

Unauthorised to Authorised Restrictive Practices

Step-by-step guide for NDIS
Providers in Western Australia



Government of **Western Australia**
Department of **Communities**





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This resource is for NDIS workers to recognise restrictive practices and to understand the implications of their use in the delivery of NDIS supports.

It highlights the key responsibilities for providers to monitor, reduce and eliminate the use of restrictive practices in order to meet the requirements of the NDIS Quality and Safeguards Commission (NDIS Commission) and the WA State Government.

This practical step-by-step guide outlines the process from first identifying the use of a restrictive practice to the potential reduction and elimination of that practice. It includes definitions of key terms and links to more information.



Restrictive Practice:

The *NDIS Act 2013* defines a restrictive practice as “any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability”.

The primary purpose of a restrictive practice should be to protect the person with disability or others from harm, in response to a behaviour of concern.

However, it is now recognised that restrictive practices can have profoundly negative effects on a person’s quality of life and can represent serious human right infringements.

Therefore, the NDIS Commission regulates the use of five types of restrictive practice.

5 Types of Regulated Restrictive Practices



Seclusion:

When the person is left on their own or put in a place which they can't leave or think they can't leave, when they want to.



Chemical restraint:

When the person is given medication to change their behaviour.



Mechanical restraint:

When someone puts something on or around the person's body to stop them moving freely.



Physical restraint:

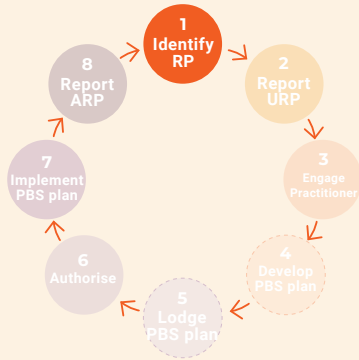
When someone uses their hands or body to stop the person from moving or doing what they want.



Environmental restraint:

When another person decides what someone can do, what they can get, who they can see or contact and where they can go.





Step 1

Identify a
restrictive
practice (RP)

Step 1

A provider identifies the use of a restrictive practice.

If it is being used **in connection with** the delivery of NDIS funded services and supports, it may be an **unauthorised** restrictive practice (URP).



Definitions

In connection with: The NDIS Commission ONLY monitors restrictive practices used in the context of delivering NDIS services and supports.

The NDIS Commission does not regulate restrictive practices used by unpaid family members, or in the health, education or justice systems. If the implementing provider becomes aware of restrictive practices being used in these other settings, it is not necessary to report them to the NDIS Commission.

However, a provider has a duty of care and responsibility to ensure that people are safe from abuse and neglect. This responsibility is reflected in the NDIS Code of Conduct. A provider may choose to inform other authorities (e.g. police) and respond according to their own internal incident management processes.

Unauthorised: A restrictive practice is unauthorised if it

- has not been captured in a behaviour support plan (BSP Step 4); or
- has not been authorised by the implementing provider (Step 6); or
- is not being used in accordance with the BSP or the authorisation conditions. This includes the emergency use of a restrictive practice.



Stop!

Are you registered with the NDIS Commission?

Yes

Does your registration include Module 2A: Implementing Behaviour Support Plans?

→ **Yes**

You are an 'implementing' provider.
Continue to **Step 2**

→ **No**

Continue to report the URP, and either;

- Support the person to engage a provider who is registered for Module 2A; or
- Take active steps to rectify your registration to include Module 2A:
 1. Contact the NDIS Commission
 2. Request an out-of-cycle audit.

No

Only REGISTERED providers can implement regulated restrictive practices.

If there is ongoing use of a restrictive practice, you must:

1. Find a way to cease using the restrictive practice, if safe to do so;
2. Support the person to engage a registered provider to deliver the supports that involve the restrictive practice; or
3. Apply to the NDIS Commission to become a registered provider.



Where can I find more information?

