Restrictive Practices: Information for Providers

This fact sheet has been prepared for disability services providers proposing to use restrictive practices in relation to a person with disability.

The [*Disability Rights, Inclusion and Safeguarding Act 2024* (the Act)](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021) regulates the use of restrictive practices by disability services providers, in the provision of services to people with disability. The Act applies to any setting where the person is receiving NDIS funded supports. The use of restrictive practices in relation to people who do not live with disability, in other service settings, is regulated by separate legislation.

A restrictive practice is any action that restricts the rights, freedom of movement or behaviour of a person with disability. Restrictive practices are sometimes used to keep a person with disability or others safe, usually in response to a behaviour of concern.

The Act is based on a person-centred, human rights approach to the use of restrictive practices and emphasises that restrictive practices 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.

The use of a restrictive practice should only be considered after:

* Careful clinical and ethical consideration of the benefits and risks associated with its use including:
* acting in the best interests of the person (beneficence)
* avoiding harm (non-maleficence)
* respect for the will and preference of the person (autonomy)
* fair and equitable access to resources and services (justice)
* Consultation with a behaviour support practitioner
* Considering a person's human rights.

# The Senior Practitioner

The Senior Practitioner has an important role in protecting and promoting the human rights of people with disability and authorises and oversees the implementation of restrictive practices in Tasmania.

The use of a restrictive practice in relation to a person with disability must be authorised by the Senior Practitioner. The Senior Practitioner ensures that the use of restrictive practices is subject to independent oversight. It is an offence under the Act to use a restrictive practice in relation to a person with disability without authorisation from the Senior Practitioner. Financial penalties may apply to providers who do not comply with the Act.

The Senior Practitioner also provides guidance to disability services 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, consistent with the Principles of the Act.

# What are Restrictive Practices?

The following practices are defined as restrictive practices under the Act. These descriptions are intentionally consistent with the NDIS Rules.

| **Practice**  | **Description** |
| --- | --- |
| Seclusion  | Seclusion is the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted. |
| Chemical restraint  | Chemical restraint is 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. |
| Mechanical restraint  | Mechanical restraint is the use of a device to prevent, restrict, or subdue a person’s movement for the primary purpose of influencing a person’s behaviour but does not include the use of devices for therapeutic or non‑behavioural purposes. |
| Physical restraint  | Physical restraint is the use or action of physical force to prevent, restrict or subdue movement of a person’s body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands‑on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person. |
| Environmental restraint | Environmental restraint is restricting a person’s free access to all parts of their environment, including items or activities. |
| Any other practice or intervention determined by the Senior Practitioner to be a restrictive practice | The Senior Practitioner may 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 DRIS Act. These practices will be published on the [Office of the Senior Practitioner website](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner). |

Further information and practice guidance is available from the [NDIS Quality and Safeguards Commission](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices) and the [*National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (NDIS Rules).](https://www.legislation.gov.au/F2018L00632/latest/text)

# Use of a Restrictive Practice in an Emergency

The use of an unauthorised restrictive practice in an emergency, to protect a person from harm that is both serious and imminent, may be necessary in some circumstances. In these instances, it is a defence to proceedings if the provider establishes that the use of the unauthorised restrictive practice was the least intrusive type of restricted practice that would have protected the person with disability.

The provider must notify the Senior Practitioner of the use of all unauthorised restrictive practices within 5 business days. In most instances, the provider must also report the incident to the NDIS Quality and Safeguards Commission as a reportable incident.

In an emergency situation, the use of an unauthorised restrictive practice should be the least restrictive action possible to protect the person. The repeated and consistent use of an unauthorised restrictive practice may be considered an offence.

# Prohibited Practices

There are some types of restrictive practices that cannot be authorised by the Senior Practitioner. These are known as prohibited practices and must **never** be used in any circumstances. The use of prohibited practices is unethical and may be a criminal offence. For more information about prohibited practices and reporting obligations, see the fact sheet ‘[*Prohibited Practices’*](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-inclusion-and-safeguarding-act-2024)and [*Disability Rights, Inclusion and Safeguarding Regulations 2025*](file:///C%3A%5CUsers%5CDavid.Badcock%5CDownloads%5CDisability%20Rights%2C%20Inclusion%20and%20Safeguarding%20Regulations%202025).

# Authorisation

To seek authorisation to use a restrictive practice, the provider must apply to the Senior Practitioner. For information about the authorisation process see the fact sheet ‘[*Authorisation of Restrictive Practices’*](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-inclusion-and-safeguarding-act-2024). The Senior Practitioner may approve or refuse the application to use restrictive practices.

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

# Principles

The use of a restrictive practice in relation to a person with disability must be consistent with the principles set out in section 8 of the Act. The principles promote the human rights of people with disability and reflect the *United Nations Convention on the Rights of Persons with Disability*.

The principles apply to every person, entity and provider covered by the Act. The principles can be viewed in full here - [Part 1 of the Act](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021).

There are two principles about restrictive practices. They are:

* 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.
* 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.

The use of restrictive practices must always be used in line with contemporary positive behaviour support. Positive behaviour support is an evidence, values and rights-based approach. It focuses on understanding the reasons behind behaviour and finding better ways to meet a person’s needs. This includes strategies such as teaching a person new skills, making changes to their environment and providing guidance to their support team. The approach respects a person’s dignity and works to improve their quality of life.

# More Information

This Factsheet is a summary about the regulation of restrictive practices in Tasmania. If you are interested in how this is described in the Act please read Part 7 of the [*Disability Rights, Inclusion and Safeguarding Act 2024 (the Act)*](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021)

Additional resources on positive behaviour support and restrictive practices can also be found on the NDIS website: [Behaviour support resources | NDIS Quality and Safeguards Commission](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/behaviour-support-resources).

For more information the Office of the Senior Practitioner can be contacted on seniorpractitioner@dpac.tas.gov.au or 6166 9199.