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NSW Restrictive Practices Authorisation (RPA) News

RPA Newsletter - November 2020

In this Issue

Welcome to the November 2020 issue of the NSW RPA Newsletter. In this issue we will be discussing:

- COVID - 19
 - New NDIS Commission Regulated Restrictive Practices Guide
 - New RPA System Features
 - New & Updated Resources
 - Quality Assurance Reviews
 - Aged Care Updates
 - NSW RPA System Training Environment
 - Case Study
 - Spotlight On Alison Bills
 - Test your knowledge!
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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.

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. The first link relates to behaviour support and restrictive practices:

New Resource

- [Guidelines on the rights of people with disability in health and disability care during COVID-19](#)
- [For your information NSW Health has just launched its new accessible resources on COVID-19](#)
- [Easy read version of What you must do under new Coronavirus rules](#)
- [Coronavirus \(COVID-19\): Behaviour support and restrictive practices](#)
- [Coronavirus Disease 2019 \(COVID-19\) Outbreaks in Residential Care Facilities](#)
- [NDIS Commission coronavirus \(COVID-19\) information](#)
- [Help us save lives](#)
- [Staying safe from Coronavirus](#)
- [Service Providers](#)



NDIS Commission Regulated Restrictive Practices Guide

The NDIS Quality and Safeguards Commission (NDIS Commission) has released their Regulated Restrictive Practices Guide. The purpose of this guide is to:

- promote the rights and inherent dignity of people with disability
- assist in identifying each regulated restrictive practice
- provide practice advice consistent with a positive behaviour support framework contemporary evidence informed practice, intended to reduce and eliminate the use of restrictive practices, and
- assist registered NDIS providers and NDIS behaviour support practitioners to meet their obligations under the [National Disability Insurance Scheme Act 2013 \(NDIS Act 2013\)](#) and relevant Rules.

This guide was developed for registered NDIS providers and NDIS behaviour support practitioners supporting NDIS participants, but it may also be of interest to anyone who supports a person with disability. The guide supports a contemporary positive behaviour support framework. The Guide is available [here](#).



New RPA System Features

Deletion of Draft Submissions

One of the newer features of the NSW RPA System is a function that allows users to delete unwanted Draft submissions. Users are encouraged to utilise this feature and to click the 'Delete' button to remove unwanted submissions from the NSW RPA System. Please note that this step cannot be reversed.

Please note that as part of ongoing maintenance of the NSW RPA System, any Draft submissions that have not been updated for over two months will be removed. Draft submissions that need to be retained in the NSW RPA System should be moved to 'New' status by clicking the 'Submit Form' button. For further guidance on using the NSW RPA System, please refer to the [User Guides](#).

Interim Submission Field: Date practice was first used

A new field is being added to Section 2. Restrictive Practice Category of the Submission form. This field is called 'Date practice was first used' and will only appear for Interim Submissions.

2. Restrictive Practice Category	
Behaviour Support Plan Expiry Date	<input type="text"/>
NDIS Behaviour Support Plan ID	<input type="text"/>
Submission Type	<input checked="" type="radio"/> Planned <input type="radio"/> Interim
<input type="checkbox"/> Is this related to an incident?	
Incident Reference ID <input type="text"/>	
Date practice was first used	<input type="text"/>

This field is used to record the date the Restrictive Practice was first used. This information is required before the submission can be released.

This change has been in the system from Tuesday, 24 November 2020.

Updated NSW (DCJ) RPA System User Guides!

RPA SYSTEM USER GUIDE



The NSW RPA System User Guides have been updated following the upgrades that went live in September 2020. These User Guides will assist users to navigate the RPA System and are available on the [Restrictive Practices Authorisation webpage](#) and in the 'Help' section of the RPA System.

The RPA System User Guide – Part 1: Accessing the System includes information on how to get your service and staff set up in the RPA System.

The RPA System User Guide – Part 2: Submitting an application includes information required and steps involved in starting a new RPA submission.

The RPA System User Guide – Part 3: Endorsing and Assigning Panel Members includes information on how to submit a RPA submission to a RPA Panel and organise the panel meeting

The RPA System User Guide – Part 4: Recording Outcomes and Decisions includes information on recording RPA Panel outcomes and decisions in the system.

The RPA System User Guide – Part 5: Revising Implementation and Progress includes information on reviewing the implementation and progress of an authorised restrictive practice.

The RPA System User Guide – Part 6: Dashboard and Reports includes information on how to view a snapshot of your service's RPAs and other statistics in the system.

