NDIS

Quality and Safeguarding Framework

Proposal

April 2015

Association for
Children with a
Disability

Support Educate Influence Achieve

Introduction

Established in 1980, the Association for Children with a Disability (ACD) is a non-profit community based organisation representing children with a disability and their families living in Victoria. Our current membership includes over 2,000 families.

Statement of Purpose

- To empower parents of children with a disability to be as self-sufficient as possible in advocating on behalf of their child and family.
- To promote and advance the rights of children with a disability and their families.
- To advocate on behalf of children with a disability and their families to ensure the best possible support and services are available.
- To work collaboratively with other organisations to improve the service system for children with a disability and their families.

General Comments

ACD applauds the National Disability Insurance Agency for undertaking extensive community consultation with a view to establishing best practice in developing and implementing a quality framework for service provision aimed at safeguarding the rights and dignity of people with a disability and their families.

For far too long ACD has supported families of children with a disability in their quest to seek positive responses to reports of poor service system delivery and potential abuse. The pursuit of a world class National Disability Insurance Scheme must promote a sector wide culture that is absolutely committed to upholding the human rights of all those who participate. Those involved in the delivery of supports must also be protected to speak out when they become aware that such human rights are being compromised.

The introductory section of the consultation paper, refers to the principles which guide the framework's development, in particular the presumption of capacity. ACD believes that adopting a strengths-based approach is important however we believe that any assessment of vulnerability should also take into account a person's own sense of vulnerability and what assists them to feel safe. This sense of safety is not only based on capacity, but other considerations such as gender and age. One can have capacity yet still feel and in fact be vulnerable.

If the framework adopts a preventative approach, it will enable people to build their confidence in the quality of service provision and over time it is quite possible that the degree of vulnerability may be reduced; a very liberating experience indeed.

In relation to instituting safeguards, it is the view of ACD that in principle a more regulatory approach should be implemented in the initial stages, to set a standard of practice that is more likely to embed a culture of quality.

Complementary to a robust quality management framework, is the presence of an active, effective and efficient independent advocacy sector, charged with the responsibility of assisting those who need support to ensure that their rights, decisions and choices are respectfully upheld.

Response to Questions

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

Accessible – developed in formats that meet the needs of all including the most isolated, whether this is due to geography, language, cognitive or sensory considerations.

User-friendly – that the language used is free of jargon and information can be sought by either talking directly to a person, available online and in hard copy.

Reliable – information is accurate which will require close liaison between the provider/s of information and the source.

Independent – those involved in disseminating information have no vested interest in presenting it in a manner that primarily serves their own purposes rather than those they seek to support.

How can the information system be designed to ensure accessibility?

ACD's Practical Design Fund project (LifeLongAssist) proposed an information sharing framework that could be complemented by access to a helpline for those who for whatever reason, would not use or have access to online information platform.

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

Many online platforms use the consumer rating approach – Tripadvisor, Urbanspoon, etc. There are risks with this system in that as much as consumer provided information can be helpful, due to its subjective nature, it does leave service providers open to unreasonable criticism. A ratings-only system without the capacity to post individual comments would minimise unwarranted attacks on providers. People with genuine concerns about the quality of a service or who have a complaint, should always be encouraged to either work directly with providers or a complaint oversight body to resolve their issue. A strong, independent, well-structured individual advocacy sector would also be extremely helpful in this regard.

Additionally well facilitated closed online forums can be extremely helpful not only for the dissemination of information, but for members to support each other and observe when others become isolated or more vulnerable.

Are there additional ways of building natural safeguards that the NDIS should be considering?

It would be a major misjudgement to assume that those deemed most vulnerable are able to build and maintain their own natural safeguards. This may never be possible and therefore alternative formal mechanisms need to be funded to effectively undertake this role.

What can be done to support people with a limited number of family and friends?

Develop a process whereby Local Area Co-ordinators and other community development programs, could work with interested members of local communities to institute initiatives to "buddy up" or "look out" for their neighbours.

Should there be an independent oversight body for the NDIS?

