

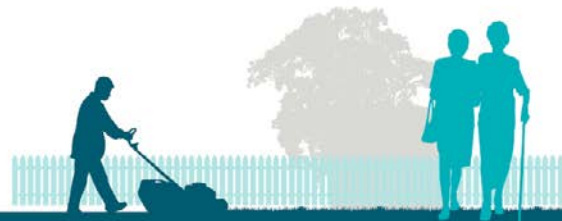


Australian Government
Department of Social Services

National Disability Insurance Scheme (NDIS) - Code of Conduct

Discussion Paper

DSS 2122.05.17



Contents

Introduction.....	1
About this paper.....	3
Contributing to this consultation.....	3
Glossary of terms.....	4
1 Part 1	7
1.1 Why we need an NDIS Code of Conduct.....	7
1.2 What is included in the NDIS Code of Conduct?.....	8
1.3 Who will be covered by the NDIS Code of Conduct?	10
1.3.1 Registered providers.....	10
1.3.2 Unregistered providers	10
1.3.3 Providers delivering partners in the community services, information, linkages and capacity building (ILC) activities and Commonwealth Continuity of Support (CoS) Programme services.....	11
1.3.4 Workers.....	11
1.4 How will the NDIS Code of Conduct be applied?	12
2 Part 2	13
2.1 Promote individual rights to freedom of expression, self-determination and decision-making	13
2.2 Actively prevent all forms of violence, exploitation, neglect and abuse.....	16
2.3 Act with integrity, honesty and transparency.....	19
2.4 Provide supports in a safe and ethical manner with care and skill.....	22
2.5 Raise and act on concerns about matters that may impact on the quality and safety of supports provided to people with disability	25
2.6 Respect the privacy of people with disability.....	28
2.7 Not engage in sexual misconduct.....	30
2.8 Keep appropriate records.....	33
2.9 Maintain adequate personal and professional liability insurance appropriate to the risks associated with the supports provided	35
Appendix A – Process of Code of Conduct Investigation and Enforcement.....	36
Appendix B – General principles under the NDIS Act.....	37

Introduction

The Australian Government is committed to supporting high quality and safe supports for people with disability. This commitment is demonstrated by the introduction of the *Disability Discrimination Act 1992*, Australia's ratification of the *United Nations Convention on the Rights of Persons with Disabilities* in 2008 and, more recently, by the development of the *National Disability Strategy 2012-2020* and the roll-out of the National Disability Insurance Scheme (NDIS).

The NDIS represents a fundamental change to how supports and services for people with disability are funded and delivered across Australia. It empowers people with disability to have more choice and control over the services and supports they use to achieve their goals. The NDIS is progressively rolling out around Australia over the next two years.

A new national NDIS Quality and Safeguarding Framework (the Framework) has been developed to ensure the rights of people with disability are upheld and the services and supports provided through the NDIS are safe.

The Framework was endorsed by the Council of Australian Governments on 9 December 2016 and publically released by the Disability Reform Council on 3 February 2017. It is available at www.dss.gov.au/ndisqualitysafeguards. The Framework was developed in consultation with stakeholders, including people with disability, carers, providers and peak bodies. Public consultation helped to inform the final Framework.

The Framework includes the following new national functions:

- a Code of Conduct;
- provider registration, including quality assurance;
- a complaints handling system;
- reportable incident notification;
- behaviour support and restrictive practice oversight;
- investigation and enforcement; and
- nationally consistent worker screening.

The NDIS Code of Conduct will be a central element of the Framework. It will encapsulate the rights of people with disability in the NDIS to have access to safe and ethical supports. It will additionally reflect the core values and principles set out in National Standards for Disability Services.

The Code of Conduct will be overseen by the new NDIS Quality and Safeguards Commission, which was announced by the Commonwealth Government on 9 May 2017. The Commission will have powers to enforce action where providers or workers have engaged in unacceptable behaviours.

The purpose of this paper is to consult on the development of the Code of Conduct with people with disability, carers, providers, workers and the broader community. This means implementation will be designed to help people with disability exercise choice and control, while minimising the risk of harm to people with disability and make sure high quality supports are provided through the NDIS.

The Framework will be implemented to align with the full scheme roll-out of the NDIS. This means it will begin operating in New South Wales and South Australia in July 2018; and in remaining states except Western Australia (WA) in July 2019. In WA it will operate from 2020.

About this paper

This paper continues the conversation with stakeholders about a Code of Conduct for the NDIS. Part 1 of the paper explores the need for an NDIS Code of Conduct, how the Code of Conduct will protect people with disability, and how it will support providers and workers. It addresses the following questions:

1. Why do we need an NDIS Code of Conduct?
2. What is proposed to be included in the NDIS Code of Conduct?
3. Who will be covered by the NDIS Code of Conduct?
4. How will the NDIS Code of Conduct be applied?

Part 2 of this paper expands on the draft NDIS Code of Conduct. It explains each obligation in detail and provides scenarios demonstrating how the obligation applies to providers and workers.

Contributing to this consultation

We welcome your ideas and feedback on the draft NDIS Code of Conduct. This Discussion Paper is published online and is also available in Easy English and audio formats.

If you would like to contribute, please complete the survey, or upload a submission, at www.engage.dss.gov.au

The closing date for completing surveys and uploading submissions is **5pm (AEST), 21 June 2017**.

Your input, along with others who complete the survey or provide submissions, will be considered as we finalise the Code.

If you have any additional questions about this consultation please email NDISQualitySafeguards@dss.gov.au.

Glossary of terms

Term	Description
Carer	Someone who provides personal care, support and help to a person with disability and is not contracted as a paid or voluntary worker, often a family member or guardian.
Choice and control	A participant has the right to make their own decisions about what is important to them and to decide how they would like to receive their supports and from whom.
Commonwealth Continuity of Support (CoS) Programme Services	Disability support programmes, included in the Commonwealth Continuity of Support (CoS) Programme, which will continue once the NDIS is introduced, to ensure people accessing these services will continue to access the same supports if they do not become a participant in the NDIS.
Complaints handling system	A function of the Commission for receiving and responding to complaints from participants, carers, workers and the broader community about NDIS-funded supports and services. See 'NDIS Quality and Safeguards Commission'.
Early Childhood Early Intervention approach (ECEI approach)	The approach of the NDIS that provides support for children aged 0-6 years to reduce the effects of disability and to improve the person's functional capacity into the future.
Full scheme	The dates when the NDIS will be available to all eligible residents.
Information, Linkages and Capacity building services (ILC services)	The component of the NDIS that provides information, linkages and referrals to efficiently and effectively connect people with disability, their families and carers, with appropriate disability, community and mainstream supports.
Investigation and enforcement	A function enabling the Commission to assess and take action to address issues of non-compliance as they arise. See 'NDIS Quality and Safeguards Commission'.

Term	Description
Local Area Coordinators (LACs)	Local organisations working in partnership with the National Disability Insurance Agency (NDIA), to help participants, their families and carers access the NDIS. LACs will help participants write and manage their plans and also connect participants to mainstream services and local and community-based supports.
National Disability Insurance Agency (NDIA)	The Commonwealth government organisation administering the NDIS.
National Disability Insurance Scheme (NDIS)	A new way of providing reasonable and necessary, person-centred supports for Australians with a permanent and significant disability to enable them to live an ordinary life.
National Disability Insurance Scheme (NDIS) Quality and Safeguarding Framework (the Framework)	A framework of nationally consistent measures and requirements to minimise the risk of harm to people with disability and to ensure high quality support through the NDIS.
National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission (the Commission)	A new, independent Commonwealth body responsible for implementing the Commonwealth functions of registration; complaints and reportable incidents; and oversight of behaviour support under the Framework.
National Disability Insurance Scheme (NDIS) worker screening	A screening process under the Framework that will determine whether an individual or prospective worker will pose an unacceptable risk to people receiving a service. See 'the NDIS Quality and Safeguarding Framework'.
Participant	A person who meets the NDIS access requirements and receives supports under the NDIS.

