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# NSW Restrictive Practices Authorisation (RPA)

## News

RPA Newsletter - February 2022

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### In this Issue

Welcome to the February 2022 issue of the NSW RPA Newsletter. In this issue we will be discussing:

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We encourage you to help spread the word and forward the monthly RPA Newsletter on to your colleagues. Help us keep the NSW sector informed about restrictive practice authorisation in NSW.

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## COVID - 19

The NDIS Quality and Safeguards Commission, NSW Government and Council for Intellectual Disability (CID) links below provide information, resources and advice on the management of COVID19 for service providers.

### Resources

- [NDIS Commission Fact Sheet COVID-19 Vaccination and Restrictive Practices](#)
  - [Information for people with disability about COVID-19 vaccines](#)
  - [Guidelines on the rights of people with disability in health and disability care during COVID-19](#)
  - [NSW Health accessible resources on COVID-19](#)
  - [Coronavirus \(COVID-19\): Behaviour support and restrictive practices](#)
  - [Coronavirus Disease 2019 \(COVID-19\) Outbreaks in Residential Care Facilities](#)
  - [NDIS Commission coronavirus \(COVID-19\) information](#)
  - [NSW Government COVID-19 Website](#)
  - [Looking after your health during Coronavirus](#)
  - [Information for Service Providers \(DCJ\)](#)
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# Let's Talk Quality

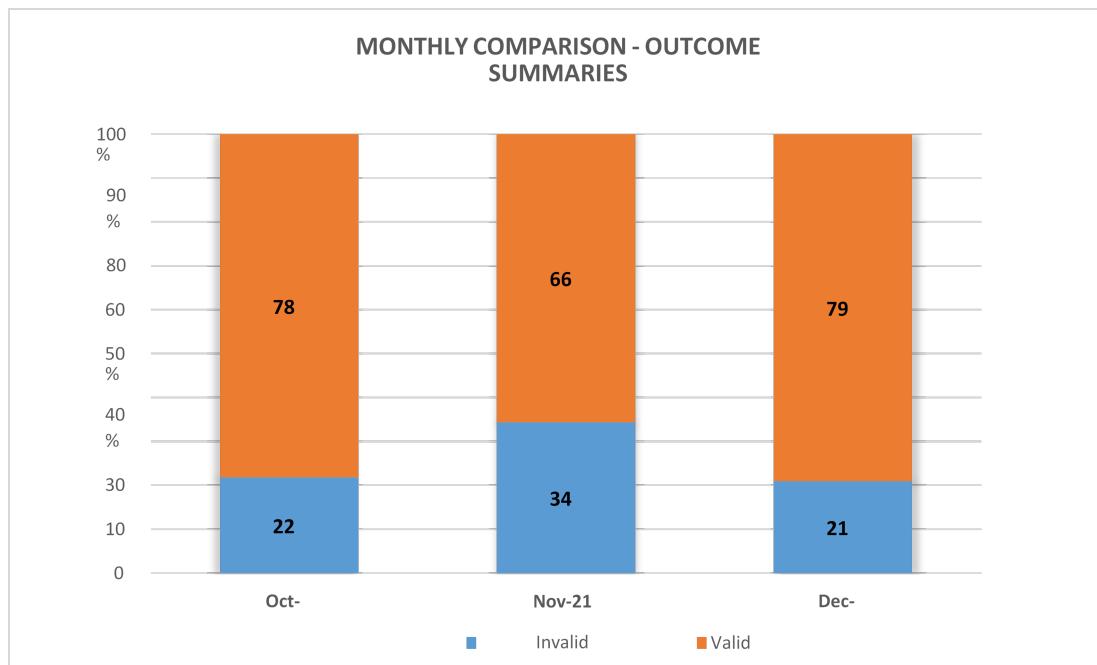
The Central Restrictive Practices Team (our team) has completed the review of all outcome summaries finalised in the NSW RPA System for November and December 2021. This is summarised below.

## Consent

675 Outcome Summaries were completed in November 2021. Of these, 34% (or 232 Outcome Summaries) were considered invalid because appropriate consent was not provided.

In December 2021, 453 outcome summaries were completed and 21% (i.e. 95 Outcome Summaries) were invalid because appropriate consent was not provided.

In November 2021 there was a decline in the number of valid outcome summaries when compared to October 2021. However in December 2021 we saw a significant improvement in the number of valid outcome summaries when compared to November 2021. You can see this in the graph below.



