrictive practice, other than where the use is in accordance with a state or territory authorisation process
* the use of a restrictive practice in relation to a person where the use is in accordance with an authorisation process of a state or territory but where the use is not in accordance with an NDIS behaviour support plan for the person.

These incidents must be reported to the Senior Practitioner as unauthorised restrictive practices and to the NDIS Commission as reportable incidents within five business days of the provider becoming aware of the incident. For more information on reportable incidents, please refer to the NDIS Commission – Reportable incidents at: [www.ndiscommission.gov.au/rules-and-standards/reportable-incidents-and-incident-management/reportable-incidents](http://www.ndiscommission.gov.au/rules-and-standards/reportable-incidents-and-incident-management/reportable-incidents).

### Reporting prohibited practices

See section 3.3 Prohibited Practices of this document for more information on reporting prohibited practices and high-risk restrictive practices in Tasmania.

# Additional information

### Contributions

The Tasmanian Office of the Senior Practitioner acknowledges material adapted in this guideline from:

* The National Disability Insurance Scheme Quality and Safeguards Commission, Regulated Restrictive Practices Guide (2020)
* The South Australian Department of Human Services, Restrictive Practice Guidelines (2022)

### Legislation

* *National Disability Insurance Scheme Act 2013* (Cth)
* *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (Cth)
* *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth)
* *Disability Rights, Inclusion and Safeguarding Act 2024* (Tas)
* *Disability Rights, Inclusion and Safeguarding Regulations 2025* (Tas)

### References and Key Documents

* NDIS Quality and Safeguarding Framework (2016). Australian Government.
* NDIS Quality and Safeguards Commission (2021). Regulated restrictive practices with children and young people with disability: Practice guide. Penrith, Australia: NDIS Quality and Safeguards Commission.
* NDIS Quality and Safeguards Commission (2020). Regulated Restrictive Practices Guide. Penrith, Australia: NDIS Quality and Safeguards Commission.
* NDIS Quality and Safeguards Commission (2019). Positive behaviour support capability framework: For NDIS providers and behaviour support practitioners. Penrith, Australia: NDIS Quality and Safeguards Commission.
* People with Disability and Supported Decision-Making and the NDIS. National Disability Services
* National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector (2013). Australian Government.
* National Principles for the Authorisation of Restrictive Practices. Australian Government.
* National Zero Tolerance Framework

# Glossary

**Appointed Program Officer**

A person whose appointment as an appointed program officer for that provider is approved by the Senior Practitioner under section 62 of the Act.
**Behaviour support plan**

A plan prepared in consultation with a person with disability that specifies the evidence-informed strategies to be used in supporting the person's behaviour, including proactive strategies to build on the person's strengths and increase their life skills.

**Behaviour support practitioner**

A person who is an NDIS behaviour support practitioner within the meaning of the NDIS Rules.

**CRPD**

The United Nations Convention on the Rights of Persons with Disabilities, done at New York on 13 December 2006, as in force for Australia.

**Disability**

In relation to a person, includes long-term physical, mental, cognitive, intellectual or sensory impairments which in interaction with various barriers may hinder the person’s full and effective participation in society on an equal basis with others.

**Disability service**

A service specifically for the support of people with disability including, but not limited to, supports and services provided to a person with disability under the NDIS.

**Disability services provider**

Under the Act, a disability services provider is:

* a person or organisation that receives funding under the NDIS or this Act to provide a service specifically for the support of people with disability
* a person or body, or class of persons or bodies, prescribed as a disability services provider.

However, a disability services provider does not include the following:

* a person with disability who is in receipt of a disability support grant for the purpose of obtaining care, support or assistance
* a relative or friend of a person with disability who provides disability supports to that person
* a person or body, or class of persons or bodies, prescribed as being excluded from the definition of disability services provider.

**Employee**

In relation to a disability services provider, means an employee or agent of the provider or a person providing services voluntarily on behalf of the provider.

**Independent person**

A person who is appointed under section 66 of the Act who volunteers to assist a person with disability to understand:

* the use of restrictive practices on the person with disability
* the rights of the person with disability regarding the review of decisions in relation to the imposition of restrictive practices.

**NDIS**

The National Disability Insurance Scheme.

**NDIS Act**

The *National Disability Insurance Scheme Act 2013* (Cth).

**NDIS Commissioner**

The Commissioner of the NDIS Quality and Safeguards Commission referred to in section 181C of the NDIS Act.

**NDIS Participant**

A person who is a participant in the NDIS.

