



# Authorisation process for the use of regulated restrictive practices for NDIS participants in NSW

## Fact Sheet for NDIS providers

This fact sheet describes the authorisation process for the use of regulated restrictive practices (restrictive practices) for NDIS participants in NSW. NDIS registered providers (NDIS providers) must be registered with the NDIS Quality and Safeguards Commission (NDIS Commission) to use restrictive practices.

Information on becoming a registered provider is available at the [NDIS Commission's website](#).

Under the *NDIS Quality and Safeguarding Framework 2016 (Cth)*, states and territories are responsible for the authorisation of restrictive practices. The NSW Government's Restrictive Practice Authorisation Policy (2019) and Procedural Guide outline the conditions for authorisation of restrictive practices for NDIS participants in NSW. The NSW policy is available here: <https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal/rpa-resources/policy>.

The *Persons with Disability (Regulation of Restrictive Practices) Bill 2020*, is currently being drafted and will apply to NDIS providers and Behaviour Support Practitioners in NSW.

### Restrictive Practices

A restrictive practice is any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability, with the primary purpose of protecting the person or others from harm. Restrictive practices are defined by the *NDIS (Restrictive Practices and Behaviour Support) Rules (2018)* (NDIS Rules) and include seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint.

Restrictive practices are regulated under the NDIS Act 2013 and Rules and must be authorised before they can be used. Some practices are prohibited and may never be used. These practices are defined in the NSW Restrictive Practice Authorisation Policy (2019).

Restrictive practices can involve serious human rights infringements. The NSW authorisation process is consistent with the **National Framework for Reducing and Eliminating Restrictive Practices in the Disability Service Sector**.

Behaviour Support Practitioners and NDIS providers who use restrictive practices (implementing providers) are required to meet their obligations outlined in the NDIS Rules, including that the use of restrictive practices is authorised in accordance with the authorisation process in the relevant State or Territory.

### Find out More

Visit our website <https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal>

Email [RestrictivePracticesAuthorisation@facs.nsw.gov.au](mailto:RestrictivePracticesAuthorisation@facs.nsw.gov.au)



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For more information on Restrictive Practices, refer to the **enAble** tool on the **Department of Communities and Justice (DCJ)** [RPA website](#).

### Authorisation of Restrictive Practices in NSW

Restrictive Practices Authorisation (RPA) is the **endorsement** for identified restrictive practices to be used in relation to a **particular individual** with disability, in a **particular service setting** by **associated staff under clearly defined circumstances**.

The decision to authorise the use of restrictive practices will be based on supporting information including behaviour support documentation, such as a Behaviour Support Plan informed by a functional assessment of behaviour. Authorisation **does not** constitute consent, or replace the requirement for consent, to use a restrictive practice.

In NSW, there are **three** requirements for the use of a restrictive practice:

1. A **Behaviour Support Plan** is developed, and
2. Informed **consent** is obtained by the NDIS participant or their guardian, and
3. **Authorisation** is approved by a RPA Panel managed through internal policy and procedures of the NDIS provider.

Restricted Practices should be:

- Person centred
- Least restrictive response
- Used for the shortest possible time
- Focused on the reduction & elimination of the practice
- Monitored
- Reviewed regularly

Requests for RPA must be submitted via the online **NSW (DCJ) RPA System** by the NDIS provider implementing the restrictive practice. The RPA Panel's decision to authorise a restrictive practice is to be **unanimous** and not exceed **12 months or the expiration date of the Behaviour Support Plan**. All decisions of the RPA Panel are recorded in the NSW RPA System in the **Outcome Summary**.

