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# NSW Restrictive Practices Authorisation (RPA)

## News

RPA Newsletter - July 2021

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### In this Issue

Welcome to the July 2021 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

- [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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## NDIS Commission Resource: COVID-19 Vaccine and Restrictive Practices

The NDIS Commission has produced a resource, entitled '[COVID-19 Vaccines: Informed Consent, preparing for the vaccine and restrictive practices](#)'. This resource aims to assist NDIS providers to better understand their obligations when supporting people with disability to receive the COVID-19 vaccine.

It includes information about the use of restrictive practices to enable a person to receive the COVID-19 vaccine. It also includes information on the COVID-19 vaccine rollout, provider obligations and informed consent.

Please read the fact sheet to assist in any considerations regarding whether practices undertaken to enable a participant to receive the vaccine may constitute restrictive practices and therefore require reporting and authorisation.



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.

#### Webinar 1 - RPA Requirements in NSW

22 July 10.30am - 12.30pm

5 August 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

29 July 10.30am - 12pm

12 August 10.30am - 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](#).

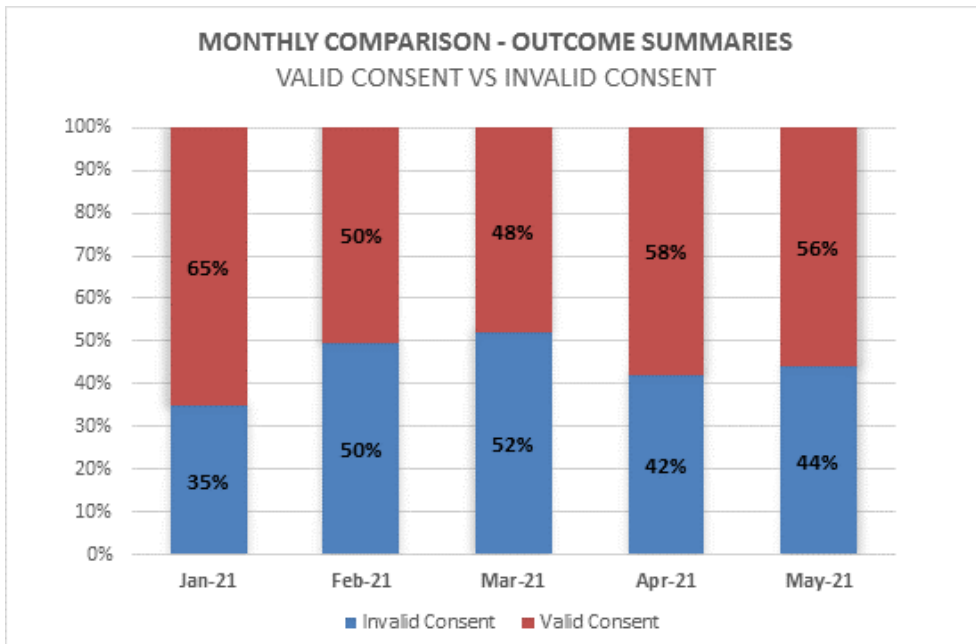


## Let's Talk Quality

The Central Restrictive Practices Team has now completed the review of all outcome summaries finalised in the NSW RPA System for May 2021. Below is a summary of our

findings, and the actions we have taken.

## Consent



Of the 453 outcome summaries reviewed from May 2021, 200 (44%) were considered invalid due to inappropriate consent being provided. This is a very slight increase from the previous month. The reasons consent was deemed invalid were:

- Consent expires before authorisation period (1)
- Insufficient details recorded for the verbal consent obtained (3)
- Consent for BSP not for practice AND Consent provided by unauthorised person (4)
- Consent provided by unauthorised person AND no evidence of consent for practice attached (7)
- Incomplete consent information attached (25)
- Guardianship order attached but no consent to implement practice (26)
- Consent for BSP, not to implement practice (31)
- No evidence of consent for practice attached (46)
- Consent provided by unauthorised person (57)

## Actions taken by the Central Restrictive Practices Team

- DCJ Independent Specialists will continue to highlight the consent requirements at RPA Panels for the practices that are being authorised.
- Additional focus on consent requirements will continue to be included in the RPA Requirements Webinars that are hosted regularly by the Central Restrictive Practices Team.
- The Central Restrictive Practices Team will be making contact with some providers to go through the results of the review specific to their organisation to provide some capacity building around consent requirements under the NSW RPA Policy.

## Focus on who can provide consent to implement a restrictive practice

For the purposes of Restrictive Practices Authorisation, consent is accepted in accordance with the [NSW RPA Policy](#). Specifically, pages 9-11 contain the consent information, which includes the below table informing who is able to provide consent for which categories of practice.

