

National Disability Insurance Scheme Submission

Proposal for a National Disability Insurance Scheme Quality and Safeguarding framework

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Introduction

About Endeavour Foundation

Endeavour Foundation is an independent not-for-profit organisation supporting more than 3,300 people with a disability from more than 230 locations in Queensland, New South Wales, Victoria and South Australia.

We are one of Queensland's oldest charities, founded in 1951 when a group of parents joined together to provide an education for their children with a disability, unwilling to accept the limitations placed upon them by society.

Today Endeavour Foundation is a diverse community organisation providing person-centred support for people with a disability as part of the everyday community – through education, training and life skill development, employment, accommodation support, respite and recreation.

We exist to support the choices of an ordinary life for people with a disability. We do this in a number of ways:

- [Disability & Community Services](#)
- [Business Solutions](#)
- [Shops](#)
- [Advocacy](#)
- [Events](#)

Approximately 60 per cent of our funding comes from state and federal governments. The remaining 40 per cent is raised through [events](#), [lotteries](#), [fundraising activities](#), [donations](#) and our own [Business Solutions](#).

The principal activity of Endeavour Foundation is the provision of support services to people with a disability, with a particular focus on people with an intellectual disability, including Community Advocacy & Support Services, Residential Accommodation & Support Services, Learning & Lifestyle Support Services, Post School Services and Supported Employment Services.

Endeavour Foundation's short and long term focus is to provide opportunities for people with a disability so they may participate in the everyday life of the community.

Endeavour Foundation Disability & Community Services provides supported accommodation and structured daytime activities for people with a disability. There are over 80 residences and 33 Learning & Lifestyle centres throughout Queensland. In addition, Disability Services provides individualised support through programs such as Accommodation Support, Post School Services and Respite, all of which are designed to enhance the lives of people with an intellectual disability. Transport support services are also provided.

Values

Operating under the core values of *respect, inclusion, integrity and accountability*, the vision of Endeavour Foundation is to:

- be a full service provider in the community services sector with a focus on the individual needs of vulnerable people especially those with an intellectual disability;
- advocate for people with a disability;
- deliver leading services to ensure people have choice in the services they acquire;

- be a sustainable and influential organisation.

In practical terms in order to achieve this focus, projects undertaken by Endeavour Foundation are assessed and progressed to achieve outcomes in seven key strategy areas:

- The employment, development and retention of the best possible human resources, including volunteers.
- The delivery of world best practice support for people with a disability through the application of evidence based research.
- National expansion as a single united organisation to increase commercial and brokerage opportunities for services and products and enhance employment outcomes for employees.
- New and improved business and service models together with better risk and asset management to deliver financial sustainability and a safe work environment.
- The development of a customer focus and quality culture in the organisation to improve adaptability to changing environments and ensure long term viability.
- Improved stakeholder relations with the wider community and corporate sector through better communications, brand development and management.

Increased and better use of technology and digital media systems to enable best practice and innovation.

Endeavour Foundation measures its performance through an independently conducted periodic Family Satisfaction Survey and a suite of key performance indicators, set at the Governance, Executive Management and Organisational Management levels.

Purpose of the submission

Endeavour Foundation welcomes the wide consultation for a National Disability insurance Scheme (NDIS) Quality and Safeguarding framework. A Quality and Safeguarding framework is a vital component in the future success of the scheme. It is important to establish the right balance between a regulatory environment, which allows providers to enter the market with ease, and ensuring participants can be confident that they will be safe.

This submission will address elements of the proposed Quality and Safeguarding framework from a number of different positions. The first is that Endeavour Foundation welcomes the National Disability insurance Scheme and the benefits which many people with a disability will gain from their participation. Endeavour Foundation welcome the adoption of the guiding principle of choice and control for the scheme. Furthermore, Secondly, Endeavour Foundation approaches the proposed framework from a position of significant experience in implementing and resourcing best practice abuse prevention and response strategies (see Appendices). This experience has led Endeavour Foundation to hold significant concerns regarding the continuation of this work given the fixed and low price of supports within an NDIS. Although welcoming and supporting in principle many of the proposals and options within the Quality and Safeguarding framework Endeavour Foundation remains concerned whether these proposals can deliver the level of safeguards and assurances needed by future participants of the scheme.

Creating a zero tolerance culture

Endeavour Foundation takes a zero tolerance approach to abuse, neglect and exploitation across all its service types, including day services, respite services and in home support services. Endeavour Foundation recognises the importance of this approach to ensure that all abuse, neglect and exploitation is addressed with equal vigour and thoroughness whether it takes place in a residential setting or for example, at an In Home Support setting.

As noted above, in the last ten years considerable effort and resources have been invested by Endeavour Foundation to develop new abuse prevention and response strategies. For example, trend data obtained through Endeavour's reporting system as well as information from various critical incident or other reviews is systematically used to inform continuous improvement remedies and organisational prevention strategies. However, it is very difficult to assess the success of such efforts in terms of outcomes for the people we support and their families. Research evidence indicates that the majority of abuse remains unreported and that the incidence of hidden abuse is much higher than generally

acknowledged, making a full evaluation of effectiveness and outcomes difficult.¹ Nevertheless, Endeavour Foundation has remained committed to implementing and embedding a zero tolerance culture within the organisation as a matter of principle.

The implementation of the NDIS and specifically the Quality and Safeguarding Framework will have an impact on how Endeavour Foundation continues this work. The Scheme is clear in stating that power and control of supports and service will be with the consumer and this will necessarily recalibrate the power imbalance of the previous funding and service models. Endeavour Foundation welcomes this and acknowledges it as a significant step in keeping people safe. However, Endeavour Foundation believes that service providers will still have a significant role in preventing and responding to abuse, neglect and exploitation above and beyond the options proposed in the NDIS Quality and Safeguarding Framework proposal document.² The experience of the last ten years of developing a best practice abuse prevention and response strategy is that meeting the requirements of a quality system alone is not sufficient to prevent abuse. Continuous improvement and investment in best practice processes and review is essential. We note that the recent cases in Yooralla Disability Service in Victoria and the Winterbourne View abuse matter in the United Kingdom were both subject to regulatory external audits associated with a quality system. Achieving a zero tolerance culture requires ongoing investment and Endeavour Foundation holds concerns that the NDIS includes very limited scope to access resources specifically for this purpose.

Endeavour Foundation believes that an effective Quality and Safeguarding framework must clearly articulate the roles and responsibilities of all stakeholders in the Scheme. This would include participants and their families, service providers and the all levels of government. Effective safeguarding of participants depends upon specialist legislation, interventions and good cross agency coordination. For instance, in Queensland, the Community Visitor Scheme, the Queensland Public Advocate and the Public Guardian all undertake adult and child protection functions.

An effective framework for Quality and Safeguarding needs to be iterative with regular reviews regarding its effectiveness in keeping participants safe and the impact of regulation on providers. The focus of future reviews must always be the safety of participants and the quality of services rather than the interests of Governments and/or commercial interests of providers.

Commentary and feedback within this submission will reflect the position that people's right to be free from abuse, neglect and exploitation is paramount. Furthermore, support for a particular regulatory option by Endeavour Foundation is heavily qualified by the issue of the fixed pricing structure for supports and cost impositions through regulation.

The submission will comment upon the Quality and Safeguarding framework across the proposed domains before addressing the key components as discussed within the consultation paper.³

¹ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

² Proposal for a National Disability Insurance Scheme Quality and Safeguarding framework, Disability Reform Council & NDIS, February 2015

³ *ibid*

NDIS Quality and Safeguarding framework

Structure of the proposed framework

Principles

Endeavour Foundation is in broad agreement with the principles of the framework.⁴ Likewise, the structure of the framework emphasises the importance of empowering participants through the provision of good quality and accessible information as well as prioritising strategies to develop natural supports. This is balanced within the proposed framework by a series of options for regulation related to service quality and safeguarding principally for providers.

The principle that safeguards under the NDIS should relate to the actual risks faced by the participant must be addressed with caution for a number of reasons.

