S·A·R·R·A·H
Services for Australian
Rural and Remote Allied Health

Submission to the Council of Australian Governments (COAG)
Disability Reform Council

Consultation paper on quality and safeguarding in the National Disability Insurance Scheme (NDIS)

April 2015

Introduction

Services for Australian Rural and Remote Allied Health (SARRAH) welcomes the opportunity to provide a submission to the Council of Australian Governments (COAG) Disability Reform Council on the consultation paper on quality and safeguarding in the National Disability Insurance Scheme (NDIS).

SARRAH is nationally recognised as a peak body representing rural and remote allied health professionals (AHPs) working in the public and private sector.

SARRAH exists so that rural and remote Australian communities have allied health services that support equitable and sustainable health and well-being.

SARRAH also supports AHP's who live and work in rural and remote areas of Australia to confidently and competently carry out their professional duties in providing a variety of health services to people who reside in the bush.

SARRAH's representation comes from a range of AHP's including but not limited to: Audiology, Dietetics, Exercise Physiology, Occupational Therapy, Optometry, Oral Health, Pharmacy, Physiotherapy, Podiatry, Psychology, Social Work and Speech Pathology.

These AHPs provide a range of clinical and health education services to individuals who live in rural and remote Australian communities. AHPs are critical for the management of their clients' health needs, particularly in relation to chronic disease and complex care needs.

SARRAH maintains that every Australian should have access to equitable health services wherever they live and that allied health professional services are basic and fundamental to Australians' health care and wellbeing.

General Comments

SARRAH commends the COAG Disability Reform Council for their focus on a quality and safeguarding framework for the NDIS. The Consultation Paper identifies a range of areas which will impact on the quality and safety of the system. However, in addition to the areas raised in the consultation paper, SARRAH believes it is important to consider an underpinning matter that directly impacts on quality and safety, which is ensuring people with disability have access to the services they need.

In rural and remote areas of Australia access to services is not a straightforward matter in the way it is in metropolitan areas. People in rural and remote areas are all too familiar with the failure of systems to provide them with basic or minimum services, particularly where there is a reliance on market driven solutions. Consequently, SARRAH believes that the quality and safeguarding framework should incorporate a commitment or guarantee that there will be services provided in rural and remote areas. Further discussion of this issue is in our Additional Comments at the end of the submission.

Part 1: Proposed quality and safeguarding framework for the NDIS

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

SARRAH agrees with the NDIS Consultation paper in that, if the NDIS is going to work fairly and effectively, all people with disabilities will need "…. access to high-quality, meaningful and credible information about support options and providers." In the first instance all people with disabilities will need access to information in order to determine whether they are eligible to become NDIS beneficiaries. If they find they are eligible, they will then need to be able to access the information to help them apply to become participants of the scheme. Thirdly, they will require ready access to a Planner with thorough knowledge about barriers facing people with disabilities, services available in and to the participant's community and the NDIS and health systems. The quality of the Planner is critical to adequately inform the participant, support them to establish their own support plans, and choose appropriate disability providers who can meet their needs.

As briefly acknowledged in the Consultation Paper, many people in rural and remote areas of the country, particularly Aboriginal and Torres Strait Islander people and those from non-English speaking backgrounds, will require special attention if they are going to receive reasonable access to NDIS information they are comfortable with and can effectively utilise. However, little detail is provided in the Consultation Paper about how information will be made accessible to these remote area residents outside the Australian mainstream population.

It is SARRAH's view that targeted resources will need to be directed towards the development of culturally appropriate NDIS materials. These materials will then need to be disseminated to rural and remote communities through proactive strategies. SARRAH suggests this should be on a person-to-person basis, preferably by NDIS Local Area Coordinators (LAC) responsible for the different regions. Australians need assurance that there are sufficient LACs to effectively cover rural and remote regions. LACs should be able to present information broadly to community groups and specifically to people with disabilities in their regions and their family and carers. In particular, LACs will need to engage trusted local organisations in rural and remote communities for example, Aboriginal community controlled health services, to help get relevant information to appropriate individuals and families. Failure to provide such a hands-on approach will work against fair take-up of NDIS services by people in rural and remote areas.

SARRAH supports a nationally standardised NDIS system with guaranteed standards of care and safety assured on a national basis rather than state by state. Such a standardised system will need tailoring for people residing in rural and remote Australia to ensure the vital principle of access is upheld, starting with access to NDIS information in appropriate formats.

Related to the points above, will be a requirement in Aboriginal and Torres Strait Islander communities to produce information for family carers of people with disabilities as well as the individuals themselves. Family support and decision-making will be vital for successful NDIS service development in rural and remote areas, as no doubt it will be important in many urban contexts as well.

