Appointed Program Officer

Guideline

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Contents

[**1. Introduction 4**](#_Toc204691803)

[1.1. Overview 4](#_Toc204691804)

[1.2. The Senior Practitioner 4](#_Toc204691805)

[1.3. Purpose 5](#_Toc204691806)

[1.4. Term 5](#_Toc204691807)

[1.5. Application 5](#_Toc204691808)

[1.6. Guiding principles 5](#_Toc204691809)

[**2. Appointed Program Officers 7**](#_Toc204691810)

[2.1. Overview 7](#_Toc204691811)

[2.1.1. The appointment of multiple APOs 8](#_Toc204691812)

[2.1.2. Information sharing 8](#_Toc204691813)

[2.2. Essential requirements and competencies 8](#_Toc204691814)

[2.3. Appointment of the Appointed Program Officer 9](#_Toc204691815)

[2.3.1. Refusing, revoking or amending the approval of an APO 10](#_Toc204691816)

[2.4. Training, CPD and support 10](#_Toc204691817)

[**3. Restrictive practices 12**](#_Toc204691818)

[3.1. Overview 12](#_Toc204691819)

[3.2. Considering the use of a restrictive practice 13](#_Toc204691820)

[3.3. Behaviour support plans 14](#_Toc204691821)

[3.4. Independent Person 15](#_Toc204691822)

[3.4.1. What does the Independent Person do? 15](#_Toc204691823)

[3.4.2. Who can be an Independent Person? 16](#_Toc204691824)

[3.4.3. Identifying a suitable Independent Person 17](#_Toc204691825)

[3.4.4. Appointment of the Independent Person 17](#_Toc204691826)

[3.5. Application process 17](#_Toc204691827)

[3.6. Reporting obligations 19](#_Toc204691828)

[**4. Reviews 20**](#_Toc204691829)

[4.1. Overview 20](#_Toc204691830)

[4.2. Internal review 20](#_Toc204691831)

[4.3. External review 20](#_Toc204691832)

[**5. Glossary 22**](#_Toc204691833)

[**6. Process map on the role of the Appointed Program Officer 25**](#_Toc204691834)

**7. Process map on the role of the Independent Person 26**

# Introduction

## 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. Everyone has 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. The provider must have an approved Appointed Program Officer (APO) in place if they intend to use a restrictive practice.

This guideline is about the role of the APO in Tasmania. It has been prepared for providers, but may be of interest to people with disability, their families and supporters.

For more information on the Act, please visit the Department of Premier and Cabinet - Disability Legislation webpage at: [www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-rights-inclusion-and-safeguarding-act-2024](http://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-rights-inclusion-and-safeguarding-act-2024).

## The Senior Practitioner

The Senior Practitioner is a role established by the Act and has an important role in protecting and promoting the human rights of people with disability, including developing guidelines and standards that are in accordance with best practice and the objects of the Act.

With assistance from staff within the Office of the Senior Practitioner, the Senior Practitioner:

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

Under the Act, the Senior Practitioner is authorised to issue written guidelines relating to the performance and exercise of their functions and powers. This includes the appointment and functions of APOs.

## Purpose

This guideline is issued under section 46 of the Act to provide direction on the appointment and functions of APOs. It should be read in conjunction with the guideline issued by the Senior Practitioner on restrictive practices.

All guidelines issued by the Senior Practitioner 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).

## Term

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

## Application

All providers, as defined in section 7 of the Act, and individuals undertaking the role of an APO must comply with this guideline. For more information about who is a disability services provider, see the fact sheet ‘What is a disability services provider?’ on the Department of Premier and Cabinet website: [www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-rights-inclusion-and-safeguarding-act-2024](http://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-rights-inclusion-and-safeguarding-act-2024).

## 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 that 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, including APOswho must ensure they understand and comply with the principles.

# Appointed Program Officers

## Overview

An APO is a role established under Part 8 of the Act. A provider proposing to use a restrictive practice must appoint an APO, even if that provider is not the primary provider for a person with disability, or the provider who makes the application to use a restrictive practice.

An 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.

