Restrictive Practices Manual for Implementing Providers

Government of South Australia

human services

Contents

1. Purpose

National Disability Insurance Scheme (NDIS) Registered Providers that use restrictive practices when providing services to an NDIS participant in South Australia are required to adhere to national and state legislative requirements. These implementing providers must seek authorisation for the use of a restrictive practice through the Restrictive Practices Authorisation Scheme (RPAS).

This document provides implementing providers with guidance about their roles, responsibilities and functions within RPAS. It outlines their legislative obligations under the *Disability Inclusion Act 2018* (as amended by the *Disability Inclusion (Restrictive Practices – NDIS) Act 2021*) (the Act), *Disability Inclusion (Restrictive Practices – NDIS) Regulations 2021* (the Regulations) and the Restrictive Practices Guidelines (the Guidelines).

2. Scope

This document applies to all NDIS Registered Providers that use restrictive practices when providing NDIS services to an NDIS participant in South Australia.

3. Authority

The *Disability Inclusion Act 2018* (as amended by the *Disability Inclusion (Restrictive Practices - NDIS) Amendment Act 2021)* (the Act) establishes the legislative framework for the authorisation of restrictive practices by registered NDIS providers for NDIS participants in South Australia.

Implementing providers must comply with the Act, the *Disability Inclusion (Restrictive Practices - NDIS) Regulations 2021* and the *Restrictive Practices Guidelines 2021* (the Guidelines) when using restrictive practices whilst providing services to NDIS participants.

4. Procedures

4.1 Registering on the Restrictive Practices System

Service providers are required to register to use the Restrictive Practices System (RPS), which is the ICT platform for the application and authorisation of restrictive practices. The initial registration of an implementing provider within the system creates the Account Owner.

The registration should be created by someone who has sufficient authority within the organisation to register the provider, nominate Authorised Program Officers (APOs), add/edit any other users to the system and access data reports.

Service providers must be able to provide the following information when registering on the system:

- the Chief Executive Officer (or equivalent's) name, phone number and direct email address
- the details you want to use as the Account Owner (direct phone number and email address)

- ABN (Australian Business Number)
- NDIS Registration details (and documentation)
- the NDIS Registration Group (s) ("Class of supports") your organisation currently delivers.

The RPS can be accessed at the following link:
https://www.rps.sa.gov.au

Step by step details on registering a service provider on the RPS is found in the Restrictive Practices System Guide – Provider Registration.

Staff who have Account Owner and APO level access to the RPS are able to access data about applications, authorisations and behaviour support plans. The data is designed to support registered NDIS providers to analyse the trends and patterns of restrictive practices in their organisation. This helps to identify:

- preventative and alternative supports for people with disability
- staff professional development and training
- policy and program review and development.

4.2 Nominating an Authorised Program Officer

APOs play a key role in the RPAS, authorising the use of Level 1 restrictive practices and endorsing the use of Level 2 restrictive practices for the SAO's authorisation. They must ensure that Level 1 restrictive practices are only authorised where the legislative requirements are met.

Implementing providers can identify suitable staff who have the qualifications, skills and experience to undertake the functions of an APO.

Section 11 of the Regulations sets out the minimum qualifications and experience required by APOs:

- tertiary qualifications relevant to the functions of an APO under the Act (such as allied health, nursing, education, or a disability-specific or behaviour-specific discipline); AND
- extensive experience and knowledge in the planning, development, implementation, evaluation and monitoring of behaviour interventions and supports.

Examples of tertiary qualification include but are not limited to:

- a degree in social work, occupational therapy, speech pathology, physiotherapy, or developmental education
- a degree or diploma in nursing
- a degree in education or early childhood education
- a diploma in education support
- a Certificate III or IV in Community Services or Disability.

Where a person is working towards a substantive qualification such as degree and has demonstrated equivalency with another qualification that makes them eligible to be an APO, this may be authorised by the SAO. This will be assessed on a case-by-case basis.

Examples of demonstrated experience and knowledge in behaviour support interventions and supports may include but are not limited to:

- training and professional development in behaviour supports
- work history
- registration with the NDIS as a Behaviour Support Practitioner.