Yes, best practice models currently operating in Australia and overseas, should be further refined and implemented. It is critical that policymakers never lose sight of the fact that the "market driven" theory of achieving high quality and efficient service delivery is not guaranteed when consumers may be quite vulnerable.

However ACD believes it is important that the primary emphasis and investment in developing a quality and safeguards framework, should lie with prevention. Oversight should focus on the preventative space and in doing so, should over time, reduce the degree to which such oversight bodies are involved in investigating incidents after they have occurred.

What functions and powers should an oversight body have?

Monitoring services and reporting on breaches. Appropriate structures need to be developed including penalties recommended for practices and incidents that constitute the greatest degree of risk.

It is ACD's view that the oversight body and the complaints body should be combined. We believe that a more comprehensive overview of quality would be achieved.

If it is determined either by monitoring with on site investigations or via the lodgement of a complaint, recommendations for penalties would be submitted to a separate body charged with the responsibility of making a judgement on the severity of the misconduct or breach and imposing penalties.

Considering the options described above, which options would provide the best assurance for providers, participants

Providers – Option 4, however in developing regulatory accountabilities, consideration should be given to the size and capacity of the provider

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

No - the focus should be on the level of vulnerability and the degree to which a participant feels they require safeguards in place.

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

Exploring these issues during the planning process and during contract negotiations between participants and services providers, to put in place an individual safeguard plan.

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

Vital to the Scheme's overall success. It will enable participants to build their capacity to resolve issues which in turn will raise their expectations and drive quality improvement.

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?

A complaints system should be designed to address the concerns of people with disability irrespective of who is providing support.

What powers should a complaints body have?

The power to investigate complaints, inspects premises, audit practices and recommend penalties, such as fines, de-registration.

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

The model of community visitors should be funded as a key component of the quality and safeguards framework. Community visitors could also have an independent advocacy role in supporting people to lodge a complaint. The body with oversight of community visitors should also have the capacity to examine multiple failures to determine if a systemic response is required.

Who should make the decision about whether employees are safe to work with people with disability?

An authority with access to relevant records to determine a decision, such as police records, service provider records. Service providers should document if the reason for disciplinary action or dismissal relates to inappropriate behaviour towards a person with disability. The authority is then able to provide a clearance 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?

Reports of inappropriate behaviour need to be examined by the Complaints and Oversight Body to ensure that the accusations are verified. Convictions relating to any violation of another person would automatically exclude a person from receiving a clearance.

Of the options described above, which option or combination of options, do you prefer?

Combination of 3 – Working with Vulnerable People and 4 – Barred Persons List

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

It would be in the best interest of any person working closely with people with disability, to hold a Working with Vulnerable People Clearance however it would be reasonable for people to manage their own plans and their own risk.

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

Training to put in place standards that promote quality practice, how to set boundaries of how a person wishes to be treated, how to identify and articulate what a person believes is unacceptable behaviour, how to raise and deal with unacceptable behaviour, where to access independent advocacy to resolve issues and/or progress complaints.

Who should decide when restrictive practices can be used?

It is the view of ACD that a national authority similar to that currently existing in Victoria, should be established to deal with the management of restrictive practices. A panel of qualified individuals and members of the community should hold the governance responsibility for such a body.

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?

If preventative actions that are based on positive behaviour strategies are developed early and all the team around the person are provided with the knowledge and skills

to implement positive behaviour strategies, then the level of restrictive interventions should be minimised.

Although ACD is of the view that well managed and monitored restrictive practices may be required from time to time, Option 4 would be the preferred response, as long as regulatory requirements did not compromise the capacity to respond.

Would you support mandatory reporting on the use of restrictive practices?

Yes as it provides the data required to more accurately monitor support, identifying patterns in behaviour which can assist to better understand cause and effect, and would support decisions made in the best interests of the person with disability.

If you support mandatory reporting on the use of restrictive practices, what level of reporting do you believe should occur?

Option 2

Conclusion

The importance of safeguarding the rights of those most vulnerable in our society is of utmost importance. It is imperative that the NDIS in its drive to be efficient, whilst providing participants with genuine choice and control, does not abrogate its responsibility to ensure that pubic funds are not used in a manner that is counter to the principles that underpin the Scheme.

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