The risk in risk assessments

Risk assessments, related to safeguarding, undertaken during assessment, planning and review stages must utilise best practice tools in the hands of experienced disability practitioners. Anecdotal evidence from the trial sites suggests that NDIA planners are not always suitably qualified or experienced to undertake this work.⁵

Accurate predictive risk assessment tools which are appropriate to the NDIS environment are in need of development and evaluation in an NDIS context.⁶ Furthermore, risk assessment tools are rendered effective in dependence upon the availability and quality of the data. The quality of documentation and incident reporting to assist with assessing risk is often very poor. Where provider organisations do not clearly define the scope of abuse, neglect and exploitation and/ or where there are poor reporting practices in place the poor quality data will compromise the risk assessment process. For instance, relatively low level psychological or emotional abuse may have been experienced by a participant for many years on a regular basis but not appropriately reported or documented.

The impact of such abuse has been highlighted in a small research study undertaken by Robinson⁷. There are indications in the research literature that there exist significant levels of unreported abuse.⁸ For some people this may lead to vulnerabilities and risks that may not be easily addressed in NDIS risk assessment and planning processes because there is scarce information available.

Ecological model of abuse and organisational culture

Abuse takes place within a context of individual relationships and exists where there are 'victim' characteristics such as dependency, learned compliance, impaired communication. Conversely, there are 'offender' characteristics such as a

⁴ National Disability Insurance Scheme Act 2013 (Cth), section 4(6)

⁵ Occupational Therapy Australia, National NDIS Reference Group, Trial Sites Report, February 2014

⁶ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

⁷ Robinson, S. (2010), "Insult and injury: a narrative approach to understanding the emotional and psychological abuse and neglect of people with intellectual disability living in disability accommodation services", PhD thesis, Griffith University, Brisbane.

⁸ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

need for control and a lack of attachment to the victim.⁹ A common and well regarded model developed by Sobsey places this relationship within an integrated ecology of environment and culture¹⁰. Organisational culture, according to this model, matters in abuse prevention.¹¹ Endeavour Foundation are concerned that the current low pricing structure imposed upon the NDIS market may mean provider organisations move resources away from developing values based corporate culture culminating in a reduction of safeguarding capability.

Definitions of abuse

The NDIS Quality and Safeguarding framework paper gives particular focus to the prevention of 'single predator' type abuse. In doing so, the framework does not account for other types and patterns of abuse. The framework may inadvertently undermine and trivialise the devastating abuse experience of people with a disability which does not immediately fall into the critical incident category. Through this reductive lens, the Quality and Safeguarding framework appears to propose that these forms of abuse are a type of complaint. As will be discussed below, people with an intellectual disability may, for all sorts of reasons, accept types of abuse (like emotional or psychological abuse) without questioning.¹²

Where an individual has strong natural supports, where they are able to understand their rights. Where participants have resilient psychological characteristics and good functional communication skills. Then they will have a high safeguarding capability. Likewise where providers have clear definitions and training in all types of abuse, and succinct internal prevention strategies then this approach will support that individuals safeguarding capability. For many people entering the scheme, this will not be the case.

The NDIS scheme provides a generational opportunity to set national definitions of types, incidents and patterns of abuse as an essential part of its Quality and Safeguarding framework. To take this opportunity would encourage the collection of good quality data to assist in evaluating the effectiveness of the framework in its goal of safeguarding participants in the scheme. In a national scheme this data would progress a common understanding of patterns of abuse and assist in developing effective and appropriate systemic and practice safeguards. Endeavour Foundation acknowledges the important role that Quality assurance processes and systems have in safeguarding, but also it note that Quality assurance is but one strategy in best practice abuse prevention¹³.

Notwithstanding these cautions Endeavour Foundation is in support of a Quality and Safeguarding framework which is risk based and matches individual risk with regulatory requirements upon service providers.

Recommendations

- Revise the proposals for an NDIS Quality and Safeguarding Framework utilising research and best practice to clearly define abuse, neglect and exploitation.
- A programme of regular reviews is undertaken by an external and independent body to evaluate the effectiveness of the Quality and Safeguarding framework. Reviews would prioritise participant safety over Government or commercial interests.

⁹ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

¹⁰ Violence and Abuse in the lives of People with Disabilities: The End of Silent Acceptance? Sobsey, 1994, Paul Brookes, Baltimore

¹¹ Robinson, S. and Chenoweth, L. (2011b), "Preventing abuse in accommodation services: from procedural response to protective cultures", Journal of Intellectual Disability, Vol. 15 No. 1, pp. 63-74.

¹² *ibid*

¹³ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

Developmental Domain

Information and empowerment

“In general people with disabilities are not provided with the knowledge skills and resources needed to protect themselves from abusive relationships and harmful relationships. Information is needed about sexuality and healthy, mutually respectful intimate relationships; recognising abuse; assertiveness choice making; and personal rights.”¹⁴ (p.73)

Endeavour Foundation fully supports the need for high quality appropriate and accessible participant and stakeholder information. The consultation paper discusses a number of different web based information portals and social media platforms which could be effective ways of updating participants of local developments as well as information about NDIS pathways and processes.

As noted in the paper, information needs to be presented in culturally and age appropriate formats. Many parents of people with impaired capacity are not easily able, or wish to, navigate web based information portals. Furthermore, many people with impaired capacity will need assistance and support in understanding and using information to assist with decision making and knowing their rights as consumers. There are many people with an intellectual disability who have no formal or informal supports to assist with this task.

In a competitive market participants, their families and supporters must be assured that information and advice given to them is independent and based on their needs and situation. This is particularly important when decisions about purchasing supports are being made. National Disability Insurance Scheme planners for instance are independent of organisations that provide services and could provide assurance to participants on this matter. The details of how registered plan managers, who are not part of the NDIA, can provide assurances on independence are not clear from the consultation paper.¹⁵

Active Consumers?

As in the wider community, many participants and their families will not be interested in taking the role of ‘active’ consumers. This is a concern insofar as the need for ‘light touch’ regulation is predicated upon participants becoming ‘active’ consumers who are aware of their rights and able to take action if they are unhappy with service quality.

In relation to people with intellectual disability, Fitzsimons, reminds us of the personal barriers which lead to a vulnerability to abuse:

“.....(these)...include learned helplessness, low self-esteem, self-blame, denial, sense of responsibility to others, fear of retaliation, fear of the unknown, lack of skills and knowledge, poverty. People with a disability, particularly intellectual disability have learned to comply to the directions of those they believe are in positions of authority. As a result they are less likely to resist or report abuse.”¹⁶

Many participants in the scheme will struggle to recognise and report on poor quality service as well as matters of abuse or behaviour which harms them. This is not to say that the NDIA should not focus effort, time and resources on building participants’ capacity to undertake an active consumer role but only that some participants will need on-going support and training across a range of subjects to achieve this outcome.

For example, training and support may need to be made available to participants with an intellectual disability in areas such as sexual education. Such training is an important abuse prevention strategy and may relate to a goal identified within the planning process. It has been the experience of Endeavour Foundation that despite the need for information and education, family members may not consent to this education, on the basis of personal or family values. Additionally,

¹⁴ Combating Violence & Abuse of people with disabilities, A call to action, Nancy M. Fitzsimons 2009, Brookes Publishing

¹⁵ Proposal for a National Disability Insurance Scheme Quality and Safeguarding framework, Disability Reform Council & NDIS, February 2015

¹⁶ *ibid*

there may be legislation, for instance the Queensland Criminal Code¹⁷, which in some circumstances may make sexual relationships between people with or without impaired capacity a criminal act.

Training programmes on relationship safety are also commonly available, for instance, the So – Safe package¹⁸. This training needs to be revisited and reinforced over a period of time with people with an intellectual disability to be effective. Such training may be part of plan management activities but there is a clear on-going need and on-going cost before many individuals with intellectual disability, may be considered to have built the resilience and understanding necessary for safe relationships.

Furthermore, it is not clear how effective these strategies are in safeguarding individuals with a disability. More research needs to be undertaken as the NDIS progresses to establish the effectiveness of specific strategies for particular cohorts of people with a disability. Such research would be an important component in on-going monitoring and evaluation of the Quality and Safeguarding framework. Any research would need to focus on participants with vulnerabilities to abuse, particularly those with cognitive impairment or intellectual disabilities and those with few natural supports available to them.

