NDIS Quality and Safeguards
PO Box 7576
Canberra Business Centre   ACT   2610

28 April 2015

Submitted online

To Whom it May Concern

**Response to Proposal for a National Disability Insurance Scheme
Quality and Safeguarding framework**

Thank you for the opportunity to provide comments on the consultation paper on the proposed National Disability Insurance Scheme (NDIS) Quality and Safeguarding framework.

MacKillop Family Services (MacKillop) is a leading provider of services for children, young people and their families in Victoria, NSW and WA. MacKillop provides disability services in Victoria's Barwon region (a NDIS launch site) and Melbourne's west. MacKillop also provides home-based and residential care, refugee services, youth support, education and training, family support and support to women and men who, as children, were in the care of our founding agencies.
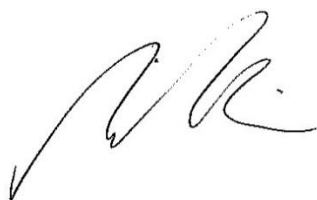
MacKillop's disability services focus on providing services and support to children and young people with a disability and their families. The families we support often experience a number of complex and nuanced needs and it is especially difficult to ensure that these families are supported and socially included, as there are sometimes a range of vulnerabilities. A new quality and safeguarding framework should be cognisant of the needs of vulnerable families in which a child or children has a disability.

On reviewing the Consultation paper and reading the NDS draft submission on the proposed Quality and Safeguarding framework, MacKillop is in general agreement with the direction proposed by the NDS, that a code of conduct and single regulatory body be established. In MacKillop's view, that organisation should have responsibility for overseeing provider registration, complaints, working with vulnerable people checks and restrictive practices. This is further explored in the attached submission, in which we have provided some direct answers to the questions set out in Part 1 and a more general response to Part 2 of the Consultation paper.

Thank you for the opportunity to comment on the proposals and options contained in the Consultation paper.

Please contact Dr Nick Halfpenny, Director of Policy and Quality, on 03 9257 2323 should you wish to discuss this submission further.

Yours sincerely,

Micaela Cronin
CEO, MacKillop Family Services

**JUSTICE
HOPE
COLLABORATION
COMPASSION
RESPECT**

**Central Office**
237 Cecil Street,
South Melbourne VIC 3205
Telephone (03) 9699 9177
Fax (03) 9696 6496

ABN 79 078 299 288
**Donation Hotline:** 1300 218 935
**Foster Carer Inquiry Hotline:**
1300 791 677
**mackillop.org.au**

**Responses to Part 1: Proposed Quality and Safeguarding framework for the NDIS**

**1.      What are the most important features of an NDIS information system for participants?**

In MacKillop's view, an NDIS information system should be simple to understand and accessible for people with a range of communication styles and in community languages. For people who may need support to access information about the system via a third party (for example children or people with cognitive impairment), information about the system should be freely available to families and other community and support organisations.

**2.      How can the information system be designed to ensure accessibility?**
As MacKillop's focus is on families with a child with a disability, we are of the view that the information system should be readily available in a range of formats, and we have a strong preference for face-to-face methods for families to access information. MacKillop understands that although it is useful for families to be able to access information via the telephone or online, parents of a child with a disability and people with a disability sometimes express a preference for face-to-face information.

Hard copy information should also be available, in places where families are. This might include schools, shopping centres, local government services and other community centres. Online information should be mobile friendly, as many parents rely on smart phones for their internet access.

Information should also be easy for busy parents to understand, given the multiple concerns and pressures parents of a child with a disability might have.

**3.      What would be the benefits and risks of enabling participants to share information, for example, through online forums, consumer ratings of providers and other means?**
MacKillop encourages families to share information with one another about our services. We would be concerned, however, about information sharing where there is no opportunity for service providers to contribute, and "correct the record" if required. An un-moderated web page has the potential to cause reputational damage to organisations, which, in turn, could threaten the delivery of services to a larger number of people.

MacKillop is of the view that service users should be encouraged to talk about and share their experiences of receiving services, but this should be done cautiously, and with regard to the potential for people to express thoughts and feelings that may be controversial, contested or based on limited information.

Additionally, any information sharing system must be supported by a complaints system, to allow people who need to make a complaint the means to do so, aside from (or as well as) voicing an opinion on a service received in an online forum.

