

# **NDIS CODE OF CONDUCT**

**Submission to the  
Department of Social Services**

Date 19-06-2017



## About One Door Mental Health

One Door is a specialist mental health recovery organisation, with a 32 year history, committed to improving access to services and the circumstances of people living with severe and complex mental illness.

One Door delivers trauma-informed recovery-oriented psychosocial support programs for carers and consumers. We provide NDIS services, psychosocial community mental health programs, specialist mental health Disability Employment Services (DES), care coordination, housing, clinical and peer supported services. Each year, 10 000 people, across 33 sites in NSW and ACT, access our services.

Many of the programs that are fundamental to our ability support people in their recovery are among those that are currently transitioning into the NDIS. This includes crucial services provided through the Personal Helpers and Mentors program (PHaMs), Partners in Recovery (PIR), Day to Day Living (D2DL) and Mental Health Respite Carer Services (MHR-CS).

One Door delivers services and coordinates community psychosocial care for people across silos of sectors, funding and policy through the building of relationships and trust with other providers, funding bodies and most importantly, individuals and the communities they live in.

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*Who are we?*

**31**

31 years of serving people with a mental illness and their carers

**320**

320 staff members



92% job satisfaction

**400**

More than 400 active volunteer workers



74% of staff have lived experience as a consumer or carer



More than 10,000 people accessed our services in the last 12 months



More than 6,000 outreach calls made

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## The NDIS Code of Conduct

As a grass-roots community mental health organisation and NDIS provider, One Door is well placed to provide feedback on the proposed Code of Conduct for the NDIS based on our staff and client's experiences.

A key frustration for people living with a mental illness, their carers and service providers is the lack of consistency between policy, implementation and experience of the NDIS. Given the potential range of service provision for an individual with an NDIS package and the vulnerability of some individuals with a psychosocial disability, the development of a Code of Conduct is vital.

A number of amendments to the draft Code of Conduct will significantly improve the ability of such a document to protect people's rights and outline responsibilities for providers and workers. For example, a statement regarding the period for review of the Code of Conduct in response to ongoing feedback generated through roll-out of the scheme is needed in order to ensure that emerging issues are incorporated as they arise.

Consultation with NDIS participants and their carers regarding their NDIS package is poor from the outset. This is despite the fact that "choice and control" is a fundamental principle of the NDIS. The Code of Conduct should seek to strengthen the requirement for providers and workers to actively seek to understand what a person with a disability and/or their carer consents to, their needs, values, beliefs, will and preferences relating to service provision.

### 1.3 Coverage of the Code of Conduct

It is important that the range of people who are involved in service provision and receiving services are adequately covered by a Code of Conduct. In the proposed Code of Conduct, NDIA employees are a notable exclusion. The Code should consistently be applied to registered, unregistered providers, Local Area Coordinators (LACs) and NDIA employees.

As outlined in the discussion paper, many of the providers and workers covered by the proposed Code of Conduct are also covered by other codes of conduct within their professional area. This should be no different for the NDIA, who are also subject to an NDIA Operational Guideline-General Conduct. Inclusion of NDIA employees is warranted given that stakeholders have consistently raised concerns about the lack of understanding of psychosocial disability and poor consumer engagement by NDIA Planners, which in our experience has resulted in client distress and even hospitalisations.

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

One Door considers that the proposed Code of Conduct does not explicitly communicate the need for providers and workers to actively seek and provide information, provide clear guidance and respect for NDIS participants. This could be strengthened by:

- Articulating the responsibilities of providers, workers, LACs (and NDIA employees) to actively seek to provide accurate information to participants and their carers. For example 2.1(4) should read:

*"actively seek information regarding the needs, values, beliefs, will and preferences of the person with a disability and their carer(s) or family."*

- A greater emphasis placed on consideration of participants as well as their carers and their families. For example, 2.1(4) does not take into account the needs, values and beliefs of a carer or family. Further examples include 2.3(1).

