



Embracing Change Project: Webinar 6

Participant Questions on Notice

Behaviour Support under the NDIS

September 2020

About this document

The following are questions sent in by webinar participants during live broadcast of Embracing Change Webinar 6: Behaviour Support under the NDIS on 27th August 2020 from 11:00am-12:00pm. The Project Team prepared the answers to questions having consulted with the NDIS Quality and Safeguards Commission.

Participant questions

General: indirectly answered during the webinar

1. Is there any tool available in identifying restrictive practices and any audit tool to check on BSP?

The best way to identify a restrictive practice is to apply the definition of restrictive practice. Any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability is a restrictive practice. Under the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* certain restrictive practices are subject to regulation. These include:

- seclusion,
- chemical restraint,
- mechanical restraint,
- physical restraint and
- environmental restraint.

[Click here](#) for detail about restrictive practice on the NDIS Quality and Safeguards Commission's (NDIS Commission) website. National Disability Services have developed a [Recognising Restrictive Practices Guide](#).

The NDIS Commission has put together a [Compendium of Resources for Positive Behaviour Support](#) which includes the Behaviour Intervention Plan Quality Evaluation (BIPQE), Version II. The NDIS Commission conducts quality audits of behaviour support plans including random audits using the BIPQE Tool.

2. Can you provide a good guide for providers to differentiate between safeguarding and restrictive practice - specifically in the psychosocial context?

According to the Project Team's research restrictive practices include any practice that has the effect of restricting the exercise of an individual's rights, whereas safeguards are activities that build an individual's capacity with respect to protective factors such as decision making, choice and control, safety and wellbeing within a human rights framework.

In the NDIS Quality and Safeguards Commission has a series of functions that uphold the rights of people with disability as defined in the [United Nation's Convention on the Rights of Persons with Disabilities](#) with respect to:

- NDIS Code of Conduct and Guidelines
- Incident Management and Reportable Incidents;
- Complaints Management and Resolution;
- Worker Screening;
- Behaviour Support and Restrictive Practices; and
- Provider Registration and NDIS Practice Standards and Quality Indicators.



[Restrictive practices are defined in the NDIS Act](#) (2013) as any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability. Under the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* certain restrictive practices are subject to regulation. These include:

- seclusion,
- chemical restraint,
- mechanical restraint,
- physical restraint and
- environmental restraint.

Please see below a definition of safeguarding from the West Australian Disability Services Commission (WADSC) together with definitions of safeguarding and restrictive practice in the NDIS Commission context.

WADSC in their document entitled [Safeguarding–Key considerations for disability service providers](#) defined safeguarding with respect to people with disability as “*supports and mechanisms that promote, enhance and protect an individual’s*

- *human rights*
- *decision making, choice and control*
- *safety and wellbeing*
- *citizenship and quality of life”.*

The definition of safeguarding continues... “*safeguards include a range of formal and informal supports and mechanisms operating at the level of the individual, the community, their disability services, and overarching government systems and legislation. There is a range of safeguards that need to be considered:*

- *individual empowerment*
- *informal relationships*
- *independent community services*
- *disability services safeguards*
- *systems level safeguards”.*

3. Can you give a bit more information about the requirements of implementing providers to ensure we align with the commission's policies?

The best place to start is to read through the *Implementing Behaviour Support Plans Module 2A* of the [NDIS Practice Standards](#). You should also take a look at the NDIS Commission’s [Restrictive Practices website](#) and [Behaviour Supports website](#).

We also recommend downloading a copy of the Webinar 6 Resources Pack.

4. Just wanting to clarify - will every behaviour support provider / practitioner have to be registered? For example, could someone still provide behaviour support without being registered in WA? Only registered providers are able to provide Behaviour Support under the NDIS.

According to the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* only registered providers are able to deliver Specialist Behaviour Supports. However Western Australia does not come under the NDIS Commission’s jurisdiction until [1 December 2020](#).

Until 1 December the existing requirements apply. [Click here](#) to learn more about registering as a provider in WA. The NDIS Commission has recently released a [Then and Now Fact Sheet for Western Australia](#).



5. Is there any good resource that map out the difference in state-based processes on a page?

The Project Team searched online but we could not find such a resource. Please see below links to State and Territory Authorisation Requirements and NDIS Commission's Then and Now Fact Sheets.

