

**Speech Pathology Australia's Submission to the
Australian Government Department of Social Services**

National Disability Insurance Scheme (NDIS) – Code of Conduct

21 June 2017



Australian Government
Department of Social Services
NDIS Quality & Safeguard Commission
GPO Box 9820
Canberra ACT 2601

21 June 2017

Dear Sir/Madam

Speech Pathology Australia is the national peak body for speech pathologists in Australia, representing more than 7700 members. Speech pathologists are the allied health practitioners who specialise in diagnosing, assessing and treating speech, language and communication, and swallowing difficulties (dysphagia).

Communication and swallowing difficulties can arise from a range of conditions that may be present from birth (e.g. Down Syndrome or Autism Spectrum Disorder), emerge during early childhood (e.g., stuttering, severe speech sound disorder), or during adult years (e.g., traumatic brain injury, stroke and head/neck cancers, neurodegenerative disorders such as motor neurone disease) or be present in the elderly (e.g., dementia, Alzheimer's disease, Parkinson's disease). An estimated 40-50 per cent of NDIS participants will have communication support needs for them to participate in community life and achieve their goals.

Speech pathology is a self-regulated health profession through Certified Practising Speech Pathologist (CPSP) membership of Speech Pathology Australia. Speech pathologists are not required to also be registered through the National Registration and Accreditation Scheme.

We welcome the opportunity to comment on the proposed NDIS Code of Conduct and preface our specific feedback relating to the discussion paper with information on communication and swallowing disability and the speech pathology profession. In addition to the specific feedback detailed below, a general overarching comment regarding the discussion paper is the need for more detail and clarity concerning communication protocols and defined areas of responsibility. For example, how the Commission proposes to coordinate any regulatory activities with the relevant professional bodies and regulatory agencies, and the need to clarify who is responsible for raising awareness of, and monitoring adherence to, the NDIS Code of Conduct requirements, particularly for unregistered providers.

In light of this, Speech Pathology Australia would be happy to work with the NDIS Quality & Safeguard Commission to develop clear responsibility and reporting protocols and appropriate communication processes. On behalf of our profession and individuals with communication and swallowing disabilities, their families and carers, we hope that the Committee finds our comments and suggestions useful.

Yours faithfully



Gaenor Dixon
National President

Speech Pathology Australia's Submission to the Department of Social Services – NDIS Code of Conduct

About Speech Pathology Australia and speech pathologists

Speech pathologists are the university trained allied health professionals who specialise in treating speech, language, communication and swallowing problems. Speech pathologists work across the life span with infants, children, adolescents, adults and the elderly.

Speech pathologists provide services in the acute care (hospital), sub-acute care, rehabilitation and primary care sector (including community health, general practice and mental health services) as well as within other sectors such as disability, residential and community based aged care, education, juvenile justice, prisons and community settings.

Speech pathologists work in both publicly and privately funded services. In recent years, there has been a significant shift in the location of service delivery from a previous majority government-employed to the private sector, including private practice, not-for-profit and non-government organisations.

There are no formally credentialed areas of specialty within the speech pathology profession in Australia. New graduate speech pathologists enter the workforce with a minimum level of skills that equip them to commence working with the full range of ages and speech pathology client groups.

Speech Pathology Australia is the national peak body for speech pathologists in Australia, representing more than 7700 members. Speech pathology is a self-regulated health profession through Certified Practising Speech Pathologist (CPSP) membership of Speech Pathology Australia. Speech pathologists are not required to also be registered through the National Registration and Accreditation Scheme.

To be eligible for CPSP membership of Speech Pathology Australia, a speech pathologist is required to demonstrate they have completed an approved university course, have recency of practice and have undertaken a minimum level of professional development in the previous 12 months. New graduate speech pathologists who agree to meet specified requirements are afforded provisional CPSP status.

