**Anonymous Submission (individual)**

**Question 1: Should the proposed legislative framework cover the out of home care setting?**

A framework that completely bans restrictive practices should not exist in any setting. Our son has extreme invasive obsessive behaviours that will land him in jail for child sexual assault if his restrictive practices are removed. Psychiatrists, behavioural psychologists and forensic psychologists who have worked with him all agree that his behaviours can't be changed, only managed.

**Question 2: Should the proposed legislative framework cover any other setting?**

A framework that completely bans restrictive practices should not exist in any setting. Our son has extreme invasive obsessive behaviours that will land him in jail for child sexual assault if his restrictive practices are removed. Psychiatrists, behavioural psychologists and forensic psychologists who have worked with him all agree that his behaviours can't be changed, only managed.

**Question 3: What issues and challenges are raised by there being different frameworks for the authorisation of restrictive practices in the disability service provision setting and the aged care setting?**

Disability and Aged Care services are already separate. I don't see why it matters if this issue is also different.

**Question 4: Do you support legislation requiring that restrictive practices on NDIS participants in the disability service provision, health, education and justice settings should be governed by the principles recommended by DRC Recommendation 6.35(b)?**

Our experience as a family with a son receiving restrictive practices has been that restrictive practices are already governed by these principles of

* avoiding serious harm,
* least restrictive response possible,
* to the extent necessary,
* and for no longer than necessary.

So I'm not convinced legislation will add anything except more paperwork and more hoops to jump through.

**Question 6: Should a legislative framework prohibit any practices? If so, which practices and in which settings?**

I can only speak about the practices my son receives, ie chemical restraints and locked outer doors and windows. These are reasonable and necessary in his case, and prohibiting them would cause significantly more harm to himself and others, and more life-restriction to himself, than keeping them.

There is an instinctive response of revulsion to the idea of personal physical restraints such as straitjackets, wrist restraints, bed restraints, etc but I don't know enough about the subject to say if all or some should be banned.

**Question 7a: Do you agree that the framework should use the NDIS definitions of restrictive practices?**

If a legislative framework is imposed (which I'm not convinced is necessary), it should use the NDIS definitions.

**Question 7b: Do you agree that the Senior Practitioner should have the power to issue guidelines that clarify how the definitions apply in different situations?**

If a legislative framework is imposed (which I'm not convinced is necessary) - and on the assumption that the Senior Practitioner has personal experience and knowledge of disability care - the Senior Practitioner should have the power to issue guidelines that clarify how definitions apply in different situations.

**Question 15a: Should authorisation decisions be open to internal review?**

Yes.

**Question 15b: Should authorisation decisions be reviewable at NCAT?**

Yes.

**Question 16a: Should rights to seek review be limited to the person or a person concerned for their welfare?**

How broad is the definition of "person concerned for their welfare"? I can foresee a potential for misuse. It needs to be broad enough to include all legitimate concerned persons but not to invite litigious harassment of family and/or caregivers.

I tend to think that - even though there may be a conflict of interest - service providers and staff should not be excluded from the definition of "person concerned for their welfare".

**Question 16b: Should the service provider have a right to seek review of a decision not to authorise a restrictive practice?**

Yes.

**Question 17: Should a person have a right to request the service provider review the Behaviour Support Plan (BSP) at any time?**

Yes, although there needs to be consideration of reasonable intervals between, and frequency of, requests.

But who pays for it if it's not in their NDIS budget?

**Question 23: Do you agree the Senior Practitioner should have the proposed education and guidance functions?**

Yes, on the assumption that the Senior Practitioner has had personal experience and knowledge of disability care.

**Question 25: Should the proposed framework provide for a legislated immunity from liability from the use of restrictive practices where the use was in accordance with an authorisation and done in good faith?**

Yes.