

NIISQ

National Injury Insurance
Scheme, Queensland



Provider guidelines

Positive behaviour supports



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Definitions

Defined terms are shown throughout in bold underlined text when they first appear.

Accepted injury	means a participant's eligible injury, or another personal injury which the NIIISQ Agency has decided should be supported under the National Injury Insurance Scheme, Queensland.
Another personal injury	means a personal injury sustained in the same motor accident which caused the participant's eligible injury.
Approved service	means treatment, care and support stated in a participant's MyPlan to be a necessary and reasonable treatment, care and support need as a result of a participant's accepted injury.
Attendant care and support services	means services to help a participant with everyday tasks that are a personal assistance service or service to assist the participant in the community.
Behaviour support needs adviser	is a person who is appropriately qualified to give advice on behaviour support needs for, or relating to attendant care and support services, and is a person approved by the NIIISQ Agency in accordance with the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> and section 22 of the <i>National Injury Insurance Scheme (Queensland) Regulation 2016</i> .
Challenging behaviours	are behaviours that present as a significant risk of harm to the participant and/or to others, in addition to behaviours that result in severe limitations to participation in activities and opportunities available to the participant in the general community and include: <ul style="list-style-type: none"> • physical or verbal aggression • property damage • inappropriate social or sexual behaviour • extreme withdrawal or lack of initiation • self-injurious behaviour • repetitive/stereotypical or self-stimulatory behaviour that impact on the participant's ability to engage in everyday activities.
Eligible injury	means the serious personal injury which entitles a person to support as a participant in the National Injury Insurance Scheme, Queensland.
Human rights	include (but are not limited to) the human rights protected in the <i>Human Rights Act 2019</i> as well as other human rights to: <ul style="list-style-type: none"> • liberty and freedom of movement • be treated with dignity • live their lives free from abuse, neglect, or exploitation.
MyPlan	means a support plan prepared by the National Injury Insurance Agency, Queensland and approved under section 26 of the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> .



MyPlanning	is the process of assessing necessary and reasonable treatment, care and support needs under section 25-27 of the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> .
PBS plan	is a plan developed for a participant which specifies a range of strategies to be used in supporting the participant's behaviour, including strategies to build on the participant's strengths and increase their life skills.
PBS provider	is a service provider who is funded by the NIISQ Agency to provide necessary and reasonable positive behaviour supports in accordance with this guideline.
Positive behaviour supports	<p>includes the identification, planning, monitoring and review of strategies which:</p> <ul style="list-style-type: none"> • seek to address environmental influences on behaviour • understand the function of behaviour and implement strategies to support a participant build capacity, autonomy and improve quality of life • utilise alternative, replacement behaviours to challenging behaviours. <p>Examples of positive behaviour supports include:</p> <ul style="list-style-type: none"> • clinical assessment(s) required for a positive behaviour support plan, including a functional behavioural assessment • development of a PBS plan (including, where necessary, any recommended restrictive practices) • oversight, clinical co-ordination and communication of the PBS support plan by the PBS practitioner with the participant, substituted decision maker (where applicable), service providers and the NIISQ Agency (for the purposes of assessing a participant's needs) • training and supervising providers, and informal supports including family members.
Restrictive practices	is any practice or action that has the effect of restricting the rights (including human rights) or freedom of movement of a person with disability, with the primary purpose of protecting the person or others from harm or which has a therapeutic purpose.