Term	Description
People with disability	People who have any or all of the following: impairments, activity limitations (difficulties in carrying out usual age-appropriate activities), and participation restrictions (problems a person may have taking part in community, social and family life).
Provider	Someone who offers products or services to help participants achieve the goals in their plan.
Provider registration, including quality assurance	The process under the Framework that determines if a provider is able to deliver services to support participants as a registered provider under the NDIS. This includes the quality of the supports being delivered to the participants in order to meet their needs and expectations. See 'NDIS Quality and Safeguards Commission'.
Registered provider	A disability support provider that has met the NDIS requirements for qualifications, approvals, experience, capacity and quality standards to provide a product or service. See 'Provider'.
Reportable incident notification	A requirement for registered providers to notify the Commission of a serious event which threatens the safety of participants or others, or that involves an act of fraud. See 'NDIS Quality and Safeguards Commission'.
Restrictive practice oversight	A function of the Commission that monitors the use of interventions which restrict the rights or freedom of movement of a person with disability who displays behaviors of concern, with a view to reducing and eliminating these practices. See 'NDIS Quality and Safeguards Commission'.
Self-management (funding)	Participants who receive all or part of their NDIS funding and manage their payments for supports and pay their providers directly.
Service provider	See 'Provider'.
Supports	Things that help a person undertake daily life activities and enable them to participate in the community and reach their goals.

1 Part 1

1.1 Why we need an NDIS Code of Conduct

A commitment to strive for excellence and ensure quality in the NDIS market must come from workers, providers, regulators, professional associations, people with disability, their family and carers and the wider community. Safe and high quality outcomes for people with disability receiving NDIS supports and services are influenced by how well all of these groups work together and engage with each other.

To ensure the safety and quality of supports within the emerging NDIS market, it is important that national standards of conduct are set for all providers and workers. A Code of Conduct helps promote safe and ethical service delivery. It can have both a preventative effect, by clearly setting out expectations of providers and workers, and a corrective effect, enforcing the compliance of providers and workers who engage in unacceptable conduct in the NDIS market.

A Code of Conduct also serves to:

- reinforce the Australian Government's commitment to ensuring people with disability are afforded their human rights;
- provide people with disability and their families with an understanding of what they can expect from NDIS funded supports and services;
- enable the NDIS Quality and Safeguards Commission (the Commission) to apply sanctions or remedial action to the worker and/or the provider if the Code of Conduct is breached;
- engage a broad range of providers and workers in being part of a quality and safe NDIS workforce through shared values and behaviours; and
- meet community expectations that institutional mechanisms are in place to deal with poor quality and unsafe practices.

1.2 What is included in the NDIS Code of Conduct?

As part of the consultation on the NDIS Quality and Safeguarding Framework, stakeholders' said that the NDIS Code of Conduct should reflect the core tenets of the National Standards for Disability Services. These include respecting people with disability, listening to and being guided by what a person wants, respecting people's right to privacy and prohibiting behaviours that may cause harm. Stakeholders also identified the need to address the possibility of behaviours that may not constitute a crime, but which should never be acceptable in the context of the NDIS, such as: exploitative or otherwise unethical treatment; neglect; and vengeful or deceptive behaviour in response to a complaint or incident.

In developing the Code of Conduct, consideration has been given to broader policy, legislative and regulatory environments including:

- *The United Nations Convention on the Rights of Persons with Disabilities*
- *The National Disability Strategy 2012-2020*
- *The National Disability Insurance Scheme Act 2013*
- *The National Standards for Disability Services*
- *The National Standards for Mental Health Services*
- *The Australian Consumer Law*
- Disability discrimination legislation
- Carers recognition legislation
- Work health and safety legislation
- *The National Plan to Reduce Violence Against Women and their Children 2010-2022*
- *The National Framework for Protecting Australia's Children 2009-2020.*

In addition to the broader legislative context, the obligations in the Code of Conduct also align with the overall objectives of the NDIS Quality and Safeguarding Framework. These objectives are to ensure NDIS supports:

- uphold the rights of people with disability, including their rights as consumers;
- facilitate informed decision making by people with disability;
- are effective in achieving person-centred outcomes for people with disability in ways that support and reflect their preferences and expectations;
- are safe and fit for purpose;
- allow participants to live free from abuse, violence, neglect and exploitation; and
- enable effective monitoring and responses to emerging issues as the NDIS develops.

The proposed Code of Conduct will require workers and providers delivering NDIS supports to:

- 1. Promote individual rights to freedom of expression, self-determination and decision-making;**
- 2. Actively prevent all forms of violence, exploitation, neglect and abuse.**
- 3. Act with integrity, honesty and transparency.**
- 4. Provide supports in a safe and ethical manner with care and skill.**
- 5. Raise and act on concerns about matters that may impact on the quality and safety of supports provided to people with disability.**
- 6. Respect the privacy of people with disability.**
- 7. Not engage in sexual misconduct.**
- 8. Keep appropriate records.**
- 9. Maintain adequate personal and professional liability insurance appropriate to the risks associated with the supports provided.**

The obligations in the Code of Conduct are broad to account for the diversity of ability among, and requirements of, NDIS participants. This includes diversity of race, ethnicity, disability, age, sexuality, gender identity, intersex status and relationship status. Each of these obligations are presented with commentary about their purpose, and explained by the use of scenarios in Part 2.

1.3 Who will be covered by the NDIS Code of Conduct?

The Code of Conduct will apply to all providers and workers who are funded under the NDIS, regardless of whether they are registered, or whether they receive funding through individual plans or contracted services. This includes:

- registered NDIS providers;
- unregistered NDIS providers;
- providers delivering partners in the community services, including local area coordinator (LAC) and early childhood early intervention (ECEI) services;
- providers delivering information, linkages and capacity building (ILC) activities;
- providers delivering Commonwealth Continuity of Support (CoS) Programme services; and
- workers providing NDIS funded supports or services.

The term 'providers' includes key personnel such as any person with responsibility or influence over planning, directing or decisions, including board members and other stakeholders of significance.

1.3.1 Registered providers

Providers registered under the NDIS will be obliged to comply with the Code of Conduct as part of the NDIS registration requirements.

A compulsory orientation module will be introduced for registered providers delivering supports, and all workers of registered providers engaged in the delivery of NDIS funded supports. This extends to allied health professionals providing NDIS funded supports (who could undertake this as part of their continuing professional development requirements). Information on the Code of Conduct and its requirements will be included as a topic in this orientation module.

1.3.2 Unregistered providers

Participants who self-manage their funding and registered plan managers are able to engage unregistered providers to deliver services. Unregistered providers will also be subject to the Code of Conduct if they are receiving NDIS funding for their services.

Information about the Code of Conduct, and how to comply, will be available to all participants. Self-managing participants will be strongly encouraged to provide information about the Code of Conduct and its obligations to any unregistered providers they engage.