### Find out More

Visit our website <https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal>

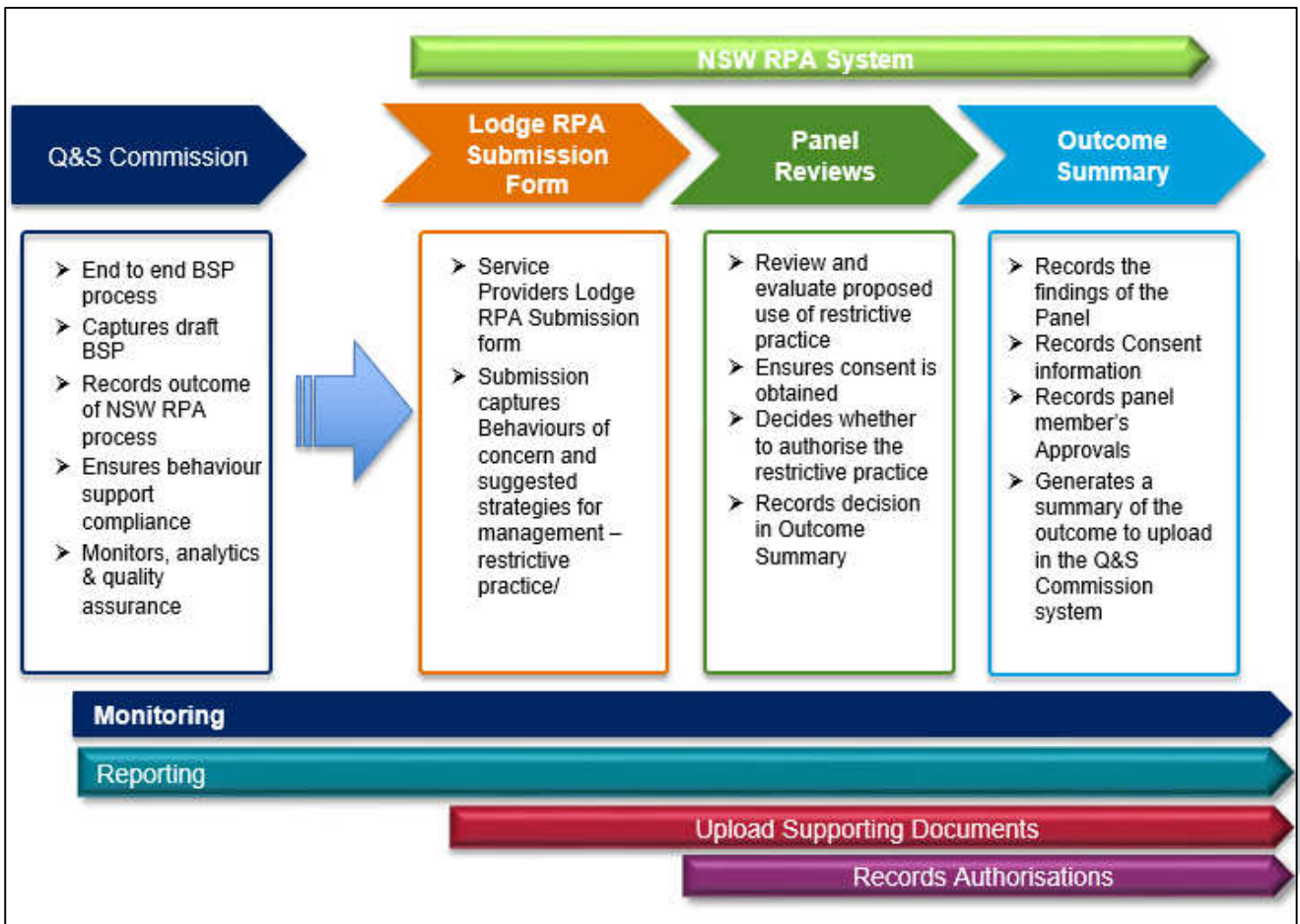
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Process flow - Authorisation of regulated restrictive practices for NDIS participants



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### Registering for the NSW RPA System

The NSW RPA System is the platform used to manage and monitor restrictive practices in NSW. Implementing providers will need to use the NSW RPA System when seeking authorisation of the use of regulated restrictive practices. The NSW RPA System enables easy online access to manage information about RPA in a single location.

Information on registering with the NSW RPA System is at **Appendix 1** and the [DCJ RPA webpage](#).

### RPA Panel

All NDIS providers providing behaviour support involving the use of restrictive practices must have a properly constituted RPA Panel. The RPA Panel is the mechanism for the authorisation and review of restrictive practices in NSW.

An **RPA Panel** must include a minimum of **three roles**:

- a **senior manager** familiar with the operational considerations around the use of a restrictive practice in the intended service setting, who chairs the RPA Panel,
- a **specialist with expertise in Behaviour Support**, can be provided by DCJ or sourced by other means,
- and a person who is **independent** of the service provider.