1. Registration requirements for the use of restrictive practices:
www.ndiscommission.gov.au/resources/fact-sheets-and-guides/fact-sheets-and-process-guides#paragraph-id-1474
2. WaiS resources:
 - Positive Behaviour Support and Restrictive Practice in the NDIS
 - Restrictive Practice Activity Cards
3. An overview of behaviour support and restrictive practices for both implementing and behaviour support providers:
Behaviour Support and Restrictive Practices Factsheet, 2020
www.ndiscommission.gov.au/sites/default/files/2022-07/fact-sheet-behaviour-support-under-ndis-commission-july-2020-final_0.pdf

4. Detailed information on regulated restrictive practices including definitions and case studies:

Regulated Restrictive Practices Guide, 2020

www.ndiscommission.gov.au/providers/understanding-behaviour-support-and-restrictive-practices-providers#paragraph-id-2729

Regulated Restrictive Practices with Children and Young People with Disability Practice Guide, 2021

www.ndiscommission.gov.au/providers/understanding-behaviour-support-and-restrictive-practices-providers#paragraph-id-2730

5. Frequently asked questions about the use of restrictive practices:

Unauthorised Use of Restrictive Practices Questions & Answers

www.ndiscommission.gov.au/document/2711

6. *NDIS Act 2013*

www.ndis.gov.au/about-us/governance/legislation

Important!

There are some restrictive practices that **can never be used** in WA. These are called **prohibited practices** and will never be authorised for use. If a prohibited practice has been used, this may be considered abuse. If it was implemented in the delivery of NDIS funded supports, it must be reported to the NDIS Commission within 24 hours.

7. Prohibited practices in WA:

Authorisation of Restrictive Practices in Funded Disability Services Policy, Government of Western Australia Department of Communities (p12)

www.wa.gov.au/government/publications/authorisation-of-restrictive-practices-funded-disability-services-policy

Who can I talk to about this?

Is this a restrictive practice? What are my provider obligations?

Refer to the Regulated Restrictive Practices Guide, 2020.

Contact the NDIS Commission on 1800 035 544 or email
WABehaviourSupport@ndiscommission.gov.au



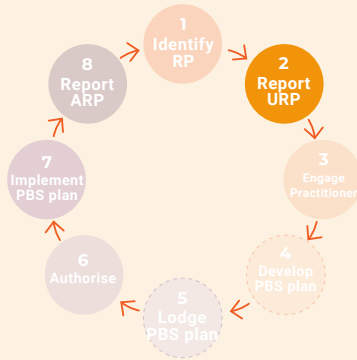
I'm unsure whether or not the person's medication meets the definition of chemical restraint.

Confirm the purpose of the medication with the prescriber and discuss with the NDIS Commission or the NDIS registered behaviour support practitioner.

I'm an implementing provider and I need further advice.

Seek best practice advice from the NDIS registered behaviour support practitioner. This advice must be aligned with the NDIS Commission's Positive Behaviour Support Capability Framework, 2019 (updated 2021).

www.ndiscommission.gov.au/pbscapabilityframework

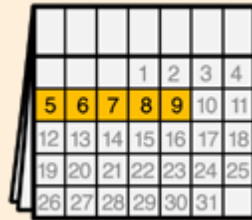


Step 2

Report the unauthorised restrictive practice (URP)

Step 2

The implementing provider **reports each use of** URP to the NDIS Commission within 5 days of **key personnel** becoming aware of its use.



Definitions

Report: An unauthorised restrictive practice is considered an incident that must be reported to the NDIS Commission by registered providers. The report is done using the **5 Day Notification** form in the My Reportable Incidents tab on the NDIS Commission portal. However, if the use of the restrictive practice results in serious injury, this must also be reported as a serious injury notification on the **Immediate Notification** form within 24 hours.

Your organisation's delegated Authorised Reportable Incidents Approver reports this (and can be supported in this process by the Authorised Reportable Incidents Notifier).

Each use: Each and every use of an URP must be reported within 5 days to the NDIS Commission. The NDIS Commission will assess the volume of URP reports to determine suitability for weekly reporting.