Recommendations

1. The NDIA recognise the need for individual advice and support for potential participants and their families to negotiate all NDIS processes. Endeavour Foundation believes this should be independent from service provision and the NDIA. The role could be defined as advocacy support and be undertaken by independent advocacy organisations or suitably qualified individuals.
2. Participants are provided with training programmes on an *on-going basis* to provide information, reinforce their rights, build resilience, assist in recognising poor service quality and assist in recognising abuse. If participants are not able or are unwilling to focus on these issues then an individual risk assessment must reflect this. This must be funded through NDIS supports and could be undertaken by providers.
3. Research evidence is sought to establish the efficacy of information and training programmes, as discussed in the consultation paper, in providing safeguarding outcomes to participants in the scheme.
4. A regular programme of review and improvement is undertaken of this aspect of the Quality and Safeguarding Framework to ensure it remains effective in keeping participants safe.

Building natural safeguards

Endeavour Foundation fully supports the building of natural safeguards around participants and welcome the agencies' recognition that many people with a disability have few formal or informal supports outside of service providers or immediate family.

However Endeavour Foundation also holds concerns regarding this aspect of the proposed framework.

While there have been successes in building natural safeguards through developing relationships in the community¹⁹, it should also be noted that in the forty years since deinstitutionalisation disability support providers and Governments have struggled to achieve any on-going success in this respect. This has been the experience of Endeavour Foundation in providing services for sixty five years. Whilst Endeavour Foundation wholeheartedly support continuing with these efforts it is important to be cautious in relying on this strategy to keep participants safe. There is little reliable research evidence which shows the effectiveness of these strategies for safeguarding nor the mechanisms through which they operate. However, there are clear benefits to people with a disability to have active relationships with community members.

Widespread misunderstanding and prejudice sometimes exists within Australian communities against people with a disability. Whilst the NDIS planning process can identify strategies to develop the provision of natural supports for

¹⁷ The Criminal Code Act 1899 (Qld)

¹⁸ So-Safe, Visual & Conceptual Tools for Promoting Social Safety, Educational Edicts, 2005

¹⁹ For example, focussed advocacy services like Citizen Advocacy programmes undertake a form of individual community linking and capacity building based on need

participants and fund programmes to assist with community capacity building and education a national approach is needed to address such community prejudice. This would need to be developed at the highest level of Government and could involve the establishment of a National Participation Strategy with appropriate funding models to support implementation of community education programmes and other strategies. This type of planning is essential for changing employers behavioural with regard to the employment of participants which is a core target of the NDIS. This is a long term process which needs a long term commitment from Governments, the NDIA, providers and of course participants.

Endeavour Foundation recognise the risk of exploitation under the NDIS model, especially for people with an intellectual disability from some community members. The framework rightly promotes the concept of 'dignity of risk' for participants. As a consequence support staff should be well trained in abuse recognition and response. including referral to appropriate specialist agencies such as Police or Queensland Public Guardian. Who is responsible for providing specialist training such as this and who will pay for the training remains a concern for Endeavour Foundation.

Again, research evaluation needs to be undertaken by the NDIA to determine effective programmes and practice in this area and utilised as part of a programme of review for the whole Quality and Safeguarding framework. Focussed research could identify cost effective programmes which support the development of natural supports. Natural supports could also have a positive influence on the quality of life of participants. More data needs to be obtained to support these assertions.

Recommendations

5. Establish a National Participation Strategy with a funded implementation body to address the issue of prejudice and misunderstanding of people with a disability within the Australian community focussing particularly on employers.
6. Ensure State and Territory Governments Adult Protection mechanisms continue to have the powers necessary to respond quickly and effectively to allegations of abuse and exploitation outside of provider/ NDIA complaints mechanisms.
7. Provision is made for specialist abuse recognition and response training. Costs will be met under NDIS provisions. In certain circumstances staff should be required to have up to date training credentials before working with participants identified as being at risk of abuse.
8. Identify areas of research related to the developmental domain particularly to the effectiveness of these strategies in building natural safeguards. As the Developmental domain is the focus²⁰ of the Quality and Safeguarding framework this is an essential recommendation.

Preventative Domain

The foci of this domain are formal individual safeguards, service level safeguards and system level quality measures.

Endeavour Foundation concerns regarding formal individual safeguards have been addressed above. Matters related to the use of restrictive practices will be addressed in another section of the submission.

The consultation paper discusses characteristics of good quality service provision such as strong governance, policies and procedures, client and family representation, person centred programmes and values based culture. Endeavour Foundation believes that as an organisation it has fulfilled these requirements and is confident in the efficacy of quality assurance and continuous improvement processes. (Some of these factors in relation to abuse prevention are available in the Appendices.)

Endeavour Foundation remain committed to these structures and processes but note that building an effective zero harm culture necessitates a commitment over and above the minimum requirements of quality assurance audits. Endeavour Foundation remains concerned that these costs may not be easily met after implementation of the full scheme in Queensland. In a public discussion recently, David Bowen, CEO of the NDIA, expressed a view that provider efficiencies were an important outcome of the pricing structure of the NDIS. Mr Bowen used as an example of provider inefficiency

²⁰ Proposal for a National Disability Insurance Scheme Quality and Safeguarding framework, Disability Reform Council & NDIS, February 2015

the overprovision of frontline managers.²¹ A fundamental and effective strategy for abuse prevention is appropriate and timely line supervision of frontline staff by managers.²² Whilst acknowledging that organisations can be increasingly cost effective and efficient in management, Mr Bowens comments suggesting that, in general terms, there were too many frontline managers does not engender confidence that safeguarding is a priority for the NDIA.

The current price structure for supports does not create incentives for organisations to exceed expectations and continuously improve safeguarding systems and Endeavour Foundation see this as a concerning problem.

Other service and system level safeguards will be discussed below in the key components section of this submission.

Recommendation

9. NDIA and Government develop a pricing structure or funding arrangement which rewards organisations for best practice safeguarding systems at service and organisational level.

Corrective Domain

Universal Safeguards

For reasons discussed above, many participants particularly those with intellectual disability or with impaired capacity will have additional barriers to accessing the universal safeguards other citizens share. This highlights the need for informal or formal supports in the form of advocates who can assist a participant through the complex processes of accessing these agencies. The NDIA should also focus on working with these agencies or bodies to ensure that people with a disability are easily able to understand and access their services. e.g. ensuring that easy read information is available. This could be achieved through the National Participation Strategy as recommended above.

Expecting people with an intellectual disability to successfully move through the complex processes generic agencies often use without support is unreasonable. The very limited funding available for independent advocacy means the focus of individual advocacy is most often on crisis response rather than an advocacy support role. Statutory bodies such as the Queensland Public Guardian will continue to have a vital role in safeguarding for those with impaired capacity.

Other elements of the Corrective Domain will be discussed elsewhere in the submission.

Recommendations

10. NDIA takes a national leadership role in supporting new funding for advocacy especially in relation to advocacy support roles for NDIA participants.
11. Endeavour Foundation support the creation of a body with oversight function of the NDIS. Functions could include identifying systemic concerns and ensure that complaints and abuse prevention remain paramount in the operations of the scheme.

²¹ National Disability Services Queensland Conference, Q&A, CEO NDIA, David Bowen March 30th 2015

²² Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

Key elements of the proposed framework

NDIA provider registration

Endeavour Foundation support provider registration as a safeguarding mechanism for participants.

Different provider registration requirements for identified higher risk supports are reasonable and apposite. However, the current low fixed price of supports means there is an unfair cost burden on providers who are required to meet option 4 which includes quality assurance with external audit requirements and industry certification.

There will be pressure on providers to focus on providing supports with the lowest associated costs. In turn it could lead to an increase in casual staff and the shifting of compliance and training costs directly on to frontline workers. This in turn may well have serious consequences in attempting to attract new workers and maintaining skilled and experience staff in the industry.

If providers are not able to absorb costs they may limit their service provision to lower risk supports where there will be less regulatory costs. In regional or remote areas there may not be providers who can afford easily afford the cost of regulation but where there are participants with higher risk support needs. Endeavour Foundation understand that the NDIA are considering special provisions which will assist participants in regional areas to address these and other issues of provider choice.