Restrictive practices case conference	<p>is a clinical case conference convened by a PBS provider and funded as a treatment, care and support need which:</p> <ul style="list-style-type: none"> • shares information (including draft PBS plan), and promotes the opportunity clarification to ascertain whether consent provided for any restrictive practice is provided on a fully informed basis, with: <ul style="list-style-type: none"> – the participant – the participant’s service provider for attendant care and support services (ordinarily a senior manager or equivalent level) – substituted decision maker (where required) – NIIISQ Agency (for the purposes of assessing a participant’s needs for treatment, care and support, including additional supports required to support the recommendations in the draft PBS plan). • provides an opportunity for the PBS provider to outline the findings of any clinical assessments (including functional behavioural assessments) and recommendations for behaviour strategies which are identified in the draft PBS plan • provides the PBS provider with an opportunity to outline their strategies to eliminate or reduce the use of restrictive practices, in addition to the proposed monitoring, communications, training, and review requirements for the draft PBS plan.
Serious incident	<p>is a significant adverse act or event involving a NIIISQ participant, that occurred or is alleged to have occurred in connection with the provision of treatment, care and support services by a service provider (see: Reporting serious incidents guideline).</p>
Service provider	<p>includes service providers that are registered in the register of providers, and service providers not registered in the register of providers.</p>
Service request	<p>is a written request for treatment, care and support to be provided to a participant for a particular period made under section 28 of the <i>National Injury Insurance Scheme (Queensland) Act 2016</i>.</p>
Substitute decision-maker	<p>is a person other than a participant who is lawfully authorised to make a decision to consent to restrictive practices on a participant, and may include an adult guardian appointed under the <i>Guardianship and Administration Act 2000</i>, or a person empowered to make these decisions under the <i>Powers of Attorney Act 1998</i>.</p>



Supporting providers to deliver positive behaviour supports

Where **challenging behaviours** and/or potential **restrictive practices** are identified, the NISQ Agency will assess a participant's needs for **positive behaviour supports** and will fund any positive behaviour supports which are necessary and reasonable. Positive behaviour supports are provided by a positive behaviour support provider (**PBS provider**).

The NISQ Agency will assess a participant's needs for positive behaviour supports in accordance with the *National Injury Insurance Scheme (Queensland) Act 2016*, and *National Injury Insurance Scheme (Queensland) Regulation 2016*.

Should be read in conjunction with the Treatment, care and support guidelines, specifically the:

- [Necessary and reasonable guideline](#)
- [Attendant care and support services guideline](#)
- [Medical and pharmaceutical treatment guideline](#)
- [Reporting serious incidents guideline](#)

This guideline is intended to:

- provide information about the NISQ Agency's approach to assessing and funding positive behaviour supports
- clarify the roles and responsibilities of the NISQ Agency, **behaviour support needs advisers** (see: [NISQ Agency approved behaviour support needs advisers](#)), service providers (including PBS providers – see: [Approved services are conditional on compliance with a PBS plan](#)), and substituted decision-makers (see: [Consent required for restrictive practices](#))
- provide information about how the NISQ Agency will respond to instances where unlawful use of restrictive practices is identified or suspected (see: [Service provider obligations and consequences for use of unauthorised restrictive practices](#))
- support the administration of the NISQ in compliance with the NISQ Agency's obligations under the Human Rights Act 2019, and by taking into consideration the high-level principles outlined in the [National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Services Sector](#) and the CRPD¹.

Participant-centred, human rights approach

When a participant engages in challenging behaviours, it can impact their ability to meaningfully engage in activities of daily living or can cause harm to themselves or others. These behaviours can result in significant limitations on the participant's quality of life and opportunities, in addition to increasing the risk of abuse, neglect and inappropriate treatment.