The Guidelines also details further requirements for APOs, including that APOs should be familiar with trauma-informed practices, client-centred approaches and the impact of colonisation and systemic racism for Aboriginal people. APOs who are registered to authorise restrictive practices for children and young people must have a sound understanding of child development and developmental trauma. This can be demonstrated through an APO's:

- work history
- professional development and training.

APOs should have professional networks that allow them to seek cultural, religious, gender and issue based expert knowledge to guide their decision making. APOs should be supported to access supervision related to their role as an APO, which focuses on professional development, support and accountability.

The SAO will consider whether an APO meets the legislative requirements to be authorised as an APO and request additional or clarifying information. The implementing provider will be informed of the decision in writing and the expiry of the APO's authorisation.

Implementing providers may appeal the decision to not authorise a person to be an APO, or the conditions of an APO authorisation. Appeals must be sought through the South Australian Administrative Appeals Tribunal (SACAT) within 30 days of the decision. Implementing providers are encouraged to discuss their concern with the SAO prior to appeal, to clarify the decision and negotiate a resolution where possible.

APOs may be authorised with respect to more than one provider where:

- there is agreement from the providers involved AND
- where this streamlines authorisations for mutual clients.

It is preferable that the NDIS provider's Account Owner is not also the APO, although this is possible if an individual is able to manage the requirements and demands of both roles. The person must have two separate email addresses and log in under the "Account Owner" and "APO" profiles as required.

Step by step details on nominating an APO on the RPS is found in the Restrictive Practices System Guide – Nominating an Authorised Program Officer.

4.3 Behaviour Support Plans and Restrictive Practices

APOs and the SAO are required to ensure that a restrictive practice request meets the legislative requirements for authorisation. The legislation requires that there be a behaviour support plan (BSP) for the participant.

The Act defines a BSP as one that meets the *National Disability Support Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (NDIS Rules). BSPs play a key role in supporting people with behaviours of concern. The quality of a BSP has a direct impact on reducing and eliminating restrictive practices. APOs and the SAO do not approve the BSP. The role of the authoriser is to review the BSP in the context of the legal threshold for authorising a restrictive practice.

Risk of Harm

Legal Requirement:

The Act defines risk of harm (in relation to the use of restrictive practices to address behaviours of concern) as:

(a) the use of force against another person, or an express or implied threat that force will be used against another person.

(b) self-harm, or an express or implied threat of self-harm.

(c) behaviour that substantially increases the likelihood that physical or mental harm will be caused to the person or to any other person (whether intentionally or unintentionally);

(d) any other behaviour of a kind prescribed by the regulations.

The Regulations further clarify that a risk of harm is also:

(a) causing damage to property, or an express or implied threat that damage will be caused to property (whether the property belongs to the person or any other person);

(b) causing human biological material to come into contact with a person or object (whether by directly applying the material to the person or object or otherwise).

There must be a behaviour of concern that creates a risk of harm and has been documented within the BSP, risk assessment or any other supporting documentation. Implementing providers are encouraged to work collaboratively with the behaviour support practitioner to ensure this information is included within the BSP.

Restrictive practices should not be used to manage all risks, only the risk of harm from behaviours of concern that cannot be managed in a less restrictive way.

Practice Considerations:

It is best practice for a risk assessment to be undertaken for all identified behaviours that present a risk of harm. The risk assessment may include:

- assessment of the severity and likelihood of these risks
- identifying the risks arising from behaviours of concern
- identifying the risks that may arise due to the use of the restrictive practice(s)
- ensuring the restrictive practice and other strategies are proportionate to the risk of the behaviour of concern.

Least Restrictive

Legal Requirement:

Restrictive practices can only be authorised where it is required to minimise and prevent harm, and no other strategies are sufficient to address the risk. This means there is evidence in the

BSP which demonstrates that other options have been considered/trialled and have been found to be insufficient to address the risk of harm.

Implementing providers are encouraged to work collaboratively with the behaviour support practitioner to ensure that information regarding the other options being considered and trialled is documented within the BSP, or other supporting documents. Implementing providers should upload these supporting documents to the Behaviour Support Plan Summary within the RPS.

Practice Considerations:
Where restrictive practices are required, the BSP should include strategies:

- to identify when a behaviour of concern may occur for the NDIS participant
- to prevent behaviours of concern occurring
- to minimise, reduce or redirect the behaviour.

