

Environmental restraint is the restriction of a person's free access to all parts of their environment including items or activities. ¹

As a regulated restrictive practice, the implementation of environmental restraint in NSW requires Restrictive Practice Authorisation (RPA) by a Restrictive Practices Authorisation Panel. This guide covers the necessary considerations by an RPA Panel when determining if authorisation is to be given for the use of environmental restraint, in the context of the rights of people with disability and managing risks due to behaviours of concern.

The submission

The RPA Panel must have appropriate documents which contain essential information to be able to make a reasonable decision to approve or decline authorisation. The submission must be completed using the NSW RPA System and the required supporting documents uploaded and released to the RPA Panel members. It is recommended that the RPA Panel is given a minimum of 2 business days prior to the scheduled meeting of the RPA Panel, to review the submission. It is important that all panel members have adequate time to read the information provided.

For the use of **environmental restraint** this information is:

- the provision of the required documents in *Section 4* of the online RPA Submission Form which includes:
 - the comprehensive Behaviour Support Plan (BSP) or Interim BSP for Interim Authorisation which:
 - describes the use of the environmental restraint
 - includes functionally equivalent and/or related skills that will address the purpose of the behaviour and therefore reduce the need for the restraint
 - the functional behaviour assessment on which the BSP is based (required for planned submissions)
 - the format that will be used to record the use of environmental restraint, where the practice is not yet implemented
 - data regarding the frequency/duration of its use where the environmental restraint is in place (*not mandatory but recommended*)
 - information that describes the impact of the restraint on others in the environment and how this will be minimised or addressed (*not mandatory but recommended*)
- *Section 5* describing the behaviour/s that may require the use of environmental restraint
- *Section 6* describing the proposed environmental restraint.

¹ NSW Restrictive Practices Authorisation Policy 2019

If the above information has not been provided to RPA Panel members, there is insufficient information on which to base a reasonable decision to authorise.

The RPA Panel should not consider the submission until it contains all the required information.

Consideration of a submission for Environmental Restraint

Based on the information provided in *Sections 4, 5 and 6* of the RPA Submission Form, the RPA Panel should determine if it is satisfied with the quality of the response and how the NDIS provider is protecting the rights of the person.

Section 4.4 of the *NSW Restrictive Practices Authorisation Procedural Guide* provides a collection of questions that should be considered by the RPA Panel, in addition to such questions as:

- Has the proposed practice been appropriately categorised as environmental restraint?²
- Is the use of environmental restraint a reasonable and proportionate response to the risk presented by the behaviour of concern?
- Will the use of environmental restraint only occur when other less intrusive strategies have been tried?
- What training might workers need to ensure safe implementation?
- How will use of the restraint monitored and reviewed?
- What is the history of the practice, has it been in place long term?
- Does the frequency of use (non-use) suggest it should be removed?
- Have efforts been made to reduce, fade, and remove the use of the practice?

The following should also be considered:

- How will the restriction be implemented (routine or PRN)?
- What will be the impact of environmental restraint on the person in the context of their personal history, including their potential history of trauma and abuse, and medical history?

Is there a need for an assessment by an allied health professional (eg speech pathologist where access to food is restricted).

- What will be the impact of the environmental restraint on others?

² RPA Environmental Restraint Guidance

- What will be the impact of the environmental restraint on the site generally with regard to safety procedures (e.g. access to rooms, cupboards, or areas of property and evacuation during a fire)? How will this be addressed?

Note: the use of unit or service-wide practices with generalised rationale which subjects multiple persons to restrictions on their rights without sufficient individualised evidence to explain their need should not be applied.

Environmental restraint must not be used to punish, humiliate, or frighten the person or be used as a substitute to insufficient staff resources.

Outcome decision

The RPA Panel (or Senior Manager considering Interim Authorisation) can decide not to authorise the use of the environmental restraint if there is insufficient information to make a well-considered decision to authorise. The decision, as always, should be unanimous and without coercion.

Other possible outcome decisions include

- authorisation for short duration of time, **or**
- authorisation with conditions, **or**
- authorisation without conditions

A senior manager considering Interim Authorisation can choose from these options, however the duration of authorisation cannot be longer than 5 months.

When deciding on the duration of authorisation it is important to consider the expiry date of the BSP which contains the practice/s. Authorisation should not extend beyond the validity of the BSP.

The decision to authorise the use of environmental restraint should include a schedule to review of the implementation of the practice by the RPA Panel (refer to *Review of implementation*).

