

Via email:

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<https://engage.dss.gov.au/ndis-code-of-conduct-consultation/ndis-code-of-conduct-consultation-make-a-late-submission/>

NDIS Code of Conduct

Thank you for the opportunity to provide input to the development of the Code of Conduct.

As an individual advocacy service ADACAS brings the perspective of our clients to the systemic advocacy that we undertake. In this context we are conscious that our clients are developing greater expectations of the service that they receive through NDIS funding, consistent with the change from passive care recipient to consumer and purchaser. The empowerment that the consumer/market model is meant to deliver is an important yet intangible element of the NDIS reforms. The Code of Conduct acknowledges this shift through particularly the first obligation with its focus on self-determination and decision-making.

Overall, ADACAS supports the nine statements of the Code. They provide an appropriate expectation upon workers with regard to their interactions with people with disability. We have some additional suggestions and comments which we trust will assist further development of the Code.

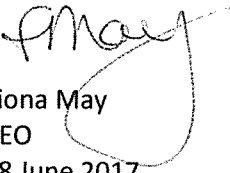
- 1 ADACAS recommends that a tenth statement be added to the Code. This would state something along the lines of: "Assist individuals to access and use an advocate if required". Inclusion of this statement in the Code recognises that many people with disability do not have the ability to speak up for themselves and self-advocate on matters related to their service provision. This is particularly true for people living with a cognitive or communication disability. In addition, those people who live isolated lives where their primary interactions are with service providers, may have little opportunity to find out about or connect to an advocacy service without this support. It acknowledges that the NDIA has clearly articulated that the role of NDIS funded workers, including support coordinators, is not to advocate on behalf of the individual, and ensures that workers therefore understand their responsibility to connect someone to advocacy if required. There is precedent for the inclusion of access to advocacy in disability standards. The Community Care Common Standards which applied for many years to all HACC funded services included the following: "expected outcome 3.4: Advocacy. Each service user's (and/or their representative's) choice of advocate is respected by the service provider and the service provider will, if required, assist the service user (and/or their representative) to access an advocate." Reflecting a similar expectation in the Code of Conduct would be appropriate. The addition of such a statement also ensures that individual self-determination and decision making is supported without conflict of interest. Advocacy can also play a role in ensuring that workers are aware of the code and their responsibilities to act within it.
- 2 The Code is silent with regard to specific behaviours which demonstrate respect for people with disability. Our advocacy cases demonstrate that the concerns that people are raising include workers or providers that cancel shifts with little or no warning, workers arriving late or leaving early and workers that do not show respect for the property and belongings of the

- person with disability. While these are specific examples that could be included in statement 3 (act with integrity, honesty and transparency) it is important that they are not just implied but are explicit expectations of workers in the disability sector.
- 3 ADACAS notes that section 1.3 of the discussion paper identifies the range of workers that are intended to be covered by the Code. ADACAS recommends that NDIA staff also be included in this list. Given that NDIA community partners and all providers are included it is logical that NDIA staff are also covered. While the APS has a code of conduct for its staff which may overlap with this Code it sends an important signal both to people with disability and to the sector that NDIA staff are also required to work within the same framework. Given that other workers who are covered by other professional codes are not exempt, there is no reason to exempt public sector employees.
- 4 In providing information to people with disability about implementation of the Code and what they can expect of workers, it would be useful to include an example that covers the person choosing to move from one service provider to another. The current scenarios are silent on this important benefit introduced by the NDIS. ADACAS clients so far have had mixed experience when choosing to change providers, with some providers being less cooperative and demonstrating behaviours that are not consistent with the Code.
- 5 It is helpful that the various professional association codes' of conduct are acknowledged. It would be useful to also include the Australian Association of Social Workers as a relevant professional association.
- 6 The discussion paper explores each of the 9 statements of the Code individually. In the discussion of the first four there is a clear statement that commences "This obligation includes the following expectations:....". Unfortunately this useful section is not included for the remaining five standards. Further information about the code could be developed which includes explicit statements of the obligations that are associated with all parts of the Code.
- 7 Section 2.3 discusses the 'Act with integrity, honesty and transparency' statement. On page 19 it includes a sentence: "Providers and workers must place the interests and needs of participants first, ahead of their own financial interests". This statement introduces some concepts that it would be unlikely either providers or workers would be able to live up to. Providers in a market environment must earn sufficient income to cover costs. Similarly workers have the right to expect to be paid. The statement as drafted above could be interpreted to mean that providers are required to act altruistically which is inconsistent with market forces. It could mean that they should, for instance, not charge for appointments cancelled by the participant without notice, or that the worker should do additional time with a participant for which they should not expect to be paid. Clearly this is not the intent.
- 8 Section 2.4 discusses safe and ethical practice. On page 22 it is proposed that workers must disclose to their employer any prescription medications which they are taking. This is a breach of the privacy of workers, it will discourage people with lived experience of disability or psychosocial disability from working within the sector and it will be unenforceable without significant privacy breaches. There is no definition of the scope of this requirement as the phrase "ability to work may be impaired" is very broad.
- 9 Section 2.7 discusses sexual misconduct. However it appears to wrongly assume that all interactions that include reference to sexual behaviours or peoples private lives are misconduct. There is a role for workers to assist people with disability in this personal sphere and handled appropriately this does not constitute misconduct. The Code needs to

- be clear that there is a difference between interactions on these topics that are appropriate and those that are not.
- 10 The current document does not adequately explain the relationship between the Code and the National Standards for Disability Services (or other relevant standards) which will also apply to all registered providers. How the accreditation process against the standards might interact with or seek evidence of the workers adherence to the Code needs to be clearly established. Similarly a clearer link could be made with the state based working with vulnerable people systems such that in applying for these clearances, a worker is also informed/reminded of their obligation to act within the Code of Conduct.
 - 11 The role of the Quality and Safeguarding Commission is yet to be fully developed however it will be important that community capacity building around the code be delivered locally, in addition to the proposed training module for workers. Clearly moving to a universal code will require significant investment in community engagement and awareness and this needs to be delivered and resourced at local levels.
 - 12 There is a role which independent advocacy can play in promoting the Code and ensuring that people with disability understand what the Code means for their rights and how they can use it to improve the quality of service they receive. Advocacy organisations could be funded to deliver grassroots awareness raising and support around the Code, particularly to people who are self-managing.
 - 13 Versions of the code must be made available in a range of accessible formats, including audio, sub-titled video, easy English, and Auslan.

Thank you again for the opportunity to participate in this consultation. ADACAS would welcome the opportunity to continue to contribute to both the Code of Conduct and the national quality and safeguards practices as they develop.

Yours sincerely


Fiona May
CEO
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