The stages of a behaviour cycle should be clearly identified so that support workers are equipped with preventative strategies and are able to respond to early signs of behaviour escalation before the risk of harm requires the use of restrictive practices.

Documenting the Restrictive Practice

Legal Requirement:
The BSP must clearly identify the restrictive practice being requested by the provider. A restrictive practice that has not been clearly recorded within the BSP cannot be authorised. Implementing providers should ensure that the restrictive practice being requested is clearly documented within the BSP prior to submitting an RP request.

Practice Considerations:
It is recommended that the BSP identify the settings in which the restrictive practice will be used, and any specific considerations related to the setting when using the restrictive practice.

Skill Development

Practice Consideration:
The Guidelines detail that skill development is a key component of behaviour support "*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.*" Evidence suggests that developing new skills reduces the likelihood of behaviours of concern and therefore the use of restrictive practices.

Skill development is only possible where a person has opportunities to take some risks and is only possible where restrictive practices are not overly restrictive. Care must be taken to provide children and young people with developmentally appropriate risk-taking opportunities that support skill development.

Monitoring and Review

Practice Consideration:

The Guidelines detail that positive behaviour support "*is not a static process but is continually being reviewed for progress towards behaviour goals and 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.*"

It is recommended that there is a documented process for monitoring and reviewing the use of restrictive practices within the BSP or supporting documents that helps to inform a reduction and elimination of the restrictive practice.

Reduction and Elimination

Practice Consideration:

The South Australian government has endorsed the *National Framework for Reducing and Eliminating the use of Restrictive Practices in the Disability Service Sector (2013).* The Act, Regulations and Guidelines have been developed with this aim in mind.

Skill development, as detailed above, is one method for reducing and eliminating restrictive practices. Other strategies that help to reduce and eliminate restrictive practices can include:

- environmental changes
- modelling behaviours
- staff training and development
- improving a person's quality of life.

Professional Development and Staff Training

Practice Considerations:

Staff training or professional development may be required by the participant's support workers for the restrictive practices to be safely implemented. This does not always present as formal training sessions. Evidence may be provided in alternative ways such as practitioner modelling onsite and active participation with support staff and participants to implement the plan in the community setting.

4.3.1 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 health disorder, a physical illness, or a physical condition. Implementing providers should seek clarification from the participant's treating doctor if they are unclear as to the purpose of the medication.

4.3.2 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 purposes 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 would be considered exercising care towards a person.

Physical restraint can pose significant risks to the person and others.

Implementing providers should confirm that:

- the physical restraint being requested is not a prohibited physical restraint
- the physical restraint does not restrict a participant's respiratory or digestive functions
- the physical restraint is not intended to inflict pain or discomfort
- that force is not being used to implement other restrictive practices without authorisation for the physical restraint.

It is recommended that implementing providers ensure their staff are regularly trained in the safe use of physical restraints to prevent injury.

4.3.3 Mechanical Restraint

A 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.

It is recommended that specialist advice (such as from occupational therapists, speech pathologists or physiotherapists) is sought during the development of the BSP, where mechanical devices are prescribed to ensure:

- the correct mechanical device is used
- the device is correctly fitted
- training and support is provided to workers in the use of the device
- clear instruction is provided around timeframes for use.

4.3.4 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.

For a restrictive practice to be considered seclusion:

- the period of seclusion cannot exceed two hours
- it may only occur in an emergency where it is necessary to prevent serious harm to the person or others
- it is used for the purpose of de-escalation or self-regulation.

There must be no routine or scheduled use of seclusion. Patterns of seclusion use should be examined to ensure that multiple periods of seclusion have not been used in quick succession as this may have the effect of detention.

RP requests that do not meet the above criteria are not able to be authorised.

4.3.5 Environmental Restraint

An environmental restraint restricts a person's free access to all parts of their environment, including items or activities.

Preventing access to an area that individuals are not ordinarily permitted to enter is not considered an environmental restraint. This is to reflect ordinary community standards of privacy and access that may occur in shared housing, workplaces, and community spaces, and can include:

- staff rooms in disability accommodation premises where staff may undertake office work, sleep, store their personal belongings or confidential client files
- the private rooms of other clients in shared accommodation
- the locking of bathroom doors and toilet doors while they are in use
- locked utility and maintenance areas in disability accommodation premises where general access is restricted, including for staff members.