The top five reasons why we considered consent invalid in December 2021 outcome summaries are listed below and the figure in brackets is the percentage of outcome summaries which contained this error:

1. **Consent was not provided by an authorised person (39%).** This includes instances where no evidence was provided that the person providing consent had a guardianship order with a restrictive practices function.
2. **Evidence of consent for the practice was not attached (26%).** Evidence of consent must be uploaded to each outcome summary of your submission before it is completed.
3. **Guardianship order attached but specific consent to implement the practice was not noted (14%).** A Guardianship Order only appoints a guardian as a substitute

decision maker for an individual, it does not provide the consent to implement specific restrictive practices. When completing your outcome summaries you are required to include consent from the appointed guardian

4. **Evidence to share information was uploaded but not consent to implement the practice (6%):** In NSW consent is required at two stages of the authorisation process: 1). Consent to share information with an RPA Panel, and 2). Consent to implement the practice. Consent to share information with an RPA Panel does not constitute to implement the practice. To have the practice authorised, valid consent to implement the practice is required in addition to the RPA Panel's approval.
5. **Inappropriate use of Section 4.4.5 of the NSW RPA Policy (4%).** December 2021 saw an increase in the number of panels using section 4.4.5 of the RPA Policy. This section of the NSW RPA Policy has very strict conditions under which it can be used; it is also **only applicable for environmental restraint**. If in doubt, we encourage you to contact us for advice prior to using Section 4.4.5 of the NSW RPA Policy.

### Your supports

Our team can provide you with a number of supports to assist you to get consent right; these include:

- meeting with your organisation to discuss the results of the review specific to your organisation, and to provide some capacity building around consent requirements under the NSW RPA Policy
- giving you feedback on your consent requirements specific to a practice
- providing you with information on what sections of the RPA Policy may or may not be relevant to your situation (such as the use of section 4.4.5)
- our DCJ Independent Specialists providing you with information on the consent requirements at RPA Panels for the practices that are being authorised
- having additional focus on consent requirements in the RPA Webinars that are hosted regularly by our team.

Please email us for more information.



**NSW RPA Webinars**

DCJ are currently running regular webinars and will be conducting each of our two webinars fortnightly. One webinar focuses on authorisation requirements. The other focuses on the end-to-end process of submitting and approving restrictive practices in the NSW RPA System. The webinars will now alternate between Tuesdays and Thursdays.

#### **Webinar 1 - RPA Requirements in NSW**

Thursday, 3 March, 10.30am - 12.30pm

Tuesday, 15 March, 10.30am - 12.30pm

This session is recommended for anyone who is new to RPA in NSW or who would like a better understanding of the requirements for authorising a restrictive practice. Participants will have the opportunity to ask policy-related questions.

#### **Webinar 2 - End-to-end NSW RPA system demonstration**

Tuesday, 22 February, 10.30am - 12pm

Thursday, 10 March, 10.20am - 12pm

This session is recommended for new users of the RPA System who have not attended previous information sessions. It will focus on how to submit and approve restrictive practices in the NSW RPA System. The webinar will also include an overview of roles and responsibilities according to the function (i.e. Behaviour Support Practitioner) and how key dashboard components can assist with the monitoring of practices.

For more information, or to register for any of the webinars, please go to our Eventbrite page [here](#).



## **NSW (DCJ) RPA System Updates**

The NSW (DCJ) RPA System has received two recent updates. This is for your information only; no action is required.

Submission information: When you enter a Behaviour Support Plan Expiry Date, a note appears to show the Plan's expiry period (for example, "This Behaviour Support Plan expires within 10 months"). In cases where the date entered is in the past, the indicator reads "This Behaviour Support Plan has expired".

Submission ID: 1548	Status: Draft	
<b>1. NDIS Participant Details</b>		
Given Name Yolanda	Middle Name	
Family Name Yellow		
NDIS Participant ID YYY12345678	Date of Birth 14/05/1957	
Address 123 Example Street		
Suburb SYDNEY	State NSW	Postcode 2000
<b>2. Restrictive Practice Category</b>		
Behaviour Support Plan Expiry Date 08/10/2022	<span>This Behaviour Support Plan expires within 10 months</span>	
NDIS Behaviour Support Plan ID ABC-123456		
Submission Type <input checked="" type="radio"/> Planned <input type="radio"/> Interim		

Participant information: When you enter a Participant's Date of Birth, a note appears to show the Participant's age in years.

<b>Participant</b>		
<b>1. NDIS Participant Details</b>		
Given Name Barbara	Middle Name	Last Name Blue
Address 123 Example Street		
Suburb SYDNEY	State NSW	Postcode 2000
Date of Birth 12/05/1995	<span>Age: 26 years</span>	
Gender <input type="radio"/> Female	Status <input type="radio"/> Active	
Service Provider Example Pty Ltd	NDIS Participant ID 1234BB1234	
Is this client covered under the COS agreement? <input type="checkbox"/>		
Continuity of Support ID		



## Issues with submission at panel

When a submission is at Released status, the information in the submission is available to be viewed by the panel members and the information entered into the submission is locked. Once a submission is Released, no further changes may be made to a submission. A submission is a formal record of the information that was presented to the panel on a specific date, at a specific time. After the meeting start time has passed, the NSW RPA System will no longer allow a submission to be changed.

Panel members should review the submission prior to the RPA Panel meeting. If a panel member identifies any issues with the submission which need to be rectified before the submission can proceed to panel they should contact the person responsible for the submission to highlight the issues prior to the panel meeting.

