



**AASW**

**Australian Association  
of Social Workers**

---

*Response to the proposed National  
Disability Insurance Scheme (NDIS)  
quality and safeguarding system*

**April 2015**

© Australian Association of Social Workers  
National Office – Canberra  
U9, Block C Trevor Pearcey House  
BRUCE ACT 2617  
PO Box 4956  
KINGSTON ACT 2604  
T 02 6232 3900  
F 02 6230 4399  
E [advocacy@asw.asn.au](mailto:advocacy@asw.asn.au) [www.asw.asn.au](http://www.asw.asn.au)

Enquiries regarding this submission can be directed to:  
**Senior Manager, Policy & Advocacy: Stephen Brand**  
Email: [stephen.brand@asw.asn.au](mailto:stephen.brand@asw.asn.au)  
Phone: 02 6232 3900  
AASW Chief Executive Officer:  
Glenys Wilkinson  
Email: [ceo@asw.asn.au](mailto:ceo@asw.asn.au)

## Introduction

---

Thank you for the opportunity to provide feedback on the proposed National Disability Insurance Scheme (NDIS) quality and safeguarding system. As the member-based professional organisation representing social workers, the Australian Association of Social Workers (AASW) is committed to ensuring an optimal quality and safety system design for the NDIS. We have commented on the principles and priorities in the framework that are particularly significant from the experience of social workers, rather than the whole document.

### Overarching approach

Our primary proposition is that the success of the service system discussed below depends on having highly skilled and competent staff. Staff need strong interpersonal skills plus knowledge of agencies, services and community systems to undertake assessments, engage in collaborative planning that is responsive to diverse needs, and provide oversight that manages risk. Social work education is designed to provide these capabilities, and the profession has extensive experience working at the individual, community and systemic levels relevant to the NDIS. We draw on this experience to provide the following feedback relevant to our expertise.

'Human rights' is a principle that underpins both social work and the NDIS legislation (2013). While human rights are mentioned in the Consultation Paper, we propose that they be used as a central planning principle for the NDIS service system design with respect to quality and safeguards. It is still unclear whether the introduction of the NDIS will result in people with disability losing the protection of the state-based charters of rights in the Australian Capital Territory and Victoria. To ensure that the introduction of the NDIS is not a retrograde step, human rights can be used as a guiding principle when designing quality and safeguarding mechanisms. From practical experience we are aware that adopting this principle will not resolve all dilemmas because there are often competing rights, and it is not always clear how they can best be upheld. However, adopting human rights as a central principle is useful because it can illuminate grey areas bordering on neglect or abuse and minimise restrictive practices.

### Proposed safeguarding framework

While effective safeguarding is most likely to occur within a framework of high quality supports, the former is not guaranteed by the latter. The Royal Commission into Institutional Responses to Child Sexual Abuse and recent revelations in the disability sector highlight that effective safeguarding from abuse is challenging many organisations, including those who otherwise deliver high quality supports. So a key question is what kind of support do providers need to have in place to effectively safeguard service users from abuse. It is incumbent on service providers to do all that is reasonable to ensure the safety of people using their services. This requires a comprehensive range of strategies and, above all, that safeguarding remains a front-of-mind issue throughout the entire organisation – always. This will not be achieved by leaving it to each individual service provider to develop the tools and strategies to achieve this. Most service providers will need support in this regard.

The fundamentals of a comprehensive safeguarding strategy will include:

- Sound staff recruitment practices to eliminate potential staff risks where these are known and can be identified, including police checks, a vulnerable person's check, and a national barred worker exclusion list
- Services users who are well informed and feel empowered and safe about speaking out about things that concern them
- Concerns of service users are actively sought, listened to and taken seriously
- A staff culture that places high value on safeguarding and where staff members are confident in identifying concerns without fear of reprisal
- A strong organisational focus on accountability, service oversight and monitoring risk
- An organisational culture where safeguarding issues are discussed openly and regularly.

The 'Zero Tolerance' project initiated by National Disability Services (NDS) is an attempt to provide some support and resources to service providers in this area, although the capacity of this project is currently limited. A joint project between NDS and Curtin University, titled 'Safer Services' aims to develop and evaluate a suite of tools and resources to support service organisations in ensuring the safety of their services. Subject to their efficacy being established, the next consideration will be how to make these available to service organisations and support their implementation.

It is suggested that the National Disability Insurance Agency (NDIA) provide support to these and other relevant initiatives by the sector to improve the safety of their services.

### **Independent oversight body**

There should be an independent oversight body for the NDIS. It is important that the oversight function include oversight of the NDIA itself as well as service providers, in order to maintain confidence in and accountability of the overall system. If this were to not be the case, then people with disability would be in a less powerful situation than that which exists in most states at the present time and the level of confidence in the ability of the overall system to deliver fairness and to ensure that the concerns of individuals are heard and acted upon would be seriously eroded.

It is recommended that the functions and powers of an independent body include:

- An ability to receive complaints both in relation to individual and systemic matters relating to the functioning of the NDIS, including the operations and decision making of the NDIA, and the provision of services under the NDIS
- The power to investigate complaints and to make recommendations to the NDIS Board and the CEO of the NDIA
- The power to initiate systemic inquiries into the functioning of the NDIS and to require cooperation of the NDIA and service providers in relation to those inquiries
- A requirement to report directly to parliament on its activities, key issues and findings.