Publication of quality assurance outcomes or participant feedback

Endeavour Foundation give in principle support to this idea. Continuous improvement is premised upon the idea that systems failures are identified and remedied. However, participants or other interested parties may well misunderstand this principle and choose to use information for vexatious purposes to damage the reputation of the provider.

Stakeholders will be free to use public forums, such as social media, to forward their claims in any dispute with a provider especially where publicly available information about an organisations performance may be misinterpreted and used incorrectly. Oftentimes, organisations are not able to defend their reputation due to legislated confidentiality and privacy requirements.

Given the highly competitive nature of a mature NDIS market, Endeavour Foundation are concerned that providers may attempt to cover up or not report incidents because of the significant risk to reputation that publicly available information may bring. This is clearly not the intention of these options in the consultation paper but very careful consideration needs to be given to these matters. If cultures of secrecy develop within service providers who support very vulnerable people there may well be catastrophic outcomes for participants.

Recommendations

12. Endeavour Foundation supports in principle disclosure of information and outcomes related to service quality but recommends further discussions with service provider, consumer and other representatives on the nature and content of information which may be disclosed publicly.
13. Serious consideration needs to be given to provide financial incentives to providers who are able to show best practice in abuse prevention, response and quality assurance processes.

Systems for handling complaints

Endeavour Foundation also has significant reservations with regard to complaints management and matters of abuse described in the Quality and Safeguarding framework consultation paper. Endeavour Foundation follow best international practice in seeking to define abuse, neglect and exploitation more widely than is undertaken within the consultation paper, to ensure there are appropriate responses to the impact of these matters on people with a disability and their families.²³

Endeavour Foundation use a best practice framework to promote a culture of zero tolerance to abuse, neglect and exploitation. Additionally, frontline staff members have the tools to recognise a wide range of abuse types and patterns. Endeavour has a separate, transparent process to address allegations of abuse which seek to take a balanced view in addressing the impact of alleged abuse upon the 'victim' and family, as well as, affording natural justice to staff members. (See Appendices)

Notwithstanding this significant concern, Endeavour Foundation broadly support the aim that a Quality and Safeguarding framework should ensure; providers have adequate internal complaints processes; participants have access to external dispute mechanisms in a timely and effective way and serious and systematic concerns are able to be identified and addressed.

Endeavour Foundation does not support self-regulation in these matters. Where there is no clear process for participants to make a complaint with a provider, and/or there is an expectation they will utilise external non specialist agencies such as Fair Trading and Consumer Protection bodies, participants may be less inclined to make complaints. Best practice complaints management requires easily accessible information on the process and encouragement and support to make a complaint.

As has been discussed above people with an intellectual disability need support to make complaints and are very fearful of doing so.

In a mature and competitive scheme providers may choose to invest scarce resources in business functions such as marketing and branding and degrade complaints and abuse processes and assets. There are no financial incentives to continuously develop and improve these processes and assets. Larger providers may instead focus on investing in the minimum necessary to ensure registration with the NDIA.

If this scenario were to unfold an organisations ability to collect incident and complaints data and utilise this data for trend analysis and continuous improvement would also be compromised. On the other hand the cost of maintaining internal complaints and incident management will be an investment in service quality and improvement.

Recommendations

14. Endeavour Foundation recommends that providers have internal complaints processes.
15. The NDIA provide financial incentives for organisations to develop best practice complaints and abuse prevention and response mechanisms.
16. An external complaints response and review role for the NDIA or a Disability Complaints Office as outlined in Options 3b and 3c of the consultation paper. An external review body would provide significant reassurance to participants and their families and would be able to apply specialist knowledge and skills in the area of disability to the matters presented, which may often be lacking in matters referred to generic bodies for complaints handling and resolution.
17. Endeavour Foundation also support Community Visitor programmes as a further level of safeguarding. Any programme of this type must of course sit outside of service provision.
18. Any costs related to these the development and maintenance of external bodies such as a Disability Complaints Office cannot be passed to service providers or participants and must be borne as part of Governments responsibility to provide a scheme which is safe for participants.

²³ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

Ensuring staff are safe to work with participants

Endeavour Foundation welcome the important focus on staff suitability that the Quality and Safeguarding framework provides to help people with a disability remain safe from abuse, neglect and exploitation. The consultation paper rightly points out that an increase in demand for support workers will occur as the scheme matures many of who will be casual and self-employed workers. The ecological model²⁴ of abuse, neglect and exploitation clearly points to the importance of organisational culture and service environments in maintaining effective prevention strategies.

Developing a coherent and aligned zero harm culture with large numbers of casual and self-employed staff may present significant problems especially given tight cost controls. As has been discussed the low pricing structure for supports under the NDIS scheme will put significant pressure on organisations from a cost perspective to make decisions on what is best and continually improving practice, and what is practice which will satisfy regulatory requirements.

Endeavour Foundation support appropriate and effective measures for staff to work with participants with increased risk and vulnerability to abuse. Service providers may pass on responsibility for the costs of the regulatory requirements. Under the NDIS scheme support staff wages will remain relatively low and there will be an understandable unwillingness to meet these additional costs associated with police checking and professional development. This would work against attracting a skilled and educated workforce to the disability sector. The low price of supports offered by the NDIA as well as encouraging efficiencies in provider organisations may also, conversely, move providers into accepting, a low cost, 'light touch' regulatory system compromising the safety of participants from abuse, neglect and exploitation.

Endeavour Foundation will fully endorse *in principle* a regulatory framework which will deliver maximum safety to participants in the scheme, while also delivering choice and control.

In practice Endeavour Foundation supports regulation which is affordable for providers. Endeavour Foundation observe that more stringent regulations lead to more effective safeguarding but with greater costs.

Endeavour Foundation support a national harmonised framework for all criminal and other types of screening. This would simplify processes and make clearer the requirements. Endeavour Foundation support further investigation into how a National Vulnerable Persons Register or Barred Persons list would operate. These options would provide more certainty and assurance to providers and participants regarding the probity of staff. It is reasonable to accept that there will be different requirements for providers and staff depending upon the types of support and specific individual risk assessments undertaken within the NDIS planning and review process.

Endeavour Foundation would be in a better position to support specific options when there is an understanding of the costs associated with their implementation.

Recommendations

19. NDIA develop appropriate cost benefit analyses for options contained within the Quality and Safeguarding framework for focussed consultations with a range of stakeholders including service providers.
20. NDIA review the current pricing structure and develop incentives for providers to operate best practice abuse prevention and response processes

²⁴ Violence and Abuse in the lives of People with Disabilities: The End of Silent Acceptance? Sobsey, 1994, Paul Brookes, Baltimore

Safeguards for participants who manage their own plans

Endeavour Foundation support the principle of choice and control for NDIS participants who wish to, and are able, to manage all or parts of their plan. In areas where there may be limited or no formal provider supports available, for instance in regional or rural and remote areas, it is essential. Endeavour Foundation acknowledges and supports the role of the NDIA in providing funding and/ or extra review meetings to build the capacity of those individuals to manage their plans. Endeavour Foundation observe that such a role could also be fulfilled by other appropriately qualified and experienced providers, advocates or professionals and should not necessarily be a singular role for the NDIA.

Endeavour Foundation would support an approach whereby all providers of supports would be registered with the NDIA and undergo appropriate screening. However, the factor of costs and timeliness of processes would need to be taken into account. Where a worker/provider is waiting for registration processes to be finalised, the NDIA or plan managers and participants may agree upon a risk management action plan which would allow for provisional registration under certain conditions.

Recommendations

21. The role which supports capacity building for plan self-management is open to any suitably qualified and experienced provider, advocate or professional and funded through the NDIA.
22. Registration of all providers with the NDIA is undertaken with appropriate levels of checking. To provide flexibility and choice, temporary risk management action plans may be utilised until registration processes are complete.

Reducing and eliminating restrictive practices in NDIS funded services

Self-Regulation

.Endeavour Foundation is currently unaware of any proposed changes to the bilateral agreements which would herald a change to current State and Territory legislative requirements regarding restrictive practices. It is reasonable to assume that the Quality and Safeguarding framework must remain responsive to these State based requirements.