The NDIS regulated environmental restrictive practices and restrictive practices that are authorised under the RPAS have some differences. Implementing providers must familiarise themselves with these differences, in particular the use of CCTV to monitor behaviours of concern and the locking of external gate and doors of a residential premises where NDIS supports are provided on a 24-hour basis and the participant does not have such supports to safely leave the house at their discretion.

Environmental restraint practices can have an impact on others who live in the same household or use the same facilities or residence, affecting their rights and freedom. Implementing providers must consider whether this will result in a restrictive practice being imposed on another person within the environment. Environmental restraints that are imposed on others who do not have a behaviour of concern that poses a risk of harm will not be able to be authorised, as they do not meet the legal requirements for authorisation.

4.4 Consultation

Sections 23M and 23O of the Act require APOs and the SAO to only authorise restrictive practices where consultation with the NDIS participant has occurred. This requires implementing providers to demonstrate how consultation has occurred with the participant and/or their guardian (where the participant is unable to provide any communication regarding their wants).

Informed consent remains a core practice principle within the Guidelines. People with disability are entitled to participate in decisions that affect them, to make informed choices about the behaviour supports that will be helpful in their circumstances, and to have their preferences considered and given practical effect wherever possible.

Where the implementing provider in unable to obtain informed consent, they must provide evidence that the BSP has been developed in consultation with the participant and their guardian (where relevant).

Examples of how an implementing provider can demonstrate that consultation with the participant has occurred can include (but are not limited to):

- minutes from meetings held between the provider and the NDIS participant about the BSP

- the BSP includes details of meetings held with the NDIS participant about the BSP and the restrictive practices
- the NDIS participant was unable to participate directly in the BSP due to their cognitive and communicative capacity, however their voice was documented by the behaviour support practitioner or the provider through discussions held with the NDIS participant's guardian and/or family.

It is important that this evidence demonstrates that the participant was given the opportunity to express their own thoughts and feelings regarding the restrictive practice, including:

- why the provider believes restrictive practices are needed
- when the restrictive practices will be used
- the risks and benefits of their use
- how the provider will monitor the risks when using a restrictive practice
- alternative supports that will be used prior to using a restrictive practice
- how they will work with the NDIS participant to reduce or stop using them
- they can consent to the restrictive practice or refuse to give consent.
- they have a right to withdraw consent
- they are informed about authorisation processes
- they are told about how to appeal decisions or complain.

A signed consent form or the BSP will not be considered as consultation, without other evidence.

Aboriginal and Torres Strait Islander People

It is important when consulting with Aboriginal and Torres Strait Islander people about the use of restrictive practices that considerations are made within the context of culturally safe practice and in consultation with the person with disability, their families, carers, kin and people with cultural authority.

Aboriginal and Torres Strait Islander people must be engaged with in a way that is culturally safe and culturally competent. This may include:

- appropriate use of language to ensure accessibility of the plan to all stakeholders. For example, the use of jargon, acronyms or technical terms are minimised and/or explained
- consideration of terms of reference that may trigger trauma in the context of systemic racism and colonisation. Terms of reference that may have different meanings within the person's own community. Consultation with the participant, family/kin and cultural authority is highly encouraged to elicit their preferred terminology where possible.
- use of appropriate methods to effectively communicate the plan according to the needs of all stakeholders
- if possible, communicate in the first spoken language of the participant and their family or use an interpreter
- taking steps to include extended family where appropriate and possible.

Culturally and Linguistically Diverse Communities

It is important when discussing restrictive practices with participants and families from culturally and linguistically diverse (CALD) communities that considerations are made within the

context of culturally safe practices and in consultation with the person with disability, family/kin and people with cultural authority.

