



Submission to NDIS Code of Conduct Discussion Paper

June 2017

Home Modifications Australia (MOD.A) welcomes the opportunity to comment on the *National Disability Insurance Scheme (NDIS) Code of Conduct - Discussion Paper*. We note the short turn around for comments, which has limited our ability to engage widely with our national members. Brief comments are appended to the various sections of the paper, with a summary overview at the end.

Part 1

1.1 MOD.A supports the concept of a framework that aims for quality as well as ensuring that important safeguards are in place to enable NDIS participants to engage positively with providers who are contracted to deliver goods and services. The concept of a Code of Conduct is very different in its approach to that previously adopted in the various state and national Disability Standards which have served as compliance mechanisms for services which were (and still continue to be) funded by governments across Australia. The expectations set out in the Code of Conduct, together with the formation of the NDIS Quality and Safeguards Commission does promise a tighter compliance regime with the possibility of real sanctions and remedial actions for breaches and poor practice, which has previously been patchy in its application. This is all the more important in a less regulated, consumer-driven environment, and in fact the Commission will need to continually monitor the extent to which, if at all, the marketised relationships between participants and services serve to enhance or stifle the reporting of poor practice and other breaches.

1.2 The range of national and international documents considered when drafting the Code of Conduct, together with the objectives of the NDIS Quality and Safeguarding Framework provide a suitable background to this approach. The nine areas covered do adequately represent areas of conduct and interaction which need to be safeguarded, and draw a useful distinction between these and markers of quality, which are not covered in the document.

1.3 MOD.A supports the broad coverage of the Code of Conduct, and assumes that all contractors and sub-contractors, who are used regularly and routinely in the process of delivering home modifications (in our case) will be subject to it, with the primary responsibility for ensuring these standards are met falling to the principal contractor. There may need to be further clarification of where responsibility and lines of accountability lie, once the process of procurement for home modifications (in particular complex home modifications) is clarified and make consistent across the NDIS nationally. MOD.A is very motivated to assist the NDIA achieve this, but notes we are currently a long way off achieving any form of consistency which would make it obvious and easy to apply the Code of Conduct across all trades and professions involved in delivering a complex home modification within the NDIS nationally.

We have some concern about the capacity for participants to adequately discern the difference between a registered and unregistered providers, and the approach they could adopt if dissatisfied with their home modification (in our case) if an unregistered provider had been contracted. We also note that existing consumer laws relating to home building are not particularly strong, and are also not nationally consistent, and so believe there is still some weakness here when seeking to protect the person and the asset if modifications are being done by an unregistered provider.

With respect to undertaking home modifications as part of the Continuity of Support programme, while not having a clear understanding of its administrative and funding arrangements, MOD.A has some concerns about how complex home modifications would be done and who the principal contractor would be in that instance, and subsequently who could be pursued by the Commission if complaints related to the Code of Conduct were made.

1.4 The application of the Code of Conduct is greatly assisted by the existence of a Commission with powers to enforce sanctions relative the seriousness of breaches, and also to investigate serious and/or systemic breaches through its own motion powers.

Part 2

MOD.A broadly supports the nine areas covered in the Code of Conduct, and only makes the following specific comments and queries:

- In 2.3, the expectation to “only recommend and provide supports and services that meet the needs of a person with disability”, it is feasible that while undertaking home modifications to certain, limited specifications within a participant’s plan a contractor may be approached to undertake additional, unfunded home renovation work. Would this be regarded as a breach of this area of conduct? In practice there would be a clear distinction between responding to a request for work and “onselling” additional renovation work.
- In 2.4 there is a requirement to ensure workers are appropriately skilled and qualified, which is reasonable. In the home modifications sector there are no recently reviewed and available standards of competence for OTs to assess and prescribe complex home modifications which can be used as a national yardstick against which to measure how “appropriate” a practitioner is. In the building and trades there is also no specific qualification or competency-based training which focuses on the skills required to do this kind of work in the home. MOD.A is working to develop capabilities amongst all professionals working in the sector as a corollary to its quality standards development (see Summary below), but notes that there is currently no government or industry funding being invested in the development of skills and qualifications in this area.

Summary

MOD.A supports the focus of the Code of Conduct upon the relationship between the provider and the NDIS participant, and accepts that this approach, supported by the new Commission, will provide a framework for safeguarding participants in a much less regulated system. It does not claim to deliver a framework for assuring the quality of specialist services, which should be the focus of the services which deliver them. MOD.A is currently at a crucial stage of development of an industry-specific set of standards for home modifications, which aims to articulate quality outcomes for our sector, while at the same time ensuring that providers are able to easily comply with the various safeguarding and quality standards and/or frameworks that are required of programmes such as the NDIS. The release of the Code of Conduct allows us to recognise and work in with the requirements and the approach to compliance and ensure our own standard is compatible with both.

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