In Queensland, the approach to the use of restrictive practices which preceded contemporary state legislation can be described as 'self-regulation'. The failure of this approach is well documented by Carter (2006)²⁵ in terms of the risk it presents to both the administrators and recipients of restrictive practice. Indeed, as some restrictive practices are strongly associated with negative outcomes such as death (e.g. prone and supine physical restraint²⁶), Australia arguably has an obligation to ensure the strongest possible regulation pursuant to Articles 15 and 16 of the United Nations Convention on the Rights of Persons with Disabilities.²⁷

Reporting

Mandatory reporting of all episodes of the use of restrictive practice is not only an essential research function, it is provides a principle mechanism for restraint reduction. The consultation paper emphasises the need for practice which is evidence based, and whole of jurisdiction reporting provides a principle data source for the conduct of such research. Importantly, the data is real time and local, ensuring the direct applicability of research findings to NDIS participants.

Research conducted by the Office of the Senior Practitioner in Victoria (using the Restrictive Intervention Data System), despite being a limited study, has provided important information on emergent local trends such as the use of chemical restraint and the demographics of people subject to restrictive practices generally²⁸ (Office of the Senior Practitioner, 2010). This data has been utilised to directly inform policy and practice aimed at improving the lives of people with disability and to reduce the likelihood of abuse occurring.

The requirement to report is a critical feature of restraint reduction procedures. The research literature does not necessarily recommend reporting as a statutory requirement^{29 30} and more typically identifies data as a source of tracking organisational performance in restraint reduction strategies. As argued above, a reliance on self-regulation has shown to be of limited efficacy in Queensland, highlighting the requirement for a legislatively based reporting requirement.

²⁵ Carter, W.J. (2006). Challenging behaviour and disability: A targeted response. Report to Honourable Warren Pitt M.P., Minister for Communities, Disability Services and Seniors.

²⁶ Allen, D. (2003). Ethical approaches to physical interventions. Volume II: Changing the agenda. British Institute of Learning Disabilities.

²⁷ United Nations (2006). Convention on the Rights of Persons with Disabilities and optional Protocol. United Nations: Geneva

²⁸ Office of the Senior Practitioner (2010). Office of the Senior Practitioner annual report 2008-2009. State of Victoria: Melbourne

²⁹ Hucksorn, K.A. (2005). Six core strategies to reduce the use of seclusion and restraint planning tool. National Association of State Mental Health Program Directors: Virginia

³⁰ Scanlan, J.N. (2010). Interventions to reduce the use of seclusion and restraint in inpatient psychiatric settings: what we know so far a review of the literature. International Journal of Social Psychiatry, 56, 4, 412-423.

Practice Leadership

The benefit of specific clinical expertise in Positive Behavioural Support without a centralised quality assurance mechanism will not deliver good outcomes to people with intellectual disability. Practice Leadership was a cornerstone of the Carter Report (2006)³¹ which clearly articulated the role and function of a Centre of Best Practice to mentor and assure the clinical integrity of supports. Reviews of the efficacy of the supports provided by the Senior Practitioner in Victoria³² and Centre of Excellence for Clinical Innovation and Behaviour Support³³ have highlighted the impact that these agencies have on the quality of Positive Behaviour Supports and the reduction of restrictive practices. Conversely, the absence of such support is correlated with significant imitations in the quality of evidence based practices such as Positive Behaviour Support.³⁴

Recommendations

23. NDIA establish a national evidence based practice leadership approach to reduce and eliminate restrictive practices
24. A national legislative base is established which prescribes the episodic reporting of restrictive practices which combined with strong practice leadership will reduce and eliminate restrictive practices.

³¹ Carter, W.J. (2006). Challenging behaviour and disability: A targeted response. Report to Honourable Warren Pitt M.P., Minister for Communities, Disability Services and Seniors.

³² Webber, L. S, McVilly, K. R., Fester, T., & Chan, J. (2011a). Factors influencing quality of behaviour support plans and the impact of plan quality on restrictive intervention use. *International Journal of Positive Behavioural Support*, 1, 24-31.

³³ Wardale, S.D., Davis, F., Vassos, M., & Nankervis, K. (2015). The outcome of a state-wide audit of the quality of positive behaviour support plans. Manuscript submitted for publication.

³⁴ *ibid*

Conclusion

Endeavour Foundation welcome the opportunity to provide feedback to the NDIA. Endeavour Foundation have made a number of recommendations and expressed concerns with regard to components of the proposed Quality and Safeguarding framework. Endeavour Foundation will continue to be strong supporters of the National Disability Insurance Scheme and share the aspiration and hope that the scheme will deliver a better quality of life to many Australian citizens with a disability.

In developing a Quality and Safeguarding framework for the NDIS the consultation paper states that it seeks to find the right balance between ensuring participants enjoy choice and control of their supports and regulation which will allow ease and flexibility for participants to find the right provider who will deliver good quality supports with safety assured.

The paper provides a description of the structure of the proposed framework based on the three domains, developmental, preventative and corrective. Key elements of the proposed framework were described in detail and feedback was requested for some options. The key elements were NDIA provider registration, systems for handling complaints, ensuring staff are safe to work with participants, safeguards for people who manage their own plans and reducing and eliminating restrictive practices from NDIS funded services.

In considering what keeps people safe in the developmental domain the paper has proposed information on NDIS processes, rights and utilising or developing natural supports for participants. For those participants who are able to utilise information for decision making, to recognise poor quality service and will not accept harm being done to them it is a sound strategy. Where participants have limited or no supports, impaired capacity and poor self-worth and other vulnerabilities this strategy may have limited value.

Endeavour Foundation welcome the strategy of developing natural supports for participants which may provide good safeguards from abuse, neglect and exploitation and other harm. However, despite some excellent models of practice in Australia and internationally the goal of building long term relationship networks has had limited success in mainstream services. There is not good evidence for the effectiveness of this strategy. Furthermore, for many participants community participation and 'belongingness' is a long term goal.

While Endeavour Foundation support regulation which promotes excellence in abuse prevention and response and the development and maintenance of good quality services the on-going issue with the low price of supports is a significant cause for concern. With no financial incentives for providers to invest in the infrastructure, policy frameworks and other activities which lead to a zero harm culture larger providers may prefer to invest in other priority areas for the business like marketing.

Resources would then be marshalled to ensure registration requirements are met rather than striving for excellence in abuse prevention and response and building quality supports.

The consultation paper provides little indication about costs of regulatory options and who will be responsible for which costs. Endeavour Foundation take a position of *in principle* support for a regulatory environment which will provide the most effective safeguarding but a more cautious approach when faced with the cost of regulation in a competitive environment. Endeavour Foundation is concerned that the low price of supports will push providers into a low regulation/low cost environment rather than a best practice abuse prevention culture.

Notwithstanding these there are many positive aspects to the proposed Quality and Safeguarding framework and Endeavour Foundation commend the NDIA for its work on these challenging matters.

Submission authorised by Endeavour CEO David Barbagallo

Appendices

Understanding Abuse

“Abuse is not easy to define, understand or measure.” (p17)

Abuse has no legal meaning as a criminal act but some offences constituted as abuse are unlawful. Terminology should not be used to trivialise or decriminalise offences. Sometimes softer terminology can prevent appropriate recognition and response to abuse. It is also vital to identify abuse as more than isolated acts or incidents. The systemic nature of abuse and the way people are at risk needs to be acknowledged. Definitions of abuse need to include examples and descriptions to assist with policy and training in identification and response.

Endeavour Foundation defines abuse, neglect and exploitation in its policies and procedures to assist with identification and to establish a common terminology throughout the organisation. This terminology is used in mandatory abuse training undertaken by all Endeavour Foundation operational staff members. The training also assists staff members to recognise abuse, makes them aware of their duty to report such instances and gives them information on how to report suspected abuse. Examples of different categories of abuse are provided to assist with understanding and identification.

These organisational definitions are used for monitoring the incidence of specific forms of abuse and are specified on Endeavour Foundation’s abuse and complaints case management system for trend data reporting purposes.

Endeavour Foundation notes that it is common within the sector for allegations of abuse to be regarded as formal complaints and dealt with through a complaints system and appropriate risk management practices. This may lead to a minimisation of the impact of certain types of abuse, for instance psychological or emotional abuse. Endeavour Foundation has implemented a complementary process which focusses specifically on allegations of abuse, neglect and exploitation. This ensures that allegations of abuse, neglect and exploitation are responded to more effectively and there is a focus on outcomes for victims and their families as well as natural justice for staff members who may be named.