Considerations when engaging with people from CALD backgrounds may include:

- differing views of disability and restrictive practices within a cultural context
- engagement with an accredited professional interpreter when there are language barriers.
- use of appropriate methods to effectively communicate the plan according to the needs of all stakeholders
- appropriate use of language to ensure accessibility of the plan to all stakeholders. The use of jargon, acronyms or technical terms should be minimised and/or explained.
- develop links with communities, particularly elders and community leaders if ongoing communications are required
- terms of reference that may trigger trauma in the context of historical experiences or previous cultural expectations
- terms of reference that may have difference meaning within the person's own community
- taking steps to include extended family/community where appropriate and possible.

Alternative Communication

Where the nature of the person's disability presents communication barriers in being able to effectively participate in the behaviour support or authorisation process, consideration should be given to alternative means to be able to effectively include them within the behaviour support processes of restrictive practices. This can include:

- alternative communication methods including use of augmentative communication systems.
- non-verbal forms of communication including hand gestures, eye contact, sounds and movements
- accessing an advocate or a person who is familiar with the participant and is able to interact effectively
- use of social stories and easy read resources
- engaging with an interpreter.

Where these forms are a person's primary form of communication, implementing providers should ensure that the individual's communication support person does not have a conflict of interest that may bias or provide an inaccurate picture of the participant's wishes.

Children and young people

It is important that children and young people are given opportunities to be involved in the development of their BSP, as much as possible. Providers should give children and young people reasonable opportunity to consult on the development of their BSP, in line with their developmental skills.

Restrictive practices may not be authorised where children and young people have not been given an opportunity to be involved in the development of their BSP, or where consultation has only occurred with the child or young person's parent or guardian.

Where a young person in state care has sufficient maturity to understand the restrictive practices and why they have been sought and does not consent to their use, the authorisation decision will be referred to the SAO in accordance with the Guidelines.

4.5 Requesting RP Authorisation

Implementing providers are required to identify restrictive practices being used within their organisation and whether these restrictive practices require authorisation under the RPAS.

Implementing providers should refer to the Restrictive Practices Schedule to identify whether a restrictive practice requires authorisation under the RPAS. Restrictive practices cannot be authorised by the RPAS unless the following criteria is met:

- there is an identified behaviour or concern that creates a risk of harm
- a restrictive practice is required to minimise or prevent harm and other strategies have been insufficient to address the risk
- there is a current BSP
- the BSP was written by an NDIS registered behaviour support practitioner
- the restrictive practice is clearly identified within a current behaviour support plan.

Implementing providers can obtain further information on the requirements for authorisation decisions from the Restrictive Practices Guidelines and the Restrictive Practices Manual for Authorised Program Officers.

Following the identification of a restrictive practice that requires authorisation under the RPAS, the implementing provider is required to log onto the RPS and make a request for authorisation. The implementing provider will require the following information to lodge the request:

- the name of the participant
- the participant's NDIS number
- the participant's behaviour support plan (BSP) and supporting documents
- details of the behaviour support practitioner
- the details of any other implementing providers identified in the BSP.

The RPAT has developed comprehensive guides for implementing providers on adding participants and making authorisation requests:

- Finding, Adding and Editing a Participant
- Add and Edit a Behaviour Support Plan Summary
- Add, Edit and Submit a Restrictive Practice Request for Authorisation

These and other guides can be accessed on the Restrictive Practices Unit's website.

Restrictive practices are categorised as either level 1 or level 2 restrictive practices. This determines whether the restrictive practice is able to be authorised by the APO or whether the restrictive practice requires authorisation by the SAO. A comprehensive guide to whether restrictive practices are level 1 or level 2 can be found within the Restrictive Practices Schedule.

4.5.1 Conflict of Interest

The NDIS Practice Standards require implementing providers to have a conflict-of-interest policy. Implementing providers should refer to their organisation's policy to identify any other actions that may be required with regards to potential or actual conflicts of interest.

The Restrictive Practices Guidelines states that APOs must "recuse themselves from authorising restrictive practices where they have been directly involved in the behaviour support planning process for the person."

Implementing providers should develop appropriate mechanisms to identify and address any conflicts of interest that may exist when making requests for authorisations for restrictive practices, including ensuring that APOs are supported to make impartial authorisation decisions based on the evidence provided in the application.

If there is a conflict of interest, APOs should refer the matter to either another APO within their organisations or to the SAO.