Key personnel: Individuals who hold key executive, management or operational positions in an organisation, such as directors, managers, board members, the chief executive officer or chairperson. These people have been assessed for suitability by the NDIS Commission and are registered as key personnel in the NDIS Commission portal.



Where can I find more information?

1. How to notify the NDIS Commission about a reportable incident:
www.ndiscommission.gov.au/providers/complaints-and-incidents/notify-us-about-reportable-incident
2. Detailed, practical information on meeting provider obligations, see NDIS Quality & Safeguards Commission Quick Reference Guides:
 - Getting access to the NDIS portal
www.ndiscommission.gov.au/document/1476
 - Complete the 5 Day Notification form
www.ndiscommission.gov.au/document/1471
 - Create an Immediate Notification
www.ndiscommission.gov.au/resources/fact-sheets-and-guides/ndis-commission-portal-quick-reference-guides#paragraph-id-3884
 - Add or manage key personnel
www.ndiscommission.gov.au/document/681
3. Reportable incidents: Detailed Guidance for Registered NDIS Providers June 2019 (See pp29-30 for 'provider non-reporting'):
www.ndiscommission.gov.au/document/596



Who can I talk to about this?

I am an implementing provider and have questions about how to report on unauthorised restrictive practices.

You can direct any information or queries relating to URPs to the National Taskforce via URPnationaltaskforce@ndiscommission.gov.au or phone 1800 035 544 and ask to speak to someone in the URP National Taskforce.

Important!

1. The implementing provider continues to report each URP within 5 days right up until the point the URP is authorised. Once authorised, the provider reports monthly.
2. If a registered NDIS provider (such as a support coordinator or allied health professional) witnesses an incident or conduct involving another NDIS provider and thinks that the URP has not been reported by the implementing provider, they can raise this as a concern of provider non-reporting to the NDIS Commission by phone 1800 035 544 or email waURPMonitoring@ndiscommission.gov.au



Stop!

If the URP will continue to be used, it must be captured in a Behaviour Support Plan (BSP).

Is there funding for Specialist Behaviour Support (CB Improved Relationships 0110) in the person's NDIS plan?

Yes

Continue to
Step 3

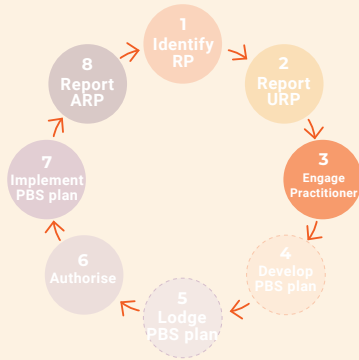
No

An unscheduled NDIS plan reassessment is required.

The person with disability is supported by the implementing provider to:

1. Gather supporting evidence (therapy reports, reportable incidents register); and
2. Inform the NDIS of your change of circumstances. Your disability-related support needs have changed as you now need to request funding for behaviour support.

www.ndis.gov.au/participants/using-your-plan/changing-your-plan/change-circumstances

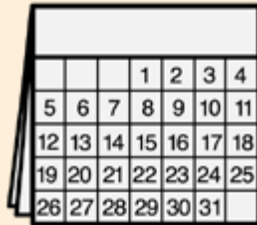


Step 3

Engage an
NDIS-registered
behaviour
support
practitioner

Step 3

If the URP will continue to be used, it must be captured in a behaviour support plan (BSP). The implementing provider must take **‘all reasonable steps’** to engage an **NDIS-registered behaviour support practitioner** within 1 month after the first use of the URP.



Definitions

All reasonable steps: Steps that demonstrate that the implementing provider has met their obligations to facilitate the development of a BSP within a prescribed timeframe.

These steps may include:

- working with the person to engage an NDIS behaviour support practitioner,
- contributing to the development of BSPs and assessments,
- working with stakeholders to overcome delays and barriers that might arise.

