

National LGBTI Health Alliance

lesbian, gay, bisexual, transgender, intersex and other
sexuality and gender diverse people and communities

PO Box 51 Newtown NSW 2042

T: (02) 8568 1123 F: (02) 8212 9013 E: info@lgbtihealth.org.au



14 May 2015

Kendra Cockburn
Assistant Director
NDIS Policy and Legislation Branch
Commonwealth Department of Social Services
Sent via email to NDISqualitysafeguards@dss.gov.au
Cc: kendra.cockburn@dss.gov.au

Dear Asst Director Cockburn

RE: NDIA Quality and Safeguarding Framework Consultation

The National LGBTI Health Alliance is pleased to contribute our responses to the National Disability Insurance Agency (NDIA) Quality and Safeguarding Framework Consultation regarding restrictive practices, complaints, and safeguards.

About the National LGBTI Health Alliance

The Alliance is the national peak health organisation for organisations and individuals from across Australia that work together to improve the health and wellbeing of lesbian, gay, bisexual, transgender, and intersex people and other sexuality and gender diverse (LGBTI) people. We support measures that contribute to improved health and wellbeing for all LGBTI people in Australia.

Formed in 2007, the Alliance includes the major providers of services for LGBTI people in Australia, with Members drawn from each State and Territory. The Alliance provides a representative national voice to: develop policy and to support LGBTI health issues; seek increased commitment to services for LGBTI people; develop the capacities of LGBTI organisations; and support evidence-based decision-making through improved data collection covering sexuality, gender identity, and intersex status.

LGBTI inclusion in the NDIA Quality and Safeguarding Framework Consultation draft

The Australian Government has made impressive strides to reduce discrimination faced by LGBTI populations, including [the addition of sexual orientation, relationship status, gender identity \(including gender history, gender expression, and gender-associated characteristics\), and intersex status to the Sex Discrimination Act 1984 \(the SDA\)](#). *The SDA* prohibits both direct and indirect discrimination in the administration of Commonwealth laws and programs, including discretionary decisions by government officials made under laws or programs. *The SDA* defines indirect discrimination as any law or program that applies equally to all people but disproportionately affects federally protected populations.

As Australia's national peak body for LGBTI health and wellbeing, we are concerned by the numerous complaints we have received from our members regarding experiences of discrimination, mistreatment, and violence against LGBTI people in Australian disability services and accommodation. To address these concerns, we make the following recommendations regarding

restrictive practices, complaints, and safeguards in the administration of the National Disability Insurance Scheme (NDIS):

Restrictive practices

Monitoring and review: Instances of restrictive practice with populations identified as protected groups under federal anti-discrimination legislation and those listed as DSS priority populations should be subject to ongoing, independent monitoring and review. This monitoring and review will reduce the inappropriate use of restrictive practices to discriminate against the cultural, sexual, gender-associated, and relationship expressions of LGBTI people and other protected populations.

Guidelines consistent with Commonwealth anti-discrimination legislation: The NDIS guidelines should specify that restrictive practices should not be used to limit LGBTI people's consensual expressions of their genders, bodies, sexualities, or relationships. These guidelines should refer to the Commonwealth protections provided in *the SDA*, which prohibits both direct and indirect discrimination on the basis of sexual orientation, relationship status, gender identity, and intersex status in the administration of Commonwealth laws and programs.

Complaints

Complaints staff training: Staff who handle NDIA complaints should receive periodic training in practical aspects of LGBTI inclusion, including but not limited to:

- how to accurately address and describe complainants and to avoid misgendering complainants based on their voice, visual appearance, name, or identity documents;
- how to address the needs of callers with privacy concerns related to their genders, bodies, sexualities, and relationships; and
- the everyday needs LGBTI populations have related to their genders, bodies, sexualities, and relationships.

Text-based chat option: Given the vocal discrimination that many LGBTI people report and the resultant anxiety that often accompanies telephone interactions for these populations, a text-based alternative to telephone complaints that is text-to-speech compatible should be provided for both increased disability access and LGBTI inclusion.

Safeguards

Training for staff providing NDIS-funded services: All staff practicing under the NDIS should be required to receive periodic and ongoing training on the needs of people living with disabilities, disability labels, and/or impairments who are from each population within LGBTI.

Policy and practice review: Agencies providing services under the NDIS should be required to evaluate their organisational policies and practices for inclusion of each population within LGBTI based on criteria developed in consultation with LGBTI organisations and communities of LGBTI people living with disabilities, disability labels, and/or impairments.

Accreditation: LGBTI-inclusive policies, practices, and training should be included in accreditation requirements and quality assurance standards on the NDIS.

Community visitors and monitoring: Agencies providing services under the NDIS should maintain ongoing contact with community-based, independent organisations and encourage community visitors who can monitor the living situations of LGBTI people living with disabilities, disability labels, and/or impairments who wish to access the service. This includes LGBTI people living with disabilities, disability labels, and/or impairments in residential care, supported housing, and independent living situations.

We appreciate this opportunity to raise our concerns about LGBTI inclusion in the NDIS. As the peak LGBTI health organisation in Australia, we thank you for taking the time to consider this submission. We encourage you to contact the Alliance's Research and Policy Manager, Dr Gávi Ansara, to discuss the issues identified in this submission. He can be reached by email at gavi.ansara@lgbtihealth.org.au or by phone at (02) 8568 1110.

Yours sincerely



Rebecca Reynolds
EXECUTIVE DIRECTOR