4.5.2 Returned for More Information

Occasionally implementing providers may have a restrictive practice application return through the RPS. This occurs when the authoriser has identified gaps or incorrect documentation during their assessment. The APO or SAO may return the request to the implementing provider to seek clarification or further information. The APO or SAO should advise providers what further information or clarification is sought.

Where a request is returned for more information by the APO, it will be sent to the user in the RPS who submitted the restrictive practice request.

Restrictive practice requests returned for more information by the SAO may be returned to either the original user who submitted the request or to the APO, depending on the nature of information required.

Implementing providers are encouraged to prioritise responding to such requests as authorisation will be unable to progress without the requested information.

4.5.3 Authorisation with Conditions

An authoriser may place conditions on the authorisation of a restrictive practice. This may occur when:

- an interim plan has been developed and strategies to reduce or eliminate the restrictive practice have not been fully developed
- gaps were identified within the behaviour support plan
- the BSP makes specific recommendations for the restrictive practice implementation (eg physical restraint to only be attempted by female staff)
- the assessment has not fully considered the impact of others within the home.

The authoriser should seek clarifying information in the first instance to attempt to resolve any issues prior to authorising a restrictive practice with conditions.

4.5.4 Not Authorised

APOs or the SAO may decide to not authorise a restrictive practice. Reasons for this may include:

- there are no behaviours that cause risk of harm have been identified
- there is no current NDIS Behaviour Support Plan
- the restrictive practice being requested is not the least restrictive option available to mitigate or minimise the risk of harm
- the restrictive practice being requested is not consistent with the BSP
- no consultation was undertaken with the participant.

The authoriser will engage with the provider to attempt to resolve these issues, where possible, prior to the restrictive practice not being authorised.

Where the SAO has not authorised level 1 or 2 restrictive practices in relation to a participant, the provider cannot make a further application to use the same restrictive practices in relation to the same participant within 6 months after the initial application, except—

- where the circumstances of the participant have changed in a material way since the initial application (for example, the person's behaviour support plan has been substantially updated); or
- with the permission of the Senior Authorising Officer.

Restrictive practices that are not authorised by an APO can be appealed to the SAO. Restrictive practices that are not authorised by the SAO can be appealed to SACAT. See section 4.8.

4.5.5 Authority to Enter, Search and Retain Items

Section 23N (5) and (6) and section 23O (6) and (7) of the Act provides the power for implementing providers to:

- enter and remain in a place where the prescribed NDIS provider reasonably suspects the prescribed person may be found;
- search the prescribed person's clothing or possessions and take possession of anything in the prescribed person's possession that the prescribed person may use to cause harm to themselves or others, or to damage property;
- retain anything so taken from the possession of the prescribed person for as long as is necessary for reasons of safety (and then return the thing to the prescribed person or otherwise deal with the thing according to law).

This authority has a significant effect on the freedoms of the participant and must be used lawfully and in accordance with the Restrictive Practices Guidelines.

Implementing providers are required to develop internal procedures about using the search provisions under the Act. The Search Provisions – Creating a Local Procedure provides

implementing providers with detailed guidelines on the use of this power and instructions on the development of their own organisation's procedure.

4.5.6 Written Notice

Implementing providers are required to provide written notices of the use of an authorised restrictive practice to:

- for children or young people – the participant's parent or guardian
- for participants who have a guardian or substitute decision maker – the guardian or substitute decision maker and the participant
- participants without a guardian or substitute decision maker – the participant

The notice must include the following information:

- the name of the participant
- the implementing provider's name
- the time and date that the restrictive practice(s) was used (or the period during which the restrictive practice(s) was used, for a maximum of three months)
- the type of restrictive practice(s) being used
- the reason the restrictive practice(s) was used
- information regarding the dispute and review process.

The notice should be provided as soon as practicable after the use of the restrictive practice(s) and where multiple restrictive practices are used in relation to a participant the notice can include all the restrictive practices used.

The written notice must be provided to the parent, guardian, or substitute decision maker. Notice given to a participant should be given in in a way that the participant can understand.

4.6 Dispute Resolutions and Appeals

Implementing providers should provide their organisation's internal dispute resolution and complaints process to any interested parties on request. It is expected that providers will work collaboratively with interested parties and attempt to resolve internal complaints where possible.