1.3.3 Providers delivering partners in the community services, information, linkages and capacity building (ILC) activities and Commonwealth Continuity of Support (CoS) Programme services

These providers include those engaged by the National Disability Insurance Agency (NDIA) by contract to deliver local area coordinator (LAC) services, early childhood early intervention (ECEI) services, information, linkages and capacity building (ILC) and those engaged to provide Commonwealth Continuity of Support (CoS) programme services. For these providers, compliance with the Code of Conduct will be included in their contract with the relevant Commonwealth agency.

1.3.4 Workers

Workers involved in providing NDIS funded supports or services in any capacity are considered to be in the NDIS sector and will be required to comply with the Code of Conduct. This includes employees, contractors, consultants, volunteers and people who are self-employed.

Workers who are members of a professional association and required to comply with an existing professional code of conduct, such as nurses, psychologists and health care workers, will also be required to comply with the NDIS Code of Conduct. The NDIS Code of Conduct has been developed with reference to other relevant codes to ensure a consistent definition of acceptable practice, with minimal additional burden on workers. If a person is subject to a professional code of conduct, the Commission will coordinate any regulatory activity with the professional body or other regulator, as appropriate, to ensure there is no duplication and manage any overlapping areas of regulation. If a professional is found not to have complied with their own professional standards in providing NDIS supports or services, they may also have breached the NDIS Code of Conduct.

1.4 How will the NDIS Code of Conduct be applied?

The legislation establishing the Commission will require providers and workers to comply with the standards and obligations contained in the Code of Conduct.

Anyone will be able to make a complaint about NDIS funded supports, including breaches of the Code of Conduct. This includes participants, family members, friends, providers, workers and advocates. In the first instance, people should contact the relevant service provider to make complaints. All providers are required to have complaints management systems in place and most complaints can be quickly and effectively resolved with the relevant provider. In cases where the problem is not resolved by the relevant provider, or when the person does not feel comfortable talking to the provider about the problem, complaints should be directed to the Commission.

The Commission will operate with a 'no wrong door' policy and any complaints outside of the scope of the Code of Conduct and Commission will be referred to the relevant agency.

Registered providers will also be required to notify the Commission of reportable incidents, including incidents involving abuse, neglect, violence and/or exploitation. The Commission will also have 'own motion' powers to commence an investigation as a result of any information it receives. The Commission may investigate and will address any issues which may indicate a breach of the Code of Conduct fairly and efficiently.

There may be circumstances where a worker is directed by a provider to do something that may constitute a breach of the Code of Conduct. In such circumstances, the intention is to be able to consider the conduct of both the worker and the provider against the requirements of the Code of Conduct.

If a provider is found to have breached the Code of Conduct, the Commission will be empowered to take a range of compliance and enforcement actions proportionate to the seriousness of the breach. Such action may include training and education, warnings and directions for breaches of a less serious nature. In more serious cases, it may lead to a provider facing civil penalties, enforceable undertakings, revocation of registration or ban orders. Conduct involving individual workers may be taken up with the provider, referred to their professional body, and/or may trigger a re-assessment of a worker's NDIS worker screening clearance to deliver services involving more than incidental contact under the NDIS.

Where an alleged criminal act is involved, the matter will also be referred to the police.

2 Part 2

The scenarios outlined in this Part provide examples of situations that might arise during service provision and how the Code of Conduct might be applied. They are meant to be illustrative rather than exhaustive. The Commission will provide further guidance on how to comply with the expected requirements once the Code of Conduct is finalised. All scenarios appearing in this paper are fictional. Any resemblance to NDIS participants, workers or providers is purely coincidental.

2.1 Promote individual rights to freedom of expression, self-determination and decision-making

This obligation includes the following expectations:

- Always treat people with disability with dignity and respect and value their contribution to society.
- Adhere to the rights, standards and principles underpinning the NDIS, and the *United Nations Convention on the Rights of Persons with Disabilities*.
- Communicate in a form, language, and manner that enables people with disability, and their carer where required, to understand the information provided and make known their feelings and preferences.
- Take into account the expressed needs, values, and beliefs of people with disability including those relating to culture, religion, ethnicity, gender, identity, age and disability.

NDIS supports and services must place people with disability at the centre of service delivery. All people with disability have the inherent right to freedom of expression and the right to make decisions about and exercise control over their own lives.

It is a requirement that people with disability receive appropriate information delivered in an accessible way to enable them to make choices about their supports. In providing supports it is important to be open to reasonable requests from people with disability in order for supports and services to be appropriate and sensitive to their needs. Reasonable requests include correspondence in writing or services delivered by support workers of a certain gender.

To live free from discrimination is a fundamental human right. People with disability must not be discriminated against on the basis of race, ethnicity, disability, age, sexuality, gender identity, intersex status, or relationship status. NDIS funded workers and providers need to accommodate any requests relating to individual differences as far as possible in the course of delivering NDIS supports and services. Providers and workers must engage with people with disability and their support networks to enable them to design the delivery of their

supports in a manner that is consistent with their values, culture, beliefs and identity.

General principles guiding actions expected in the course of providing NDIS supports and services under this obligation include those which are set out in sections 4 and 5 of the *National Disability Insurance Scheme Act 2013*, at Appendix A.

Scenario 2.1.1 – Provider

AI, an NDIS participant, purchased disability supports to help with his daily personal care. Respecting his religious beliefs, he asked his service provider to ensure the workers undertaking these activities were male. However, AI found that the majority of workers rostered on to support him were female and he did not feel comfortable accepting their support. This meant his personal care needs were left unattended, creating a great deal of distress for him and his family.

Underlying the difficulty was that AI felt unheard, disrespected and described feeling a loss of dignity. This pattern continued for several months, even though AI and the family regularly communicated their distress to his service provider. With the encouragement of a family friend, AI formally lodged a complaint with the Commission.

The Commission was able to facilitate a discussion between the service provider, AI and his family. All parties became better informed of each other's needs. The service provider explained how difficulties in recruiting workers impacted on the providers' ability to provide gender specific support workers at times. However, the Commission found AI's request for male support workers to be reasonable and that the service provider had breached the Code of Conduct. The provider was required to formally apologise to AI and his family and establish processes to ensure male support workers were available to meet AI's needs.

Scenario 2.1.2 – Worker

Juanita is deaf and communicates mostly using Auslan, her first language, and written English, her second language. She is 20 years old and has a goal to prepare for university studies. In her NDIS plan, she receives funding for services to help reach this goal. Juanita engages Education Ready to provide the relevant services. She informs them that she is deaf and requests that an Auslan Interpreter be engaged for any face-to-face meetings. Juanita is assigned Susan as her support worker and they arrange an initial appointment.

Juanita attends the first appointment at Education Ready to find that an Auslan Interpreter is not present. Although Juanita would prefer an Interpreter be present, she also feels bad that she is asking for extra assistance and so she agrees to go ahead with the meeting as best they can.

Juanita finds that without information provided in her first language, she cannot properly understand the differences between the service options offered to her. When pushed to choose a package, she agrees to the one Susan recommends without really understanding how it is more suited to her needs than the other options. She also experiences difficulties clearly communicating her preferences to Susan. Two days later, Juanita receives a service plan which she feels does not reflect her required services or the type of career she is interested in pursuing. Feeling dissatisfied with the service offered by Education Ready, Juanita emails the manager to make a complaint.