Within this process all alleged unlawful acts are referred to police for investigation as a matter of course. Endeavour Foundation will work with family members and people we support to report these incidents to police but are also mindful that a victim, particularly of sexual assault, needs appropriate and expert support to assist in the decision to report or not. Referrals to sexual assault services are therefore, not uncommon in these circumstances. If, as is the case on many occasions, Police are not able to progress a matter, Endeavour Foundation will undertake an internal investigation or review of the matter to deliver an outcome for the victim and family.

It must also be noted that for an organisation to speak of abuse so openly is uncomfortable. It is uncomfortable for managers, staff, volunteers and Board Directors to acknowledge that allegations of abuse occur in the organisation of which they are a part. It is uncomfortable to try to explain to others outside the organisation and who may not have a full understanding of the framework that these types of incidents do occur. However, Endeavour Foundation also acknowledge the importance of open discussion within the organisation, with the community at large and other external agencies, utilising clear descriptive terminology for this behaviour and assisting in a fundamental way to further awareness.

Primary Prevention

“The Primary prevention of abuse has as its target the broader community or cultural context in which abuse occurs.”³⁵ (p.23)

Although most reported abuse occurs within service settings, services operate within a cultural context which impacts upon service environments and vulnerability of people with a disability. Addressing these factors can have a long term impact on abuse prevention.

³⁵ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

Inclusive Communities

People with a disability have a devalued status in the general community and this has led to isolation and community ignorance. This is a core principle of disability service standards. Strategies to reduce isolation in service settings where people with a disability are living together will assist in reducing the likelihood of abuse occurring.

Community access is an important part of Endeavour Foundation's core business. Community access is planned and implemented using a person centred approach which focusses on the person's strengths and interests.

Person Centred planning processes are undertaken by a specialist role within Endeavour's disability services. All Endeavour staff attend mandatory person centred training to provide knowledge and support for implementing community access plans.

Walk and Talk

Walk and Talk is a walking and social support intervention for people with intellectual disability that is currently being implemented by Endeavour Foundation. The program involves a person with intellectual disability walking with a volunteer walking partner, once a week around their local neighbourhood. The program aims to contribute to a healthy lifestyle, increase the profile of the person with a disability in their local community by undertaking a common and valued lifestyle choice, and facilitate a relationship between a community member and a person supported by Endeavour Foundation.

Valuing people with a disability

Endeavour Foundation publications and fundraising processes are centred on ensuring that community members encounter positive images and stories of people with a disability. This is directed by specific branding guidelines published on Endeavour Foundation's Quality Management system. For instance, photographs should:

- Show what a person with a disability is doing or achieving;
- Demonstrate the independence felt and the community belonging experienced by the person with a disability;
- Not suggest a hierarchy between the person with a disability and support person (Brand Overview, QD 2334).

Walk a Mile in My Shoes

Additionally, Endeavour Foundation has developed a program "Walk a Mile in My Shoes" giving an opportunity for people who work in Queensland's Department of Justice and Attorney General to spend a day at an Endeavour Foundation service walking alongside a person supported by Endeavour Foundation.

A range of people from the Department undertook the pilot programme and very positive feedback was given in terms of their experience of people with an intellectual disability. The program will be extended to target more senior members of the judiciary. It is a small but important step to positively promote people with an intellectual disability in an area where there is much misunderstanding.

Advocacy

Individual Advocacy

Endeavour Foundation has an Advocacy Policy document which reflects its position in welcoming advocacy for people with a disability. The Policy clearly articulates the role of an advocate and further reflects that advocacy is not the role of staff members. Referrals to advocacy organisations frequently occur when external support is needed by a person with a disability or a family member. Advocates are recognised as bona fide representatives for a person with a disability. The Policy allows for entry into services by advocates where relevant and appropriate, particularly in relation to Citizen Advocacy programmes. The Policy also contains recommendations for action if staff and managers are unhappy with the conduct of advocates or have concerns with issues of consent.

Systems Advocacy

Endeavour's Community and Advocacy Support Unit has undertaken systems advocacy with allies from the advocacy and service sectors on specific broad scope issues. For instance, during 2014, the unit partnered with Queensland's Public Advocate, the Anti-Discrimination Commissioner and a prominent independent systems advocacy organisation to present a forum on issues for people with an intellectual disability in the criminal justice system.

The Community and Advocacy Support Unit was set up as an initiative of the Endeavour Foundation Board of Directors to undertake advocacy within the organisation and external advocacy usually at State government level. The Unit utilises a human rights framework and is charged with alerting the CEO and Board of Directors to systems issues which may impact upon the human rights of the people with a disability that Endeavour Foundation supports.

Self-Advocacy and Representation

Endeavour Foundation has undertaken on an on-going basis to support a self-advocacy and leadership development initiative through the Community and Advocacy Support Unit.

This initially involved skilling people with intellectual disability to provide peer education about the NDIS. The project was called "The NDIS and You" and funding was provided through the NDIS Practical Design Fund. Self-empowerment and leadership development were integral parts of the program for the peer educators and the improved confidence of the individuals involved in the project was remarkable. The peer educator model used for this project has now been taken up by Queenslanders with Disability, a prominent network of people with a disability, who with initial support from the Community and Advocacy Support Unit and Queensland State Government funding, have continued to make these workshops available for Queenslanders with an intellectual disability.

Funding was also obtained from the NDIS Practical Design Fund for a resource called the "*Discover Guide*". The guide was developed by the Community and Advocacy Support Unit and the Centre for Law, Governance and Public Policy at Bond University. The guide was aimed at providing accessible and targeted information for family members and those with impaired capacity about the NDIS and other relevant issues such as Trust Funds. The Guides have received excellent feedback from people with a disability, family members and disability professionals; and have been distributed across the country. Endeavour Foundation is currently negotiating with the NDIA for funding for a further print run of the Guide.

Client Councils

Client Councils are held regionally across Queensland and have also taken place in Melbourne. A national Client Council is held every two years. Agendas can vary but the purpose is for the voices of the people with a disability supported by Endeavour Foundation to be strongly heard within the organisation. Furthermore, the Client Council project aims to build the capacity of those individuals who participate, to undertake advocacy for themselves and their fellow service users.

During the Melbourne Client Council in November 2014, a workshop was undertaken by Speak Out, a Victorian self-advocacy programme, to provide training in self advocacy skills. Where possible members of the Endeavour Foundation Board of Directors and the CEO are invited to participate in segments of the day normally to hear what has been discussed. They are not invited to be present at the discussions which are facilitated by members of the Community and Advocacy Support Unit. The Community and Advocacy Support Unit are currently planning how this process can be refined for internal advocacy and representation as well as identifying other opportunities for this core group of people we support in sector leadership development and training.

Endeavour Foundation has a detailed decision making policy and procedure developed by the Community and Advocacy Support Unit to assist staff members in services to understand and the importance of decision making in a person centred approach to service delivery. The Policy and Procedure is based on the Queensland Guardianship and Administration Act 2000 and encourages staff to assume capacity in the person they support and to utilise natural and other support networks where appropriate to assist the individual in making decisions.

Family and Community Representation

Endeavour Foundation governance arrangements allow for elected representatives from Local Area Committees to be elected to the Board of Directors. There are a number of Area Committees across Queensland and New South Wales. As Endeavour Foundation has expanded its operations interstate, more Area Committees have been formed to ensure that governance arrangements allow for proper representation across States and Territories. Area Committees have a variety of functions including fundraising and often have active volunteers from local communities who contribute their time and energy to support Endeavour Foundation. Endeavour Foundation encourages the family members of people we support to become involved in Area Committee activity. Area Committees provide a pathway for families to become elected to the Board of Directors and bring their own life experiences to governance and decision making at the highest level.