Types of evidence that demonstrate reasonable steps have been taken may include:

- a completed interim or comprehensive BSP,
- a portal plan ID for an interim or comprehensive BSP demonstrating compliance with the prescribed timeframes,
- any records or documentation that demonstrate:
 1. liaison with the person to enable the engagement of a practitioner and/or to seek a plan reassessment with the NDIA for further funding (if appropriate),

2. liaison/consultation with the person, support coordinator, practitioner, direct service staff, mainstream and other NDIS providers to inform the development of BSPs,
3. protocol, incident reports and data collection related to the use of the restrictive practice/s, and other relevant service delivery records,
4. referrals to medical and allied health specialists or other NDIS providers and subsequent reports or assessments,
5. risk assessment documentation,
6. liaison with Local Area Coordinators, the NDIA or NDIS Commission for assistance to address barriers when the BSP is not progressing.

NDIS-registered behaviour support practitioner:

A person (or the provider they are working for) who is

1. registered for Specialist Behaviour Support (registration group 0110), and
2. deemed suitable by the NDIS Commission under the Positive Behaviour Capability Framework requirements to
 - undertake behaviour support assessments (including functional behavioural assessments), and
 - to develop behaviour support plans that may contain the use of restrictive practices.

Important!

If you are not the primary NDIS provider, you may need to liaise with the person, their support coordinator or the primary provider to provide information that supports the plan review, and work collaboratively to engage an NDIS-registered behaviour support practitioner.

Continue to keep records of your efforts to facilitate the development of a BSP to meet your provider obligations around the demonstration of 'all reasonable steps'.

Where can I find more information?

1. The Positive Behaviour Support (PBS) Capability Framework – aims to establish expectations of best practice person centred, rights-based behaviour support:

www.ndiscommission.gov.au/providers/understanding-behaviour-support-and-restrictive-practices-providers/positive-behaviour

2. How implementing providers can demonstrate they have taken reasonable steps to facilitate the development of interim and comprehensive behaviour support plans related to the use of regulated restrictive practices:

www.ndiscommission.gov.au/providers/understanding-behaviour-support-and-restrictive-practices-providers#paragraph-id-2734

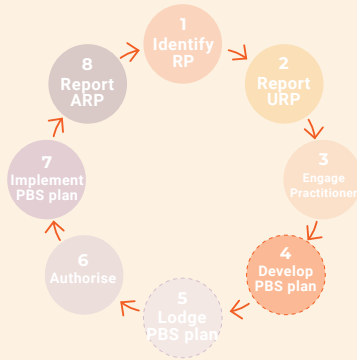


Who can I talk to about this?

Do I have enough evidence to demonstrate ‘reasonable steps’?

Contact the NDIS Commission on 1800 035 544
or email WABehaviourSupport@ndiscommission.gov.au





Step 4

Develop a
behaviour
support plan

**This step is
undertaken by
a Behaviour
Support
Practitioner**

Step 4

The NDIS-registered behaviour support practitioner has 1 month from the date they are engaged to develop an **INTERIM behaviour support plan** and 6 months from the date they are engaged to complete a **COMPREHENSIVE behaviour support plan**. Both an interim BSP and then a comprehensive BSP must be developed.



Definitions

INTERIM behaviour support plan:

This BSP is developed when there is an immediate need for behaviour support that minimises the risk to the person and others. It is a brief plan that provides preventative and response strategies that focus on keeping people safe.

COMPREHENSIVE behaviour support plan:

This is a proactive, person-centred and evidence informed plan that contains a range of individualised strategies that address the person's needs and the function of the behaviour.

If the BSP includes a restrictive practice, it must also include strategies to reduce and eliminate the restrictive practice.

Important!

1. The BSP should be developed in consultation with the person, using a supported decision making process, and include their family, carers, guardian, service provider and other relevant people. The plan should seek to discover what a good life looks like for the person, with a view to reducing and eliminating restrictive practices.
2. The BSP must be reviewed within 12 months.
3. Any restrictive practice should be used as a **last resort**, be the **least restrictive** response, be proportionate to and **reduce the risk of harm** and be used for the **shortest possible time**.

Where can I find more information?

