

**Submission to the Department of Social Services from the Health and Disability Services
Complaints Office, Western Australia: NDIS Quality and Safeguarding Framework**

Feedback on System for handling Complaints chapter, specifically options presented pp 52-55

The following feedback relates to the proposal and options to develop a complaint management system for the NDIS

- Option 1: Not supported.
 - The notion of disability service providers developing and operating their own internal complaint management and feedback systems is supported.
 - The non-mandatory obligation for providers to subscribe to an external dispute resolution service is not supported as it presents risks, specifically in regard to natural justice principles.
 - Whilst participants would have recourse to fair trading departments and professional registration boards, these regulatory controls do not address the wide-scope of all disability complaints that are received. As such, this control is not supported.

- Option 2: Partially Supported
 - The development of minimum standards for NDIA registration is supported.
 - Contracting out of complaint resolution to an outsourced third party is not supported, particularly in the context of the third party not having any power to enforce decisions.

- Option 3a: Not supported, though support is provided for minimum standards to be developed for NDIA registration.

- Option 3b: Supported on the basis that this option most closely complements the ‘status quo’ of complaint management in Western Australia.
 - The principle of an independent complaints office is supported, however query the need for a new office to be established. HaDSCO could potentially assume legislative responsibility for managing NDIS complaints, subject to:
 - appropriate resourcing; and
 - legislative advice as to whether the split Commonwealth/State funding arrangement of the NDIS complies, or does not comply, with s30 of the Disability Services Act 1993 which specifies that a “*disability service does not include a service where it is provided wholly from funds paid to the service provider by the Commonwealth of Australia*”.

Responses to Questions on Pg 55: Additional Comments

Question	Response
<ul style="list-style-type: none"> • “How important is it to have an NDIS complaints system that is independent from providers of supports?” 	<p>Independence from providers is considered critical as it supports natural justice principles, including the right of appeal with objective scrutiny of issues that a complainant raises.</p>

Question	Response
<ul style="list-style-type: none"> 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? 	<p>Any new system that is established should aim to achieve minimal confusion for participants, and maximum coherency with existing systems. In this context, establishing a new complaints system only for NDIS and/or for all funded supports is likely to cause confusion for people who receive other non-NDIS support. For example, an individual who receives NDIS <u>and</u> non-NDIS supports would potentially have two different processes to follow if a complaint about each support needed to be made. One complaint system, regardless of whether the service is funded by the NDIS or not, is supported.</p>
<ul style="list-style-type: none"> What powers should a complaints body have? 	<p>Powers should mirror the powers outlined in Part 6 of the <i>Disability Services Act 1993</i></p>
<ul style="list-style-type: none"> Should there be a community visitors scheme in the NDIS and, if so, what should their role be? 	<p>Consultation would need to occur on this, however, the experience of HaDSCO is that the community visitors scheme in the WA mental health sector is a useful mechanism to provide advocacy support to complainants. If a community visitor scheme is established, it is important to ensure that the role and function of the scheme is considered in the context of the role and function of the HCE, to minimise role overlap or duplication.</p>

Summary

Support is provided for:

1. service providers to develop and operate their own internal complaint management systems.
2. HaDSCO to provide a statutory, independent complaints function to manage NDIS complaints, subject to appropriate resourcing, legislative advice, and the development of minimum standards for NDIA registration.
3. one complaint system, regardless of whether the service is funded by the NDIS, or not.
4. powers that mirror those outlined in Part 6 of the *Disability Services Act 1993*.
5. a community visitor scheme, conditional to the role and function of the scheme not overlapping or duplicating the role and functions of the State Complaints Commission.

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