**Organisation**

Macarthur Disability Services

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

As many NDIS participants are covered under NDIS in OOHC settings, it could be beneficial to have this included in the framework, to ensure consistent protection across various settings. It should cover any setting where there is a potential for misuse or overuse of restrictions and abuse.

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

It would be beneficial for the framework to cover various settings, as it is important to have a comprehensive approach to reduce potential oversights and inconsistencies within the framework. This could include settings such as; aged care, schools, etc.

**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?**

It causes confusion and service providers have misconceptions around what is and is not restrictions. Some providers will then try to avoid reporting restrictions because there is fear of potential issues. This leads to further issues and possible abuse of restrictions or avoidance of reporting.

**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)?**

It is best to ensure that standards for human rights are always evolving, and by supporting a consistent approach it allows for the best method of a standardised approach for restrictive practice.

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

Restrictive Practices are forever changing and evolving and should be used as a last resort. Various forms of physical restraint and Seclusion, should be prohibited across all settings, however understanding that RP's are not the same for everyone, and should be looked at on a case-by-case basis.

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

Yes, it just needs to be consistent and clear.

**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?**

Unsure - There should be discussion and investigation in each case, however having consistent and clear definitions can support the RP process.

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

Certain participants should certainly be identified as requiring a practitioner to have a level of suitability i.e complex clients requiring proficient etc.

The Senior Practitioner should have the ability to questions restrictions if there is not enough information.

**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)?**

Unsure - APO would need to have appropriate training and oversight - to then potentially authorise environmental and chemical restraints.

**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)?**

This could allow for approval across various levels, to ensure oversight.

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

The current panel systems, was beneficial in the sense that all involved were able to come together and discuss RPs with a professional. This would provide difficult however, when specialist had varying opinions.

**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?**

APO's need to be regulated, to ensure there is no conflict of interest or malpractice with authorising restrictive practices. This could be through regular audits from the senior practitioner, or having them review each authorisation.

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

Yes.

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

Yes.

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

In extreme cases, whereby other levels of intervention and re-assessment have not worked.

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

Yes - this should be anyone within the clients life.

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

I believe so if they feel it is absolutely required in order to keep everyone safe.

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

If there is a request, there needs to be an overview to see if it is confirmed that there is a valid concern and reason to do the review.

**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 would be beneficial.

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

Yes.

**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?**

Key stakeholders, who have signed agreements for the consent to share information, especially in times of abuse or when there are concerns around safety.

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

By having other people who can also relay information to the Senior Practitioner.

**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?**

As long as the senior practitioner uses the sanctions appropriately, it is an appropriate safeguard to ensure the safety for all participants. The issue should require full investigation first.

**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?**

Both pros and cons. Can help protect providers that act responsibility, ensuring compliance and reporting. However, potential for misuse and harm.

**Question 26: Are there any other functions which the Senior Practitioner should have? Should providers in the disability service provision setting be subject to any other requirements?**

Additional oversight could be beneficial, including more frequent review, evidence of fade out and data etc. Guidance and opportunity for debrief/education for both behaviour support practitioners and implementing providers.