**Organisation**

ConnectAbility

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

This should be considered after an adequate and successful trial period, in consultation with OOHC Providers.

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

This should be considered after an adequate and successful trial period, in consultation with relevant Providers.

**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?**

For Aged Care Providers this would be an issue if they had NDIS funded participants. Whilst one National framework for all would be beneficial, it does not appear to be a reality. I would suggest that after a successful trial period consultation should occur with Aged Care Providers.

The underlying issue with the current system remains for Disability Providers, i.e. lack of a National framework/approach to RPs, especially consent requirements. A consistent approach by Independent Specialists to RPs e.g. seat belt guards/covers is required.

**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)?**

I find this question does not quite align with the proposals above.

I do not support Disability Service Providers having to report on use of RPs to a Senior Practitioner. This is a duplication of what is currently required, i.e. reporting to the Q&S Commission.

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

Yes, there should be a National approach/framework.

**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, as long as this aligns with the Q&S Commission Guidelines.

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

Q - How does this align with the Q&S Commission guidelines?

There needs to be a consistent approach across all states and territories in the handling of RPs and authorisation. I do NOT believe that the Senior Practitioner should have any power that overlaps with the Q&S Commission i.e. suitability of a Practitioner and what is contained in a plan.

Consent is an issue for plans, with Guardianship Orders required to be in place for certain RPs. Families do not see the relevance of this, and it can be a barrier to obtaining consent. Also, it can take months to obtain a Guardianship Order.

Q. Has the Office of the Public Guardian been consulted about these proposals? What is their insight into this? Will they still be involved? Are they required to be consulted about the BSP?

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

I would like to see that there are formal qualifications/and or experience for a Behaviour Support Practitioner, however this should start with the Q&S Commission guidelines.

**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, ideally all types of RPs providing they are within Guidelines.

This should be prescribed through class or kind orders.

**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)?**

Would see this resulting in a lot of work, will there be timeframes that must be adhered to for approval?

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

Don't see any benefits.

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

We find our current model of having a regular RPA Panel is working well.

I believe there is a shortage of suitably experienced Practitioners because of the excess of paperwork that is forced upon them and the incongruence between State and Federal frameworks.

**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?**

How would the cost of this be shared?

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

Yes, I do support increasing authorisation up to 12 months.

Also support the need for an emergency use before a BSP has been prepared.

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

I believe the SP should only be able to cancel authorisation if:

* the relevant provider has contravened a condition of the authorisation, or
* the relevant service provider has contravened a provision of the legislation.

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

Yes. All decisions should undergo not only internal review but an external review periodically to ensure that the system is working in line with legislation and guidelines. I would assume they undergo an external audit process similar to Providers.

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

No, there is enough to deal with at NCAT, why do we have to implement more.

A successful system should not require this.

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

Yes, within reason - should only be the participant or authorised decision maker.

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

Yes, providing they have the

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

No. This is an unrealistic expectation that will result in more paperwork and put more pressure on already overworked Behaviour Support Practitioners. This needs to align with funding.

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

NO. This would be a conflict of interest if they are authorising the RP. There are currently multiple avenues for participants to make complaints.

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

No.

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

I would assume they follow their own internal Complaints process by addressing this with the Provider first. If not resolved, then escalate to the Q&S Commission. How are complaints about the SP going to be handled?

**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?**

This should be in line with current legislation. Do they currently share information with the Q&S Commission, if not, this is the opportunity to introduce this.

**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?**

There should be duplication of reporting.

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

* Have one framework and systems that talk to each other - this should have been implemented in 2018.
* Do not duplicate powers or responsibilities.
* Do not duplicate systems e.g. Complaints.

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

They should only be responsible for guidelines and standards, providing consistent advice on RPs.

**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?**

No, they should not have this power.

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

Sanctions should be left with the Q&S Commission.

**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.

**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?**

NO.