**Table 2:** Summary Guide to RPA consent requirements

PERSON	PRACTICE			
	Physical or Mechanical Restraint	Chemical Restraint	Environmental Restraint	Seclusion
<b>Children (under 18 years)</b> <i>not</i> subject to court order reallocating parental responsibility	parent or guardian*	parent or guardian*	parent or guardian*	PROHIBITED
<b>Children (under 18 years)</b> subject to court order reallocating parental responsibility	person with parental responsibility+	person with parental responsibility+	person with parental responsibility+	PROHIBITED
<b>Young people (16 or 17 years)</b>	Either: a) the person where they have the capacity, or b) guardian with a restrictive practices function	Either: a) the person where they have the capacity b) the person responsible c) the Guardianship Division	Either: a) the person where they have the capacity, or b) guardian with a restrictive practices function, or c) the RPA Panel mechanism‡	PROHIBITED
<b>Adults (18 years and over)</b>	Either: a) the person where they have the capacity, or b) guardian with a restrictive practices function	Either: a) the person where they have the capacity b) the person responsible c) the Guardianship Division	Either: a) the person where they have the capacity, or b) guardian with a restrictive practices function, or c) The RPA Panel mechanism‡	Either: a) the person where they have the capacity, or b) guardian with a restrictive practices function

If the person is unable to provide consent to implement the restrictive practice, evidence of the authority for the person providing the consent on the person’s behalf needs to be provided in the outcome summary; this could be by either:

- attaching a copy of the informed consent provided by the appointed Guardian accompanied by the relevant Guardianship Order, or
- within the signed consent document, include the details of the Guardianship Order (date of order, function of guardianship order and period order is in force until)

If you require further guidance around who can provide consent, and the documentation required to be uploaded to the outcome summary as evidence, please contact our team at [restrictivepracticesauthorisation@dcj.nsw.gov.au](mailto:restrictivepracticesauthorisation@dcj.nsw.gov.au) and be sure to include the person’s age, restrictive practices requiring consent, and their guardianship status.

The Central Restrictive Practices Team will be conducting further reviews of consent attached to outcome summaries completed in June 2021, and will keep the sector informed of the results.

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## Withdrawing an Outcome Summary

The 'Withdraw' button appears on Outcome Summaries that are in a status of New, Pending Panel Approval or Pending Consent.

When should I use the 'Withdraw' button?

An Outcome Summary should only be withdrawn if it was created accidentally.

When shouldn't I use the 'Withdraw' button?

Don't use the withdraw button to record that a practice has ceased. This must be done via a review, as the panel is required to participate in this process. If you wish to record that the practice is no longer in use, you must complete a Review. For information on how to complete a Review, please refer to the Help menu of the RPA system.

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## Case Study: Electronic Monitoring

Emma is a 42 year old woman who lives in an NDIS-funded group home. Emma really enjoys her independence and exploring her surrounds but this means she can often spend unplanned days away from her residence. On a number of occasions when she is away Emma has either been effectively homeless or has spent time with peers who are of negative influence on her. As part of managing this Emma has a mobile phone as well as a retrieval order with the police. On most occasions when she leaves the home Emma takes her phone but there are times when she does not answer calls from her support staff.



In addition Emma's service provider has put in place an additional risk management strategy by providing her with an additional electronic tracking device; this is given to Emma when she leaves her home. The purpose of the additional tracking device is for the service provider to obtain Emma's location and provide this to the police to conduct a welfare check and bring her home.

The provider is unsure of whether the above constitutes a restrictive practice.

As with all proposed restrictive practices, a blanket approach should not be taken to determine whether the practice is considered to be a restrictive practice. Instead, the practice needs to be assessed on a case-by-case basis with consideration given to the person, their behaviour, and the circumstances under which the practice is used.

Monitoring devices (including GPS trackers and electronic monitoring devices in the absence of lawful orders) may constitute a restrictive practice if they are used to stop or restrict a person's access to an item, environment or participation in the community. This would constitute environmental restraint under the NDIS (Restrictive Practices and Behaviour Support) Rules 2018. The behaviour assessment would facilitate determining this as it would include rationale why the monitoring device is being used as well as how the service provider is to respond to the behaviour(s) of concern.

In Emma's case the electronic tracking device not only impinges on her right to privacy but because it is used in the context of activating her retrieval order (and therefore restrict her participation in the community), it is considered a restrictive practice.

Emma's behaviour support practitioner therefore documents the practice in her behaviour support plan as environmental restraint and the practice is authorised through the provider's RPA panel. Although the Panel provides 12 month authorisation the RPA Panel would like to review the data and implementation of the practice every three months as a means of safe-guarding Emma's privacy.