The decision to authorise the use environmental restraint means:

- the **senior manager** accepts responsibility on behalf of the organisation for oversight of the implementation, monitoring, training staff and the provision of a safe environment for NDIS participants and staff where a person does not have access to all of their environment.
- the **behaviour support practitioner** has considered the environmental restriction in the context of evidence based practice, least degree of restriction, the effectiveness of the strategy to manage the risk and has considered options for fading the practice (in the

context of the identified function of the behaviour and functionally equivalent replacement behaviours).

- the **independent** is comfortable that the decision to impose restrictions on the persons environment is impartial, transparent and is without conflict of interest for the implementing provider.

Conditions of authorisation

All decisions to authorise are conditional upon obtaining appropriate consent for the use of the practice (refer to *Consent and reporting*). It is therefore not necessary to specify this as a condition of authorisation. Authorisation is not valid until consent has been obtained.

Similarly, it is not appropriate to make the provision of a mandatory document a condition of authorisation when missing from the submission, for example a **current** behaviour support plan which includes the environmental restraint must be included with the submission.

A condition of authorisation would be applied where information the RPA Panel considers important to include but is not yet covered by the submission, for example, a fire evacuation protocol that includes consideration of a locked door in the evacuation procedure is often overlooked and could be a condition of approval.

It is recommended that where authorisation includes conditions, the RPA Panel schedules a review of the implementation to monitor the actioning of those conditions.

In the event that a submission does not contain the minimum information required, such as a current behaviour support plan which includes the environmental restraint, authorisation with conditions is not appropriate. Instead, authorisation should be declined and the practice not considered by the RPA Panel until minimum documentation is provided.

Recommendations

The RPA Panel (or Senior Manager considering Interim Authorisation) can make recommendations on additional steps or considerations they believe the service/s should undertake in providing the person with support.

For example:

- strategies to replace the behaviour with an appropriate skill/s.
- consider the supported removal of the practice, where the frequency of use is low or the practice has not been used since authorised.
- opportunities to capacity build others in the environment to minimise the impact of the practice on others.

These recommendations can be informed by (but not limited to) the RPA Panel's satisfaction with:

- the quality of the information provided to evidence the need for the practice
- the rigour with which the NDIS provider is working towards the reduction of the need for the practice
- how well the person is supported to understand the practice
- how well the person is being respected and their rights upheld.

Review of implementation

Restrictive practices should not be authorised without a schedule of reviews to be conducted throughout the authorisation period.

The nature of the restraint and its impact on the person and others should be considered when identifying a schedule of review. These reviews should include consideration of:

- the frequency of use/removal of limitation
- the duration of each use/removal
- impact of the restraint on the person and others
- whether the environmental restraint was used as intended when it was authorised
- attempts to implement less restrictive options
- actions relating to conditions of authorisation
- progress relating to RPA Panel recommendations.

Next steps

Record the decision in the Outcome Summary, even if the decision was to decline authorisation. This should include a clear explanation of why the RPA Panel came to the recorded decision. The detail provided with this explanation should make it clear to anyone not in attendance why the RPA Panel was comfortable to make the recorded decision.

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
- panel members have endorsed the Outcome Summary.

When the Outcome Summary is finalised, provide a copy to the behaviour support practitioner for uploading to the NDIS Quality and Safeguards Commission Portal.

Consent and reporting

Where an RPA Panel has decided to authorise environmental restraint and the necessary consent^{3 4} is not obtained, it remains an unauthorised use of a restrictive practice and must be reported to the NDIS Quality and Safeguards Commission. When consent has been obtained and the Outcome Summary has been completed, the practice is considered to be authorised.

The implementing service provider reports the use of environmental restraint to the NDIS Quality and Safeguards Commission:

This RPA Panel Guide is to be read in conjunction with:

- NSW RPA Policy (pdf)
<https://www.facs.nsw.gov.au/download?file=592755>
- NSW RPA Procedural Guide (pdf)
<https://www.facs.nsw.gov.au/download?file=593319>
- RPA Environmental Restraint Guidance Sheet (pdf):
<https://www.facs.nsw.gov.au/download?file=636949>
- Interim Authorisation (video):
<https://www.youtube.com/watch?v=vHWTD1jQ-RE>
- What's a Review of Authorisation? (video):
<https://www.youtube.com/watch?v=GCDgkE17J2A>
- Best Practice Example – The Outcome Summary Form (pdf):
<https://www.facs.nsw.gov.au/download?file=674178>

The Central Restrictive Practices Team can be contacted at:
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³ NSW RPA Policy 2019, *Sections 1.1, 4.1 and 4.4*

⁴ NSW RPA Procedural Guidelines 2019, *Section 3*