The manager of the centre finds that Susan has not followed Education Ready's guidelines for providing reasonable adjustments to support clients with disability. The manager quickly apologises to Juanita and assigns her a new support worker who has experience working with people who communicate using Auslan. Education Ready also provides additional training to Susan on diversity awareness and the processes they have in place for ensuring all clients' needs are met.

2.2 Actively prevent all forms of violence, exploitation, neglect and abuse

This obligation includes the following expectations:

- Providers and workers must be committed to eliminating violence, exploitation, neglect and abuse against people with disability, including through their own actions.
- Providers should have policies that define violence, exploitation, abuse and neglect and workers should familiarise themselves with such guidelines.
- Providers and workers need to ensure appropriate systems and procedures are in place and followed to prevent violence, exploitation, neglect and abuse from occurring.
- Providers need to ensure their staff have appropriate supervision and training to make sure workers are able to identify, monitor and act when situations arise which could lead to harmful incidents.
- Providers and workers must report incidents of violence, exploitation, neglect and abuse to the Commission and/or any other authorities, including the police, as appropriate.

People with disability can be at increased risk of violence, exploitation, neglect and abuse. This is due to a variety of reasons including dependence on others for care and support, social isolation, their place of residence (including shared living arrangements), lack of services and supports, and the nature of their disability, particularly those affecting communication.

Recent inquiries, including the Commonwealth *Senate Inquiry Report into violence, abuse and neglect against people with disability in institutional and residential settings*, and work being done in state-based inquiries, confirm that people with disability are subject to violence, neglect and abuse more than other Australians. Such inquiries also highlight that more can be done at all levels to address the risk of harm to people with disability. This includes providers adopting an individualised approach to support participants and developing better ways to prevent, detect and respond to violence, exploitation, neglect and abuse.

Scenario 2.2.1 – Provider

Disability Home Care provides 24 hour support to people with disability living in shared accommodation. They provide supports in a property where advocacy worker Ahmed has been engaged by one of the residents at the house to provide support on a legal matter unrelated to the NDIS. One day Ahmed visits the house to find two of the residents wrestling on the lounge room floor and another banging his head against the wall. There are two support workers in the kitchen at the far end of the house preparing the evening meal. After Ahmed and the two support workers calm the situation down, the support workers tell Ahmed that the residents often get rowdy when they are left alone but they have too many household chores to complete and cannot always be in the same room. Additionally, they feel unable to intervene if residents become highly agitated as there are only two staff members in attendance during the afternoon shift.

Ahmed discusses the situation further with his client who tells him there are often violent incidents at the house. Ahmed contacts Disability Home Care to make a complaint. He is told they will investigate and will undertake any action required. After four weeks, there have been no changes to the staffing arrangements and Ahmed's client tells him about another violent incident occurring in the house.

Ahmed contacts the Commission anonymously to make a complaint. After the Commission investigates, they find Disability Home Care has failed to put systems in place to prevent violence and abuse in the home. Disability Home Care is directed to immediately increase the staffing levels in the home and to adequately train all their staff in best practice service provision to minimise the risk of violence occurring. For example, supporting residents to carry out daily chores, rather than the workers completing chores for them, increases residents' control over their everyday lives and minimises the time residents are left unsupervised.

Scenario 2.2.2 – Worker

Dut has intellectual and physical disability and has limited speech. He uses a communication board to talk to his support workers from A1 Support Centre. His new disability support worker Monique is proactive in making the communication board available when asking Dut for preferences. However, Monique often leaves Dut to complete an activity while she does other tasks and at these times Dut cannot make himself heard if he has a problem.

When another support worker, Hien, arrives to relieve Monique she finds Dut very agitated sitting in the lounge room with the television on. He has thrown his communication board across the room and is visibly upset. Hien explains to Monique that Dut is frustrated because he cannot communicate any needs when she is out of the room and he only has the communication board available. Hien shows Monique a bell which she always leaves in Dut's reach if she needs to leave the room.

2.3 Act with integrity, honesty and transparency

This obligation includes the following expectations:

- Providers and workers must only recommend and provide supports and services that meet the needs of a person with disability.
- A worker must provide truthful information as to his or her qualifications, training or professional affiliations.
- A worker must not use his or her possession of a particular qualification to mislead or deceive people with disability or the public regarding his or her competence in a field of practice or ability to provide supports.
- Providers and workers must not make false claims about the efficacy of their supports, services or products.
- Providers and workers must not ask for, accept or provide any inducement, gift or hospitality that may affect or be seen to affect the way NDIS supports or services are provided. This includes as part of referral arrangements with other providers.

Providers and workers must not ask for, or accept, money or gifts from participants, or other clients, including carers, that will benefit the worker directly or indirectly. In the course of delivering NDIS supports and services, providers and workers are expected to act with honesty and integrity at all times. This includes avoiding any actions or situations which are inconsistent with community standards and professional obligations. The need to act with integrity, honesty and transparency underpins the Code of Conduct and is required in any consideration of conduct under any of the other standards.

People with disability, their family and carers, and the broader community have a right to accurate and timely information about the cost and efficacy of a support. This includes information which may assist them in making an informed decision, such as the qualifications, training or professional affiliations of a worker or provider.

This means that providers and workers must keep people with disability informed about support arrangements, and make clear the limits of their knowledge, including making reasonable checks to ensure the information they give is accurate.

Where a conflict of interest arises, providers and workers are expected to be open about the conflict, declare their interest, and be prepared to exclude themselves from providing NDIS supports and services.

Providers and workers must place the interests and needs of participants first, ahead of their own financial interests. There are a number of ways in which providers or workers may exploit people with disability they support for financial or other gain. The most obvious is in the supply of services, supports and

equipment which are for purposes other than for the benefit of the participant. People with disability in situations of long term dependence are particularly vulnerable to this type of exploitation.

Scenario 2.3.1 – Provider

Kumi's daughter, Akiko has cerebral palsy and has provision in her NDIS plan to receive occupational therapy supports. They visit OT Supports to discuss therapy options. The provider tells her that they can offer a new type of therapy, which hasn't been used in Australia yet, but is providing very promising outcomes for children with cerebral palsy overseas. The provider gives Kumi some brochures about the therapy, which all have OT Supports branding on them. Kumi is excited to read that the new therapy can minimise symptoms of cerebral palsy so much that children are re-assessed as 'cured' of cerebral palsy.

Kumi tells Akiko's physiotherapist about the new therapy they are starting with OT Supports. The physiotherapist has not heard of the therapy and, after looking at the brochures, is concerned by the claim that it can 'cure' cerebral palsy. That night the physiotherapist does some research on the new therapy and finds that some small studies in the USA have found promising results for targeting some cerebral palsy symptoms. However, the therapy is yet to be adequately tested on enough people to be proven to be effective and it is unknown whether there are any adverse effects from the therapy. Additionally, the therapy has not been endorsed by any relevant Australian professional organisation. The physiotherapist is concerned by the claims OT Supports makes to their clients and sends the brochures to the Commission.

The Commission investigates and finds that OT Supports' brochures are misleading. As the therapy is not in line with good practice standards, the Commission rules that the therapy cannot be funded by the NDIS as a purchased support and also notifies the Australian Health Practitioner Regulation Agency (AHPRA). The Commission directs OT Supports to stop publishing the brochures and to discuss the risks and limitations on evidence for the therapy with their clients. The Commission also issues OT Supports with a breach of the Code of Conduct for providing misleading information to participants and refers the case to the Australian Competition and Consumer Commission. They also provide OT Supports with educational material about good practice standards in the NDIS.

