

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 purpose of influencing the behaviour. Physical restraint does not include the use of hands on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could be reasonably considered the exercise of care towards a person.¹

As a regulated restrictive practice, the implementation of physical restraint in NSW requires Restrictive Practice Authorisation (RPA) by a Restrictive Practices Authorisation Panel. This guide covers the necessary considerations to be made by an RPA Panel when determining if authorisation is to be given for the use of physical 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 physical 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 physical restraint
 - includes functionally equivalent and/or related skills that will address the purpose of the behaviour and therefore reduce the need for the physical restraint
 - the functional assessment of behaviour on which the BSP is based (required for planned submissions)
 - the format that will be used to record the use of physical restraint, where the practice is not yet implemented
 - data regarding the frequency/duration of its use where physical restraint is in place.
- *Section 5* describing the behaviour/s that may require the use of physical restraint

¹ NSW Restrictive Practices Authorisation Policy 2019

- *Section 6* describing the proposed physical restraint.

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

Consideration of a submission for Physical 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 service 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 physical restraint²?
- Is it clear that the type of physical restraint described is not a prohibited practice?
- Is the use of physical restraint a reasonable and proportionate response to the risk presented by the behaviour of concern?
- Will the use of physical restraint only be in an emergency situation?
- Will the use of physical restraint only occur when all other less intrusive strategies have been tried?
- What training is required to ensure safe implementation of this practice, for the person being restrained and the workers using the practice?
- How will the use of physical restraint be 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:

- What will be the impact of physical restraint on the person in the context of their personal history, including their potential history of trauma and abuse, and medical history?

² RPA Physical Restraint Guidance

- How will the person be supported once use of the physical restraint has ended?^{3 4}
- Will a review meeting occur after each use of physical restraint?

Physical restraint must not be used if the person finds the practice abusive, painful or it causes serious discomfort. It must not be used to humiliate or frighten the person.

Outcome decision

An RPA Panel (or Senior Manager considering Interim Authorisation) can decide not to authorise the use of physical 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 physical 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 of physical 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 physical restraint is in use
- the **behaviour support practitioner** has considered physical restraint in the context of evidence based practice, least degree of restriction,

³ Section 158 of the *Children's and Young Persons (Care and Protection) Act 1998* includes circumstances where physical restraint may be used and the extent and limitations which apply under these conditions

⁴ Section 45 of the *Children's and Young Persons (Care and Protection) Regulation 2012* identifies requirements pertaining to procedures to be used in respect of the application of physical restraint, reporting, and post practice supports

the effectiveness of the restraint 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 use physical restraint with the person 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 appropriate to specify this as a condition. 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 physical restraint must be included with the submission.

A condition of authorisation would be applied where information the RPA Panel considers important to include but not yet covered by the submission and provided information, for example, a procedure for supporting the person after the use of the physical intervention is often overlooked. The inclusion of a post-physical restraint support strategy 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 physical 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.

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

- the quality of the information provided to evidence the need for the physical restraint
- the rigour of efforts towards reducing the need for physical restraint

- how well the person is supported to understand use of physical restraint
- how well the person is being respected and their rights upheld
- the severity of the restraint procedure and the level of training provided to staff
- the clarity of the findings with regard to the purpose or function of the behaviour and the strategies intended to replace the behaviour with an appropriate skill/s.

Review of implementation

Physical restraint should be reviewed by the RPA Panel at least every 3 months. An RPA Panel may choose to review this more frequently.

These reviews should consider:

- the frequency the restraint was used
- the duration of each use of the restraint
- the impact of the restraint on the person
- whether the physical restraint is used as it was intended when it was authorised
- attempts to implement less restrictive strategies
- how the person is supported or counselled after each instance of use (*Required for children or young persons (under 18)*⁵)
- 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.

⁵ Children and Young Persons (Care and Protection) Regulation 2012

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 physical restraint and the necessary consent⁶⁷ 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 physical 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 Physical Restraint Guidance Sheet (pdf):
<https://www.facs.nsw.gov.au/download?file=636951>
- 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:
RestrictivePracticesAuthorisation@facs.nsw.gov.au

⁶ NSW RPA Policy 2019, *Sections 1.1, 4.1 and 4.4*

⁷ NSW RPA Procedural Guidelines 2019, *Section 3*