**Organisation**

Autism Spectrum Australia

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

Yes.

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

Education and mental health.

**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?**

* Confusion for vulnerable individuals and their support networks
* Inconsistencies in implementation of strategies and supports across settings
* Individuals exist across services and different settings, consistency and streamlining approaches will enable best outcomes for vulnerable individuals

**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)?**

Yes.

**Question 5: Are there any other principles that should be considered?**

No.

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

Yes – any practices that are harmful, aversive or abusive. Any practices that are not used in response to risk behaviours.

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

Yes.

**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?**

Yes.

**Question 8: What role should the Senior Practitioner play in regulating behaviour support plans (BSP)?**

Restrictive practices should only be used in line with a BSP, monitoring the quality of BSPs and the information required within that BSP should be under the jurisdiction of the Senior Practitioner. Additional information should be in line with best practice and evidence based practice for the inclusion of RPs in BSPs.

**Question 9: Is there anything else the proposed framework should do to improve the quality of behaviour support plans (BSP)?**

The framework would hopefully assist in improving the quality of BSPs due to needing the BSPs to meet certain quality levels prior to authorising the RPs. BSPs should meet certain good practice criteria prior to the RPs within the plan being authorised.

**Question 10a: Should Authorised Program Officers (APOs) be empowered to authorise particular categories of restrictive practices without separate Senior Practitioner authorisation (a partially delegated model)?**

Yes – to assist in the load required to authorise. Environmental restraints could be considered to be authorised by APOs, generally less risk involved and more common lower level restrictions.

**Question 10b: Should Authorised Program Officers (APOs) be empowered to provide preliminary approval of restrictive practices, with final authorisation provided in all cases by the Senior Practitioner (a two step model)?**

Yes – this could also be helpful to enact elements of the NDIS Commission as per their timeframes, with follow up in relation to good quality checks.

**Question 10c: What would be the benefits and risks of the above two models for Authorised Program Officers (APOs)?**

The benefits of the model would include:

* Faster and more responsive timeframes around authorisation
* Improvements to the quality of behaviour support plans
* Safeguarding approaches and additional expertise within the state based senior practitioner

The risks of the model would include:

* Authorisation of some practices occurring at an organisational level without additional oversight
* Quality of approach is dependent on the quality and skill of APOs

**Question 11: Are there alternative approaches to authorisation that would be preferable to these models?**

No.

**Question 12: Should Authorised Program Officers (APOs) be required to be employed by a single provider? Or should APOs be permitted to be consultants to a number of providers?**

APOs could be permitted to be consultants to a number of providers – if they are there would need to be strong support from the senior practitioner to monitor and track the quality of approvals and skill set of APOs.

**Question 13: Do you support the proposed duration of authorisation and emergency use proposals for restrictive practices?**

Yes.

**Question 14: Are there any additional grounds on which the Senior Practitioner should be able to cancel an authorisation?**

No.

**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?**

Unsure – any person with a clear role and connection to the person and who is concerned should be able to raise concerns (it should be clearly outlined who this would be).

**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.

**Question 18: Should the Senior Practitioner have complaints handling and investigation functions either on receipt of a complaint, on its own motion, or both?**

Both.

**Question 19: Do you agree the Senior Practitioner should have the proposed powers to respond to misuse of a restrictive practice?**

Yes.

**Question 20: How should interaction with the NDIS complaints framework be managed?**

Collaborative approach where participants and their support networks have one person to support them with the complaints process, but information is passed freely through both.

**Question 21: To which bodies should the Senior Practitioner have the power to share information and in what circumstances should the Senior Practitioner be permitted to share information?**

The Senior practitioner should be able to share information with the NDIS Commission, Aging Disability Commissioner and NCAT in relation to the use and misuse of RPs.

**Question 22a: Are the means by which the Senior Practitioner would have visibility of the use of restrictive practices by NDIS providers proposed in this Paper sufficient?**

Yes.

**Question 22b: How can reporting burden to the Senior Practitioner and the NDIS Commission be minimised?**

Reporting burdens can be minimised if the SP and NDIS Commission are communicating clearly about participants whom are subject to RPs. Reporting should be done through already established avenues (Commission) whilst authorisation should sit with the SP.

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

Yes.

**Question 24a: Should the Senior Practitioner have the power to impose sanctions for the misuse of restrictive practices, or are existing sanctions for misuse of restrictive practices sufficient?**

Additional sanctions could be useful.

**Question 24b: How should the interaction between sanctions provided for under NDIS legislation and the proposed framework be managed?**

Sanctions should be managed together rather than separately, so that providers are not receiving different messages/information. Multiple sanctions from various parties would be confusing to providers, ensuring more streamlined approach for sanctions would assist in providers learning and making amends and changes for errors.

**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.