- Plan templates:
 - Interim Behaviour Support Plan template
www.ndiscommission.gov.au/document/1446
 - Comprehensive Behaviour Support Plan template
www.ndiscommission.gov.au/document/1441
- How to ensure that the person with a disability is included in making decisions about their own life, see WA's Individualised Services (WaiS) Supported Decision Making resources
- The NDIS Commission's "Supporting Effective Communication" e-learning module for NDIS workers demonstrates what effective communication looks like, and how it supports choice and control:
www.ndiscommission.gov.au/workers/worker-training-modules-and-resources/supporting-effective-communication
- Introduction to positive behaviour support, see BILD animation:
www.youtube.com/watch?v=epjud2Of610



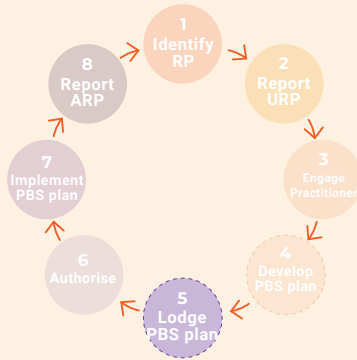


Who can I talk to about this?

**I'm a behaviour support practitioner
and I need further advice**

Seek advice from your supervisor which is aligned with
the Positive Behaviour Support Capability Framework
www.ndiscommission.gov.au/pbscapabilityframework

Contact the NDIS Commission on 1800 035 544 or
email WABehaviourSupport@ndiscommission.gov.au



Step 5

Lodge the behaviour support plan with the NDIS Commission

This step is undertaken by a Behaviour Support Practitioner

Step 5

All behaviour support plans that include a restrictive practice should be lodged by the behaviour support practitioner via the NDIS Commission portal as soon as practicable after it has been developed. The behaviour support practitioner creates a draft BSP in the NDIS Commission portal and shares it with the implementing provider for **authorisation**.



Definitions

Authorisation: Approval of the use of a restrictive practice by a Quality Assurance Panel, convened by the implementing provider (Step 6). The WA State Government has established the arrangements for authorisation in WA.

Important!

1. All interim and comprehensive BSPs that **include a restrictive practice** must be lodged with the NDIS Commission. The behaviour support practitioner is required to do this under the NDIS Commission rules.
2. If the restrictive practice is to be used by family members or informal, unpaid supports **only**, the BSP must be lodged by the behaviour support practitioner but the use of the restrictive practice is not authorised or reported to the NDIS Commission.
3. If there are no restrictive practices in the plan, the plan is not lodged with the NDIS Commission.
4. If a comprehensive BSP is being lodged, a functional behaviour assessment should be available to be uploaded (tip – save and label it as “FBA”).

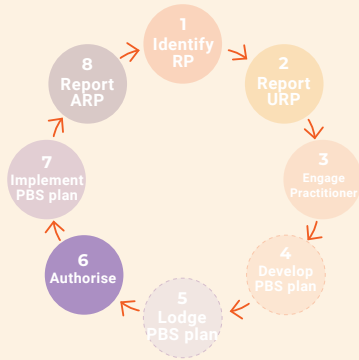
Where can I find more information?

- Lodging a Behaviour Support Plan User Guide:
www.ndiscommission.gov.au/document/1451



Have you been deemed **suitable by the NDIS Commission to deliver specialist behaviour support?**

If no, your request to access the Portal as a behaviour support practitioner will be unsuccessful.



Step 6

Authorise the
restrictive
practice

Step 6

For each URP, the implementing provider convenes a **Quality Assurance Panel** which includes (at a minimum) a **senior manager or delegate** from the implementing provider and an **independent behaviour support practitioner** to decide whether the restrictive practice can be **authorised for use**. The panel's decision is recorded in the **Quality Assurance Outcome Summary Report**.



Definitions

Quality Assurance Panel: The panel decides on whether the restrictive practice can be approved for use together with any conditions of authorisation. Approval to use a restrictive practice must be supported unanimously by all panel members with a decision-making role. There is no requirement for panels to be face to face. Other stakeholders (e.g. family members or the author of the BSP) can participate in panel discussions but are non-decision-making participants.