**4.      Are there additional ways of building natural safeguards that the NDIS should be considering?**
MacKillop is of the view that there may be "natural safeguards" that are appropriate for some adults with disabilities. However vulnerable children and adults with cognitive impairment require more than "natural safeguards" to keep them safe from harm. In MacKillop's view, there is a role for a child protection system in safeguarding children with disabilities who are at risk of abuse and neglect.

Research by the Australian Institute of Family Studies (AIFS) in 2008 revealed that family functioning is significantly compromised by caring for a family member with a disability. The AIFS found a statistically significant association between the care needs of the family member with disability and family problems.[1] Those with a family member with high care needs were more likely to have one, two or more family problems.  This has wide ranging implications for the safety and wellbeing of children with a disability and their families. In MacKillop's view this also impacts on a family's ability to remain engaged with the community and participate in education, work and other socially rewarding interactions that build natural safeguards.

---

[1] Higgins D. and Edwards, B., 2008 The nature and impact of caring for family members with a disability in Australia, Research report No. 16, Australian Institute of Family Studies

Other research indicates carers have the lowest subjective wellbeing of any other group in Australia.[2] In addition, siblings of children and young people with disabilities face challenges that are very different to their peers, and it is often the case that the needs and experiences of siblings are overlooked.[3]

In MacKillop's view an absence of support for families, and the heightened possibility of relative isolation, further exacerbates the risk of harm to children with disabilities. In her review of recent research about child abuse, child protection and children and young people with disability, Robinson[4] highlights the evidence indicating the disproportionate number of children and young people with a disability who have been subject to abuse and neglect. Although Robinson urges caution in relation to relying on rates and prevalence data on abuse of children with disabilities, she concluded that "children and young people with disability experience abuse and neglect at rates considerably higher than their peers who do not have disability" and those with "communication impairments, behaviour difficulties, intellectual disability and sensory disability experience higher rates of abuse". Furthermore, this abuse is likely to be repeated, more severe and under-reported.

MacKillop submits that a greater level of support to families in which a child has a disability is essential to ensure the best outcomes for all family members. There is an absence of "natural safeguards" for children with disabilities, meaning greater family support has the potential to promote family stability, enhance parent and sibling wellbeing and reduce the risk of abuse and neglect of children with disability.

**5.      What can be done to support people with a limited number of family and friends?**
MacKillop is of the view that there is a critical need for affordable, practical and engaged case coordination within the NDIS, for those who have few family or community supports. This has been lacking in current trial site in Victoria and, in MacKillop's experience, isolated families with multiple vulnerabilities are struggling without the comprehensive support that was available prior to the launch of the NDIS.

**6.      What kind of support would providers need to deliver high quality supports?**
In MacKillop's view, providers require very clear guidelines on how to deliver quality services. The needs of organisations can vary. For example, smaller providers might need case examples on how to address key elements of a quality framework.

Additionally, planners and local area coordinators within the NDIA also need an appropriate level of skill and experience to ensure that they are actively promoting independence, choice and control when working with vulnerable families.

MacKillop is of the view that there is a role for the Information, Linkages and Capacity Building (ILC) framework to support organisations to deliver high quality services.

**7.      Should there be an independent oversight body for the NDIS?**
As noted in our cover letter, MacKillop is of the view that an independent body should be established to oversee certain elements of quality and safeguarding. In MacKillop's view, self-regulation is not appropriate in this sector as the risks of exploitation of vulnerability are too great.

As the NDIA is involved in providing planning services to people with disabilities, we are also of the view that the NDIA should not be given the responsibility for the oversight for the NDIS. More detail is provided on this below.

---

[2] Cummins, Professor R. A., Hughes, J. Tomyn, A., Gibson, A., Woener, J. and Lai, L., 2007 Australian Unity Wellbeing Index Survey 17.1, report 17.1, Deakin University and Australian Unity Limited
[3] Association for Children with a Disability, Growing Together: A parent guide to supporting siblings of children with a disability, 2011, published by author
[4] Robinson S., 2012 Enabling and protecting: proactive approaches to addressing the abuse and neglect of children and young people with disability, Southern Cross University, p. 10

**8. What functions and powers should an oversight body have?**

In MacKillop's view, a single oversight body that has responsibility for a range of functions is favoured. That organisation should be responsible for:

- Receipt of complaints
- Standards setting and support (including training to assist organisations and their staff to comply with standards)
- Working with vulnerable people checks
- Restrictive practice reporting.