The CPSP credential is recognised as a requirement for approved provider status under a range of government funding programs including Medicare, all private health insurance providers, some Commonwealth aged care funding, Department of Veteran Affairs (DVA) funding, Better Start for Children with Disability (Better Start) and Helping Children with Autism (HCWA) programs. At present, the CPSP credential is required by some states and territories as a requirement for NDIS provider registration. An analysis of Speech Pathology Australia membership data indicates a total of 6,691 CPSP members, of which 1,016 have indicated that they are currently working within the disability sector. This does not include speech pathologists in private practice who are potential NDIS providers but who at this point in time have not registered as NDIS providers. Most speech pathologists working in disability/NDIS are doing so in small or solo private practices¹.

As the national body regulating the quality and safety of speech pathology practice in Australia, Speech Pathology Australia accredits the 25 university entry-level training courses for speech pathologists in Australia, evaluates requests for recognition of overseas qualifications, administers the continuing professional development program for the profession and provides mentoring and support programs to the significant cohort of new graduate/early career speech pathologists currently within the speech pathology workforce. Speech Pathology Australia has a Code of Ethics, which outlines the principles, and values speech pathologists aspire to in ethical decision making. Members of Speech Pathology Australia are required to abide by the Code of Ethics within all professional activities. Speech Pathology Australia also manages the formal complaints process for the profession and can, where determined,

¹ This is supported by the Intermediate Report on the Evaluation of the NDIS, which states 'Most new entrants were small or solo allied health practices' (Mavromaras et al, 2016:29).

place sanctions on practice for any member who is demonstrated to contravene the profession's Code of Ethics.

About NDIS participation and communication and swallowing disability

Communication and swallowing difficulties can arise from a range of conditions that may be present from birth (e.g. Down Syndrome or Autism Spectrum Disorder), emerge during early childhood (e.g., stuttering, severe speech sound disorder), or during adult years (e.g., traumatic brain injury, stroke and head/neck cancers, neurodegenerative disorders such as motor neurone disease) or be present in the elderly (e.g., dementia, Alzheimer's disease, Parkinson's disease).

Difficulties in speech, language, fluency, voice, social communication and swallowing can occur in isolation or the person may have difficulties in more than one area. There is very strong international and Australian evidence² that communication disorders negatively affect an individual's academic participation and achievement, employment opportunities, mental health, social participation, ability to develop and maintain relationships, and overall quality of life.

Swallowing disorders affect the ability to safely swallow food or liquids. The impact of swallowing difficulties on an individual's person's health and wellbeing can lead to social isolation, poor nutrition and medical complications (including chest infections/pneumonia, choking and death). Conservative estimates indicate approximately one million Australians have a swallowing disorder.

Detailed data regarding the functional needs and supports/services accessed by NDIS Participants has not, to date, been publicly released. There is good quality information however, that would suggest that a large proportion of NDIS Participants will have communication disability. The most recent information from the Australian Bureau of Statistics (ABS) 2015 Survey of Disability, Ageing and Carers (SDAC) indicates that 1.1 million Australians use equipment and/or aids to communicate (including 700,000 using hearing equipment/aids). This reflects about a quarter (25.9 per cent) of all people with disability³. Some 235,800 people with disability use either electronic or non-electronic communication aids for reading, writing and speaking (this figure does not include hearing aids). It is estimated that there are approximately 250,000 – 300,000 Australian children living with a disability.⁴ It is unclear however, how many of these children would be eligible for the NDIS under the full scheme (post age seven) or through the Early Intervention stream.

² See for example, research by:

- Law, J., Rush, R., Schoon, I. and Parsons, S (2009) Modeling developmental language difficulties from school entry into adulthood: literacy, mental health and employment outcomes.' *Journal of Speech, Language and Hearing Research*, 52: 1401-1416.
- Johnson, C., Beitchman, J., Brownlie, E., (2010) 'Twenty-year follow-up of children with and without speech-language impairments: family, educational, occupational, and quality of life outcomes', *American Journal of Speech Language Pathology*, 19(1): 51-65.

