



leading quality in
community services

NDIS Code of Conduct

Submission to Consultation

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1. Introduction

ACIA welcomes the opportunity to provide feedback on the NDIS Code of Conduct.

2. Background on ACIA

ACIA is the peak body representing community care and support providers, including private, not-for-profit and charitable organisations. Nationally ACIA represents over 100 provider organisations, which collectively employ more than 150,000 FTE workers. ACIA also supports the disability and aged care sectors and works with government departments and authorities, including:

- State Disability Agencies such as Department of Family and Community Services, Ageing Disability and Home Care NSW, Department of Health Human Services Victoria and Disability Services QLD
- iCare NSW which includes: Lifetime Care and Support Authority, Workers Insurance, Dust Diseases Care, Self-Insurance and Builders Warranty.
- Lifetime Support Authority South Australia
- Motor Industry Accidents Board, Tasmania
- Transport Accident Commission Victoria
- Workers Compensations Schemes in multiple states
- Representation at the National Aged Care Alliance
- Department of Health
- Department of Social Services

ACIA's vision is for a community care and support industry that is known and respected as a provider of quality services. To achieve this vision, ACIA provides education, resources and support to the industry, as well as developing and administering its own quality standard and scheme (endorsed by the Joint Accreditation System for Australia and New Zealand JAS-ANZ).

ACIA seeks to be involved in the future development of policy and service reform, by bringing to the discussion our experience and expertise, including:

- Membership of over 100 provider organisations and individuals nationally, representing around 150,000 FTE workers
- Membership across the disability and aged care sectors
- Specific expertise in the delivery of support to people living at home or in supported and shared accommodation arrangements
- Lengthy provider experience of delivering individualised support according to the wishes of the individual in line with their funding
- Experience in compensable and business markets

- Experience in the development implementation and administration of quality certification systems that meets the national standards for disability services and home and community care standards (for example the ACIMSS 2008 and the ACIS 2013)
- Proven track record of engaging positively with reform processes, and working collaboratively with governments, providers, consumers and interested stakeholders.

ACIA members are primarily concerned with how the NDIS will:

- Impact on the way in which quality support services are delivered;
- Detail arrangements by which service providers are both engaged and directed by the participants to deliver support;
- Establish processes which ensure care and support are delivered to the required standard, enhance participant outcomes and promote the dignity and autonomy of the participant.

3. ACIA's Involvement in the Development of the NDIS

ACIA has previously made a number of submissions regarding the NDIS including the most recent NDIS price review, the Productivity Commissions ongoing study into NDIS costs, the Senate Enquiry into the NDIS Bill 2012, the Regulatory Impact Statement in 2013, the Quality and Safeguards Framework consultation paper 2015 and review of the NDIS rules in 2015 and accommodation for people with disability.

Over the last 24 months, ACIA has worked with the Department of Social Services on the Development of the Quality and Safeguards Framework and the NDIS Scheme and Practice Standards. ACIA continues to work with the Department on the roll out of the Scheme and the introduction of the Standard across Australia.

4. ACIA's Response to the NDIS Code of Conduct Consultation

4.1 Our Support for the Code of Conduct

ACIA is pleased to endorse the NDIS Code of Conduct and the premise that all individuals are entitled to the fundamental human rights that are outlined within the Code. ACIA supports each of the nine obligations outlined within the Code. Each and every Service Provider providing supports under the NDIS should be committed to providing services and supports in line with the Code.

Further, the examples written with the NDIS Code of Conduct Discussion document provide simple and easy to follow guidance on how the Code should be applied and considered.

ACIA hopes the Code will be embraced by all members of the Community Support and Services Industry and that the Code will be implemented as written.

4.2 Supporting Registered Providers to meet the costs of regulation

Providers who choose to register to provide NDIS supports will be required to have their staff complete the compulsory *Orientation Module* which will include information about a worker's obligations under the NDIS Code of Conduct¹. ACIA fully supports this requirement and is considering the best ways to assist our members in understanding and adhering to this requirement. However, such additional requirements of Registered Providers increase the overall costs of service delivery. Under the free market principles of the NDIS, registered providers will be required to compete against non-registered providers. Registration requirements, such as the requirement for staff to complete orientation modules will increase the cost of delivering service for registered providers and could provide the unregistered providers with an unfair market advantage as they will have a lower cost of regulation and operational expenses. This is just one of many examples where registered providers have a higher cost of doing business. Service providers who choose to certify to the NDIS Practice Standard have the additional costs associated with completing the third-party certification process. To assist in removing this disparity in the costs of business expenses and staff on boarding, ACIA would encourage considerations for how the Registered providers can be supported in meeting these additional costs.

¹ NDIS Quality and Safeguards Framework, Page 58.

<https://www.dss.gov.au/disability-and-carers/programs-services/for-people-with-disability/ndis-quality-and-safeguarding-framework-0>

ACIA recommends that Registered Providers receive an additional funding incentive. The funding would be provided for each employee to support the cost of training during onboarding. This could be a nominal rate that would be put towards the cost of each employee completing the orientation module. ACIA would also hope that any orientation modules developed can be easily integrated into existing provider onboarding processes. The introduction of such modules should not lead to additional administration requirements for providers.

