



04/05/2015

Via email: ndisqualitysafeguards@dss.gov.au

Submission – Proposal for a NDIS Quality and Safeguarding framework

The Illawarra Forum is the peak body working for community services and organisations in the Illawarra and the Shoalhaven. We support community organisations, promote expertise and innovation in community development, foster industry development and advocate for social justice.

For more than twenty years, the Illawarra Forum has taken a leadership role in the local community services sector, which is a major employment sector in the region, and currently consists of more than 300 organisations in the Illawarra and Shoalhaven areas of New South Wales.

The Illawarra Forum works closely with numerous organisations which provide support to vulnerable people across the region including:

- Home and community care services;
- People with disability;
- Individuals and families with multiple layers of social and financial disadvantage;
- Victims of domestic violence and sexual assault ;
- Youth work programs;
- Social housing and homelessness services;
- Community health services, including mental health and drug/alcohol services;
- Community legal centre services; and
- Community development and community capacity building programs.

Part 1

General Comments

The Illawarra Forum supports the work undertaken in the development of the proposed NDIS Quality Safeguarding Framework. The document was easy to read and the considerations and subsequent questions presented an opportunity for a range of stakeholders to develop responses which address issues of a very complex nature.

The Illawarra Forum welcomes the opportunity to comment on the proposed framework and we look forward to the presentation of the final paper.

Recommendation

What are the most important features of a NDIS information system for participants?

Access to information will be the key driver of success for individuals with disability who wish to access supports under the NDIS. Therefore, the most important feature of an NDIS information system is accessibility. Every person with a disability or their support person should be able to access the information in an easy manner.

Information must be provided in a variety of formats, including but not limited to:

- a range of community languages
- easy read English
- braille
- audio
- multi-media, and
- mobile apps.

Ease of access to information will empower people with a disability to exercise choice and control.

How can the information system be designed to ensure accessibility?

At the core of the NDIS is person centric approaches, therefore the information system design should involve consultation with people with disability, their carers and key consumer groups. It will be critical in the design to seek out industry standards for accessibility, however, the Illawarra Forum suggests considering multiple formats and platforms of delivery, including utilising existing community and advocacy services to assist in information distribution.

What would be the benefits and risks of enabling participants to share information, for example, through online forums, consumer ratings of providers and other means?

Benefits

An online forum could offer the opportunity for true user feedback. Participants may appreciate anonymity when offering feedback, especially if they have had a negative experience in the past. Participants may also feel more comfortable being honest if they are giving feedback in the comfort of their home. These means might ensure that many different real experiences can be recorded.

Risks

The risk of any online forum is that only those who are unhappy post comments and may present an imbalanced view of the service. Comments might become personal and certain services might be targeted unfairly. Conversely consumer ratings could be manipulated by providers who may implement measures to encourage more positive comments.

There are also the usual risks with online forums where vulnerable people may be targeted.

Are there additional ways of building natural safeguards that the NDIS should be considering? What can be done to support people with a limited number of family and friends?

This framework must consider that some people with disability have had block funded agencies that have supported their decision-making for a long time. It may take time for people to be able to make decisions independently. Time needs to be given to mentoring and building the capacity of people with disability to self-advocate whilst working towards positive long-term solutions/outcomes. There is always a place for advocacy services both on an individual and systemic basis. Advocacy services should remain in place for people with limited natural supports.

What kind of support would providers need to deliver high-quality supports?

As many of the current safeguards are a requirement of funding agreements there will be a risk that some providers may relax their quality measures even though it will continue to be important to deliver high-quality supports, particularly in a market driven system. Continued capacity building for providers in the implementation of quality systems and best practice will be vital during this time, as

will support in the areas of work force development and implementing sound H.R. policy and practices.

Should there be an independent oversight body for the NDIS? What functions and powers should an oversight body have?

The Illawarra Forum believes there is a need for an independent oversight body for the NDIS. This body should have a mandate to investigate and resolve complaints, monitor providers where there is a pattern of complaints, and deliver a facility for staff-screening which providers of individuals can utilise when employing staff. This body could also be the external authorising body for restrictive practices as part of behaviour support plans but could also extend to expert advice on alternative practices with an ultimate aim of ending restrictive practices.

Part 2

Considering the options described above, which option would provide the best assurance for:

- **Providers?**
- **Participants?**

In our opinion option 3 – Mandated independent quality evaluation requirements for certain providers of supports, offers the best assurance for both providers and participants. This option offers the best in choice and control and allows participants to prioritise their provider in terms of what is most important to their needs. We believe this strikes the right balance between being able to exercise true choice while ensuring dignity of risk. We consider that this will drive change in delivery of supports as the focus is on achievement outcomes for people with disability. In a market environment we believe quality providers would already be committed to investing their time, energy and money in participating in such processes.

Should the approach to registration depend on the nature of the service?

This is quite a complex issue and after much consideration the Illawarra Forum would recommend that approach to registration should depend on the nature of the service, however, it should also consider the level of risk to the person in light of their disability. If there are significant levels of risk identified through the individual planning process, safeguards should be implemented at this stage for all providers regardless of the nature of the service to be delivered.

How can the right balance be reached between providing assurance and letting people make their own choice?