An APO:

* is an employee of the provider who proposes to use a restrictive practice. Wherever possible, the APO should not be the person who implements the restrictive practice (i.e. 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
* ensures the provider and any employees involved in the implementation of the restrictive practice follows the Act, including its principles, and any relevant rules, directions and guidelines in relation to the use of restrictive practices
* 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
* may have responsibility for oversight of all restrictive practices used by the provider or may have responsibility for only some. Larger providers may choose to appoint more than one APO
* needs to be appropriately qualified and trained and have a good understanding of contemporary positive behaviour support and the NDIS Quality and Safeguards Commission’s (NDIS Commission) Regulated Restrictive Practices Guide at [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)
* is protected from liability under the Act if their actions were done in good faith and in the performance of a function imposed by the Act.

The Senior Practitioner may direct a provider to appoint an APO if the provider does not have one. A provider may also seek approval for an APO when they are not contemplating the use of a restrictive practice but anticipate that they may at a future date.

### The appointment of multiple APOs

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.

The number of APOs appointed by a provider is a decision to be made by the provider in consultation with the Senior Practitioner, considering factors such as:

* the operational capacity of the organisation
* the number of people with disability the organisation provides support to
* the number of restrictive practices being implemented.

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

### Information sharing

Under the Act, the APO is an information sharing entity and must act in accordance with the requirements of section 82 of the Act.

This means that, if requested by the Senior Practitioner, an APO must provide information to the Senior Practitioner if the information is necessary:

* to enable an assessment of the needs of the person with disability
* to determine whether any goods or services provided, or to be provided, to the person are appropriate
* for the safety, welfare or wellbeing of the person, or the safety of other persons.

Written notice must be given to the Senior Practitioner if this information cannot be provided, including the reasons why.

Please refer to section 82 of the Act,or contact the Office of the Senior Practitioner for more information.

##  Essential requirements and competencies

The provider making the application for approval of an APO must ensure that the proposed person has a current Working with Vulnerable People registration with NDIS worker endorsement. Equivalent interstate working with vulnerable people registration with NDIS endorsement will be accepted, for example children’s worker check and an NDIS worker check. This registration must be maintained by the APO for the duration of their appointment. The provider must notify the Senior Practitioner as soon as practicable if an APO’s registration is suspended or cancelled.

The provider must also ensure that the APO is suitably qualified and willing to:

* undertake the role of an APO in accordance with the legislative requirements of the Act
* ensure that the person’s behaviour support plan is implemented in accordance with the Act, and any authorisation and guidelines made by the Senior Practitioner
* act in a manner that is consistent with the principles in the Act
* participate in training or professional development opportunities to ensure they have the necessary skills and knowledge to perform the role
* follow any conditions or directions given by the Senior Practitioner.

A person is excluded from performing the role of an APO if they have:

* been on the Disability Worker Exclusion Scheme List, or its equivalent
* been issued an NDIS worker screening exclusion by an Australian state or territory worker screening unit
* committed an offence within the meaning of a ‘disqualifying offence’ listed in the *Registration to Work with Vulnerable People (NDIS Disqualifying Offences) Order 2020* at: <https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2020-099>
* been the subject of a banning order issued under section 73ZN of the *National Disability Insurance Scheme Act 2013* (Cth)
* been professionally deregistered under another Act.

Once approved, the provider must notify the Senior Practitioner if the APO ceases their role or no longer meets any of the above conditions.

Over time, the Senior Practitioner may modify the eligibility requirements, for example implementing minimum requirements relating to training, skills or experience. Any changes will be communicated in writing by the Senior Practitioner, with details on the Office of the Senior Practitioner website.

## Appointment of the Appointed Program Officer

The process for approval begins by making an application to the Senior Practitioner using the Application for Approval of an Appointed Program Officer, available on the Office of the Senior Practitioner website*.* The application is submitted online and includes information that will be considered by the Senior Practitioner in approving or refusing the appointment. The application must be completed by an employee of the provider with sufficient authority to nominate an APO. An employee of a provider cannot nominate themselves for the role of APO.

The application must include relevant documentation to support the application, including evidence of qualifications, training and experience of the proposed APO and a brief resume.

In considering an application the Senior Practitioner may:

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

The Senior Practitioner will notify the provider (the applicant) and the proposed APO of their decision.

### Refusing, revoking or amending the approval of an APO

Prior to the Senior Practitioner refusing an application to approve an APO, or revoking or amending the approval of an APO, the Senior Practitioner will provide written notice informing the provider who made the application:

* of their proposed decision and the reasons for the proposed decision
* that the provider may make a written submission to the Senior Practitioner within 14 days after the notice is given.

