

21 June 2017

The Hon Christian Porter MP
Minister
Department of Social Services
Tuggeranong Office Park
Soward Way
Greenway ACT 2900

By email to: [online submission]

Dear Minister Porter

Re: National Disability Insurance Scheme Code of Conduct

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback on the proposed Code of Conduct for the National Disability Insurance Scheme ('the NDIS Code'). The RANZCP represents around 3700 psychiatrists in Australia, many of whom have specific interest and expertise relevant to this matter.

The RANZCP strongly supports the NDIS Code as a mechanism of ensuring safe, respectful and effective service delivery to people with disability. This will be essential in protecting the human rights of participants, guarding against the abuse and neglect of people with disability, and in ensuring people with disability have access to services with strong foundations in person-centred care and supported decision-making.

The RANZCP maintains a [Code of Ethics](#) ('the RANZCP Code', currently under review) which applies to all Fellows, trainees and associates of the RANZCP. It is also recommended for those who practise psychiatry in Australia and New Zealand independently of the RANZCP. The RANZCP Code shares many of the same values as the NDIS Code including professional integrity, the provision of high-quality care, including appropriate recordkeeping, non-discrimination, protection from exploitation, recognition of the roles of families and carers, and respect for confidentiality and human dignity. While the RANZCP Code does not include any particular requirement for personal and professional liability insurance, it is a legal requirement for medical practitioners, including psychiatrists, to possess professional indemnity insurance before they initially register as a medical practitioner as well as on an annual basis. Notably, psychiatrists also have legal obligations with regard to recordkeeping. For these reasons, the RANZCP strongly supports the foundational values of the NDIS Code.

The discussion paper notes the wide range of professionals who will come under the scope of the NDIS Code, including registered providers and workers in the NDIS sector who do not provide direct supports. The RANZCP notes that unregistered providers who are engaged by self-managing participants and/or registered plan managers to provide services will be bound by the NDIS Code, despite not receiving funds from the NDIS directly. Many psychiatrists who provide supports within the scope of the NDIS are likely to come under this category. The RANZCP is therefore pleased to note that the discussion paper acknowledges the need to encourage self-managing participants to provide information about the NDIS Code to unregistered providers with whom they engage. Ensuring that this happens will be essential to ensuring that all service providers, including health practitioners are aware of their responsibilities.

In the RANZCP's view, some of the obligations could be improved with further inclusions:

- *Actively prevent all forms of violence, exploitation and abuse* – Providers should have adequate training in identifying, reporting and managing abuse/neglect in people with disability, supported by appropriate organisational policies/procedures.
- *Act with integrity, honesty and transparency* – Explicit reference could be made of the obligation for providers to use NDIS funds and cooperate with other providers with integrity, honesty and transparency.
- *Raise and act on concerns about matters that may be impact on the quality and safety of supports provided to people with disability* – Providers should develop clear policies on gifts and clear procedures with regard to reporting concerns.

The RANZCP would also like to provide comment on the seventh obligation of the NDIS Code which is that people should 'not engage in sexual misconduct'. Section 2.7 later defines sexual misconduct as 'physical and verbal actions committed without consent or by force, intimidation, coercion, or manipulation'. The RANZCP Code has a similar though more stringent provision, noting that 'sexual relationships between psychiatrists and their current and former patients are always unethical'. This is in recognition of the inherent imbalance of power in therapeutic relationships between psychiatrists and their patients, as well as the potential vulnerability of many people living with mental illness.

As a final point, the RANZCP applauds the NDIS Code's acknowledgment of freedom from discrimination as a fundamental human right. Section 2.1 notes that people with disability must not be discriminated against on the basis of their 'race, ethnicity, disability, sexuality, gender identity, intersex status, or relationship status'. The RANZCP would encourage rephrasing this sentence to acknowledge that this is not an exhaustive list, and that professionals bound to follow the NDIS Code should not discriminate against people with disability on the basis of any aspect of a person's identity, lifestyle, beliefs or values, including their mental health status, cultural heritage, religious/spiritual beliefs or criminal history.

If you would like to discuss any of the issues raised in this submission, please contact Rosie Forster, Senior Department Manager, Practice, Policy and Partnerships via rosie.forster@ranzcp.org or by phone on (03) 9601 4943.

Yours sincerely



Dr Kym Jenkins
President