³ Australia Bureau of Statistics Survey of Disability, Ageing and Carers, Australia: Summary of Findings - 2015

⁴ Australian Bureau of Statistics (2012) Australian Social Trends – Using Statistics to paint a picture of Australian Society

Speech Pathology Australia's specific feedback regarding the NDIS Code of Conduct discussion paper

For ease of reference, the following section uses bolded titles, page numbers and textual excerpts as per the discussion paper.

Introduction

Page 1

The Commission will have powers to enforce action where providers or workers have engaged in unacceptable behaviours.

There is a need for clarity regarding how this process will interface with the Australian Health Practitioner Regulation Agency (AHPRA) and individual associations for self-regulating professions such as speech pathology. Speech pathology is a self-regulated health profession through Certified Practising Speech Pathologist (CPSP) membership of Speech Pathology Australia. Speech pathologists are not required to also be registered through the National Registration and Accreditation Scheme. Speech Pathology Australia manages the formal complaints process for the profession and can, if necessary, place sanctions on practice for any member who is demonstrated to contravene the profession's Code of Ethics. As such clearly defined notification and collaboration processes between the Commission, regulatory agencies and professional associations, is required (please refer to comment and recommendations in section 1.3.4).

1.2 What is included in the NDIS Code of Conduct?

Page 8

Speech Pathology Australia would consider that the list of *broader policy, legislative and regulatory environments* that were considered when developing the NDIS Code of Conduct should also include the National Code of Conduct for health care workers. This sets minimum standards of conduct and practice for all unregistered health care workers who provide a health service and also applies to registered practitioners operating outside their area of registration, for example a physiotherapist providing reiki therapy. The National Code of Conduct also sets national standards against which disciplinary action can be taken.

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Speech Pathology Australia appreciates the need for the proposed NDIS Code of Conduct to be broad to take into account the diversity of NDIS support services, however, for those providing professional clinical services, this list of nine obligations represents very much a basic minimum requirement. We would however still recommend a specific amendment to obligation number seven to read:

*7. Not engage in sexual misconduct **or other inappropriate relationships***

By 'other inappropriate relationships' we mean behaviour that may not be exploitative but still considered unsuitable or unprofessional between a service provider and service user.

1.3.1 Registered providers

Page 10

A compulsory orientation module will be introduced for registered providers delivering supports, and all workers of registered providers engaged in the delivery of NDIS funded supports. This extends to allied health professionals providing NDIS funded supports (who could undertake this as part of their continuing professional development requirements).

Speech Pathology Australia questions how useful this orientation module would be for Allied Health professionals who are already bound by their professional body's Code of Conduct/Ethics and whether it could prove burdensome. If a compulsory orientation module is to be introduced then it needs to complement existing Codes, be easily accessible (online) and not too onerous to complete. In order to minimise any additional burden and avoid duplication with existing Codes, we recommend that agencies such as AHPRA, as well as individual professional bodies, provide input to create an abridged version of the orientation module for Allied Health professionals to complete.

Speech Pathology Australia would be happy to contribute to the development of an abridged version of the orientation module.

1.3.2 Unregistered providers

Page 10

Speech Pathology Australia considers that more detail is required in this section to clarify who will be responsible for informing providers not registered with NDIS (e.g. providing services to self-managed recipients) of the NDIS Code of Conduct requirements? How will they be monitored? How will participants who self-manage know that providers they want to use, who are not registered with NDIS, are adhering to the requirements? Without clear communication and monitoring processes in place, any issues with non-registered providers will only be exposed through a complaint.

Participants who self-manage their funding and registered plan managers are able to engage unregistered providers to deliver services. Unregistered providers will also be subject to the Code of Conduct if they are receiving NDIS funding for their services.

Information about the Code of Conduct, and how to comply, will be available to all participants. Self-managing participants will be strongly encouraged to provide information about the Code of Conduct and its obligations to any unregistered providers they engage.

Speech Pathology Australia would recommend that self-managing participants are instructed to provide information about the Code of Conduct to providers not registered with NDIS, rather than just *strongly encouraged to provide information about the Code*. Making this mandatory has a twofold benefit in that firstly, self-managing participants will know that any unregistered provider they wish to engage is aware of the Code of Conduct and secondly, the unregistered provider is informed of the Code's obligations and requirements.