4.3 Non – Registered Providers and the Code

ACIA would like further clarity on how non-registered providers will be held accountable to the NDIS Code of Conduct. Based on current requirements, it appears that it will be the Participants responsibility to inform the un-registered Service Provider about the Code. It would also be the Participants responsibility to report any breaches of the Code carried out by the Service Provider. ACIA would like to suggest that further safeguards be put in place to hold non-registered Providers to account.

ACIA recommends that additional safeguards be put in place to protect participants who choose to engage non-registered providers. Safeguards might include random sampling of employees of non-registered providers to ensure they are aware of and working within the code.

4.4 The NDIS Quality & Safeguards Commission

The NDIS Quality and Safeguards Commission will have a vital role in ensuring the delivery of the NDIS Quality and Safeguards Framework and ensuring that the NDIS Code of Conduct is adhered to by all providers. In order for the examples within the NDIS Code of conduct to be fully realised, it will be essential for the NDIS Quality and Safeguards Commission to be adequately funded. Many of the examples outlined within the Code of Conduct Discussion Paper are aspirational and if fully implemented will require the ongoing support of both the State and Federal Governments.

No wrong door policy

The Code of Conduct Discussion paper notes that:

“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 (page 12)”.

ACIA would be very pleased to see processes put in place that would allow such a policy to be fully realised. However, ACIA would also like to note the difficulties that could arise in implementing such process as well and the high cost involved.

For the no wrong door policy to be fully realised, clear triaging of complaints would need to be conducted. Triaging would help ensure that complaints that are outside the scope of the Code of Conduct or the Commission are referred to the correct Agency or Authority. For such processes to work effectively the complaints handling staff will need to be highly trained and possess the skills and knowledge to identify the correct agency and make an appropriate referral.

Adequate funding should be provided to ensure that such a policy can be realised.

Facilitate Discussion

Scenario 2.1.1 on page 14 of the NDIS Code of Conduct Discussion Paper describes the Commission taking part in the facilitation of discussion between an NDIS Participant and a Service Provider to assist each party in understanding the needs of the Participant. ACIA would be please to see such processes put in place. Other State Government Schemes that have capacity to provide this service achieve strong relationship with Service Providers and lead to improved outcomes for the participant. Currently the NDIS does not have a specified role in place that allows for such support.

The NSW State Government Scheme, Lifetime Care and Support has a specific role within the scheme which amongst other functions provides such services. This role is known as a Support Coordinator. Support Coordinators provide a vital link between participants and service providers. The Coordinators create a communication channel that both builds rapport and trust with the stakeholders, and has an individual focus on costs and reasonable supports. Currently the NDIS does not have a role that provides in this type of ongoing support. ACIA suggests that the implementation of a similar role within the NDIS would lead to improved outcomes for participants and would help to achieve the outcomes described in Scenario 2.1.1.

Worker Screening

ACIA is supportive of the Worker Screening program described in both the NDIS Quality and Safeguards Framework and in Scenario 2.3.2. of the Code of Conduct Consultation Paper. Implementing a National Scheme that is required for workers at all registered NDIS providers is necessary to safeguard the scheme. ACIA is hopeful that unregistered providers will also be required to meet Worker Screening requirements in order to receive funding from the NDIS. ACIA would also like to

encourage early involvement with industry during the worker screening scheme design and implementation. Early involvement will ensure maximum buy-in to the process.

4.5 Recent Media Attention

ACIA believes it is important to acknowledge recent media attention focussed on certain providers. The Four Corners episode aired on Monday the 27th of May 2017 titled 'Fighting the System' highlighted the need for the provision of ongoing quality safeguards and a Code of Conduct that will be required to be followed by all NDIS providers. The issues raised by the Episode highlighted the vulnerability of the population of people that are supported by the NDIS.

Despite the best efforts of quality and safeguards programs providers and workers will at times do the wrong thing. Service providers who pride themselves on their service delivery standards may at times be involved in incidents that bring their services into question. Whether this be due to the actions of an individual support worker or an event beyond the control of the service provider, when such incidents do occur, service providers need to follow due diligence in their processes for responding to and reporting the incident.

The NDIS Code of Conduct and the associated requirements to train workers in the Code will help to provide clear direction to providers on the expectations on them when adverse events arise. Such a Code also gives Service Providers clear grounds for acting on the misconduct of a worker. The Code gives support workers who believe they have witnessed miss-conduct clear grounds to act and a pathway to escalate responses. This is particularly useful in cases where a Support Worker believes their employer is not taking appropriate action in response to an event or to a complaint that has been received.

ACIA would also like to see un-registered NDIS providers meet the same requirements as registered providers.

5. Summary

ACIA is pleased to have this opportunity to provide input on the Consultation on the NDIS Code of Conduct. ACIA would be more than happy to provide further input or guidance on any of the areas outlined in our submission or relating to any other matter concerning the NDIS Code of Conduct, the NDIS Quality and Safeguards Framework or the NDIS more broadly. We look forward to seeing the final version of the NDIS Code Conduct and the associated orientation modules.