The Senior Practitioner will consider any submission before making a final determination by notifying the provider in writing. The Senior Practitioner’s decision is reviewable, refer to section4 of this documentfor more information.

## Training, CPD and support

The Senior Practitioner may issue directions to providers in relation to:

* the minimum qualifications required to be held by APOs
* training to be completed by APOs

The Senior Practitioner will at times provide education and information in relation to APOs, restrictive practices and the use of behaviour management techniques that may remove or minimise the need for restrictive practices. Details of these, along with other resources can be found on the Office of the Senior Practitioner website.

In addition to any training requirements set out in a formal direction, APOs are required to commit to improving and broadening their knowledge and skills through continuing professional development (CPD) activities. The work of an APO is complex and CPD activities are an important component of ensuring skills remain current. APOs must complete a minimum of six hours CPD per calendar year relevant to their role as an APO.

Examples of CPD activities include:

* enrolment in relevant internal and external training activities
* attendance at professional conferences
* specific training provided by the Office of the Senior Practitioner
* attendance at the APO community of practice (CoP)
* relevant supervision and mentoring activities
* reading relevant material as well as associated written reflection
* self-guided familiarisation with online materials and resources published by the NDIS Commission or the Office of the Senior Practitioner
* any other activities related to restrictive practices and the use of behaviour management techniques that may remove or minimise the need for restrictive practices.

An APO’s other professional development activities may be counted towards their CPD requirements where they are relevant to the delivery of contemporary disability supports, positive behaviour support, and/or the use of restrictive practices.

All APO CPD activities must be recorded in a CPD log. APOs may use any CPD log template, including their own professional log, or the template provided by the Office of the Senior Practitioner. The log must be made available to the Office of the Senior Practitioner upon request.

APOs must also meet any additional CPD obligations prescribed by law, their professional board, peak professional association, or the NDIS.

# Restrictive practices

* 1. **Overview**

Providers may seek to use a restrictive practice when a person with disability is engaging in a behaviour 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.

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.

Where the person with disability is an NDIS participant, the provider must be a registered NDIS provider in order to use restrictive practices in relation to that person.

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:** Restricting 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 Commission’s 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 consistent with the Guide. A copy of the Guide is available on the NDIS Commission’s website: [Regulated Restrictive Practices Guide](https://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.

## Considering the use of a restrictive practice

To ensure the human rights of people with disability are protected and promoted when considering and implementing a restrictive practice, the APO must consider if:

* the restrictive practice is necessary to prevent harm to the person with disability or others, and is the least restrictive option possible to protect the safety of the person or others
* there is a behaviour support plan in place to support the practice, and if the plan meets the requirements of the Act and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* are being followed
* due process has been followed, acknowledging the will and preference of the person with disability
* anything further can be done to reduce or eliminate the restrictive practice
* the way in which the restrictive practice is to be implemented is practical
* the restrictive practice has been authorised by the Senior Practitioner and the authorisation is still current
* the restrictive practice being implemented is in accordance with the authorisation, and all conditions or limitations are being met
* the person has an Independent Person (see section 3.4) and that the Independent Person has supported the person with disability to understand the restrictive practice and their rights
* the Act, including its principles, and any relevant rules, policies, procedures or guidelines in relation to the use of restrictive practices are followed by the provider and any employees involved in implementing the restrictive practice.

The APO must also ensure that no prohibited practices are used or being considered.

## Behaviour support plans

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.

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 least restrictive of the person with disability, as 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 with disability to reduce or eliminate the need for the restrictive practice to be used on the person.

These requirements mirror those of the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018.*

If a behaviour support plan has not been developed or cannot be provided with an application to use restrictive practices, 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.

If a change is proposed to a behaviour support plan, the APO must ensure that the Independent Person (see section 3.4) 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.

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.

More information on behaviour support plans can be found on the NDIS Commission’s website 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).

## 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 a voluntary role and promotes 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
* is ideally a person known to the person with disability and who has a significant interest in their wellbeing
* must be appointed when a provider plans to use a restrictive practice
* must act in accordance with the 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.

If the APO is unable to identify a suitable person to be appointed as the Independent Person, they must inform the Senior Practitioner. The Senior Practitioner will appoint someone who has experience working with people with disability

For more information on Independent Persons, please refer to the Independent Persons guideline on the Office of the Senior Practitioner website.