To access Parts 1-6 of the RPA System User Guides please click [here](#).

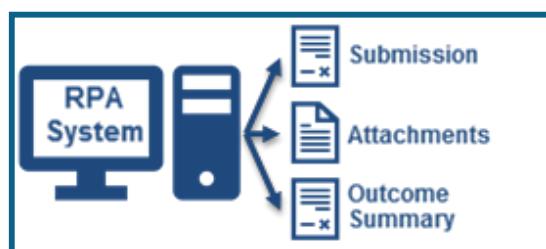
New Resource: NSW Authorisation Process Fact Sheet



The DCJ Central Restrictive Practices Team (CRPT) has produced a new fact sheet on the restrictive practices authorisation process in NSW. The fact sheet is a high level overview of the process, and includes information about:

- Authorisation requirements in NSW
- RPA Panels
- Authorisation Process
- DCJ Independent Specialists
- Registering in the NSW RPA System
- Creating a Submission
- Review of a restrictive practice

The fact sheet is now available on the DCJ RPA website [here](#).



Quality Assurance Reviews of Outcome Summaries

As part of CRPT oversight obligations under the Quality and Safeguards Framework and NSW RPA Policy, the team will shortly commence a quality assurance process regarding outcome summaries (OS) as a sample of RPA decisions.

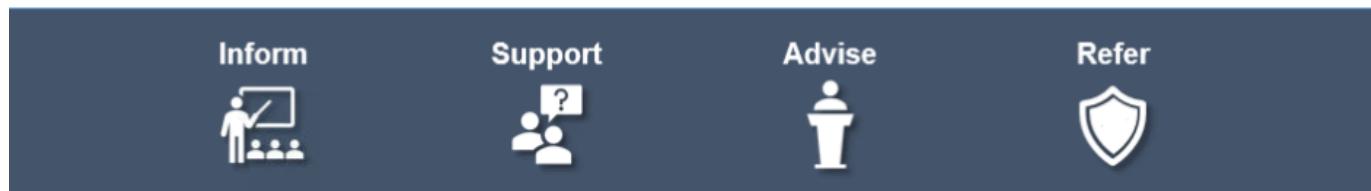
This will be a monthly process where CRPT will review approximately 5% of all RPA decisions finalised in the previous month (i.e. every 20th completed outcome summary lodged in the NSW RPA System). The process will be conducted on information extracted from data and activity logged in the NSW RPA System, including the:

- Submission
- Supporting information attached to the submission

- Outcome Summary.

The monthly sample will cover the full continuum regardless of the decision made by the RPA Panel (i.e. to authorise, or not authorise use of a restrictive practice), the nature of the submission (i.e. interim authorisation, comprehensive authorisation, or review), or the category of restrictive practice(s) for which authorisation is sought.

The purpose of the quality assurance process is to provide proactive guidance to support the implementation of and compliance with the NSW RPA policy and determine where specific closer review is necessary in order to examine one or more risks. The outcome findings will inform education and resource development for NDIS Providers, Behaviour Support Practitioners, and people with disability and their families. Where necessary, CRPT will provide feedback or work with NDIS Provider (s) and other stakeholders (e.g. if the panel has made a decision that is not consistent with the NSW RPA policy).



Aged Care Updates

NDIS Participants in Residential Aged Care (RAC)

All Residential Aged Care providers who support NDIS participants will be required to register with the NDIS Commission from 1 December 2020. This means that as of 1 December 2020, RAC providers supporting NDIS participants will be required to meet the obligations of the National Disability Insurance Scheme Act 2013 (NDIS Act) and the NDIS (Provider Registration and Practice Standards) Rules 2018, in relation to the NDIS participants they support.

The NDIS Commission has prepared information for RAC providers transitioning under the NDIS Quality and Safeguards Commission. For further details, see information on the [NDIS Commission website](#).

OPAN Resource

The Older Person's Advocacy Network have a set of resources to inform people of their rights when taking medications. The resources, including a short video, a flyer and a booklet, discuss informed choice, understanding side effects of medication and the person's role in making choices for their own care.

The resources are available on OPAN's website [here](#).



Interim



NSW RPA System Training Environment

The NSW RPA System Training Environment is a great resource for new or experienced RPA System Users who need to practice working with the RPA System or brush up on skills. Anyone wanting to practice using the RPA System is encouraged to make use of the Training Environment. Users are requested to not use the live RPA System for training or practice purposes.

The NSW RPA Training Environment can be accessed [here](#).