Where behaviour support expertise comes from a person external to the NDIS provider who is also not connected to the NDIS participant, they may serve both behaviour support and independent roles on the RPA Panel. In this scenario, the RPA Panel is made up of two people:

- a **senior manager familiar** with the operational considerations around the use of a restrictive practice in the intended service setting, who chairs the RPA Panel
- a **specialist with expertise in behaviour support**, and who is independent of the NDIS provider.

The NDIS provider will convene an RPA Panel, or access an existing RPA Panel.

***DCJ can provide Independent Specialists to ensure that local RPA Panels have access to independent behaviour support expertise.***

A request for a DCJ Independent Specialist is submitted through the online NSW RPA System.

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In exceptional circumstances, restrictive practices may need to be rapidly implemented in response to situations where there is a clear and immediate risk of harm linked to behaviour(s) of concern and there is no comprehensive behaviour support plan in place. In these circumstances, a **senior manager** of the NDIS provider can provide this interim authorisation as a sole panel member.

### Authorisation process

All documentation relevant to the decision to authorise the restrictive practice, including the Behaviour Support Plan, are uploaded to the NSW RPA System prior to the RPA Panel meeting. Please note that the draft Behaviour Support Plan must be uploaded to the NDIS Commission's portal prior to commencing the submission for authorisation in the NSW RPA System. The NDIS Behaviour Support Plan ID is a mandatory field in the NSW RPA System. The NDIS Behaviour Support Plan ID is provided when the draft Behaviour Support Plan is uploaded to the NDIS Commission's portal.

RPA Panels receive the submission requesting authorisation of restrictive practices via the NSW RPA System. RPA Panels review and evaluate the proposed use of any restrictive practice to ensure that behaviour support strategies are appropriate in the context of the NDIS provider's operations, to minimise or eliminate use of restrictive practices and achieve intended therapeutic outcomes.

In the case of interim authorisation, a senior manager of the NDIS provider can authorise the practice. However, there must be an interim behaviour support plan and interim authorisation should be sought as soon as practicable, not exceeding 1 month after the first use of the restrictive practice. If full authorisation is not obtained by the time interim authorisation expires, the practice becomes unauthorised.

The RPA Panel will decide whether to authorise the use of a restrictive practice and will record its decision in an Outcome Summary. The RPA Panel will also decide the duration (no more than 12 months for full authorisation) and any conditions of the authorisation.

Authorisation is not valid until the Outcome Summary is finalised which occurs when:

- evidence of consent for the implementation of the practice from the appropriate consent provider is obtained, and
- all RPA Panel members have endorsed the Outcome Summary.

When the Outcome Summary is finalised, a copy is to be provided to the Behaviour Support Practitioner for uploading to the NDIS Commission's portal.

Further guidance for RPA Panels on authorising the use of restrictive practices, including particular guidance for specific practices and cohorts, is available on the [NSW RPA website](#).

### Find out More

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### Independent Specialists

The NSW Government has established and maintains, a pool of Behaviour Support Specialists to ensure that registered NDIS providers have access to independent expertise in behaviour support for RPA Panels.

The role of an Independent Specialist includes:

- Ensuring the application is evidence-based, is the least restrictive option and can be safely implemented.
- Ensuring the practice will address the behaviours of concern and consideration has been given to fade out strategies.
- Ensuring the decision is in keeping with the principles of the UNCRPD.
- Ensuring that the RPA Panel is impartial and decisions are transparent.
- Challenging the need and rationale for strategies, and exploring resourcing challenges.

The senior manager of the NDIS provider acts as the chair and convenes the RPA Panel. This is not the role of the Independent Specialist.

### Creating a Submission

In order to create a submission for the authorisation of a restrictive practice, a Behaviour Support Plan, developed by a Behaviour Support Practitioner who has been deemed suitable by the NDIS Commission, is a requirement for authorisation. This Behaviour Support Plan must be informed by a functional assessment of behaviour.

The Behaviour Support Plan should include:

- skill building to address the function of behaviour
- the proposed restrictive practices
- fade out strategies for the restrictive practices.

Staff should be trained in implementing the Behaviour Support Plan.

In addition, the following should be included in the submission to the RPA Panel:

- information about previous and current use of any restrictive practices.
- supporting documentation demonstrating that behaviour support strategies are appropriate to minimise or eliminate the use of any restrictive practices.

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A submission to a RPA Panel is to be created in the NSW RPA System.