Scenario 2.3.2 – Worker

Jenny has an intellectual and physical disability and lives in supported disability accommodation with two other people with disability. She has high support needs and receives much of her support through Hall Disability Support, where Mena has been her primary support worker for the last 12 months. Jenny enjoys her relationship with Mena and thinks of Mena as her friend.

Jenny's grandmother dies and leaves her a small inheritance. Jenny initiates many conversations with Mena about the money and what she could spend it on. Mena tells Jenny that she enjoys working with her, but she doesn't make enough money to make ends meet and will have to move on to other work unless she can get more money. Jenny offers to give her some of her inheritance, so Mena can keep working with her. Mena accepts the offer.

Shuai is another support worker who works for a different provider, supporting another member of the household. She overhears Mena giving Jenny her bank account details and confronts them about it. Shuai tells Mena it is unethical to accept money from Jenny and tells Jenny not to give her any of her inheritance. Jenny says she can do what she likes with her own money and she wants to give it to Mena. Shuai contacts Hall Disability Support to complain about Mena's conduct.

Hall Disability Support investigates the matter and finds that Jenny has transferred \$2000 to Mena. They stand Mena down and direct her to return the money to Jenny. The provider reports the incident to the NDIS Commission who refers it to the relevant worker screening unit to re-assess Mena's suitability to work with people with disability.

2.4 Provide supports in a safe and ethical manner with care and skill

This obligation includes the following expectations:

- A provider or worker must maintain the necessary competence in the types of supports and services they provide.
- A provider must offer reasonable supervision and take reasonable steps to ensure workers are competent and supported to perform their role.
- A provider must ensure workers have access to all equipment and resources appropriate to safely deliver supports or services.
- A provider or worker must not provide supports of a type that is outside his or her expertise or training, or provide supports or services that he or she is not qualified to provide.
- A worker must not provide supports or services to people with disability while under the influence of alcohol or drugs.

When a person with disability seeks supports, they expect providers and workers to have expertise in providing the relevant services. It is essential that providers and workers maintain competence in their field and recognise the limits of their competence.

If a provider engages workers to provide NDIS funded supports or services, the provider is required to ensure workers are offered reasonable supervision and to ensure workers are competent and qualified to provide the supports and have access to appropriate equipment and resources. This may include professional development through education and training, practice improvement and performance appraisal processes to continue to develop and improve practice.

Workers are also prohibited from providing services or supports while under the influence of drugs or alcohol. Workers who are taking prescription drugs that may affect their ability to support participants are required to obtain advice from the prescribing practitioner or dispensing pharmacist and declare it to their employer or the participant if they are engaged directly by them. If advice from the prescribing practitioner or dispensing pharmacist indicates that their ability to work may be impaired, workers must not provide services or supports while their ability may be impaired.

Scenario 2.4.1 – Provider

Sabina is a wheelchair user and an NDIS participant. She purchases support from Informed Disability Care to assist her with community involvement and performing tasks outside her home, including shopping. One day Uta, a support worker from Informed Disability Care, collects Sabina in an Informed Disability Care van to take her to her weekly choir practice.

While her wheelchair is being lifted into the van, the wheelchair lift gives way and the wheelchair falls and tips onto its side, with Sabina seated in it. Uta is unable to lift the wheelchair upright and calls an ambulance for assistance. Sabina does not sustain any significant physical injury but is very shaken by the incident.

Sabina becomes too scared to use vehicle wheelchair lifts and cancels her support from Informed Disability Care. She tells her Local Area Coordinator she will stop attending community events that require riding in a vehicle, including her participation in the local choir. Her Local Area Coordinator is concerned by this and encourages Sabina to make a formal complaint to the Commission about the incident.

The Commission investigates and discovers that the wheelchair lifts fitted to Informed Disability Care vehicles are not suitable for the type of wheelchair Sabina uses. They also find that at the time of the incident, Uta had not received any training on how to use this type of wheelchair lift, and had not used in-built safety features which could have prevented such an incident occurring. They also find she had not received any work safety training, including training on steps to take after an emergency situation.

While investigating the incident, the Commission also finds Informed Disability Care has a number of other clients who also use wheelchairs which are beyond the recommended weight limit of the wheelchair lifts fitted to their vehicles. Further, they frequently send out new support workers unsupervised to work with clients, before they have received adequate training.

The Commission finds Informed Disability Care is putting both participants and workers at risk by not providing adequate equipment, training or supervision for their workers. To maintain their NDIS registration, Informed Disability Care is directed to upgrade the wheelchair lifts fitted to their fleet of vehicles and provide all its workers with work safety training. A condition is placed on Informed Disability Care's registration that they not provide affected services until the direction has been met. No adverse findings are made against individual workers.

Scenario 2.4.2 – Worker

Carlos has an intellectual disability. David is a personal support care worker who is employed by She'll be Right Care. David supports Carlos to participate in community events, including enjoying local football games. While at the football one day, David consumes alcoholic drinks. At the end of the game, David drives Carlos home, as he normally would do as part of his support to Carlos. However, they are involved in a minor car accident. David is breathalysed and found to be over the legal limit. David is charged with drink driving offences by the police.

Carlos recounts the incident at a self-advocacy group he attends once a month. The advocacy worker facilitating the group is concerned about the incident and assists Carlos to make a complaint to the Commission. The Commission investigates and finds that not only was David guilty of consuming alcohol while providing support to Carlos, he had previously been disciplined for a similar incident. His employment with She'll be Right Care is terminated as a result of the latest incident. The Commission refers the matter to the state worker screening unit who reassesses David's clearance to work with NDIS participants.

2.5 Raise and act on concerns about matters that may impact on the quality and safety of supports provided to people with disability

Providers and workers are obliged to raise and act on concerns about the quality or safety of NDIS supports and services. Providers should contact the Commission with concerns, noting that registered providers will be required to notify the Commission of any reportable incidents as part of their registration requirements. This includes any incident involving violence, exploitation, neglect and abuse. Unregistered providers are also encouraged to report incidents of concern on a case-by-case basis to the Commission.

Workers should raise concerns with their employer in the first instance and are encouraged to contact the Commission if their concerns are not adequately addressed. Workers who contact the Commission with concerns will be protected by whistle-blower provisions in the legislation establishing the Commission.

People with disability need to feel safe to make a complaint or provide negative feedback without fear of adverse consequences or loss of service. This obligation includes the requirement for all providers to have a clear process in place to address complaints or disputes from people with disability, and their families, carers, friends and advocates. Providers should have established a range of opportunities to seek feedback, ranging from day-to-day feedback, formal consultation and engagement, regular satisfaction surveys or consumer groups.

Feedback about supports and services, which includes compliments and complaints, create opportunities for continuous improvement and to address risk, harm, conflict, and misunderstandings. The complaints resolution process can help to clarify the expectations of participants and obligations of providers.

The Commission will address complaints and reportable incidents in a way that acts in the best interest of the participant. This may involve working with those directly affected to help find solutions. The focus of this process will be to uphold the rights of people with disability, including ensuring their safety, and continuously improving the quality of NDIS funded supports and services.

Scenario 2.5.1 – Provider

Lilah's son Ezra has Fragile X Syndrome and is an NDIS participant. Lilah manages her son's NDIS plan. She engages an unregistered provider, Oliver Twist Speech Pathology, to provide her son with speech pathology services because they are highly recommended by other parents she knows who have children with Fragile X Syndrome. Lilah is happy with the service she receives from Oliver Twist Speech Pathology and feels her son's speech is improving with their support.