Sometimes panels are unsure what to do in response to certain issues with the submission that were not identified prior to the panel meeting. If there are issues with the submission, the solution is not to attempt to change the submission, as this would impact its accuracy as a formal record. The RPA System will not allow the submission to be changed at this point.

**- If one of the practices is no longer needed:** The panel should Not Approve the practice in the Outcome Summary.

**- If changes to the BSP are suggested by the panel:** The submission should not be changed. If the current BSP is not adequate to authorise, a new RPA Panel meeting should be planned, which will be accompanied by a new submission with the updated BSP. The authorisation should be Not Approved for all outcome summaries for this submission. If the issue with the BSP is minor, the panel may decide to Approve with Conditions, in which case the changed BSP can be included in a review.

**- If documentation or information is not included:** Again, if what is presented in the current submission is not adequate to approve authorisation, the panel should Not Approve authorisation in the Outcome Summaries. If the information presented is adequate to approve authorisation, but the panel still wishes to see further information, the panel may Approve with Conditions and plan a review.

In general, if a RPA Panel considers a submission inadequate, the panel should never ask for the submission to be changed. The panel should take into account how serious the

issues in the submission are, and make a decision to Approve, Approve with Conditions or Not Approve based on the information which has been included in the submission. This includes if the issues are administrative errors.

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## Case Study

Terry is a 34 year old male with a mild intellectual disability and schizophrenia. 10 years ago Terry received a custodial sentence and he has recently been released with some parole conditions. Amongst other things, Terry's parole conditions require him to be supported in the community at all times by his NDIS Provider; this means Terry cannot go into the community on his own. Terry's parole conditions are in place for three years.

Terry's lawful orders impose legally binding restrictions on him; in this case he is imposed with a form of Environmental Restraint (restricted access to the community). As per the NSW RPA Policy, in NSW lawful orders are considered an 'authorised' restrictive practice however, the practice should be referred to an RPA Panel to consider how the requirements are integrated into Terry's behaviour support plan and its implementation.

This means that although Terry's restrictive practice of Environmental Restraint is 'authorised' by his lawful order, an RPA Panel needs to review the practice to ensure due consideration is given to how Terry's restrictions are integrated into his behaviour support plan and implemented appropriately. This allows the NDIS provider to ensure that they are implementing the practice safely and consistently across the organisation.

Terry's behaviour support practitioner should therefore document the restrictive practice in his behaviour support plan; as always this behaviour support plan needs to be based on a functional behaviour assessment of Terry. The behaviour support plan should also include information regarding the lawful order, and show how the environmental restraint will be integrated with Terry's broader behavioural and lifestyle supports. The behaviour support plan must clearly set out the details and limits of Terry's restrictions permitted under the lawful order.

Once completed, Terry's behaviour support plan is to go before an RPA Panel for approval

and his conditions need to be attached to the Submission to evidence the conditions. This ensures that Terry's behaviours which put him or others at a degree of risk requiring legal intervention, are the subject of an appropriate behaviour support response to minimise the risk to the Terry and others in the long term, and when the order expires. When completing the outcome summary, in the consent section the service provider is to select 'Court Order' in the Consent Capacity section.

As Terry only has the one restrictive practice as part of his lawful order, it is only the practice of environmental restraint (restricted access to the community) which is authorised in the above manner. Any other restrictive practices included in Terry's behaviour support plan will need to be approved and consented to using the usual mode of restrictive practice authorisation in NSW.

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## Test your knowledge!

**Question 1:** Who can provide consent to mechanical restraint, where the participant is over 18?

**Question 2:** If a restrictive practice is implemented as part of a lawful order, should this still be taken to a Restrictive Practice Authorisation panel?

**Question 3:** If a panel finds that one of the practices included in a submission has been successfully ceased, should the implementing provider attempt to make changes to the submission to remove this practice?

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RPA News will be published monthly on the Department of Communities and Justice [Restrictive Practices Authorisation web page](#). If you would like to suggest a colleague or service to be included in **Spotlight On**, or if you have any questions about restrictive practices authorisation or this newsletter, please email: [RestrictivePracticesAuthorisation@facs.nsw.gov.au](mailto:RestrictivePracticesAuthorisation@facs.nsw.gov.au)

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## Test Your Knowledge Answers:

**Q1:** For mechanical restraint, where the participant is over 18, the participant may provide consent where they have the capacity to consent, or, if they do not have the capacity to consent, it must be obtained from a guardian with a restrictive practices function.

**Q2:** Yes. Although the practice is considered "Authorised", it should still be brought to a RPA Panel in order to consider how the legal requirements are incorporated into the behaviour support plan and its implementation.

**Q3:** No. Once the submission has been Released, no further changes should be made, and the NSW RPA System will not allow changes to be made to a submission after the meeting start time has passed. If the panel finds that a practice has been ceased, the panel should select 'Not Approved' as their decision in the Outcome Summary.

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**Our mailing address is:**

RestrictivePracticesAuthorisation@facs.nsw.gov.au

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