All information must be included in the submission and made available prior to the meeting date of the RPA Panel, in order for all RPA Panel members to have timely access to the information.

A decision by the RPA Panel to authorise a restrictive practice must be unanimous. Full authorisation must not exceed 12 months or the expiration date of the Behaviour Support Plan. Interim authorisation must not exceed 5 months.

Following the RPA Panel's consideration of the restrictive practices, outcomes must be recorded in the NSW RPA System for each proposed restrictive practice. Consent must be obtained from the person the restrictive practice is for or the alternative consent-giver and recorded in the NSW RPA System. Each RPA Panel member must endorse each outcome in the NSW RPA System.

For further guidance on creating a submission and using the NSW RPA System, refer to the resources on the [DCJ RPA website](#).

### Reporting

NDIS providers (implementing providers) are required to report to the NDIS Commission each month on the use of authorised regulated restrictive practices.

The process for reporting the use of restrictive practices is available on the [NDIS Quality and Safeguards Commission's website](#).

Each emergency use or unauthorised use of a restrictive practice must also be reported to the NDIS Safeguards Commission as a reportable incident within 5 business days.

Further information on reportable incidents is available on the [NDIS Quality and Safeguards Commission website](#).

NDIS providers are required to use and maintain current information in the NSW RPA System. This meets the requirements for reporting to the NSW Government on the prevalence of authorised restrictive practices within their service. There are no additional reporting requirements to the NSW Government.

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### Review

Authorisation of a restrictive practice continues until a Behaviour Support Plan is reviewed or ceases. When a Behaviour Support Plan is developed, a new authorisation must be obtained prior to the use of a regulated restrictive practice.

Reviews are used to monitor the implementation of a restrictive practice, or where it was identified by the RPA Panel that additional information was required, for example, a medication review or further analysis of data. The review process ensures that any recommendations made by an RPA Panel are being progressed by the NDIS provider.

A Review can occur at any time within the authorisation period. For example, if a restrictive practice is authorised for 12 months, the RPA Panel may decide to hold a Review after 3 months to see how the practice has been impacting the person.

However, a review is not a reauthorisation of an authorised practice which is about to expire. Therefore, if authorisation of a restrictive practice is expiring, a new 'planned' submission must be lodged rather than conducting a review.

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### Appendix 1

#### Registering in the NSW RPA System

Organisational registration for the NSW RPA System is to be completed online at:

<https://rpa.facs.nsw.gov.au/rpa.onlineregistration/>

Fill out the form and the Central Restrictive Practices Team (CRPT) will contact you when your registration is completed.

Registering individual user accounts can be completed by the 'Service Provider Admin'.

To register a user:

- In the NSW RPA System, go to the User Management tab.
- Use the search bar to search the person's email address and name to check they do not already exist in the system.
- If they do not already exist, click on either:
  - 'Add new Service Provider' to add a Service Manager or Key Support Person, or
  - 'Add new Practitioner login account' to add a Behaviour Support Practitioner or Other Panel Member.
- Complete the details. For Service Provider accounts it is advisable to include Head Office in the branches selected for the user.
- Click the 'Submit' button at the bottom of the page.
- Once the account has been created, click on 'Edit' on the right hand side of the account. In the account page, change the drop down 'Status' from 'Pending' to 'Active'.

The user will then receive an email with a link to log in to their account and set a password. Please alert the user that the link will expire after 24 hours.

Alternatively, new users can be registered by filling out a form and sending it to the CRPT. The form can be found by clicking on the tile 'User Access Request Form' on the [DCJ RPA website](#).

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### Appendix 2

#### DCJ Central Restrictive Practices Team

A central team within DCJ oversees the RPA function, and supports NDIS providers to comply with their obligations.

The key functions of the team include:

- Supporting implementation of the RPA Policy and Procedural Guide and stakeholder engagement.
- Embedding best practice advice and guidance in relation to the use and minimisation of restrictive practices into the authorisation process.
- Providing information to registered NDIS providers and other participants in the RPA process to facilitate their engagement and compliance with the process.
- Coordination and engagement with the NDIS Quality and Safeguards Commission, including in the development of a consistent national framework.
- Providing an online NSW RPA System to register and manage requests for authorisation of restrictive practices.
- Providing and funding access to independent specialists who will participate in local RPA Panels.

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