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# SPOTLIGHT





## Kathryn McKenzie

Director, Operations

NSW Ageing and Disability Commission

How did you get to where you are today?

The majority of my career has focused on working with people with disability, across a broad range of areas. I started working with students with disability as a trainee high school teacher, and went on to working in non-government day program, accommodation and disability employment services. I have worked in the NSW public service for 21 years, involving roles in the Public Guardian, ICAC, the Community Services Commission, and the NSW Ombudsman's office.

In the latter agency, I had the benefit of working in and managing diverse areas over 17 years, specialising in people with disability and disability services, including complaints, investigations, death reviews, reportable incidents, projects, inquiries and the Official Community Visitor (OCV) scheme. Among other things, I conducted inquiries and tabled reports to Parliament on many significant issues affecting people with disability – including people with disability remaining in mental health facilities; boarding house reform; preventable deaths; behaviour management in schools; and a standing inquiry into abuse and neglect of adults with disability in home and community settings. The standing inquiry and associated report to Parliament was one of the factors that led to the establishment of the ADC in July 2019.

What has driven my career to date has been my commitment to the rights of people with disability. Easily some of the greatest people I have known in my life have been people with disability. It is a genuine pleasure to have been able to get to know them and work to uphold their rights. I am fortunate in the ADC to also be able to extend this commitment and my work to older people and the ageing sector, and to continue to have a connection to actions to improve the circumstances of young people in residential out-of-home care, via the OCV scheme.

What do you value about working for the Ageing and Disability Commission?

There are many things I value about working in the ADC. It is a privilege to be involved in setting up an agency from the beginning, and to help shape our work and practice to reflect

a clear focus on protecting and promoting the rights of people with disability and older people, including to live free from abuse, neglect and exploitation. I am fortunate to work with many talented, dedicated and passionate people who share a strong commitment to improving outcomes and upholding the rights of the people we have been set up to assist. One of the great things about the ADC is our broad suite of functions, which appropriately include a focus on actions to raise awareness and build capacity in the community to improve prevention and early identification of abuse, neglect, exploitation and other issues. We recognise that preventing, identifying and responding to abuse is a whole of community responsibility, and see significant opportunities to achieve meaningful change and improvement. Disability service providers and staff are an important and valued part of this work.

In this regard, it is useful for providers to be aware that we have a user-friendly, free [training module on our website](#) that is aimed at direct care staff who are going into the homes of adults with disability and older people, focused on improving their identification and response to potential abuse, neglect or exploitation in a client's family, home and community. We are keen to see this training included in staff induction processes. We will soon also have a second module targeted at service management.

What do you see as the advantages of the Central Restrictive Practices Team co-locating with the Ageing and Disability Commission in anticipation of the upcoming legislation?

We have welcomed the co-location of the Central Restrictive Practices Team with the ADC, pending the introduction of RPA legislation. We were keen to facilitate the co-location at a reasonably early point to support a smooth transition and inform the work of the ADC in preparation for the intended functions. Among other things, co-location assists the ADC to better understand the day-to-day operation of the interim RPA model; the interplay between the team, providers, independent specialists and the NDIS Commission; and the steps we may need to take ahead of commencement. Co-location also helps the DCJ and ADC staff to get to know each other, and for the DCJ staff to become familiar with the broader functions and operation of the ADC.

The ADC has previously benefited from a co-location model. Between 1 July 2019 and 30 June 2020, the Ageing and Disability Abuse Helpline was operated by Catholic Healthcare, funded by the ADC. At least six months ahead of the Helpline coming into the ADC on 1 July 2020, the Helpline staff co-located with us in Parramatta. The co-location significantly assisted the work of the Helpline and ADC, helped to foster a positive working relationship between staff, and enabled all parties to better understand the links between their teams and identify opportunities to strengthen and streamline the work.

The Official Community Visitor (OCV) scheme, which is coordinated by the ADC, has already seen benefits from the co-location, with the Central Restrictive Practices Team providing training to the OCVs on restrictive practice authorisation and requirements, in conjunction with the NDIS Commission.

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# QUIZ!

## Test your knowledge!

Question 1: True or False? If a restrictive practice has ceased due to successful fading strategies, you should withdraw the Outcome Summary.

Question 2: Who may provide consent to Seclusion for an adult?

Question 3: What is the purpose of the Question Mark icon next to certain fields in an RPA Submission?

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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 Provider in Focus, 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: False. In this situation, you should hold a review to withdraw the authorisation. An Outcome Summary should only be withdrawn if it was created in error.

Q2: Seclusion can be consented to by the person if they have capacity or a guardian with restrictive practices function.

Q3: The Question Marks provide information to help with completing a submission. Clicking on a Question Mark opens an information box about the field. This will assist with understanding how to complete the field.

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