Case Study - CCTV

Michael is a 34-year-old man who enjoys volunteering at the local RSPCA and taking the dogs for walks. Michael empathises with the idea that these animals have not been cared for appropriately in their life, and hopes that they can start fresh in a new ‘forever’ home. Michael has a traumatic past himself, and his diagnoses include schizophrenia and moderate intellectual disability. Michael’s care history has been somewhat adverse and he has

spent time in both forensic mental health institutions and the remand system. Michael has a history of being quite vulnerable to antisocial peers, and engaging in a range of behaviours of concern which include physical aggression and assault, and substance misuse.

Michael resides with three other men in a supported independent living service, which is staffed 24/7 with awake staff. Michael's mental illness can also be quite pervasive and he often experiences persecutory delusions in relation to other housemates and staff he resides with. Michael also has legal orders in place from the Mental Health Review Tribunal, which mandate that he should have supervision in place 24/7, other than when he is in private spaces. Michael dislikes having staff actively chaperone him, as he finds this invasive, and may even serve as a trigger for his behaviours and lead to inclusion of any overly zealous staff in his persecutory delusions.

Michael's support provider, in conjunction with his Behaviour Support Practitioner, and in discussion with Michael, installed CCTV as a means of providing line of sight supervision, whilst reducing the need for physical proximity of staff to do so. This means that staff could observe Michael from a distance via CCTV, rather than need to be in direct support at all times. This empowers opportunities for example for Michael to leave his bedroom at night, have a snack from the kitchen, and not have to interact with staff in any way unless he wants to. Michael is aware of the presence of the CCTV (as are all his housemates), and he is supportive of this being in place, as it means he has more 'freedom' and space within his home.

The CCTV has been placed within Michael's home in a position to communal areas of the home only, e.g. the hallways leading to bedrooms, the kitchen and lounge room. It does not monitor any private spaces such as bedrooms and bathrooms. Michael has a Public Guardian in place, however, it was noted at a recent NCAT hearing that Michael's Public Guardian did not need to authorise the use of such practices as they were considered to be a requirement of his legal orders due to the stated need for line of sight supervision.

Michael's Behaviour Support Practitioner sought advice from the NDIS Commission in relation to the use of CCTV, and received feedback which highlighted a range of concerns in relation to the use of CCTV, including the legal responsibilities relating to the safeguarding of people's right to privacy, the need for clear organisational policies in relation to their use, and some reflection on whether the use of the CCTV actually meets the definition of any of the forms of restraint under the NDIS (Restrictive Practices and Behaviour Support) Rules 2018. The advice also noted that such practices must be treated on a case by case basis, their use be based on a functional assessment, and be documented in a Behaviour Support Plan. It also noted that such practices do infringe on basic human rights and the fading of such practices should be encouraged.

Michael's practitioner documented this practice within the Behaviour Support Plan, noting the Commission feedback, and Michael's support team lodged a submission in the NSW RPA System, with a view to having external oversight of the use of the practice and the manner in which it was implemented, as an additional safeguard for Michael's rights.

Panel Considerations

The Panel comprised of the Regional Manager of the provider, a DCJ Independent Specialist, and was attended by Michael's accommodation service Senior Worker who lodged the submission. Michael was not interested in attending, although he was invited to do so. The provider had uploaded with the submission the functional assessment of behaviour, the Behaviour Support Plan, behavioural data, the letter from the NDIS Commission, a number of police and medical reports, the MHRT Orders, the organisation's electronic monitoring policy, and Michael's personal one-page profile.

The Panel noted that there was clear evidence that the provider did not take the use of CCTV lightly, and recognised the impact on a person's rights. However, the Panel also recognised Michael's preference for reduced presence of staff during daytime hours in the home and the effectiveness of this less direct form of supervision, which also served to make direct supports more meaningful and valuable for Michael when they needed to be

provided. In essence, a quite invasive practice (CCTV) was being utilised as a form of fading for another quite invasive practice (direct line of sight).

The Panel noted that Michael's legal orders did mandate line of sight supervision in communal areas of the home and the community, but that it did not mandate how this specifically was to be achieved, and that use of CCTV would reasonably meet the supervision requirement.

The Panel reflected on whether other residents were adversely impacted by the use of the practice, and it was noted that other residents were also aware of the practice and had not expressed any concern, or changed their behaviour/access of areas since its use. A person-centred visual aid in relation to the use of the practice was provided to the Panel. It was also demonstrated that a number of proactive supports were in place for all residents in relation to their contentment within the home, including a weekly reference meeting in which they 'rated' the performance of the service, and made recommendations for improvements.