Implementing providers are required to provide participants and their guardians with detailed information about the appeal process as part of their requirement to provide written notice of the use of an authorised restrictive practice. This written notice must provide information to the interested parties about their right to appeal an authorisation decision.

If an implementing provider disagrees with a decision made by the APO, they may appeal the decision to the SAO. This request for review must be made in writing within thirty days of the original decision. The SAO may allow for requests for reviews beyond thirty days in exceptional circumstances.

If an implementing provider disagrees with a decision made by the SAO, they may appeal the decision to the SACAT. Implementing providers are encouraged to contact the Restrictive Practices Authorisation Team where they disagree with an authorisation decision made by the SAO in the first instance. If a provider remains unsatisfied after the discussion, they may seek a review of the decision through the South Australian Civil and Administrative Tribunal (SACAT). These applications must be made to SACAT within thirty days and can be made online via the SACAT website.

5. Glossary

Authorised Program Officer (APO)	Staff of implementing providers that have been authorised by the Senior Authorising Officer to undertake the endorsement or authorisation of restrictive practices.
Behaviour Support Plan (BSP)	Behaviour support plans document the assessment and interventions to help the person with disability, their families, carers, and professionals to support them in an agreed and consistent way. The Act requires that BSP's within the Scheme meet the requirements of the NDIS Rules and includes both interim and comprehensive behaviour support plans.
Implementing Provider	The NDIS registered provider that will be using the restrictive practices once authorised.
Informed Consent	Informed consent involves a participant and guardian (where relevant) being informed of the proposed use of restrictive practices including: • How and when they would be used • The risks and benefits of the use • The risks and benefits of not using the restrictive practice, • The proposed plan to fade out their use. The information is provided to the participant and guardian in a way that they can understand. The participant and/or their guardian have agreed to the use of the restrictive practices and the discussion is documented by the provider. The participant and their guardian are also informed of their right to withdraw consent at any time, their right to appeal decisions and how to access these options. A consent form alone is not informed consent.
Level 1 Restrictive Practice	A restrictive practice that can be authorised by an Authorised Program Officer. Details of whether a restrictive practice is a Level 1 can be located in the Regulations and the Restrictive Practices Schedule.
Level 2 Restrictive Practice	A restrictive practice that must be authorised by the Senior Authorising Officer. Details of whether a restrictive practice is a Level 2 can be located in the Regulations and the Restrictive Practices Schedule.

Participant	An NDIS participant who is subject to a restrictive practice under the Restrictive Practices Scheme in South Australia.
Prescribed Person	The term given for a participant within the Act and the Regulations.
Prescribed Provider	The term given for an implementing provider within the Act and the Regulations.
Regulated Restrictive Practices	Restrictive practices that are subject to oversight by the NDIS Commission under the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*.
Restrictive Practice	Any practice or intervention that has the effect of restricting the right or freedom of movement of a person with disability, with the primary purpose of protecting the person or others from harm.
Restrictive Practices System	The web-based system where the authorisation of restrictive practices is requested by implementing providers and authorised by Authorised Program Officers or the Senior Authorising Officer.
Restrictive Practices Scheme (RPS)	The scheme that manages the authorisation of restrictive practices in South Australia under the Disability Inclusion (Restrictive Practices—NDIS) Amendment Act 2021.
Senior Authorising Officer (SAO)	The person appointed to the position of the Senior Authorising Officer, which has the following functions: • to assist the Minister in the preparation, variation, or substitution of the restrictive practices guidelines • to keep the restrictive practices guidelines under review • to authorise specified persons to authorise the use of level 1 restrictive practices by a prescribed NDIS provider • to authorise the use of level 1 and 2 restrictive practices • to promote the reduction and, where possible, the elimination of the use of restrictive practices in the disability sector to provide education and training relating to the use of restrictive practices • to advise the Minister and other persons in relation to the use of restrictive practices in the disability sector

6. Document Control

File Number	
Applies to	NDIS Implementing Providers
Issued by	Restrictive Practices Unit
Content author (position & phone no)	Senior Authorising Officer
Implementation Date	
Confidentiality	

Table 2 – Revision Record

REVISION RECORD		
Date	Version	Revision Description
	0.1	DRAFT