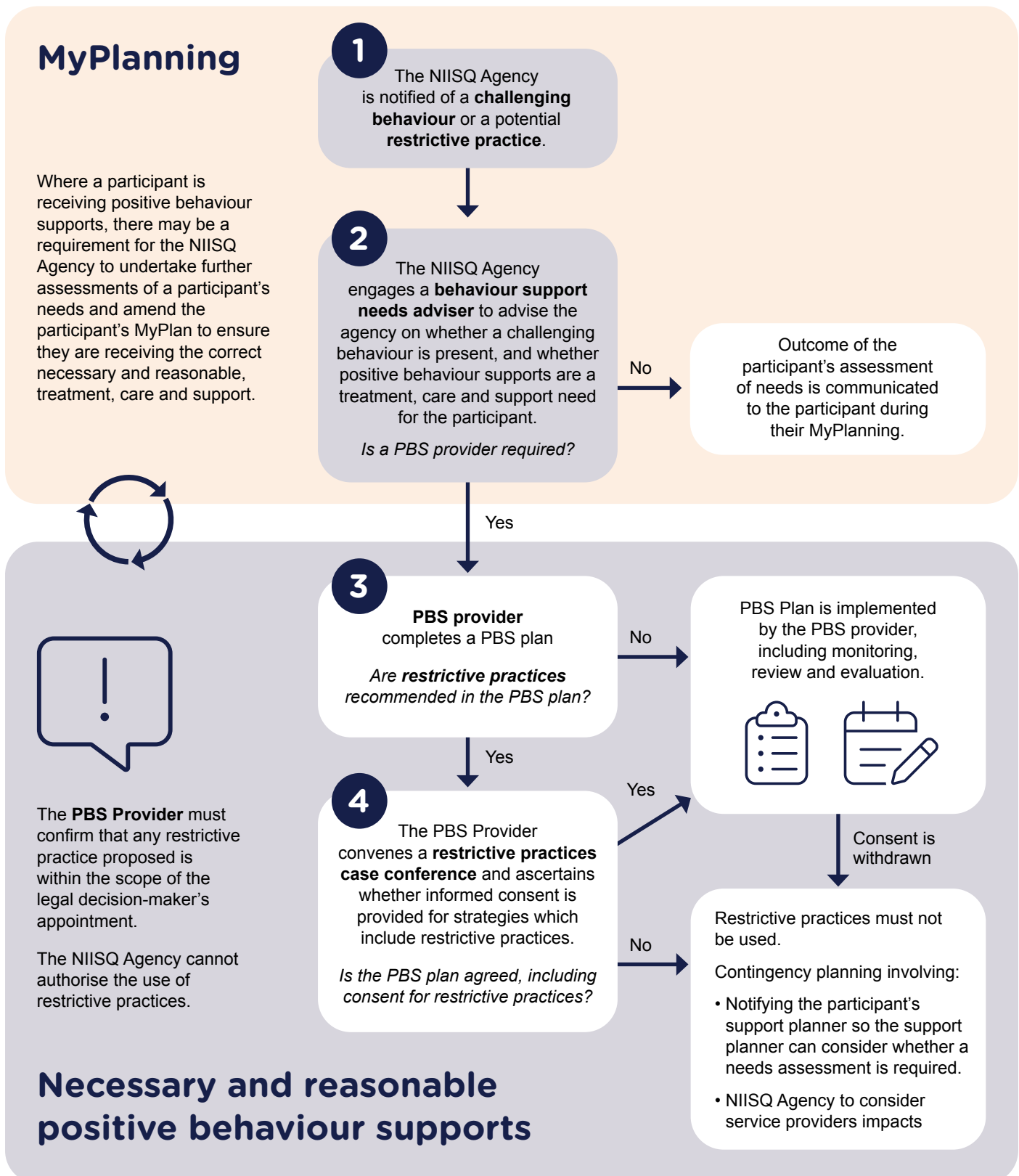
These behaviours can also contribute to unstable accommodation arrangements, support arrangements and inappropriate placements. By developing and implementing a PBS plan, the risk of harm, abuse and exploitation of participants is reduced. A **PBS plan** focuses on improving the participant's quality of life including by eliminating or minimising the use of restrictive practices.

¹ Convention of the Rights of Persons with Disabilities (CRPD), opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008).

To understand a participant’s need for positive behaviour supports, collaboration between the participant, their family (and other informal supports), service providers, the NISQ Agency, and other entities external to the NISQ Agency is essential.

Process for assessing needs for positive behaviour supports

The table below provides a high level overview for the assessment and delivery of positive behaviour supports under the NISQ.





Deciding whether behaviour support is necessary and reasonable

The *National Injury Insurance Scheme (Queensland) Act 2016* and the *National Injury Insurance Scheme (Queensland) Regulation 2016* describe how the NIISQ Agency decides whether a treatment, care and support need is necessary and reasonable, and can be funded. The [Treatment, care and support guidelines](#) explain how these decisions are generally made.