### **Tiered approach and safeguards**

The options provided in the consultation paper range from 'a light touch' to heavy regulation. Being guided by the principles of human rights, empowerment, choice and control as well as concerns about risk and safety, we propose that regulation be the universal starting point, with the opportunity for exemptions when conditions are assessed by planners to be safe for the particular individual. With regard to the specific options proposed and the questions regarding those options under the section titled Possible Approaches in the Consultation Paper, our response is below.

### **Disability service providers**

The AASW is primarily concerned with the best assurance for participants. We are acutely aware of the abuse of vulnerable people, including those who have the ability to self-manage their support arrangements. Family, friends and workers commit abuse. Having said this however, it may be that Option 4 would be particularly onerous and possibly discourage the establishment of small provider organisations and therefore reduce choice. This would be unfortunate, for example if the potential for growth of Aboriginal controlled disability service providers and small niche service providers were to be inhibited by over-regulation. This would have a directly negative effect on participants, particularly if the end result was that the field became dominated by a small number of large service providers.

Using checks on support workers as an example, we propose that all prospective disability support workers be screened through a police check, a vulnerable person's check and a national disability workers exclusion person's list. However, this would be overly restrictive if a competent person wanted to employ a well-known and trusted person for a minor task. Planning and review meetings provide a way to manage risk while maximising choice and opportunities. The person with disability could present a case for the waiver of the requirements under certain circumstances. The opportunity to give people appropriate choice and control in the NDIS environment rests in these meetings, rather than by rigidly imposing regulations. Skilled and competent planning staff members are needed to assess the individual's ability, family and social connections, and risks. We propose that all staff in planning and review roles, whether NDIA or external, receive professional supervision to ensure the quality of their service and protect the rights of people with disability.

### **Allied health providers**

The majority of allied health professionals are subject to registration requirements. In the case of those professions that are self-regulating, including social work, accreditation with the professional body against agreed and publicly described competences should be a requirement for working in the disability field. Social workers characteristically work with vulnerable people and the profession actively promotes supervision to enhance the skills of workers, optimise service provision and protect the vulnerable. The AASW strongly believes that social work should also be a registered profession.

### **Participants**

The notion that minimal oversight is required and that it should be left to the market to self-regulate is a dangerous one, as unregulated markets notoriously favour powerful organisations and fail to adequately protect the vulnerable. Because of the vulnerability of many participants and the very personal nature of many support services, it is recommended that Option 3 be the requirement for the provision of personal care. Option 3 adds to the 'lighter touch' options, the requirement to undergo quality evaluations, thus providing a degree of transparency and accountability for the quality of services provided, without placing overly onerous demands on the capacity of smaller organisations. This would provide the level of assurance required for vulnerable people reliant on personal support services.

A 'lighter touch' approach might be more appropriate for other services of a less personally intrusive nature, such as gardening or maintenance, but as stated above, this should be subject to an assessment through the planning and review processes of the individual's vulnerability. This enshrines the person-centred nature of the Scheme.

## Information

Providing appropriate information to each person with disability in a timely manner is a challenge. People with disability have diverse impairments, ethnic and cultural backgrounds, and require information in different formats. Aboriginal people often have specific information needs. We propose that proactive strategies are used for 'hard-to-reach' groups, especially those who do not access the internet. Information needs to be:

1. Accessible and diverse in format, mode, source, location
2. Personalised and targeted
3. Accurate, consistent and timely
4. From a trusted source
5. From an independent source when needed
6. Culturally appropriate.

## Different types of disability

While the consultation paper mentions people with intellectual disability and mental health issues, the tenor of the paper indicates that it is more attuned to people with physical disability. We propose that the needs of people with intellectual disability and mental health issues be given particular attention when designing quality and safety systems. Ongoing government-funded and locally-based capacity building or education programs are needed for people with different types of disability.


## Advocacy

We strongly support independent individual and systemic advocacy. At an individual level, we have observed that people need support to prepare for the NDIS planning meetings; some people have come away from NDIS planning meetings without knowing what was decided. At a systems level, we note that community and service systems need to be created and nurtured to support people with disability, to promote integration in the community to maximise resources and advocate for new and additional resources based on the lived experiences of people in and working for the disability sector. In addition to Local Area Coordinators there needs to be additional advocates independent of the NDIA. We applaud the Agency funding given to develop individual and systemic advocacy as well as peer support groups, and propose this be extended geographically and to more groups.

## Quality and supply

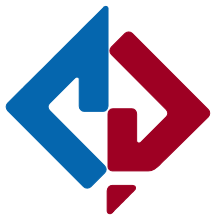
Quality is undermined when the supply of supports required for a participant, such as housing, is limited or not available. We propose that participant plans document supports for which supply is not available or restricted, and use this as a means to shape future planning and funding.

Submitted for and on behalf of the Australian Association of Social Workers Ltd



**Glenys Wilkinson**

Chief Executive Officer



**AASW**

.....  
**Australian Association  
of Social Workers**

T 02 6232 3900  
F 02 6230 4399  
E [ceo@asw.asn.au](mailto:ceo@asw.asn.au)

**National Office**

U9, Block C Trevor Pearcey House  
28-34 Thynne Street, Bruce ACT 2617

**Postal Address**

PO Box 4956, Kingston ACT 2604

**Incorporated in the ACT**

**ACN 008 576 010 / ABN 93 008 576 010**