

# Response to the Proposal for a National Disability Insurance Scheme (NDIS) Quality and Safeguarding framework

April 2015

Leadership Plus is funded through the National Disability Advocacy Program, working in the state of Victoria. In Victoria there are over thirty disability advocacy agencies funded through the state program and national program. These funding streams are independent of disability service delivery, providing independent disability advocacy.

Leadership Plus believes that any quality and safeguarding framework needs to ensure independent advocacy is available to people with disability. This includes all of the established models of advocacy: individual advocacy, systemic advocacy, self advocacy, legal advocacy and citizen advocacy. Currently, it is unclear how Advocacy will be funded post NDIS roll out. Advocacy is involved in issues relating to human rights which are broader than the internal review and external merits review process established in the NDIA. As an example of the advocacy work we do, the top three issues Leadership Plus reports over the last several months are:

- Services – service delivery and quality including disability specific agencies and others,
- Finances – including financial management issues with appointed Administrators, capacity to manage personal income, loss (or risk of loss) of funds due to theft or mismanagement by friends or family, and
- Accommodation – for example, having appropriate housing, maintaining tenancy in public and community housing, risk of homelessness, addressing safety concerns

There is no question that the NDIS is the most significant development in addressing the needs of people with disability and achieving better outcomes in relation to human rights. In order to support this development there is also a need for the individuals participating in the scheme to build their capacity to operate as consumers and exercise their consumer rights.

In our experience, there are some 'natural safeguards' that come into play for people with disability, in fact any member of the community. People who are connected to groups in the community, and/or have a supportive and respectful family, and/or enjoy meaningful employment, and/or a circle of close friends, and/or volunteer their time or somehow are a part of a larger community (for example a choir, book club, conservation group) build an informal network. Often it is this informal network that provides invaluable assistance, a critical eye and a diversity of experience and knowledge.

With this in mind, the value of peer support, self help groups and self advocacy groups cannot be underestimated. For example, in residential service settings the entry of peer educators and the development of self advocacy groups can significantly impact the quality of service and in fact, the quality of life for people with disability. It is our experience that through these networks of self advocacy there is greater contact with advocacy, an

increased understanding of rights and with the informal support of a group or group members there is an increased chance of people pursuing complaints.

#### NDIA provider registration

Leadership Plus would prefer Option 4 for agencies providing direct care to participants, also recognising the need for the highest scrutiny of providers to the most vulnerable and marginalised groups within the disability community.

#### Ensuring staff are safe to work with participants

Maintenance of National Registration is needed for direct care workers to ensure a consistent check is done across jurisdictions. This 'working with vulnerable clients' check may be best managed by requiring the person employed needs to maintain their check and thus their employability rather than the employing agency. Consideration also needs to be given to include international criminal record checks and the establishment of a national exclusion list for those people not to be employed.

#### Systems for handling complaints

Leadership Plus is active in supporting people with disability to lodge formal complaints. In our experience, there are a number of elements that need to be considered:

- There is considerable reluctance and fear of making complaints due to possible victimisation. The dependence upon a service can limit a person's ability to freely complain about it. Families may be terrified that their family member will be expelled from a service or receive abuse or neglect as a result of having made a complaint. Often, this has actually been the experience of many families/people with disability in the past and is not an irrational or unjustified fear.
- People are often not aware of complaints processes, their rights as a consumer nor do they have the experience and confidence required to make a complaint and pursue the complaint.
- Access to an independent advocate strengthens any complaints process.

Leadership Plus considers Option 3b the most suitable due to the independence provided through the development of a Disability Complaints Office. The complaints office would need to include a nationally consistent complaint mechanism with the power to investigate, act and monitor complaints. A national complaint handling body needs to be independent

of government, NDIA and the service system. The mechanism needs to be clearly documented and followed so that expectations are clear.

Ideally, the complaints mechanism should be able to respond to complaints about all supports used by a person not only those funded through the NDIS. In Victoria, while there is the Disability Services Commissioner there is a significant gap in that there are agencies providing 'disability support services' to people with disability, yet fall outside of the legislative scope of the commissioner as they are not funded through the state Department of Health Human Service. There is also criticism of the conciliatory approach taken by the Victorian Disability Services Commissioner for the following reasons:

- It is unclear what complaint the commissioner's office will consider investigating
- There have been no investigations for a number of years

#### Safeguards for participants who manage their own plans

Registration requirements of agencies with the NDIS are crucial along with registers of 'safe' staff and national exclusion lists. In managing their own plans, it's recognised that participants will require further skill and understanding within the new context through targeted resources and specialised support. Again, this is an area where advocacy may have significant impact.

#### Reducing and eliminating restrictive practices in NDIS-funded supports

Leadership Plus supports the reduction and elimination of restrictive practices. All such practice needs to be highly regulated by an external body, covering all jurisdictions and informed by the National Framework for Reducing the Use of Restrictive Practices in the Disability Services Sector.