When the NIISQ Agency is assessing whether a participant's need for positive behaviour supports are necessary and reasonable, it will give particular attention to the following:

- whether positive behaviour support(s) will maximise the participant's independence, participation in the community and employment
- whether positive behaviour support(s) will assist the participant to manage their injury
- whether positive behaviour support(s) has a measurable outcome
- whether the participant has agreed, or is likely to agree that the positive behaviour support(s) will benefit them in relation to maximising their independence, participation in the community and employment, and/or in the management of their injury (including whether there is appropriate consent for any restrictive practices, see [consent required for all restrictive practices](#))
- whether risks associated with positive behaviour support(s) have been weighed against the expected benefit of the supports
- whether positive behaviour support(s) is consistent with current clinical practice and other industry best practice for people with similar injuries
- whether positive behaviour support(s) could include elements which are harmful to the person, including restrictive practices
- whether a PBS provider is appropriately qualified to provide positive behaviour support(s), and is otherwise an appropriate provider for the participant (see: [Positive behaviour support providers](#))
- whether the positive behaviour support(s) is cost effective.

There may be circumstances where a participant does have behaviour support needs, but they do not result from their **accepted injury**. The positive behaviour supports that the participant requires should be provided by a different service (for example other statutory insurers, including the National Disability Insurance Scheme).

NIISQ Agency approved behaviour support needs advisers

As a part of **MyPlanning**, the NIISQ Agency will assess a participant's needs for positive behaviour supports (including identified challenging behaviours) and the NIISQ Agency will obtain and consider information about the participant's needs from a behaviour support needs adviser.

The advice provided by a behaviour support needs adviser is used by the NIISQ Agency to decide whether to fund a PBS provider to prepare a PBS plan and any other work related to the development, implementation, ongoing management and review of the PBS plan.

To minimise the risk of real or perceived conflict of interest in the assessment of needs for behaviour supports and the funded provision of those supports, the NIISQ Agency will ensure that behaviour support needs advisers cannot also be a PBS provider for a participant as a part of assessing a PBS provider's appropriateness under the *National Injury Insurance Scheme (Queensland) Regulation 2016*.



The selection process for behaviour support needs advisers who provide direct advice to the NIISQ Agency on a participant's needs for positive behaviour supports is excluded from the scope of this guideline.

Positive behaviour support providers

PBS providers funded under the NIISQ must be able to demonstrate that they have the skills, knowledge, and experience required to deliver effective PBS supports. PBS providers will be assessed by the NIISQ Agency against the *National Injury Insurance Scheme (Queensland) Regulation 2016* to determine whether they are an appropriate provider. To be an appropriate provider of PBS supports, a PBS provider would generally be required to demonstrate:

- expertise in conducting a functional behavioural assessment
- expertise in determining whether a PBS plan needs to be developed
- capability to develop an effective PBS plan
- experience or capability facilitating restrictive practices case conferences, including explaining concepts such as consent with a range of involved persons including participants, family members, informal supports, service providers (including **attendant care and support services**), substituted decision-makers
- expertise in identifying a need to use restrictive practices, conduct risk assessments and develop risk management strategies including the identification of the least restrictive option and a plan for the reduction and elimination of restrictive practices
- expertise in implementing PBS plans, including training and supervising providers and family members implementing a PBS plan
- expertise and proficiency in the monitoring and review of PBS plans, including communicating with the NIISQ Agency and complying with any reasonable requests by the NIISQ Agency to ensure that the NIISQ Agency is able to undertake its functions, including initiating an assessment of a participant's treatment, care and support needs in order to amend a plan and updated with any necessary and reasonable treatment, care and support required by a participant.

Positive behaviour support plans

PBS plans should aim to maximise a participant's quality of life and minimise challenging behaviour. An effective PBS plan will improve the quality of support provided to participants and will reduce or eliminate the use of restrictive practices.

