21 June 2017

To Whom It May Concern

RE: NDIS Code of Conduct

Occupational Therapy Australia (OTA) welcomes this opportunity to make a submission to the Department of Social Services, as part of the department's development of a new National Disability Insurance Scheme (NDIS) Code of Conduct.

OTA is the professional association and peak representative body for occupational therapists in Australia. As of December 2016 there were more than 18,000 nationally registered occupational therapists working across the government, non-government, private and community sectors in Australia. Occupational therapists are allied health professionals whose role is to enable their clients to participate in meaningful and productive activities.

Occupational therapists provide services such as physical and mental health therapy, vocational rehabilitation, assistive technology prescription, home modifications and chronic disease management, as well as key disability supports and services.

OTA is a strong supporter of the NDIS and the scheme's focus on providing individualised support for participants with informed choice and control over their plans. Occupational therapists work across all NDIS launch sites and contributed to the design and implementation of the scheme during its trial period.

OTA is committed to ensuring the highest possible professional standards on the part of its members and is therefore strongly supportive of the proposed Code of Conduct. It notes that the Code will come into effect once the NDIS is at full scheme and is one aspect of the NDIS Quality and Safeguarding Framework which was released earlier this year.

OTA notes that the proposed Code sets out national standards and outlines expectations of behaviour for providers and workers delivering NDIS supports and services. OTA strongly supports the nine obligations that have been identified and considers the scenarios which illustrate the obligations to be useful.

OTA's in principle support notwithstanding, we do make the following observations with a view to clarifying or further improving the Code.

Section 1.3 of the department's Discussion Paper advises that "a compulsory orientation module will be introduced for registered providers delivering supports …" It goes on to say that the Code applies to non-registered providers as well as registered. The document mentions that the Code will be available to all participants and that they will be strongly encouraged to pass on this information to any unregistered providers they engage. OTA seeks clarification on how the Code will be made known and available to self-managing participants receiving care from non-registered providers. It is an important document that may well go unnoticed if participants are expected to source it from the NDIS website. OTA recommends that the Code be prominently posted on the NDIS website and that there be a link to the Code on the participant portal.

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Section 2.2 of the Discussion Paper makes reference to people with disability being at increased risk to violence, neglect, exploitation and abuse. The case studies very usefully illustrate how these risks may manifest in the workplace. However, it is important to highlight how these risks might be overlooked and/or mistakenly accepted, as they can present in a number of ways and to varying degrees.

Section 2.4 makes reference to "reasonable supervision", however there is a lack of clarity around what this entails. OTA has received concerned comments from members during the roll out of the NDIS that as the workforce transitions to NDIS provision, which includes a higher percentage of occupational therapists working in private practice and for non-government organisations than under previous arrangements, there is less senior support and supervision available, as private practices and NGOs do not necessarily have an allied health staffing structure in place. Anecdotally, this may be resulting in new graduate practitioners, and practitioners who change their clinical area of expertise, working with less supervision than would be considered ideal by the profession generally. It would be our recommendation that the Code points out that practitioner providers should be adequately supervised.

The changing face of disability service provision in Australia has also raised concerns around the potential vulnerability of clients and their families. A number of elderly parents of NDIS participants are unfamiliar with computers, which complicates matters when plans are not available in accessible formats or translated versions. Our members have reported that Local Area Coordinators (LACs) do not have the amount of time needed to adequately support families and carers that are particularly vulnerable.

At present, many clients are receiving support coordination from organisations that provide the bulk of their services. What requirements will be put in place to ensure that participants are made fully aware of the range of services available to them?

The third dot point under section 2.4 states the following: "A provider must ensure workers have access to all equipment and resources appropriate to safely deliver supports or services." This will mean that the National Disability Insurance Agency (NDIA) will be required to improve the turnaround time for assistive technology (AT) provision, or participants may be unable to receive essential services. The current situation makes it difficult for providers to demonstrate that they have complied with obligations 4 and 5 of the proposed Code of Conduct, as there is a lack of communication from the NDIA and lengthy delays with plan reviews being initiated. A plan review may be a matter of urgency due to a participant's circumstances having changed, however they are prevented from accessing the equipment they need until the review takes place.

Our members have also raised concerns about what happens to those who do not have the necessary finances to hire equipment while they await a plan review. Some participants are hesitant about requesting a plan review, as they believe that they may not be allocated the same amount of funding that they received originally. OTA believes that a more flexible and responsive system around AT provision that is not linked to a whole plan review needs to be put in place.

OTA has been advised that participants are being sent plans that do not necessarily reflect their initial meeting with a LAC. OTA believes that participants could usefully receive a draft copy of their plan that they can provide comment on and correct if necessary. We also understand that participants are unable to view the same information as Planners through the NDIS portal, which seems to conflict with the principles of transparency and respect promoted in the Code.

Section 2.8 of the Discussion Paper addresses the keeping of appropriate records but does not indicate for how long a period of time these records should be kept.

With regard to the status of the NDIS Code of Conduct, OTA shares a concern raised by another allied health profession. Members of OTA providing professional clinical services as part of the NDIS will have to observe:

- Occupational Therapy Australia's Code of Ethics;
- The National Code of Conduct for health care workers; and
- The NDIS Code of Conduct.

It would therefore be helpful if our members could be alerted to where the NDIS Code sits in this hierarchy of codes. Obviously, it would also be extremely helpful if the proposed NDIS Code in no way ran counter to the provisions of other codes that health professionals are required to observe.

In fact OTA is concerned that neither the Discussion Paper nor the proposed NDIS Code makes reference to the National Code of Conduct for health care workers.

In the event that OTA members are required to comply with new requirements under the NDIS Code of Conduct, and such compliance entails training, this training should be subsidised and easily accessed, ideally online.

OTA notes that the proposed Code requires more of registered providers than non-registered providers. No reason is given for this differentiation and no consideration is given to its implications for participants. Section 1.4, for example, requires registered providers to notify the NDIS Quality and Safeguards Commission of reportable incidents. Unregistered providers, it appears, are under no such compulsion.

OTA has concerns around the implementation and policing of the Code. Will the NDIS have enough staff to ensure compliance with the Code and what will be the process by which compliance is monitored?

While OTA offers in principle support for the proposed NDIS Code of Conduct, we ask that the concerns raised above be satisfactorily addressed before we commend the Code to our membership.

OTA thanks the department for the opportunity to comment on its Discussion Paper.

Yours sincerely

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