### **2.3 Act with integrity, honest and transparency**

One Door has concerns regarding the practice of providers withholding information with the intent of misleading a person as to their rights in choice and control of their package. This includes:

- Providers and workers stating that they are the service provider, misleading participants about their ability to choose providers.  
The addition of a statement as follows would strengthen the Code: *"providers must not seek to mislead or withhold information from participants, their carers or families regarding their right to choice and control over who provides a service to them under the NDIS"*
- Examples of conflicts of interest which have not been disclosed to an individual.  
This could be addressed with the addition of:  
*"providers and workers must declare conflicts of interest in an open and transparent manner"*
- Where providers offer only the choice of service for an individual they deem as preferred, rather than services that meet the needs of the individual.  
This could be addressed with: *"providers and workers must only provide supports and services that meet the needs of a person with disability within their contracted arrangements"*.

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

There is an important balance to be established between the requirements for qualifications and experience when providing services under the NDIS. For example, peer workers for support of people living with a psychosocial disability will form an integral part of the NDIS workforce in the future. In such a case, the draft Code of Conduct does not allow for the provision of service based on the lived experience of a worker. 2.4(4) should be amended to:

*"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 experienced or qualified to provide"*.

### **2.6 Respect the privacy of people with disability**

One Door strongly supports the inclusion of respect for privacy and dignity for people with an NDIS package, their carers and families. It is worth noting however, that even before service provision has occurred, there is potential for breaches of privacy for people accessing community support services.

Section 55 of the *National Disability Insurance Scheme Act 2013* (NDIS Act)<sup>1</sup> outlines powers of the NDIA to obtain participant, prospective participant and provider information pertaining to a list of matters, including client personal contact information, diagnosis, number of visits with the provider, if they have reasonable grounds.

This request for data is based on the assumption that all our clients are deemed to be prospective clients without their direct application or expressed wishes to be participants. This request circumvents clients from refusing the NDIA to access their personal information.

<sup>1</sup> National Disability Insurance Scheme Act 2013.

Respect for the privacy and dignity of individuals needs to be maintained at all times, which includes prior to accessing the NDIS. There is also potential for misuse of a participant's data when a worker changes employers; retaining client information and transferring it to the new employer or for use themselves as an individual provider. Therefore further consideration if this is needed in the Code as follows:

*"workers must comply with privacy legislation and not disclose or use information obtained under one service provider when employed with another provider or as a provider of services themselves"*

Further proposed amendments to the Code of Conduct can be found on the following page. One Door thanks the Commission for the opportunity to comment on the NDIS Code of Conduct at this point and welcomes further consultation.

Yours sincerely,

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**Table 1: Recommendations for changes to the Code of Conduct**

Item	Current wording	Proposed changes
2.1 (4)	<i>Take into account the expressed needs, values and beliefs of people with a disability</i>	Include "and their carer(s) or family"
2.1 (4)	<i>Take into account the expressed needs, values and beliefs of people with a disability</i>	"actively seek information regarding the needs, values, beliefs, will and preferences of the person with a disability and their carer(s) or family."
2.3 (1)	<i>Providers and workers must only recommend and provide supports and services that meet the needs of the person with a disability .</i>	Include "or carer(s)"
2.3 (1)	<i>Providers and workers must only provide supports and services that meet the needs of a person with disability.</i>	"providers and workers must only provide supports and services that meet the needs of a person with disability within their contracted arrangements"
2.3	N/A	Addition of "providers and workers must declare conflicts of interest in an open and transparent manner"
2.3	N/A	"providers must not seek to mislead or withhold information from participants, their carers or families regarding their right to choice and control over who provides a service to them under the NDIS"
2.4	N/A	Addition of "providers and workers must gain valid consent from the person with a disability, or their carer where applicable, and respect the person's right to refuse the service".
2.4	N/A	"providers and workers must seek to work collaboratively with carer(s), families and other service providers providing NDIS services to a person with a disability".
2.4	<i>A provider must ensure workers have access to all equipment and resources appropriate to safely deliver supports or services.</i>	"A provider must ensure workers have access to all reasonable equipment and resources appropriate to safely deliver supports or services.
2.4 (4)	<i>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.</i>	"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 experienced or qualified to provide".
2.5	<i>Unregistered providers are also encouraged to report incidents of concern on a case-by-case basis to the Commission</i>	"Unregistered providers are also required to report incidents of concern to the Commission"
2.6	N/A	Addition of "workers must comply with privacy legislation and not disclose or use information obtained under one service provider when employed with another provider or as a provider of services themselves"