The development of an effective PBS plan requires a comprehensive, data-driven participant-centred approach. PBS providers funded by the NIISQ Agency to develop a PBS plan should:

- consult with the participant and family members, in addition to support workers, substitute decision-makers, medical and allied health providers and government agencies
- identify the participant's goals and strategies to improve their quality of life. This includes any goals, abilities and/ or limitations identified in the MyPlan
- consider any details about the participant's cognitive strengths and difficulties including communication skills, and make recommendations to the NIISQ Agency in relation to any additional assessments which may be required
- conduct a functional behavioural assessment to identify the function of challenging behaviours
- identify environmental triggers and develop strategies to prevent the occurrence of challenging behaviours



- develop strategies to teach replacement behaviours
- develop strategies to reinforce the preventative or replacement behaviours
- identify appropriate responses to challenging behaviours which are intended to lead to de-escalation
- identify training needs of staff and others
- identify intervals at which the PBS plan will be reviewed
- monitor and review the strategies used.

The NIISQ Agency expects PBS providers to support staff implementing a PBS plan, where required.

Approved services are conditional on a provider complying with a PBS plan

Compliance with a PBS plan is a condition for all approved attendant care and support services (an **approved service**), resulting from an assessment of a participant's support needs following MyPlanning, or a decision to approve a **service request**.

This means that an attendant care and support service provider is not entitled to payment of any expenses incurred by the provider in the course of delivering support to a participant with a PBS plan, unless the provider complies with the PBS plan.

Consent is required for restrictive practices

A participant's consent, substituted consent (for example, provided by a guardian), or another form of lawful authorisation is required for the use of restrictive practices for participants in the NIISQ. The NIISQ Agency cannot authorise the use of restrictive practices.

Service providers that use restrictive practices without authorisation may be committing a criminal offence, including assault, wounding or deprivation of liberty. Identifying the source of consent for restrictive practices is an essential part of the assessment process (see: stage 4 of the [high level process flow](#)).

Where a substituted decision maker appointed under the *Guardianship and Administration Act 2000* (including the Public Guardian) is unsure whether their appointment encompasses the power to make decisions with respect to restrictive practices, the decision maker should contact the [Queensland Civil and Administrative Tribunal](#) to obtain clarification of the scope of their appointment. If a substituted decision maker also provides informal support to a participant (for example a family member) and is required to undertake additional administrative work to support a participant appropriately by clarifying the scope of their appointment, the NIISQ Agency will assist by assessing whether additional treatment, care or support may be funded to alleviate the pressure on the informal support caused by the additional administrative work.

If consent for a restrictive practice is withdrawn, the restrictive practice must not be used.

In circumstances where the NIISQ Agency becomes aware that restrictive practices are being utilised without consent or is otherwise not lawfully authorised, it may make a referral action in accordance with this guideline and if satisfied, may deregister the service provider. (see: [Service provider obligations and consequences for use of unauthorised restrictive practices](#)).



Service provider obligations and consequences for use of unauthorised restrictive practices

The unauthorised use of a restrictive practice is a **serious incident**. Service providers are responsible for identifying and responding to a serious incident. The NISQ Agency requires service providers to notify the NISQ Agency and other relevant bodies of any occurrence including through the *Responding to serious incidents process* described in the Reporting serious incidents guideline.

The use of restrictive practices in the absence of a PBS Plan, without consent or otherwise not lawfully authorised, must be reported to the NISQ Agency (see: [Reporting serious incidents guideline](#)).

Referral for investigation and deregistration of registered provider

In circumstances where the NISQ Agency becomes aware of a serious incident (including the use of restrictive practices on a particular participant without consent or otherwise not lawfully authorised), it may report the provider for investigation/ disciplinary action or criminal investigation to a number of entities described in the [Reporting serious incident guideline](#).

The NISQ Agency may also be required to report the use of restrictive practices where a breach of the participant's human rights has or is likely to have occurred. Such rights include the right to privacy and reputation and the right to liberty and security of the person where the participant may have been subjected to seclusion, containment, or detention.

In some circumstances where a serious incident has occurred, and the NISQ Agency is satisfied that the serious incident was caused by or related to a failure in service delivery, the NISQ Agency may initiate a reassessment of the participant's treatment, care and support needs and remove the provider from the register of providers.



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