**NDIS Provider**

Has the same meaning as in the NDIS Act and includes registered NDIS providers, within the meaning of that Act, and NDIS providers that are not registered.

**NDIS Quality and Safeguards Commission**

Means the NDIS Quality and Safeguards Commission established by section 181A of the NDIS Act.

**NDIS Rules**

The *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* of the Commonwealth, as in force from time to time, under the NDIS Act. If these rules are withdrawn or replaced by rules made under the NDIS Act dealing with restrictive practices, those rules, as in force from time to time.

**Principles**

The principles set out in section 8 of the Act.

**Registered NDIS provider**

A person or entity who is registered under section 73E of the NDIS Act to provide NDIS funded supports and services to NDIS participants.

**Regulated restrictive practice**

Has the same meaning as in the NDIS Rules. Regulated restrictive practices are seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint.

**Restrictive practice**

A practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability that is:

* a regulated restrictive practice within the meaning of the NDIS Rules
* a practice or intervention determined by the Senior Practitioner under section 45 to be a restrictive practice.

**Senior Practitioner**

The person appointed as the Tasmanian Senior Practitioner appointed under [section 43](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021#GS43@EN) of the Act.

**The Act**

The *Disability Rights, Inclusion and Safeguarding Act 2024*.

**TASCAT**

The Tasmanian Civil and Administrative Tribunal.


# Process map for disability services providers seeking authorisation for the use of restrictive practices

Under the *Disability Rights, Inclusion and Safeguarding Act 2024,* the Senior Practitioner regulates the use of all restrictive practices in Tasmania

* Both NDIS registered and unregistered disability services providers(provider) must seek authorisation from the Senior Practitioner to use restrictive practices in Tasmania
* A provider proposing to use restrictive practices is encouraged to obtain provider registration from the NDIS Commission
* Information on becoming a registered provider can be found at: [https://www.ndis.gov.au/provi ders/becoming-ndis-provider](https://www.ndis.gov.au/provi%20ders/becoming-ndis-provider)

**Registration** (Commonwealth)

**Disability Services Provider**

**Appointment of APO**

* A provider identifies a suitable person for appointment as an APO prior to seeking authorisation for the use of restrictive practice from the Senior Practitioner
* A provider submits an application on the approved form to the Senior Practitioner to approve the appointment of the proposed APO
* The Senior Practitioner approves (with or without conditions), or refuses to approve, the appointment of the APO and advises the provider of the decision in writing
* If the provider is not satisfied with the decision, they can seek a review by the Senior Practitioner and/or TASCAT

**Disability Services Provider**

**Authorisation of Restrictive Practice**

* The APO identifies a suitable Independent Person. The APO must ensure the will and preference of the person with disability is taken into account
* The proposed Independent Person must be a person who is willing and able to explain the proposed use of the restrictive practice, as well as the person's rights (including the rights of review) to the person
* Provider submits an application to the Senior Practitioner for authorisation to use restrictive practices. The application must include the details of the APO, the proposed Independent Person, the behaviour support plan and other relevant material as specified in the application form
* The authorisation period cannot exceed 12 months
* Provider must report the use of unauthorised restrictive practices to the Senior Practitioner within 5 business days.

**Office of the Senior Practitioner**

* Staff from the OSP considers the application and consults with the person with disability
* The Senior Practitioner determines if they are, or are not, satisfied that Part 7 of the Act has been met
* The Senior Practitioner authorises (with or without conditions) or refuses to authorise the restrictive practice
* The Senior Practitioner provides written notification of their decision to the provider and to the person the application is about. The notification must be in a format that best supports the understanding of the person
* The Senior Practitioner notifies the Disability Commissioner of the decision within 5 days
* Provider lodges evidence of authorisation with the NDIS Commission
* Provider must report the use of authorised restrictive practices to the Senior Practitioner as requested
* If the provider is not satisfied with the decision, they can seek a review by the Senior Practitioner and/or TASCAT

**Behaviour Support Plan**

* Provider identifies a behaviour of concern in a person with disability
* Provider ensures a Behaviour Support Plan is prepared by a behaviour support practitioner
* If the behaviour support plan does not identify the need for the use of restrictive practices, the provider proceeds to implement the plan
* If the behaviour support plan identifies a need for the use of restrictive practices, the behaviour support practitioner lodges the plan with the NDIS Commission and the provider applies for authorisation for the use of restrictive practices from the Senior Practitioner
* A Behaviour Support Plan must be reviewed every 12 months or when the person's circumstances change

**Disability Services Provider**