Decision and Conditions

The Panel identified that the use of CCTV in this instance did not specifically meet either the definition of environmental restraint or seclusion, as Michael maintained freedom of movement in his setting, and his willingness to access areas of the home was not inhibited by the presence of the cameras. However, the Panel also acknowledged that under NSW Restrictive Practices Authorisation Policy, a restrictive practice is "any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability", and that in this case, the practice was considered to restrict the person's right to privacy. Therefore, using the Restrictive Practices Panel as a means of external oversight and safeguard for Michael's rights was of merit, with a view to also ensuring that attempts to further reduce or fade the use of the practice did occur.

The Panel was satisfied in this case that sufficient safeguards were in place in relation to the context of the use of the practice, as line of sight was mandated as part of his legal orders, the practice was clearly documented in the Behaviour Support Plan, staff had been trained in the use of the practice, Michael was aware of its presence, and the organisation had a clear policy in relation to the use of CCTV. It was also noted that limiting Michael's need to engage with police was a positive support for his own well-being, given his adverse interactions in the past.

The Panel however also encouraged exploration of review of the terms of the MHRT Orders to explore whether line of sight supervision should be required at all within the home setting, or only when in the community, and to more clearly identify some criteria which could achieve the removal of this condition over time.

The Panel also noted that the MHRT Orders constituted 'other lawful orders' and therefore consent criteria were met. However, the engagement of the service with Michael in relation to the use of this practice and his legal rights and responsibilities, was acknowledged as a proactive step for which the team should be congratulated.

SPOTLIGHT



Alison Bills

Assistant Project Officer
DCJ Central Restrictive Practices Team

How did you get to where you are today?

I started working in the community services sector as a support worker in mental health at an NGO. In this role I facilitated recovery focused peer support groups, group health programs and provided one-on-one health coaching.

From this role I went on to work as a Linker for the Ability Links program. In this role I worked to facilitate social inclusion in local communities. As a Linker I worked with people with disability, carers and family members, and with local communities, to build connections and support inclusion strategies at the local level.

I worked at separate times at two member-based advocacy organisations, as a facilitator and a project officer. In these roles I worked with people with disability, children and young people with an Out of Home Care experience, carers and staff in the sector. I conducted training and workshops on life skills, person-centred planning, supported decision making, the transition to NDIS, employment and also quality, safety and complaints.

I also worked as a support worker in a commonwealth-funded mental health service at an NGO during the transition to the NDIS, supporting consumers to understand the NDIS, make applications and gather evidence.

My commitment to human rights and to being person-led has guided me through my career and led me to where I am today.

What do you see are the benefits of having the DCJ Independent Specialists participating on RPA Panels?

I think DCJ Independent Specialists provide an outsider's perspective and can bring new considerations to a panel which may not have arisen without this different perspective. Independent Specialists possess a deep knowledge and understanding of behaviour support, alongside a thorough comprehension of the RPA process. Due to their knowledge and independence, Independent Specialists provide an invaluable resource to the systems of supporting and safeguarding which are vital to support people to live their best life.



Test your knowledge!

Question 1: Should the draft Behaviour Support Plan be uploaded to the NDIS Q & S Commission portal before creating a NSW RPA Submission?

Question 2: Can the person who completes and submits the RPA submission in the NSW RPA System also sit on the RPA Panel?

Question 3: The RPA Panel's decision to authorise a restrictive practice must be unanimous. True or False?



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 Provider in Focus, or if you have any questions about restrictive practices authorisation or this newsletter, please email: RestrictivePracticesAuthorisation@facs.nsw.gov.au.



Test Your Knowledge Answers:

Q1: Yes. The draft Behaviour Support Plan must be uploaded to the NDIS Commission's portal prior to commencing the submission for authorisation in the NSW RPA System. The NDIS Behaviour Support Plan ID is a mandatory field in the NSW RPA System. The NDIS Behaviour Support Plan ID is provided when the draft Behaviour Support Plan is uploaded to the NDIS Commission's portal.

Q2: No, the person who completes and submits the RPA submission in the NSW RPA System cannot participate on the RPA Panel for that submission as it is considered a conflict of interest.

Q3: True. Any decision to authorise a restrictive practice by a RPA Panel must be unanimous.

Our mailing address is:

RestrictivePracticesAuthorisation@facs.nsw.gov.au

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