SARRAH supports the development of NDIS information which is empowering for people with disabilities and assists them make informed choices as consumers of disability services. People must be provided opportunities to self-advocate on the basis of a good understanding of their rights as people with disabilities. However, in the current context of a very limited supply of disability services in rural and remote areas, the first priority will be the provision of at least a basic range of quality disability services ahead of the issue of choice of services.

Key information required by residents in rural and remote areas under NDIS include clear guidelines on what should be expected of service providers, as well as clear and appropriate complaints mechanisms. Again, much of this information will be best presented face-to-face by the responsible LACs. Appropriate written information can be left behind, including links to relevant computer based information and websites, but the human touch will be paramount in rural and remote areas to ensure information is successfully received and applied.

1.2. How can the information system be designed to ensure accessibility?

With regard to accessibility of NDIS information, SARRAH's major concerns is for people from rural and remote areas, particularly Aboriginal and Torres Strait Islander people and those from non-English speaking backgrounds.

SARRAH supports the development of information in a range of formats, including the National Relay Service, Auslan and Braille. We also support the development of webpages that are compatible with mobile devices such as phones and tablets and that have information that is easily down-loadable. SARRAH supports the development of NDIS information in culturally appropriate formats, and particularly recorded information in languages relevant to different regions. It should be noted that written material in any language will not be useful to many people if they have poor literacy levels.

SARRAH asserts that interaction with a person will be imperative for successful information dissemination in many rural and remote communities. The best-positioned people to provide this information will be the LACs, and later the Coordinators of Support for individual participants. Provided there are sufficient numbers of these officers in rural and remote areas, they develop trusted professional relationships with the people with disabilities and family carers in their regions and should be well-placed to ensure NDIS information is targeted and effective. LACs should also strategically link to other health service providers in their regions to help carry information to prospective disability participants. LACs could conduct NDIS "expos" in their regions, but some guarantee of a minimum acceptable level of service support may be the best starting point in the new system before too much effort is directed to choice.

NDIS developments should always seek to make best use of current communications and information systems used by disability service providers and known to be effective.

SARRAH agrees that the priority types of NDIS information should centre on:-

1. Information on navigating the system and knowing your rights.
2. Information about support types and availability.
3. Information about service quality and choosing a provider.

To this list must be added clear information on determining eligibility for NDIS services in the first instance, and how to make a complaint if services are found to be wanting. Advocacy services will be important resources for many rural and remote area residents, therefore sufficient resources must be made available for this activity.

1.3. 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?

SARRAH supports the ability of NDIS participants to share information and their experiences of NDIS services. However, such information-sharing should in no way be relied upon as a means of maintaining quality control of NDIS service providers or the maintenance of standards under the scheme. Consumer information-sharing should only be in addition to standardised requirement for quality and safety of providers.

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

SARRAH believes that the key safe-guards for the NDIS should be built around the following priorities:-

- Ensuring the development of an efficient and user-friendly complaints mechanism for use of any NDIS participants against any NDIS provider.
- Providing sufficient independent advocacy to ensure best utilisation of available services or solutions development where there are service gaps.
- Providing and facilitating proactive supports for the disability sector with regard to information provision, training, and sector policy and development.

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

SARRAH supports the view that a Community Visitor scheme would provide participants with a network independent of the NDIA and providers. LACs and Coordinators of Support also have a part to play through enhancing opportunities for connecting participants with their community and supporting the community and providers to identifying people who have disabilities with limited supports.

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

SARRAH believes that the NDIA should promote and facilitate networks of service providers to come together for relevant training programs, information sharing forums and seminars. Even though service providers will be in competition for the delivery of services, they will also greatly benefit from sharing information and learning together. This would be particularly useful for providers delivering services in rural and remote settings.

Service providers must also be provided with ready information on disability services quality and safety standards and how best these may be obtained in order to qualify as an endorsed provider under the NDIS. Again, such an information and support unit should be based with the NDIA.

1.7. Should there be an independent oversight body for the NDIS?

SARRAH believes that given the risks and issues outlined in the Consultation Paper the NDIS must have an oversight and development body. The differences in the legal requirements and accompanying processes between jurisdictions is another reason the NDIS should have an independent oversight body. The NDIA could assume this role in relation to most aspects, particularly complaints against providers and serious/critical incidents. This would complement the NDIA's other roles. It would also provide for a nationally consistent approach, supplementing each jurisdiction's legal and regulatory frameworks.