### What does the Independent Person do?

The Independent Person assists a person with disability to understand their rights under the Act. This includes assisting 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 to fulfil this role, the Independent Person will be given a copy of any decision made by the Senior Practitioner about the person with disability, which will explain any restrictive practices that have been authorised.

The Independent Person, alongside the provider and the Senior Practitioner, must provide information to the person with disability in a way they can best understand, using communication and supports that are meaningful to them.

Questions an Independent Person can ask, or things they can consider, include:

* Does the person with disability understand how the restrictive practice will be used practically?
* Does the person with disability understand how the restrictive practice will impact them?
* Does the person with disability understand that they can ask the Senior Practitioner to review a decision made about using restrictive practices?
* Does the restrictive practice seem like the least restrictive option available to protect the person with disability or others from harm?
* Has the person with disability expressed worry or concern about the use of the restrictive practice?
* Does it seem like the restrictive practice is being used more often than it needs to be?
* Does it seem like the provider is using other restrictive practices, in addition to the ones that have been authorised by the Senior Practitioner?

The Independent Person can contact the Office of the Senior Practitioner for advice and guidance. They should also contact 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. There are no penalties if an Independent Person is unable to undertake the role in accordance with the requirements of the Act, however 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 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 provider for the person with disability
* the person is an employee or member of the governing body of a provider for the person with disability
* the person has an interest in a 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 with disability’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 identified, 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’s decision is reviewable, refer to section 4 Reviews for more information.

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

A provider seeking to use a restrictive practice needs to apply to the Senior Practitioner for authorisation under section 51 of the Act.

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.

Once an application has been received, staff from the Office of the Senior Practitioner will assist the Senior Practitioner to assess the merits of the application. Providers are required to give reasonable assistance to the Senior Practitioner, who has wide reaching powers and can visit sites, inspect documents and speak to employees of the providers as well as the Behaviour Support Practitioner.

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

* 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.

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.

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 who has been approved by the Senior Practitioner. Only one Independent Person is required for each person with disability.

## Reporting obligations

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 an accurate record and written information about the use of restrictive practices and provide that information to the Senior Practitioner, if requested.

The use of *unauthorised* restrictive practices must be reported to the Senior Practitioner within five business days of it occurring. The repeated and consistent use of an unauthorised restrictive practice may be considered an offence.

The use of a Prohibited Practice or high-risk restrictive practice is unlawful in Tasmania and is an offence. The use of a Prohibited practice in Tasmania must be reported to the Office of the Senior Practitioner.

For more information on reporting obligations in Tasmania, see the Office of the Senior Practitioner *Restrictive Practice Guideline*.

In addition to reporting obligations to the Office of the Senior Practitioner, providers have an obligation to report authorised restrictive practices, unauthorised restrictive practices, high-risk restrictive practices and other incidents to the NDIS Commission.

For more information on reportable incidents, please refer to the NDIS Commission – Reportable incidents webpage at: <https://www.ndiscommission.gov.au/rules-and-standards/reportable-incidents-and-incident-management/reportable-incidents>.

# Reviews

## Overview

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 provider is not satisfied with the outcome of the review, they can lodge a further review with the Tasmanian Civil and Administrative Tribunal (TASCAT).

## Internal review

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.

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.

After a decision,is reviewed, 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 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 undertaken 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](http://www.tascat.tasgov.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.

# Glossary

**Appointed Program Officer**

A person whose appointment as an appointed program officer for a 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 Restrictive Practice and Behaviour Support 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 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 revoked 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 Restrictive Practice and Behaviour Support 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 Restrictive Practice and Behaviour Support 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 of the Act.

**The Act**

The *Disability Rights, Inclusion and Safeguarding Act 2024* (Tas)

**TASCAT**

The Tasmanian Civil and Administrative Tribunal.