Participant choice is such a critical factor in the design of the NDIS that striking the right balance between choice and control and providing assurance to those participants is going to be one of the most difficult pieces of work under this framework. It dredges up the age old concerns of balancing duty of care and dignity of risk. The critical factor will be investing in the capacity of individuals with disability, their carers, support people and continuing to fund advocacy services for people with limited natural supports. This will ensure that consumer choice will drive the quality of organisations if they want to survive in a market economy.

How important is it to have an NDIS complaints system that is independent from providers of supports?

The Illawarra Forum considers it very important to have an NDIS complaints system that is independent from providers of supports. There is always a risk that if complaints are handled by the same body that provides support that there will be bias in terms of how the complaint is handled. Even if adequate support is offered, there may be a perception by the participant that this is not the case. It is often as important to address perceptions as it is facts which where an independent body can come to the fore. In saying this, providers should have a very robust complaints system and should have an opportunity to resolve complaints before it goes to an external body.

The Illawarra Forum believes that Option 3B, a Disability Complaints Office, would provide the most effective independent complaints system but should be an avenue of last resort.

Should an NDIS complaints system apply only to disability-related supports funded by the NDIS, to all funded supports, or to all disability services regardless of whether they are funded by the NDIS?

The Illawarra Forum believes that the complaints system only apply to disability-related supports. People with disability are protected under consumer legislation for mainstream supports or services and should be supported and empowered to exercise their rights under current legislation.

What powers should a complaints body have?

Option 3: Independent statutory complaints function, in our opinion considers the functions that a complaints body should have within the NDIS. Investigating complaints, reviewing patterns of complaints and monitoring and reporting on complaints handling in the sector will aid in providing assurance's and safeguards to participants.

Should there be community visitor schemes in the NDIS and, if so, what should their role be?

The Illawarra Forum supports a community visitor scheme in the NDIS. As there are already community visitor schemes in a variety of settings, the role could be developed by considering existing terms of references and adapting them to suit a national approach.

Who should make the decision about whether employees are safe to work with people with disability? How much information about a person's history is required to ensure they are safe to work with people with disability? Of the options described above, which option, or combination of options, do you prefer?

The provider should make the decision about who to employ but must require a working with vulnerable people clearance as set out in Option 3 –Working with vulnerable people clearances. The Illawarra Forum believe that this is a much more comprehensive approach than a 'police check' or 'working with children check'.

We also believe that there is scope for a barred persons list, but would recommend that further development of current schemes in various jurisdictions occurs, prior to adaptation for a national approach in the NDIS.

Should people who manage their own plans be able to choose unregistered providers of supports on an 'at your own risk' basis (Option 1) or does the NDIS have a duty of care to ensure that all providers are safe and competent?

The Illawarra Forum does not believe that the NDIS has a duty of care to ensure that all providers are safe and competent, this is in keeping with balancing choice with dignity of risk. Participants should be given scope to engage providers 'at their own risk', however, should also be provided with support to negotiate with providers, particularly around complaints.

What kind of assistance would be most valuable for people wanting to manage their own supports?

It will be critical for people managing their own supports to have access to information about providers, whether they are disability providers or mainstream organisations. Access to advocates will also be important for people who may need assistance at critical times. If people managing their own supports would like access to 'working with vulnerable people clearance' for someone of they would like to employ, it should be made easy and be facilitated by an independent body as set out in Part 1.

Who should decide when restrictive practices can be used?

The Illawarra Forum believes that the Independent body as mentioned in Part 1 should decide when restrictive practices can be used and only when they are included as part of a behaviour support plan. Equally, this body could also extend to expert advice on alternative practices with an ultimate aim of ending restrictive practices.

What processes or systems might be needed to ensure decisions to use restrictive practices in a behaviour support plan are right for the person concerned?

Decisions to use restrictive practices in a behaviour support plan must require input from the person with disability or their representative, key support staff and an independent advocate who can assist with ensuring that informed consent has been gained by the participant where they are able.

We believe that the plans should be reviewed at regular intervals with the flexibility to review sooner if an individual's circumstances or behaviour changes. We would not want to see individuals restrained for long periods for example, if the behaviour was episodic.

Would you support mandatory reporting on the use of restrictive practices? Why/Why not?

The Illawarra Forum supports the mandatory reporting of restrictive practices, whether in an emergency situation or as part of a behaviour support plan. Mandatory reporting will give the independent body the data required to address significant issues, investigate patterns and through education and expert advice, model alternative practices for providers. This in turn may lead to the reduction in the use of restrictive practice over a period of time.

If you support mandatory reporting on the use of restrictive practices, what level of reporting do you believe should occur (based on one, or a combination of, the options above)?

The Illawarra Forum recommends the application of 'Option 3: Providers must report on each occasion where a restrictive practice is used'. We would support the national implementation of an online reporting system such as the Restrictive Intervention Data System currently used in Victoria. In order to assist providers to reduce the incidence of restrictive practices, streamlined processes must be implemented for developing behaviour support plans and reporting the use of restrictive practices.

Thank you for the opportunity to comment. For further information about this submission, please contact me at simone@illawarraforum.org.au or by phone on 02 4256 4333

A handwritten signature in black ink that reads "Simone Stuart". The signature is written in a cursive, flowing style.

Simone Stuart
Acting CEO
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