Senior manager or delegate: A person who works for the implementing provider who has operational knowledge and relevant experience in behaviour support.

Independent behaviour support practitioner: The behaviour support practitioner must be registered to provide Specialist Behaviour Support (0110); have NDIS Commission 'suitability' status; cannot be the author of the BSP and cannot be employed by the implementing provider.

Authorised for use: To be authorised, any recommended restrictive practices must meet ALL the following criteria:

- be clearly **identified** in the BSP;
- be used only as a **last resort**;
- be the **least restrictive** response available;
- **reduce the risk of harm** to the person with disability and/or others;
- be **in proportion** to the potential negative consequence or risk of harm;

- be used for the **shortest possible time** to ensure the safety of the person with disability and/or others.

The BSP **must** include opportunities for the person to develop new skills which have the potential to reduce or eliminate the need for the use of a restrictive practice.

Quality Assurance Outcome Summary Report: The report captures the panel's decision and authorisation conditions for **each** restrictive practice. It is uploaded by the implementing provider into the NDIS Commission Behaviour Support portal as evidence of authorisation.

Important!

1. An implementing provider keeps reporting each URP within 5 days right up until the point that the restrictive practice is authorised.
2. Restrictive practices can only be authorised for a maximum of 12 months.
3. The panel specifies the length of time for which the authorisation applies as part of the conditions of authorisation. Once the agreed authorisation period has expired, the restrictive practice becomes a URP again.
4. As best practice, in circumstances where multiple providers will be implementing the restrictive practice(s) captured in a BSP for one individual, the providers should come together to contribute to the Quality Assurance Panel process outcome.
5. Prohibited practices will not be authorised.

Where can I find more information?

WA Department of Communities policy, resources and information sheets about the authorisation of restrictive practices, including the QA Panel Outcomes Summary Report template (see Forms):

www.wa.gov.au/government/document-collections/authorisation-of-restrictive-practices-resources

The Authorisation of Restrictive Practices in Funded Disability Services Policy will operate for an interim period while a legislative framework is developed.



Who can I talk to about this?

I am an implementing provider and have a question about my responsibilities regarding authorisation.

Contact arp@communities.wa.gov.au



Stop!

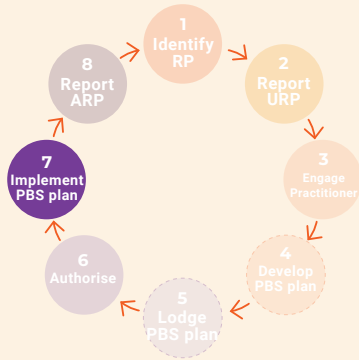
- Do all the decision-making members of the QA panel agree unanimously that the restrictive practice meets the authorisation principles?
- Does the authorisation approval detail any conditions that need to be imposed, including the length of time for which the authorisation applies?
- Is the decision recorded in the Quality Assurance Outcome Summary Report and signed by 2 panel members?

Yes

Continue to
Step 7

No

Further information, additional assessments or changes to the behaviour support plan may be required.



Step 7

Implement
the Behaviour
Support Plan

Step 7

The implementing provider's **Authorised Reporting Officer** accepts the behaviour support plan in the NDIS Commission portal and uploads **evidence of authorisation**.

The implementing provider together with Behaviour Support Practitioner ensures that workers have appropriate training and supervision to implement positive behaviour strategies or to use restrictive practices as outlined in the behaviour support plan.



Definitions

Authorised Reporting Officer (ARO): The person who is responsible for accepting a BSP and for reporting monthly on the use of authorised restrictive practices. Your organisation can decide who will be the AROs. You can have as many AROs as you need. The ARO role must be approved by the Authorised Access Delegate in your NDIS Commission Portal.

Evidence of authorisation:

In WA, implementing providers are required to upload the Quality Assurance Outcome Summary Report as evidence. The report is signed by panel members and specifies the length of time for which the authorisation applies.

Where can I find more information?