State and Territory Authorisation Requirements

- [New South Wales](#)
- [Victoria:](#)
- [Northern Territory](#)
- [Western Australia](#)
- [Queensland](#)
- [Australian Capital Territory](#)
- [Tasmania](#)
- [South Australia](#)
- [Western Australia](#)

Then and Now Factsheets

This series of factsheet summarises the changes for each jurisdictions which has transitioned to the NDIS Commission quality and safeguarding arrangements including behaviour supports and restrictive practice authorisation. Please see below list of factsheet:

- [New South Wales](#)
- [Victoria](#)
- [Northern Territory](#)
- [Queensland](#)
- [Australian Capital Territory](#)
- [Tasmania](#)
- [South Australia](#)
- [Western Australia](#)

6. For implementing providers - where does the funding come from to teach support workers how to use the regulated restrictive practice stipulated in the BSP, written by another provider?

As mentioned during the webinar, the responsibility for behaviour support implementation training is shared by 1) the implementing provider who has a general duty to ensure development opportunities for workers under the Human Resources Management practice standard, and 2) the Behaviour Support Practitioner who has a responsibility to ensure, "*person-focused training, coaching and mentoring is facilitated or delivered to each of the providers implementing behaviour support plans*" as described in the Specialist Behaviour Support Module of the NDIS Practice Standards.

7. Do you have any suggestions with how we support behaviour specialists to be accountable for the time frames of interim/comprehensive behaviour support plans? At the moment it ends up falling on the implementing provider.

An interim behaviour support plan needs to be developed within one month of being engaged and comprehensive behaviour support plan needs to be developed within 6months of being engaged; see s19 of the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#).

As NDIS providers Behaviour Support Practitioners are required to have a Complaints Management Systems in place which meets the requirements set out in the NDIS Practice Standard. NDIS participants and NDIS service providers/advocates and families/carers with participant consent are able to make a complaint about any NDIS service provided to the individual including behaviour supports. Complaints can also be made to the [NDIS Commission](#). [Click here](#) to learn more about NDIS Commission Complaints Management.



8. What can I do as a practitioner, when I encounter implementing providers who don't allow staff members enough work time to record behaviour data, read PBSPs or attend training? i.e., they don't pay workers to do these tasks?

The role of a Specialist Behaviour Support Practitioners supporting implementing providers is outlined in the Specialist Behaviour Support Module of the [NDIS Practice Standards](#), specifically the Supporting the Implementation of the Behaviour Support Plan, practice standard. According to this module, Behaviour Support Practitioners are to provide training, oversight and ongoing support to implementing providers. Implementing providers have a general duty to ensure development opportunities for workers under the Human Resources Management practice standard.

The substance of the question deals with practice issues which the Commission has not provided any Guidance about. A good place to start would be to understand all the relevant organisational systems and processes and have a discussion with the implementing provider's management about the purpose of data collection and training in supporting the implementation of behaviour support plans, and discuss how you can work together.

9. How do you manage consent for developing a behaviour support plan if the participant is not willing to give consent to have information shared between Implementation and clinician?

If we understand the question correctly, it is the role of the NDIS service provider to provide a NDIS participant with information about behaviour support and answer any questions in order for the participant to be able to make an informed decision. NDS Zero Tolerance Project has developed a [Positive Cultures Resource](#) which may assist. You can also contact the NDIS Commission's Behaviour Support Team on 1800 035 544.

10. Chemical restraint is an area that is a bit of a grey - where would it be best to get good source to clarify these areas?

Section 6(b) of the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 defines chemical restraint as, "*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*".

The Project Team found the following resources which you may find useful:

- [Chemical restraint - what disability support workers need to know](#), Victorian Office of the Senior Practitioner
- [Restrictive Practices Guidance - Chemical Restraint](#), NSW Family and Community Services
- [Fact Sheet on Chemical restraint](#), Queensland Department of Communities, Disability Services and Seniors.

11. What line item under the NDIS does a BS Practitioner bill under?

There are two Support Items for behaviour supports under [NDIS Price Guide 2020-21](#):

- Item number 11_022_0110_7_3 - Specialist Behavioural Intervention Support; and
- Item number 11_023_0110_7_3 - Behaviour Management Plan Including Training in Behaviour Management Strategies.

ENDS.