

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 purpose.¹

As a regulated restrictive practice, the implementation of mechanical 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 mechanical 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 mechanical restraint this information is:

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

¹ NSW Restrictive Practices Authorisation Policy 2019

If the above information has not been provided to the 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 Mechanical 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 mechanical restraint?^{2 3}
- Is the use of mechanical restraint a reasonable and proportionate response to the risk presented by the behaviour of concern?
- Will the use of mechanical restraint only occur when all other less intrusive strategies have been tried?
- What training might workers need to ensure safe implementation?
- What is the history of the practice, as 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:

- What will be the impact of the mechanical restraint in the event of an emergency (e.g. bed rails and the need to evacuate the house, seat belt buckle covers and the need for a web cutter to cut the sash in the event of a motor vehicle accident⁴)? How will this be addressed?
- What will be the impact of the mechanical restraint on the person in the context of their personal, including their potential history of trauma and abuse, and medical history?
- Will physical restraint be required to apply the mechanical restraint?

² RPA Mechanical Restraint Guidance

³ Mechanical Restraint Safe Transportation Guide (NSW)

⁴ NSW Vehicle Standards Information 49: Seat Belt Buckle Covers, V1, 2007

- How will the person be supported once use of the mechanical restraint has ended?

The restraint must not be used to immobilise the person, be painful, or cause the person discomfort.

It must not be used to 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 mechanical 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 mechanical 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 mechanical 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 the persons freedom of movement is restricted by the use of the mechanical restraint
- the **behaviour support practitioner** has considered mechanical restraint in the context of evidence based practice, least degree of restriction, the effectiveness of the restraint to manage the risk and has considered options for fading the practice (in the context of the identification of the behaviour and functionally equivalent replacement behaviours)

- the **independent** is comfortable that the decision to restrict the persons freedom of movement is impartial, transparent and is without conflict of interest for the implementing provider.

Conditions of authorisation

All decisions to authorise are dependent 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.

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 mechanical 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, the use of a seat belt buckle cover will make it difficult for the person to leave a vehicle without assistance. The impact this may have on the person in hot conditions may be overlooked. The inclusion of details regarding how to promptly assist the person from the vehicle once it is stationary 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 mechanical restraint, authorisation with conditions is not appropriate. Instead, authorisation should be declined and the practice not considered by the RPA Panel until the 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:

- consultation with an Occupational Therapist regarding the suitability of the equipment used to restrain the person.

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 should be considered when identifying a schedule of review. These reviews should consider:

- the frequency of use
- the duration of each use
- the impact of the restraint on the person
- whether the mechanical restraint is used as it was intended when it was authorised
- the observations made of the person while the mechanical restraint is applied
- 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 mechanical and the necessary consent⁵⁶ 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 mechanical 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 Mechanical Restraint Guidance Sheet (pdf):
<https://www.facs.nsw.gov.au/download?file=636950>
- 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>
- RPA Mechanical Restraint Safe Transportation Guide (pdf):
<https://www.facs.nsw.gov.au/download?file=664316>
- Best Practice Example – The Outcome Summary Form (pdf):
<https://www.facs.nsw.gov.au/download?file=674178>

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⁵ NSW RPA Policy 2019, *Sections 1.1, 4.1 and 4.4*

⁶ NSW RPA Procedural Guidelines 2019, *Section 3*