1. Portal User Guide for Monthly Reporting of Restrictive Practices for steps to log onto the NDIS Commission portal; request access for the ARO role; to accept a BSP; and to attach evidence of authorisation:
www.ndiscommission.gov.au/document/1536
2. Fact Sheet: Behaviour Support and Restrictive Practices (includes responsibilities for training of workers):
www.ndiscommission.gov.au/document/2236
3. Regulated Restrictive Practices Guide 2020 for case studies and protocol examples including training:
www.ndiscommission.gov.au/document/2386

Important!

1. Evidence of authorisation must be uploaded for **each** restrictive practice used.
2. It is the implementing providers' responsibility to ensure that any workers implementing behaviour support in accordance with a BSP have been **appropriately trained** to provide those supports. The behaviour support practitioner supports the implementation of the plan through the provision of person-centred training, coaching and mentoring. If the behaviour support funding runs out before training has finished, the implementing provider must support the person to seek a plan reassessment with the NDIA for further funding and maintain records or documentation that demonstrate reasonable steps to support this.
3. The implementing provider must ensure that their staff use the restrictive practice **only as per the BSP and authorisation conditions** otherwise, it is considered an URP and requires reporting as in Step 2.



Who can I talk to about this?

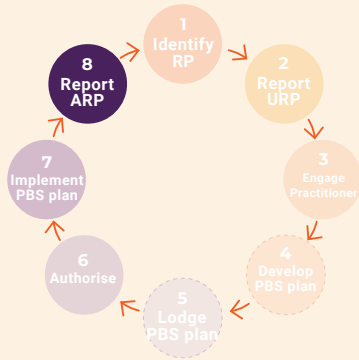
I am an implementing provider and have questions about implementing the plan and training staff.

Refer to the Regulated Restrictive Practices Guide 2020 or Factsheet: Behaviour support and restrictive practices

www.ndiscommission.gov.au/document/2236

Contact the NDIS Commission on 1800 035 544 or email

WABehaviourSupport@ndiscommission.gov.au

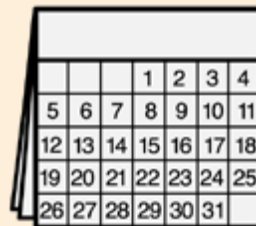


Step 8

Report the authorised restrictive practices (ARP)

Step 8

The implementing provider's authorised reporting officer (ARO) completes a **monthly report** on authorised restrictive practice (ARP) via the NDIS Commission portal (Behaviour Support Plan tab).



Definitions

Monthly report:

Monthly reporting should be completed for all regulated restrictive practices in the behaviour support plan, including reporting if they are not used. Reporting should be completed retrospectively, within 5 business days of the following month. Only the ARO role can submit the reports.

Tip: You can have multiple access roles in the NDIS Commission Portal, so it is important that you are logged in as the ARO role when accepting behaviour support plans and completing monthly reporting.

Important!

1. If a restrictive practice is not used during the preceding month, the provider is still required to report it as 'nil usage' in the monthly report.
2. Once the authorisation period has expired, any continued use of a restrictive practice must be reported as an URP until new authorisation is obtained. (Process begins again at Step 2)
3. Any change to the implementation of regulated restrictive practices that is not strictly in accordance with the BSP or authorisation conditions must be reported as an URP within 5 days of its use.

Where can I find more information?

NDIS Commission Portal User Guide for Monthly Reporting of Restrictive Practices

www.ndiscommission.gov.au/document/1536



Who can I talk to about this?

I am an implementing provider and have a question about monthly reporting.

Contact the NDIS Commission on 1800 035 544 or email the NDIS Commission teams in WA:

WABehaviourSupport@ndiscommission.gov.au; or
WAReportableincidents@ndiscommission.gov.au



Government of **Western Australia**
Department of **Communities**

www.waindividualisedservices.org.au

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The information in this resource is relevant for people receiving and delivering behaviour support in Western Australia and is current as of February 2023.

Please note that over time, the links provided may no longer work as governing bodies change or update their information or websites.