#

# Process map on the role of the Appointed Program Officer

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

**Appointment of an APO**

* A disability services provider (provider) must appoint an Appointed Program Officer (APO) if it intends to use restrictive practices
* Provider identifies an employee with experience and expertise in positive behaviour support and the use of restrictive practices to perform the role of APO
* Provider applies to the Senior Practitioner to have the appointment of the APO approved. A proposed APO cannot nominate themselves
* 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**

**Appointed Program Officer**

**Application to use Restrictive Practices**

* 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
* The application must identify an APO for the person with disability
* The application to use restrictive practices can be prepared by the provider or the APO

**Senior Practitioner**

**Provider**

**Authorisation of Restrictive Practice**

* Provider submits an application and a copy of the behaviour support plan to the Senior Practitioner for authorisation to use restrictive practices
* The Senior Practitioner authorises (with or without conditions) or refuses to authorise the use of restrictive practices
* 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
* Provider lodges evidence of authorisation with the NDIS Commission
* If the person, the provider or the Independent Person is not satisfied with the decision, they can seek a review by the Senior Practitioner and/or TASCAT

**Appointed Program Officer**

**Oversight of Restrictive Practices**

* The APO ensures that the Independent Person explains to the person with disability the proposed use of the restrictive practice and their rights to have the decision reviewed
* The APO ensures that the use of restrictive practices is only used in accordance with the authorisation and the behaviour support plan
* The APO ensures the use of restrictive practices is the least restrictive of the person as possible
* The APO ensures the Independent Person explains to the person any change to a behaviour support plan if the changes are more restrictive
* Provider must report the use of authorised restrictive practices to the Senior Practitioner monthly or as requested

**Independent Person**

* The APO identifies a suitable Independent Person. The APO must ensure the will and preference of the person with disability is considered
* 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
* Ideally, the Independent Person is a friend or family member of the person and has an interest in their wellbeing
* The independent person cannot be an employee of the provider or the behaviour support practitioner
* If the APO is unable to identify a suitable Independent Person, they must notify the Senior Practitioner and provide an explanation of why a suitable person cannot be found. In these instances, the Senior Practitioner will appoint a suitable person.

**Independent Person**


# Process map on the role of the Independent Person

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

**Appointment of an APO**

* If a disability services provider (provider) wants to use restrictive practices, they must appoint an Appointed Program Officer (APO)
* If a person with disability is behaving in a way that may harm themselves or others, a behaviour support practitioner is engaged and they prepare a behaviour support plan
* The behaviour support plan helps support a person with behaviours of concern
* If the behaviour support plan identifies a need for the use of restrictive practices, the behaviour support practitioner must lodge the plan with the NDIS Commission and the provider must apply for authorisation use of restrictive practices from the Senior Practitioner
* A restrictive practice is any action that restricts a person’s rights or freedom of movement

**Disability Services Provider**

**Appointed Program Officer**

**Application to use Restrictive Practices**

* When a provider applies to the Senior Practitioner to use restrictive practices, the APO identifies an Independent Person in the application
* An Independent Person is someone who is able to explain to the person with disability what the restrictive practice is and what their rights are
* In choosing an Independent Person, the APO must ensure the will and preference of the person with disability is considered
* The Independent Person must agree to act in the role
* The Independent Person cannot be an employee of the provider or the behaviour support practitioner
* If the APO is unable to identify a suitable Independent Person, they must notify the Senior Practitioner and the Senior Practitioner will appoint someone who has experience working with people with disability

**Senior Practitioner**

**Provider**

**Authorisation of Restrictive Practice**

* Provider submits the application and a copy of the behaviour support plan to the Senior Practitioner for authorisation to use restrictive practices
* If the Independent Person thinks the person cannot understand the restrictive practice, they should tell the Senior Practitioner
* 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
* If the person, the APO or the Independent Person is not satisfied with the decision, they can seek a review by the Senior Practitioner and/or TASCAT

**Independent Person and APO**

**The Independent Person:**

* helps the person to understand what the restrictive practice is, why it is needed, and how it will affect them
* makes sure the person understands their rights and can express their views, preferences, and concerns
* explains any change that is made to their behaviour support plan if the changes include something more restrictive

**The APO:**

* makes sure the restrictive practice is only used if it has been approved and is written in the behaviour support plan
* checks that the restrictive practice is the least restrictive option for the person
* makes sure the Independent Person has explained to the person what the restrictive practice is and that they have the right to ask for the decision to be reviewed

**Independent Person**

* The proposed Independent Person must be someone who is willing and able to explain the restrictive practice to the person, and tell them about their rights, including the rights of review
* Ideally, the Independent Person is a friend or family member of the person and has an interest in their wellbeing
* The Independent Person makes sure they communicate in a way the person understands, using their preferred way of communicating
* The Independent Person makes sure the person feels supported, safe, and comfortable when talking about the restrictive practice

**Independent Person**