The process of issues-raising with, or complaint against, the NDIA should be clear and efficient. Any appeals against NDIA policy decisions should be heard by a specially appointed NDIS Complaints Commissioner.

1.8. What functions and powers should an oversight body have?

SARRAH supports the NDIA, as the NDIS oversight body, being responsible for matters outlined earlier under section 1.4.

Part 2: Detail of key elements of the Quality and Safeguarding Framework

2. NDIA provider registration

Table1:Summaryofoptionsforregistration

Options	Basic legal requirements	Code of Conduct	Additional conditions	Quality evaluation	Quality assurance/ industry certification
Option1	Required	Required	Voluntary	Not	Voluntary
Option2	Required	Required	Required	Voluntary	Voluntary
Option3	Required	Required	Required	Required	Voluntary
Option4	Required	Required	Required	Required	Required

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

- **For the provider**

SARRAH believes it is important to establish a system that achieves a balance between ensuring the quality and safety of services paid for by the NDIS and enabling organisations to register to provide NDIS services without significant cost or requirements. SARRAH also supports a risk based approach to achieve such a balance.

SARRAH has a particular concern that smaller organisations and sole practitioners should be encouraged to provide services to the NDIS. AHPs may be in a position to provide services to the NDIS as a component of their practice. They will already be participating in quality and safety processes through their professional body and for other funders. AHPs are also qualified health professionals who often have experience in working with clients who are vulnerable. Imposing an additional requirement on these individuals and businesses may be a disincentive to their participation in the NDIS, which ultimately restricts choice for people with a disability. This is particularly a concern in rural and remote areas where fewer service providers operate.

Nevertheless SARRAH recognises that people with disability are vulnerable and that not all service provider staff will have experience or training in working with people with disability. Consequently, SARRAH would support a risk based approach being used for registration. Such an approach would have a minimum requirement (as per Option 1 or 2) for all providers. However, Options 3 and 4 would be required where the services being delivered are such that the person with disability requires more protection. SARRAH also believes that some safeguards are needed to ensure AHPs are appropriately supervised when operating as sole practitioners under the NDIS.

SARRAH has concerns that inexperienced practitioners may take up NDIS service provider opportunities with limited supervision arrangements in place to gauge the quality of practice and work to improve that practice. Traditionally newly qualified AHPs have been employed by Government services where they have worked structured and supervised teams to develop their skills safely. As state and territory Governments withdraw from the provision of disability services, there are reduced opportunities for inexperienced AHPs to gain the experience and skills they need to provide disability services in the NDIS. The NDIA should work with organisations such as SARRAH and professional associations to ensure newly qualified AHPs have mechanisms of professional support and development commensurate with their experience.

- **For the participant**

The code of conduct, if carefully constructed, will provide some safeguard (along with legal requirements), provided it is readily available and accessible for all participants and their advocates to measure the performance of service providers. There will need to be some avenue for advocacy, mediation if there are disputes, or complaints lodged. Community visitors may have a role here.

Certification to an industry standard will provide greater safeguards and increase the quality of the service that is delivered particularly where there is a greater risk to the NDIS participant. It should also be encouraged among all NDIS providers as a voluntary commitment. Participants will be able to make clearer choices about the qualities that are important to them as a consumer of services. Options, 3 and 4, are likely to have more relevance when applied to service providers providing high skills services and those of a hands-on or intimate nature.

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

The approach to provider registration should depend on the nature of the service which will relate to the risk of harm to the participant. The registration approach for services provided by AHPs should incorporate the accreditation or certification requirements already in place. Generally, given level of expertise and skill required of AHPs, certification would be appropriate.

Market forces can provide safeguards in some areas as people will choose service providers with a good reputation. However, in rural and remote areas these market forces may not exist. Care must be especially taken with the use of Fly In, Fly Out / Drive In, Drive Out (FIFO/DIDO) workers who are not open to the scrutiny of the community and there is limited oversight of the service being provided. To overcome this problem, FIFO/DIDO services should be linked to local trusted provider organisations so that a level of scrutiny of service provision can be provided.

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

Since some people are more vulnerable to exploitation than others, it may be necessary to have different levels of service safeguards. One option may be that the NDIS Planners are able to assess the level of the need of participants in terms of their vulnerability to risk and ensure that they are only able to utilise a provider who meets a higher level of safeguards such as a registered NDIS provider.

3. System for Handling Complaints

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

SARRAH believes there needs to be a complaints system independent of providers.

Participants and other service providers need multiple avenues complaint including:-

- the provider themselves

- the provider's professional body or association
- the NDIA
- a Complaints Commissioner.