While engaging in play-based therapy, Ezra's therapist leaves the room to get more resources. While she is out of the room, Ezra throws a toy box in the air, which lands on his head and causes a deep cut on his forehead. Lilah is called in from the waiting room and she takes him to hospital where he requires three stitches.

Lilah is upset that her son was able to injure himself while in the care of a trained therapist and later that same night, emails a complaint to Oliver Twist Speech Pathology. The manager of the centre calls Lilah the next morning and makes a time to discuss the incident. The centre manager and therapist involved in the incident meet with Lilah to formally apologise to Lilah and Ezra, explain the circumstances surrounding the incident and outline the steps the provider is taking to ensure it does not happen again.

The provider uses the incident as a learning opportunity to improve their practice. They instigate changes to their processes to ensure therapists have all required resources in the room prior to sessions beginning and facilitate discussions with all their staff reinforcing the importance of never leaving children unattended while in their care. Oliver Twist Speech Pathology is not an NDIS registered provider so does not need to notify the Commission of the incident as a part of their reporting requirements. However, in line with best practice, they forward on their internal incident report to the Commission to inform them of the incident.

Scenario 2.5.2 – Worker

Salim is 13 years old and has autism. He can become frustrated when unable to complete some activities which occasionally cause verbal outbursts. When this happens, Salim's respite care support provider, Illustration Care, has instructed its workers to walk away and ignore any requests made by Salim.

Lachlan is a new support worker contracted by Illustration Care to work with Salim. He is concerned about this practice because Salim can become very distressed and makes frequent requests to call his parents when he is upset. Lachlan has also observed Salim's behaviour escalating after he has been left alone. Lachlan discusses his concerns with his supervisor who assures him that it is standard practice. Lachlan feels dissatisfied with this response and makes an anonymous complaint to the Commission about Illustration Care's treatment of Salim.

The Commission makes enquiries about how Illustration Care and its workers manage complex behaviours and finds that the direction to workers to ignore Salim's requests to speak to his parents is a failure to respect his human rights. They work with Illustration Care and the NDIA to ensure Salim receives funding in his NDIS package for a behaviour support practitioner to formulate a behaviour support plan and also direct Illustration Care to undertake training on the management of complex behaviours. The Commission monitors Illustration Care's progress implementing the behaviour support plan. Lachlan's anonymity is protected by the whistle-blower protections in place and Illustration Care is unaware of who made the complaint to the Commission.

2.6 Respect the privacy of people with disability

People with disability have the right for their privacy and dignity to be respected. This obligation reflects the legal requirement that applies to all providers and workers to comply with Commonwealth, state and territory privacy laws to protect the confidentiality of personal information gathered during the course of providing NDIS supports or services.

Providers and workers must not disclose any personal details about a person with disability without consent. This includes referring to participants, their disability or support they are receiving in any marketing or communication products without consent.

Scenario 2.6.1 – Provider

Essentials Health Services offers holistic mental health services in a regional area of Australia. Some of their clients are NDIS participants and some receive services funded through the health system. Essentials Health Services also receives ILC funding from the NDIA to run group activities.

As a new initiative, Essentials Health Services begin a newsletter to keep their clients better informed about services and events in their local area. The first newsletter they send out goes to all current and past clients. However, when it is sent out, all the email addresses are visible in the 'to' field of the group email. Many clients are upset as they're identifiable to other clients by their email addresses. A number of clients complain to the provider, the Commission or the Privacy Commissioner. Essentials Health Services immediately emails an apology for the breach of privacy to all clients, this time ensuring the email addresses are hidden. They strengthen the processes in place to ensure that group emails and other procedures which require the use of client details adhere to privacy laws. They also work with individuals who have been upset by the privacy breach to ensure they receive the support they need. The Privacy Commissioner issues them with a warning and the Commission issues them with a breach of the Code of Conduct. The Commission monitors the steps Essentials Health Services take to improve their practice around adhering to privacy laws, and report back to the Privacy Commissioner.

Scenario 2.6.2 – Worker

Danielle has been diagnosed with multiple sclerosis. She works in a clothing store and has not told her employer about her diagnosis. She was worried about what they would think and she did not think that it is relevant to her job as she currently manages her condition well. One day, a psychologist, Martina, who had previously provided support to Danielle attended the store. When Danielle went to work the next day, she found that Martina had mentioned the diagnosis to her employer. Danielle makes a complaint to the Commission.

Martina is not a registered provider of NDIS supports but was providing supports to Danielle funded under her NDIS plan. The Commission begins an investigation and also refers the matter to the Psychology Board of Australia and to the Privacy Commissioner. The Commission finds that Martina breached Danielle's privacy and recommends disciplinary action by the Psychology Board of Australia. Martina is required to undertake training in privacy laws in order to maintain her professional registration and apologises to Danielle.

2.7 Not engage in sexual misconduct

Sexual misconduct is a broad term encompassing any unwelcome behaviour of a sexual nature. This includes physical and verbal actions committed without consent or by force, intimidation, coercion, or manipulation. It includes sexual violence and exploitation but is not limited to actions which constitute a criminal offence.

People with disability can be at increased risk of sexual assault and exploitation. This risk can be particularly high for women and children, and for people with physical, intellectual or psychosocial disability.¹ The support relationship between a worker and participant relies on a high degree of trust. All forms of sexual misconduct constitute a breach of that trust and a breach of the Code of Conduct.

Examples of sexual behaviour that constitute a breach of the Code of Conduct by a worker are:

- sexual, personal or erotic comments;
- comments about a person's private life, sexuality or the way they look;
- sexually suggestive comments or jokes;
- requests to go out on dates;
- requests of a sexual nature, including to remove clothing, for sexually explicit photographs or for sexual activities;
- sexually explicit emails, text messages or posts on social networking sites;
- inappropriate touching, including with the implication that it has a therapeutic benefit; and
- ignoring or encouraging sexual behaviour between participants which is non-consensual or exploitative.

Where an alleged criminal act is involved, the matter will be referred to the police, in addition to any action taken by the Commission. All sexual behaviours directed towards children are unacceptable and constitute a criminal offence.

There are some professions where prohibitions on close personal, physical or emotional relationships are also contained in the professional standards or code of conduct applying to the relevant profession. Workers or providers found not to have complied with a professional code or standard regarding sexual misconduct in the course of providing NDIS supports or services will also be regarded as breaching the NDIS Code of Conduct.

¹ *Sexual assault and adults with a disability; Enabling recognition, disclosure and a just response*. ACSSA Issues No. 9 – September 2008; Royal Commission into Institutional Responses to Child Sexual Abuse: www.childabuseroyalcommission.gov.au

Scenario 2.7.1 – Provider

Dev lives in specialist disability accommodation and has difficulty communicating. He receives 24 hour support from workers employed by Wiley Home Support. Dev's sister, Sameera, comes to visit regularly, and after a change in overnight support workers, she notices Dev's behaviour has changed. He begins exhibiting more challenging behaviours, including sexualised behaviours. She talks to Dev's case worker, Austin, who shares her concerns and says he'll look into it. The next day he calls her to say the problem has been dealt with and the worker he had concerns about has been moved to a different home. She asks why he wasn't fired and why they haven't called the police. Austin says they didn't have enough evidence to dismiss the worker or get the police involved.