Endeavour Foundation was founded sixty years ago by family members and their experience and contribution continue to prove invaluable in setting the direction of the organisation and overseeing its activities. In the same way, skilled and experienced community members also have a route to taking on the role of a Director of Endeavour Foundation. This affirms all Australian community members as stakeholders not just in the organisation but in the lives of all whom the organisation supports. Area Committee members can also seek representation on the National Council which provides advice to the Board of Directors on various strategic and governance matters as well as providing a conduit for information back to their local area networks of family members and other interested community members.

The principle of transparency is important in ensuring that there is adequate scrutiny and monitoring of Endeavour Foundation particularly in monitoring service delivery and operational issues and most particularly in terms of abuse matters. The Endeavour Foundation Board of Directors has a subcommittee, the Client Services Committee, formed to provide a focus on these issues. The Client Services Committee takes an active interest in the quality of services and particularly in relation to abuse prevention and response and Complaints processes. The Client Services Committee provides a conduit to the Board of Directors and to Executive Management for data, analysis and advice from the two external committees for abuse and complaints (see below) and oversees monitoring from a governance perspective of service and systems improvements initiatives. The Client Services Committee consists of current and past Endeavour Board members including family members with sons and daughters supported by Endeavour services.

Preventing Systems Abuse

“Systems abuse occurs when the needs of people with a disability are not recognised and essential services not provided or may be inadequate, inappropriate or poorly coordinated” (p29)

Causal factors for abuse neglect and exploitation may be inadequate resources, poor practice, accountability, lack of skills or information to staff and a limited consumer voice leading to a system which is not responsive to individual needs.

Continuous improvement in systems and organisational processes contribute, in a general sense, to prevention of abuse and to the overall accountability of service delivery.

One aspect of preventing systems abuse is ensuring that supports are focussed on outcomes for individuals who use the service. Endeavour Foundation has invested in training all staff in a Person Centred Support model and seeks to establish appropriate and relevant outcomes for individuals through the person centred planning process. This training has had a considerable impact on improving culture and practice in the services in which it has been established.

Despite these efforts, the chronic underfunding of service supports and the traditional block funding model has sometimes limited the organisation's ability to provide the flexibility and timeliness of service supports that individual's need. As the NDIS scheme matures, the service flexibility needed to compete in the market will bring about changes in this regard, for which people with a disability and their families have been advocating for years.

External Advisory Committees

Performance data in relation to incidents and allegations of abuse and complaints data are captured centrally and data is provided to relevant senior managers. Endeavour Foundation utilises two External Advisory Committees comprised of individuals with significant experience in the areas of abuse and complaints matters and a high level of standing and authority within the community and disability sector in Queensland. For instance, the External Advisory Committee for the

Prevention and Response to Abuse, Neglect and Exploitation (the “Abuse Committee”) includes the Queensland Public Guardian, a senior member of the Queensland Police Service, an executive from the Queensland Government with many years’ experience in these matters, and a family representative.

The purview of both the Abuse and the Complaints Committees is to analyse trend data, review case files and make recommendations to the CEO and Board of Directors on matters which emerge from this review and analysis. When concerns arise about specific service outlets, information is passed through to the senior managers involved and to the Executive General Manager Disability and Community Services, directly through regular reporting systems and also through the Board appointed Client Services Committee.

Ensuring Quality

“The prevention of abuse is recognised as a driving force behind quality assurance systems.”³⁶(p.30)

A number of components are linked with a decrease in the likelihood of abuse, neglect and exploitation. These are:

- Independent assessment, monitoring and review against quality standards or benchmarks underpinned by legislation;
- Increasing professional standards;
- Consumer participation in quality assurance;
- Independent complaints mechanisms.

The current Queensland quality assurance system provides independent assessment of services every two years. Endeavour Foundation, in common with many service organisations, has roles to undertake self-assessment audits and to review and assist progress in implementing feedback recommendations.

Endeavour Foundation has invested in an electronic quality management system based upon a ‘SharePoint’ IT solution. This system has gone live this year and will allow faster and easier access to policies, procedures, forms and guidelines. It will also ensure that there is consistency in review of documents giving clear pathways for staff to review and improve policies and procedures.

The quality system is the linking mechanism for the components of the Framework for Improvement in Abuse Prevention Strategies in Specialist Disability Services (2002).

Family Satisfaction Survey

Endeavour Foundation undertakes an annual Family Satisfaction Survey. The survey is coordinated by the Community and Advocacy Support Unit which has developed close ties with family members over the years as part of its scope. The Unit is also seen as a part of the organisation which understands and advocates on matters of concern for families. The Survey covers all areas of service provision and includes other interactions with roles in the organisation including the CEO and the Complaints and Incident Management Unit. Despite overall satisfaction rates being consistently high over the last ten years, the survey gives a wealth of rich qualitative data to assist in addressing areas of improvement in services. The Survey is managed by Queensland University of Technology to assist in ensuring anonymity for families completing the survey. A pilot project is currently underway to develop a satisfaction survey (titled “Your Voice, Our Future”) for people supported by Endeavour Foundation.

Consumer Empowerment

A significant theme in the literature as to why people with a disability are vulnerable to abuse relates to how this population has been marginalised and denied individual and social power. Empowering people with a disability in their relationship with their service provider is a fundamental strategy for addressing this.

As described above, Endeavour Foundation has undertaken a program of consumer representation within the organisation but acknowledges that there is still room for improvement in meeting this objective.

³⁶ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

Endeavour Foundation has a Complaints and Incident Management Unit which sits outside the two main operational divisions in the organisation affording some degree of independence in its operation. Best practice complaints management and investigation processes are supported by the unit. Complaints are dealt with under the Complaints Management Policy and Procedure unless they are assessed as being allegations of abuse under Endeavour's Abuse Policy and Procedure (in which case, the incident or allegation is actioned in the abuse process rather than as a complaint).

Under the Human Service Standards people with a disability who are supported by Endeavour Foundation are entitled and encouraged to utilise the complaints system. Staff members are encouraged, where appropriate, to assist people supported by Endeavour Foundation to make complaints. Information about how to make complaints is available at the service level.

Complaints and Incident Management Unit and Reporting Processes

When staff commence employment, they are provided training and induction in human rights and abuse recognition as well as Endeavour's Single Point of Entry Incident Reporting (SPEIR) system. Staff are required to report all incidents using this computerised reporting system and there is a low threshold for the reporting of incidents. When certain categories are ticked on the electronic form this indicates an abusive incident and the form is automatically directed to the Complaints and Incident Management Unit at the Head Office site for triage. Staff in the Unit will assess the incident and either send it back for local management action or refer for management within the abuse process. The Unit coordinates the management of the incident or allegation and brings together a Decision Making Group (DMG). The DMG consists of senior local managers, a Human Resources representative, and a member of the Community and Advocacy Support Unit to provide a 'voice' for the victim and/or for families within the process. Where appropriate a clinician from Endeavour's Complex Support Advice Team (behavioural support) may also be invited. Actions are determined and at the end of the process a determination is made as to whether allegations were substantiated or not. All documentation related to the case is filed in a secure case management program.

Best practice requires the organisation to focus on outcomes for victims, people with a disability and their families in these processes. Industrial relations legislation rightly directs processes to follow a process which gives natural justice to staff members. Often there is a tension in finding this balance, for example in relation to suspending a staff member alleged to have acted in an abusive manner but not necessarily an unlawful manner. The term abuse is not described in law and suspending staff based upon a disclosure from a person with a disability who has an intellectual disability and perhaps expressive communication difficulties are fraught with problems. The DMG process allows for specialist and expert advice for operational managers on abuse matters and gives a multidisciplinary perspective in determining and reviewing actions associated with the specific case under consideration. The process also allows for scrutiny of a service based on a single or series of incidents reported which has the capacity to support and advise Executive Managers in terms of responding to risk and ensuring effective remedial action is taken.

Increasing Professionalism

Endeavour Foundation has a number of strategies in place to retain staff and ensure they are well trained. Staff members are expected to have achieved or be working to achieve at least Certificate III in Disability. Pay and conditions are agreed for most staff under a Collective Agreement. Retaining staff still remains an issue for Endeavour Foundation as it does across the industry. Where agency staff are used, a single agency is utilised to ensure that their staff are correctly orientated and inducted into working for Endeavour Foundation. Recruiting and retaining skilled and well qualified staff remains one of the biggest challenges facing Endeavour Foundation in terms of service quality and through the lens of abuse prevention.