Participants also need multiple means of expressing a complaint to ensure minimal barriers due to geography or disability.

As a national scheme, it is important for the NDIS complaints mechanism to be, wherever possible, consistent across all jurisdictions. SARRAH supports Option 3: Independent statutory complaints function through a separate complaints body, such as the Complaints Commissioner, so as to avoid a conflict of interest with the NDIA and to enable maximum transparency for the participant and provider.

3.2. 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 NDIS complaints system should cover all services that are paid for with NDIS funds, which may include providers who are not registered with the NDIS. This would ensure that where participants have to use a non registered provider because there are no services registered that meet their needs, they have access to the complaints system. However, participants must be advised to use registered providers wherever possible, and must be informed of their rights and responsibilities if choosing non-registered providers.

An NDIS complaints system should also ensure that registered NDIS providers are able to lodge complaints about the system. This process should not be onerous in administrative terms to the extent that small providers for example individual AHPs who may be disinclined to lodge a complaint.

3.3. What powers should a complaints body have?

A complaints body should have the following powers:-

- A process of interview and investigation, including hearings with the complainant and with the provider
- Referral to advocacy services
- De-registration of providers from the NDIS providers list
- Reporting to the provider's registration body, or similar, where applicable
- If fraud, or abuse are suspected or discovered, reporting to relevant statutory authorities.

4. Ensuring staff are safe to work with participants

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

SARRAH believes there need to be mechanisms in place to safeguard the rights of participants (people with a disability). A Community Visitor could contribute to such safeguards, but there would need to be adjustments made to the current Community Visitor schemes as there are gaps in the system. Community Visitors would need to be well trained around what quality support should look like and reporting systems would need to be in place. They could then contribute to a quality and safety audit process for the NDIS, whilst at the same time providing support to participants and service providers alike.

Community Visitors may also be in a neutral position to develop rapport with a person with disabilities which would assist in communicating any issues and therefore safe-guarding the rights of that person. Community Visitors would have a role in expanding the supportive networks of socially isolated participants and linking them into their communities.

Many participants are likely have generic support services in their life for example gardeners, cleaners, etc. so the introduction of a hotline would be a good idea to assist businesses/members of the public report any concerns. In particular a hotline may help constrain and prevent circumstances of abuse to people with a disability.

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

SARRAH asserts that the government has a duty of care to ensure providers who are paid NDIS funding are people of integrity and able to provide safety for their clients. Where there is low risk to participants, employers should make the decision about whether employees are safe to work with people with disability, based on a minimum requirement of a Schedule 1 National Policy Check. However, the NDIA should provide guidance to employers to assist their decision making. Some types of services or roles should have a more stringent requirement and the decision should rest with an independent screening agency that has access to a wider range of information than is accessible by an employer.

4.3. How much information about a person’s history is required to ensure they are safe to work with people with disability?

The NDIA should establish a system of checks on providers’ backgrounds (police checks, professional complaints), whilst at the same time being mindful of the right to confidentiality of providers. Any criminal history found should not be of a nature that could put an NDIS participant at risk. The greater the potential risk of harm to the participant, the greater need for a detailed process of checks to ensure integrity and safety occurs.

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

SARRAH supports a risk based approach to the screening of employees, with a minimum requirement for all providers of disability services under the NDIS undergo a Schedule 1 National Police check to ensure no history of criminality which may compromise safety for participants. In addition, broader checks/screening should be required for employees who provide services where there is greater risk of harm to participants.

5. Safeguards for participants who manage their own plans

5.1. 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?

In moving towards an open market and maximising consumer choice and control, people who manage their own plans should be able to choose unregistered providers of supports on an ‘at your own risk’ basis. The limitation on ‘own risk’ is the proviso that all providers being paid under NDIS funding should ensure their staff have undergone Schedule 1 National Police checks to ensure providers are of appropriate character.

It is important that requirements on providers, such as AHPs who are often sole practitioners are not a disincentive to register with the NDIS. To minimise the requirements, whilst still maintaining safeguards, the NDIA should accept that they are eligible through meeting professional standards for their own professions through either:-

- Registration through the Allied Health Practitioner Registration Agency (AHPRA); or
- For those whose professions are self-regulated, evidence that they are members of their peak professional body and participating in a voluntary professional regulation scheme.

Additional requirements to register as NDIS providers should be kept at a minimum limiting the administrative burden.

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

The NDIA should provide clear information about:

- the safeguards in place by choosing providers who are registered with the scheme; and
- how to vet providers who are not registered and what requirements they might request, such as a Working with Vulnerable People card.