Sameera is relieved the worker will not be working with Dev any longer. However, she is upset that he has not been held accountable for his actions and concerned that other people with disability may be exposed to the worker as he still works for Wiley Home Support. She contacts the Commission for advice.

The Commission begins an investigation into the conduct of Wiley Home Support and its workers. They find four previous complaints have been made to the provider about the conduct of the worker in question, two of which include allegations of sexual assault. Despite this the worker is still employed as a support worker for night shifts, where he is left unsupervised with people with disability. They additionally uncover a broader pattern with Wiley Home Support moving on problem workers as the way of addressing concerns raised. The Commission refers the matter to the police, de-registers Wiley Home Support and bans the provider and their key personnel from being able to provide NDIS supports. The Commission also notifies the relevant worker screening unit so they can conduct a re-assessment of the individual worker.

Scenario 2.7.2 – Worker

Aisha, an NDIS participant, has a support worker, Peter, who visits every Wednesday to clean her apartment. Peter is very talkative and friendly and often gives Aisha compliments.

One Wednesday, Peter invites Aisha to go to her local café with him for lunch and she accepts. During lunch, Peter makes sexually suggestive comments and jokes. Peter's behaviour is despite having attended induction training on professional conduct at work and his employer having clear guidelines on unacceptable behaviours when working with clients, which include not asking clients out on dates and not using sexually explicit language around clients.

Aisha feels very uncomfortable after the lunch and contacts Peter's employer to make a complaint. The provider who employs Peter commences an investigation and notifies the Commission. Following the investigation, Peter is required to attend training and apologise to Aisha. Peter writes a letter of apology to Aisha explaining it was not his intention to make her feel uncomfortable. While Aisha accepts his apology, she is not comfortable working with Peter and she finds a new support worker. The Commission notes the outcome and records the event to see if a pattern of behaviour emerges in relation to Peter's conduct that would require further action.

2.8 Keep appropriate records

Providers and workers must maintain accurate, legible and up-to-date records of NDIS supports and services provided and ensure that these are held securely and not subject to unauthorised access.

The purpose of this obligation is to set minimum standards of conduct for workers and providers in relation to keeping appropriate records with regards to NDIS participants. Registered providers may also have additional obligations in relation to record keeping, for example, in relation to reportable incidents as part of their registration. Records are kept for a variety of purposes, including to record supports provided, information related to clients, communicate to other providers, record incidents or to satisfy legal requirements. Records are also an important audit tool to monitor the quality and safety of supports and manage the acquittal of NDIS funding.

Maintenance of accurate, legible and contemporaneous records is also a valuable tool for a provider to use in addressing any concerns about NDIS funded supports. All records need to comply with relevant privacy and security measures to ensure the confidentiality of information relating to people with disability and their families.

Scenario 2.8.1 – Provider

Dmitry is employed by Engage Care to provide support to people with disability and others in maintaining their independence. Dmitry has a driver's licence and often drives participants to appointments. When another worker calls in sick, Engage Care asks Dmitry to drive Nathan, an NDIS participant Dmitry has not met before, to an appointment with his counsellor. Dmitry checks Nathan's records before arriving at his home and uses the GPS on his phone to navigate the way to the counselling appointment. Nathan has severe post-traumatic stress disorder from his time in the army and his health professionals have advised Engage Care to avoid visiting or driving past the war memorial. Dmitry drives past the war memorial on the way to the counselling appointment which upsets Nathan. His counsellor complains to the Commission as Nathan had been making good progress and she considers the drive with Dmitry has set him back. The Commission investigates and finds that Engage Care failed to include the information provided by health professionals about the need to avoid the war memorial in Nathan's records. Engage Care is found to have breached the Code of Conduct and apologises to Nathan. The Commission directs Engage Care to conduct an independent audit of their record keeping.

Scenario 2.8.2 – Worker

Josef is an NDIS participant who requires a PEG feeding tube to gain sufficient nutrition. He has a nurse, Tara, from Nursing Inc. visit weekly to maintain his feeding tube. Over the course of three months Josef experiences multiple complications related to the feeding tube. On one visit, Josef's mother, Ana-Maria, says his stomach appears to be causing him particular discomfort. Tara carries out additional procedures during the visit to ensure there are no blockages in the feeding tube and takes additional steps to treat possible infection. She also advises that if Josef's symptoms get worse, he should see a doctor. Josef's condition steadily worsens over the next two days. He develops a high fever and Ana-Maria takes him to the hospital emergency ward. The hospital finds a serious infection in Josef's stomach and he is admitted to hospital for treatment.

The hospital contacts Nursing Inc. to obtain Josef's relevant case notes so they understand the history of the problem and the precautions already taken by Nursing Inc. to treat the most recent infection. On collating Josef's case notes, the manager at Nursing Inc. finds the case notes from Tara's most recent visit are incomplete. They make no mention of concerns raised by Ana-Maria or the extra procedures Tara carried out as a result of these. Her notes are also missing some basic information about the visit, such as visiting time.

The manager at Nursing Inc. talks to Tara who confirms that Josef's feeding tube has been problematic and outlines the extra steps she carried out on her last visit as a result of the concerns raised by Ana-Maria. Tara agrees to confirm this in a signed statutory declaration to forward on to the hospital within an hour and apologises to her manager for the incomplete case notes. Tara's manager also uses the information provided by Tara to fill out a reportable incident form and pass this on to the Commission, in line with their requirements.

Nursing Inc. conducts an audit of Tara's case notes and finds she does not always fill out case notes to the standard specified in their guidelines on case notes and record-keeping. She is required to undergo re-training on note taking and record-keeping and is issued with a caution.

2.9 Maintain adequate personal and professional liability insurance appropriate to the risks associated with the supports provided

Appropriate indemnity insurance ensures that people with disability who are injured in connection with NDIS supports and services are able to receive fair and sustainable compensation. The costs can be substantial and in the absence of adequate compensation through insurance arrangements, these costs are born by the individual, their family and by the community. The provider or worker concerned may also bear significant costs associated with defending legal action and in payment of compensation to an injured client.

Both registered and unregistered providers are required to hold adequate insurance. As the Code of Conduct is intended to cover a wide range of providers with different risk profiles, it is not appropriate for the Code to specify the level of insurance cover that would be required.