Monitoring and oversight should also apply to the activities of the NDIA.

**Response to Part 2: Detail of key elements of the Quality and Safeguarding Framework**

NDIA provider registration

In MacKillop's view, mandated participation in an external quality assurance system would provide the best safeguards for users of disability services. MacKillop is also supportive of a system that allows participants to review outcomes achieved for other participants, to assist them to evaluate the service and determine its "fit" for them.

Systems for handling complaints

As noted above, MacKillop supports the introduction of a single oversight body with a range of responsibilities. The complaints function of that organisation, in MacKillop's view, should be most like Option 3b: Disability complaints office, as described in the Consultation paper.

Additionally, MacKillop wishes to point out the need for a complaints handling system to take account of a range of communication styles and cognitive impairment, and be able to provide support for people making complaints about service they have received.

Ensuring staff are safe to work with participants

There are a number of issues that arise in relation to ensuring that staff are safe to work with participants. In MacKillop's view, it is the responsibility of the employer to ensure that their employees are appropriately skilled, qualified, supervised and have had relevant work and criminal history checks.

MacKillop provides services to children, young people and their families in three Australian states. To improve the efficiency of the system and reduce administrative burden for organisations that work across jurisdictions, MacKillop is supportive of a national working with vulnerable persons check. Such a scheme should be modelled on best practice in the current state and territory based Working with Child Check schemes (WWCC).

MacKillop notes that there has been some effort by the Council of Australian Governments to achieve better consistency or harmonisation between state and territory WWCC schemes, and we welcome those efforts.

Issues that arise for MacKillop, and other agencies with a national focus, include that there is greater potential for systems failure, when there are a number of duplicate systems that require compliance.

MacKillop cautions against relying solely on a working-with check. We are the view that working-with checks are only one element in a suite of responses that should be in place in organisations that work with vulnerable people, to ensure they are safe for people accessing the services. Pre-employment screening has the potential to have a negative impact on the safety of vulnerable people if organisations rely on that alone to minimise risk within their organisation. The evaluation of WA's WWCC scheme noted the danger that the existence of a WWCC clearance may be viewed as a sign of good character in itself.

MacKillop supports the view of the Australian Institute of Family Studies that pre-employment screening of potential employees may prevent people with a known history of violent or abusive behaviour gaining employment but screening should be viewed as but one element of a thorough recruiting process that also ideally includes interviews, reference and police checks. Good employment practices should sit alongside a range of policies and procedures to develop child-safe organisations including robust frameworks for responding to allegations of improper conduct or abuse.

MacKillop is of the view that the principles that underpin the creation of child safe organisations apply equally to creating safe service provision for people with disabilities. These principles have been adapted from the Victorian Commissioner for Children and Young People's (formerly the Child Safety Commissioner) "A Guide for Creating a Child-safe Organisation" and include:

- Enabling and promoting participation of service users and ensuring the views of service users are heard within the organisation
- Strong recruitment practices (including advertising, position descriptions, interview processes, pre-employment checks)
- Strong support, supervision and performance monitoring
- An open culture that encourages employees to speak up about any concerns, including training around responding to "whistle-blowers"
- Strong responses to concerns and allegations.

Reducing and eliminating restrictive practices in NDIS funded supports

MacKillop supports the Victorian Department of Health and Human Services approach. See, for example http://www.dhs.vic.gov.au/__data/assets/pdf_file/0003/610356/sp_disact_infosheet_14_restrictive_interventions.pdf

This requires that if restrictive practices are undertaken, they are part of the person's behaviour support plan, and that the use of restrictive practices must be reported to the DHHS Senior Practitioner. Under the federal scheme, MacKillop would be supportive of a similar role being established within the independent oversight body for disability services.

Community visitors

In MacKillop's view, community visitor schemes are useful, and have the capacity to undertake key responsibilities to promote and enhance rights and safety. Community visitors have the capacity to act as a safeguard for vulnerable people, adding to the other supports that surround people. They also have the capacity to identify opportunities for local and systemic improvement.