All staff members employed by Endeavour Foundation receive an induction session provided by the Community and Advocacy Support Unit. The session covers human rights and is purposefully challenging in its design. Staff members are given information about the organisation's position on abuse and shown video footage of television reportage about abuse in disability services. The teaching points are simple:

- Staff should never believe that abuse cannot happen at Endeavour Foundation or within any service they may work at;

- Staff are challenged to imagine how support or care workers can witness and come to accept abusive and bullying behaviours;
- It is the responsibility of staff to intervene and report any bullying or abuse of people being supported.

Further, all staff within Endeavour's Disability and Community Services Division undertake mandatory training in abuse recognition and response. This training focuses on learn Endeavour Foundation's definitions of abuse, neglect and exploitation, and issues related to reporting and victim support.

Probity screening takes place as per Queensland legislation and is enforced by Endeavour Foundation. This is a further important component for preventing abuse in services.

Safer Service Environments

"It is at the level of service delivery that the protection measures can be taken to reduce the vulnerability of people with a disability to abuse and neglect" (p.37)

The Framework for Improvement cites a number of features which can lead to a heightened risk of abuse. These include:

- Social isolation and individual vulnerability;
- Lack of choices and lack of protection of human rights;
- Overcrowding, incompatibility and lack of choice between consumers;
- Power imbalance between consumers and staff;
- Problems of high turnover of staff, poor skills, lack of supervision, stress and frustration;
- Consumers with complex needs and challenging behaviours.

These features are interrelated and complex. Some have been addressed in previous parts of the submission while others require further comment in the context of this component.

Achieving quality improvements requires an organisational culture which supports good values and requires changes in staff attitudes and behaviour. Endeavour Foundation supports the valued status of people with a disability and requires staff to conduct their work at all times in a respectful, person centred manner.

During the last five years Endeavour staff have had a number of opportunities to undertake training in Disability Certificate III and IV, Operational Management, Project Management and Leadership. Much of the training has been provided at no cost to staff members through the auspices of the Endeavour Business College which was specifically established to meet this need.

As has been stated training in abuse recognition, response and victim support is also covered in mandatory sessions for new and current staff in Endeavour's Disability and Community Services Division. This training is supported by clear policies and procedures detailing how to report and respond to abuse matters.

Like many larger organisations, Endeavour Foundation has access to confidential counselling and support through its Employment Assistance Programme (EAP). There is a high level of awareness of this program amongst senior managers and accessing EAP is a standard recommendation made to staff when stress is detected in the workplace.

Risk assessment regarding vulnerability to abuse is an area which has not been addressed directly at service level. Currently risk assessment is only undertaken in response to challenging or other behaviours which may put individuals, staff and property at risk and is a standard component of Positive Behavioural Support plans which are used as the gold standard best practice response. Risk assessment is also taken into consideration in the goal planning process which is reviewed every year.

Challenging behaviour and the use of restrictive practices is regulated in Queensland through legislation which requires initial reporting and consent on the frequency and use of restrictive practices which range from Containment and Seclusion to restriction of access to property or spatial areas. An underlying principle is that the effective use of mandatory Positive Behavioural Support strategies will in most cases reduce the need for restrictive practices.

Endeavour Foundation has a dedicated team who write Positive Behavioural Support plans and provide advice and assistance to managers and staff regarding behaviours which are seen as challenging but do not necessitate the use of an authorised restrictive practice. Endeavour Foundation provides training on the use of restrictive practices and understanding challenging behaviours which supports staff members to understand behaviour as an expression of need. A Positive Behavioural Support Policy provides a framework for this position across the organisation.

Incompatibility between people with a disability accessing the same residential service has been a challenge for Endeavour Foundation to address over the years. The block funding model has meant it has been very difficult for people with a disability and their families to successfully negotiate a move in service. Additional funding has been extremely difficult to come by as State Government budgets have continued to be squeezed. The scarcity of residential placements across the sector has exacerbated this problem, often leaving the organisation to support people who do not wish to live with each other. Complaints often arise from distressed families who are understandably frustrated and angry at the service issues which can arise as a result of this issue.

Endeavour Foundation's 'At Home with Choices' (AHWC) strategy aims to replace large accommodation facilities with houses in which no more than four people will live. Outcome evaluations of housing projects developed under the strategy point to a reduction in interpersonal conflict between housemates and a reduction in challenging behaviours.

Responding to Abuse or Identified Risk

"The establishment of an effective...operational system for protective intervention may address some of the commonly identified barriers to reporting suspected abuse of people with a disability." ³⁷(p.45)

The Framework for Improvement list common causes for non-reporting in abuse cases. These include:

- Consumers and staff not knowing who to report to;
- People with a disability lacking confidence that they will be believed;
- A lack of confidence in the 'system' to respond to abuse;
- Lack of training in identification of abuse and what constitutes reportable abuse;
- Police and criminal justice personnel lacking skills and strategies to respond to people with a disability;
- Lack of adequate supports for victims of abuse and offenders who have a disability;
- Fears that reporting will harm the victim.

Reporting Thresholds and Process

The lack of clear procedures for reporting and of management reinforcement can lead to indicators of abuse being missed. Endeavour Foundation's approach to reporting abuse is set to a relatively low threshold and is undertaken on an electronic form (discussed previously). Staff are trained to fill in the forms and there is a strong management expectation that this will occur. Staff are encouraged to report even if they are unsure that an incident has reached the threshold for being reportable. This policy setting leads to a large volume of reports that are triaged centrally by the Complaints and Incident Management Unit, with associated resource implications for the organisation. However, Endeavour Foundation is also able to collect a considerable amount of data from services and provide some analysis of the incident profile for services.

During induction, staff are informed that they can directly call the Complaints and Incident Management Unit or the Community and Advocacy Support Unit if they have concerns regarding a possible abuse and about how management may perceive their role in that issue. The essential message to staff is that they are expected to report incidents that could be abusive or neglectful and there is no closed door in the organisation to that reporting. Endeavour Foundation has a Whistle-Blower Policy and staff can expect protection in the event of a substantiated matter of abuse. However, in

³⁷ Abuse Prevention Strategies in Specialist Disability Services, Framework for Improvement, the Nucleus Group, 2002

practice it is extremely rare that staff will directly contact the Units with concerns as whistle-blowers. The majority of incidents or allegations come through the electronic single point of entry reporting system as discussed above.

Referral to Outside Agencies

Endeavour Foundation's position is clear regarding the reporting of alleged unlawful acts to Police but as discussed, sensitivity and common sense must also come into play with these matters. Endeavour Foundation's Complaints and Incident Management Unit has a senior officer in the Queensland Police Service who undertakes a liaison role in complex matters. The officer will give advice on matters which are de-identified to retain privacy. The officer will also link Endeavour Foundation staff with officers across Queensland who may have the necessary skills and experience to assist with matters. At this point in time the liaison role is an informal one and only exists with the Queensland Police Service.

As part of the Endeavour abuse response process a DMG will consider the impact of reporting to Police on the victim and perpetrator of an alleged offence. Where possible, Endeavour will provide support and information to the person/s and their families bearing in mind the issues of privacy and confidentiality that must be navigated.

Within Endeavour Foundation's response process to allegations of abuse, decision making capacity of individuals is considered with respect to vulnerability and harm. Where appropriate, referrals will be made to the Queensland Civil and Administrative Tribunal which may appoint an appropriate Guardian from the Office of the Queensland Public Guardian. Endeavour Foundation recognises the inherent risk of acting as a substitute decision maker for an adult with a disability who is supported in services. Endeavour Foundation staff do not act as decision makers for people with a disability using Endeavour supports. However, it is also clear that there is a growing group of individuals with a disability who have no formal or informal decision making supports. Referrals within Endeavour Foundation's response process are also made to independent advocacy services where there is a heightened risk of harmful consequences, such as entering the Criminal Justice system or loss of housing or supports.

There are limited resources either in specialist disability services or general community services for Victim Support. In some areas of Queensland and in New South Wales, service managers have developed some professional contacts with colleagues in services such as domestic violence or victim support services. This has assisted in developing an understanding of the needs of people with an intellectual disability for colleagues who have very limited knowledge or experience in assisting them.