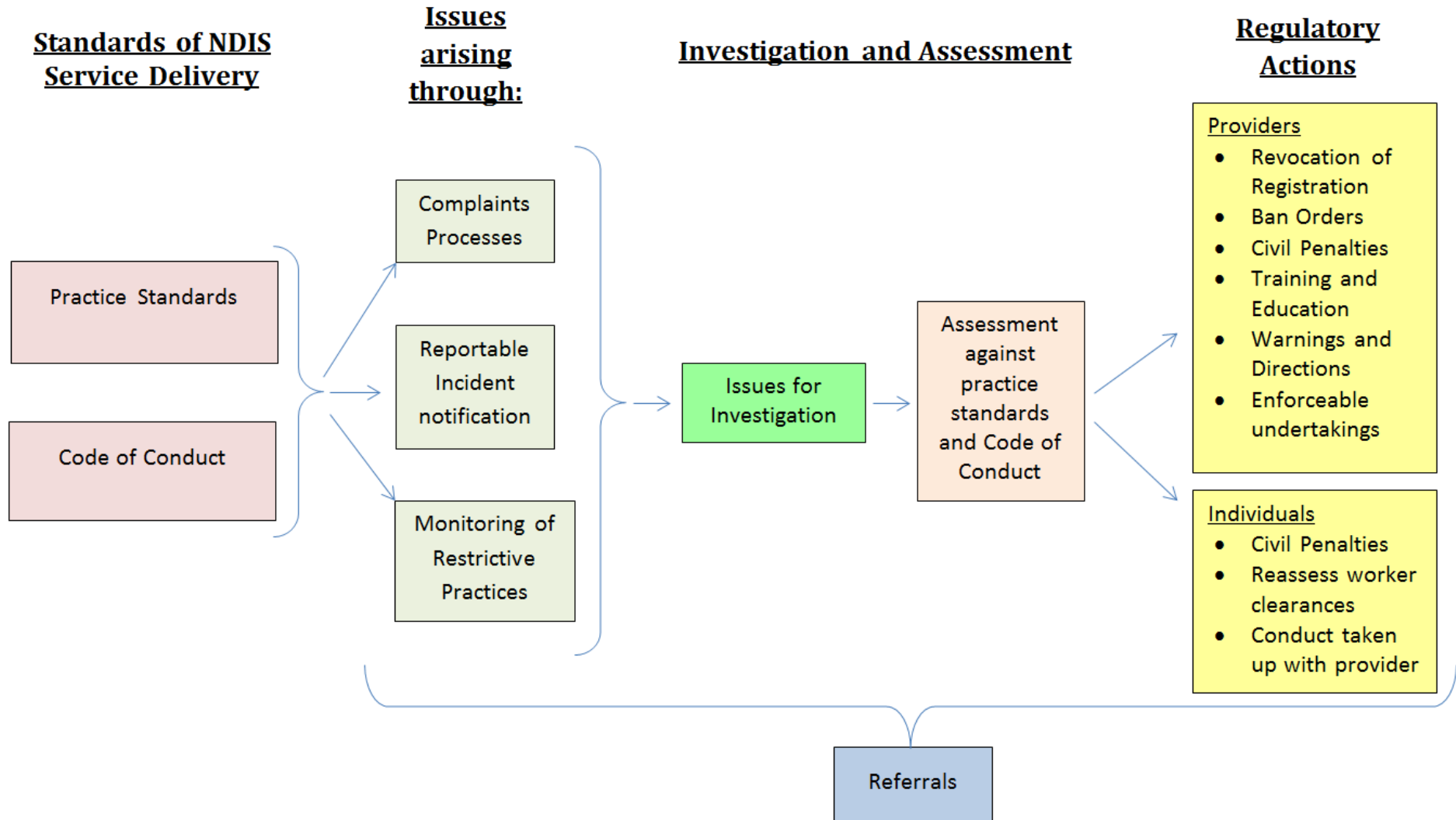
Workers providing NDIS supports and services would be expected to be covered by their employer's insurance arrangements. They do not need to hold individual insurance, so a scenario demonstrating this is not presented for this obligation. However, those who are in independent private practice, including the self-employed and sole traders, would be expected to hold insurance in their own name and to ensure that their level of cover is adequate for the type of services they provide and the associated level of risk. Advice is generally available from professional associations on such matters.

Scenario 2.9.1 – Provider

Alex is vision-impaired and has recently accepted a new job in a non-profit organisation. He requires training to navigate the way from the train station to his new workplace and engages Sydney Vision Assistance using NDIS funding to provide it. While undertaking the training with a worker from Sydney Vision Assistance, Alex falls down the stairs and breaks his arm. As a result he cannot work for six weeks. Sydney Vision Assistance does not have insurance to cover his medical expenses and loss of income during his recovery. Alex contacts the Commission for help.

The Commission finds a breach of the Code of Conduct and as a result Sydney Vision Assistance offers to pay for the costs incurred by Alex in connection with the injury. Sydney Vision Assistance also undertakes to obtain further insurance to cover the risk of injury to participants associated with its activities and the worker is required to undertake further training to prevent similar events happening in the future.

Appendix A – Process of Code of Conduct Investigation and Enforcement



Appendix B – General principles under the NDIS Act

4. General principles guiding actions under the National Disability Insurance Act 2013

- (1) People with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development.
- (2) People with disability should be supported to participate in and contribute to social and economic life to the extent of their ability.
- (3) People with disability and their families and carers should have certainty that people with disability will receive the care and support they need over their lifetime.
- (4) People with disability should be supported to exercise choice, including in relation to taking reasonable risks, in the pursuit of their goals and the planning and delivery of their supports.
- (5) People with disability should be supported to receive reasonable and necessary supports, including early intervention supports.
- (6) People with disability have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation.
- (7) People with disability have the same right as other members of Australian society to pursue any grievance.
- (8) People with disability have the same right as other members of Australian society to be able to determine their own best interests, including the right to exercise choice and control, and to engage as equal partners in decisions that will affect their lives, to the full extent of their capacity.
- (9) People with disability should be supported in all their dealings and communications with the Agency so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs.
- (10) People with disability should have their privacy and dignity respected.
- (11) Reasonable and necessary supports for people with disability should:
 - a) support people with disability to pursue their goals and maximise their independence; and
 - b) support people with disability to live independently and to be included in the community as fully participating citizens; and

- c) develop and support the capacity of people with disability to undertake activities that enable them to participate in the mainstream community and in employment.

(12) The role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and respected.

(13) The role of advocacy in representing the interests of people with disability is to be acknowledged and respected, recognising that advocacy supports people with disability by:

- a) promoting their independence and social and economic participation; and
- b) promoting choice and control in the pursuit of their goals and the planning and delivery of their supports; and
- c) maximising independent lifestyles of people with disability and their full inclusion in the mainstream community.

(14) People with disability should be supported to receive supports outside the National Disability Insurance Scheme, and be assisted to coordinate these supports with the supports provided under the National Disability Insurance Scheme.

(15) Innovation, quality, continuous improvement, contemporary best practice and effectiveness in the provision of supports to people with disability are to be promoted.

(16) Positive personal and social development of people with disability, including children and young people, is to be promoted.

(17) It is the intention of the Parliament that the Ministerial Council, the Minister, the Board, the CEO and any other person or body is to perform functions and exercise powers under this Act in accordance with these principles, having regards to:

- a) the progressive implementation of the National Disability Insurance Scheme; and
- b) the need to ensure the financial sustainability of the National Disability Insurance Scheme.

5. General principles guiding actions of people who may do acts or things on behalf of others

It is the intention of the Parliament that, if the *National Disability Insurance Scheme Act 2013* requires or permits an act or thing to be done by or in relation to a person with disability by another person, the act or thing is to be done, so far as practicable, in accordance with both the general principles set out in section 4 and the following principles:

- (a) people with disability should be involved in decision making processes that affect them, and where possible make decisions for themselves;
- (b) people with disability should be encouraged to engage in the life of the community;
- (c) the judgements and decisions that people with disability would have made for themselves should be taken into account;
- (d) the cultural and linguistic circumstances, and the gender, of people with disability should be taken into account;
- (e) the supportive relationships, friendships and connections with others of people with disability should be recognised;
- (f) if the person with disability is a child—the best interests of the child are paramount, and full consideration should be given to the need to:
 - (i) protect the child from harm; and
 - (ii) promote the child's development; and
 - (iii) strengthen, preserve and promote positive relationships between the child and the child's parents, family members and other people who are significant in the life of the child.