6. Reducing and eliminating restrictive practices

SARRAH believes a holistic approach should be applied to the issue of restrictive practices, but that established best practice with an evidence base should be the standard aimed at and adhered to.

NDIA needs to undertake further work in this area and establish guidelines for practice that can guide any use of restrictive practice under the NDIS.

SARRAH supports the principle that all restrictive practices should be reported and then assessed for appropriateness and safety.

Additional Comments

SARRAH has a number of additional comments around quality and safety of the NDIS system which follow.

Lack of Access

The NDIS Consultation Paper document identifies two key risks for NDIS participants:-

- the risk that people with disability could receive poor quality supports that do not help them achieve their goals, and
- the risk that people with disability could be harmed in some way.

SARRAH argues there is third key risk, which is that the NDIS will not provide access to the supports that people with disability need. This risk has several dimensions:-

- some cohorts (such as people from culturally and linguistically diverse backgrounds and Indigenous Australians) will fail to access the NDIS or fail to have their needs addressed by the NDIS;
- the risk that people with disability will be ineligible for the NDIS due to medical conditions; and

- lack of services available in rural and remote areas.

This is not just an issue of quality of services, but basic access to the system and the services it seeks to make available.

Access for Indigenous Australians and people from CALD backgrounds:

While the Consultation Paper discusses the issue of information about the NDIS, SARRAH believes that access to the NDIS by these groups is significant risk and goes beyond providing information in appropriate formats. Communication and cultural understanding issues will impact on the ability of people from these backgrounds to have their needs identified, funded and then to identify a culturally appropriate service provider. People from these groups will be heavily reliant on NDIS planners and LACs, however there is a concern that there be sufficient people in these role. They will also need the skills and knowledge to consult, advocate and represent their clients effectively.

NDIS Eligibility and Medical Conditions

Another concern around access to the NDIS for people with disabilities relates to those people considered ineligible because they have a medical condition considered more primary to their circumstances than their disability. Many people with a primary medical condition such as renal failure or diabetes also experience disabilities. For example, a diabetic person with lower limb loss has a disability and will require supports to undertake activities of daily living. But they may not be eligible for NDIS services. This makes no sense and difficult to understand the distinction that is being applied. The NDIS eligibility criteria should ensure that all people with disabilities affecting their independent daily living functioning are covered in the system, irrespective of their medical condition.

The Challenge of Rural and Remote Service Provision

The challenges for rural and remote area service delivery are particularly acute where there is market failure for both disability businesses and NFPs who are not funded adequately to provide their services in remote areas. This is acknowledged in the Consultation Paper:-

"Issues facing the disability market will be intensified in regional and remote areas, where the market may not provide sufficient level of range or competition in support services because of insufficient demand in the area, limitations to the diversity of supports, workforce shortages and lack of infrastructure"

However no particular solutions are identified in the paper. This is a perennial issue faced in all kinds of service provider areas attempting to cater for people residing in rural and remote settings where urban models of service provision underpin program arrangements. It is not clear how the NDIS will address service gaps, and ensure the safety and quality of services where there is only one provider. SARRAH members have reported that services provided by State/Territory Governments are already being withdrawn in anticipation of the NDIS roll out. This will leave rural and remote areas particularly vulnerable to service gaps.

To address this concern, SARRAH supports the special funding arrangements under the NDIS to ensure people residing in rural and remote areas are able to access relevant disability support services. Such special funding arrangements must cover the cost of travel, travel time and accommodation (if required) of disability providers delivering their services to clients living in these settings. In addition, there will need to be special coordination efforts applied in rural and remote areas to ensure that, where disability providers are providing services in these locations, this is done in the most cost-efficient manner and with a high level of coordination so that as many relevant clients in the area are serviced by the disability provider visiting that location. This may result in some reduction in individual choice for some clients, but this will be a necessary trade-off to keep costs under control.

SARRAH also supports maintaining State/Territory governments as default providers of disability support services in these areas where it has traditionally been difficult to provide people with disability supports and where the NDIS is also likely to struggle. This approach could be used as a transitional arrangement while the sector has time to develop and adapt solutions to the needs of rural and remote communities.

Conclusion

SARRAH believes that the NDIS must achieve a balance between quality and safety mechanisms that protect participants and mechanisms that do not create disincentives for providers to register with the NDIS.

SARRAH has identified some specific concerns that are likely to affect the NDIS in rural and remote communities of Australia, particularly the difficulty in providing access to services, and enabling AHPs to provide services in the NDIS.

SARRAH would welcome the opportunity to work with Governments and other stakeholders to address the issues we have raised and explore solutions in more detail.