1.3.4 Workers

Page 11

the Commission will coordinate any regulatory activity with the professional body or other regulator, as appropriate, to ensure there is no duplication and manage any overlapping areas of regulation

Speech Pathology Australia again calls for more clarification as to exactly how the Commission proposes to coordinate any regulatory activities with the relevant professional body or other regulator. Where there is overlap with peak professional bodies, it would be beneficial to know which issues/complaints should be directed to the NDIS and which need to be directed to and/or involve the professional body? Indeed communication processes with professional bodies should also be clear, for example, there needs to be

clear processes as to how regulatory notifications and/or referrals between the NDIS Commission and Speech Pathology Australia are managed and evaluated/audited?

Speech Pathology Australia would be happy to work with the Commission to develop appropriate processes and procedures.

Recommendation for an additional paragraph

Further to our earlier comment regarding the proposed obligations being broad and basic, for those providing professional clinical services, it would be beneficial to highlight where the NDIS Code of Conduct sits in the hierarchy of other professional codes that they are required to adhere to, for Speech Pathology Australia members it would be:

1. Speech Pathology Australia's Code of Ethics
2. National Code of Conduct for health care workers
3. NDIS Code of Conduct

We would therefore recommend adding a separate new paragraph to this section entitled 1.3.5 Professionals to illustrate this.

1.4 How will the NDIS Code of Conduct be applied?

Page 12

Conduct involving individual workers may be taken up with the provider, referred to their professional body, and/or may trigger a re-assessment of a worker's NDIS worker screening clearance to deliver services involving more than incidental contact under the NDIS.

This paragraph also highlights the need for processes (as described in our comment regarding section 1.3.4) to ensure coordination with regulatory agencies and relevant professional bodies. In any instance of conduct demonstrating delivery of inappropriate professional services by a speech pathologist, Speech Pathology Australia would request, as a minimum, notification of such conduct.

2.2 Actively prevent all forms of violence, exploitation, neglect and abuse

Page 16

Providers should have policies that define violence, exploitation, abuse and neglect and workers should familiarise themselves with such guidelines.

Providers and workers need to ensure appropriate systems and procedures are in place and followed to prevent violence, exploitation, neglect and abuse from occurring.

Providers need to ensure their staff have appropriate supervision and training to make sure workers are able to identify, monitor and act when situations arise which could lead to harmful incidents.

This is another area where greater clarity is required regarding how to ensure these requirements are adhered to, monitored and reported, for example including the necessary processes in service agreements.

2.3 Act with integrity, honesty and transparency

Page 19

We would recommend a specific amendment to the first point on the list of expectations so it reads:

*Providers and workers must only recommend and provide supports and services that meet the needs of a person with disability **and provide benefit.***

Scenario 2.3.1 – Provider

Page 20

This scenario describes an Occupational Therapist offering non-evidence based practice; we are disappointed that there is no proposal for the Commission to involve Occupational Therapy Australia in its investigation. Presumably, the scenario is suggesting that the NDIS would rely on its in-house Technical Advisors to determine whether the practice is appropriate. However, we would recommend that where there is a question regarding evidence based practice and/or clinical/technical competence, it would be more appropriate for the NDIS to work with the relevant professional associations, which in this scenario would be Occupational Therapy Australia.

2.5 Raise and act on concerns about matters that may impact on the quality and safety of supports provided to people with disability

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Unregistered providers are also encouraged to report incidents of concern on a case-by-case basis to the Commission.

The National Code of Conduct currently includes this as a mandatory requirement for health care workers. By stating that unregistered providers are *encouraged* to report incidents to the Commission, this has the potential to cause confusion and reinforces our concern regarding whether the National Code of Conduct was considered when developing the NDIS Code of Conduct.

People with disability need to feel safe to make a complaint or provide negative feedback without fear of adverse consequences or loss of service. This obligation includes the requirement for all providers to have a clear process in place to address complaints or disputes from people with disability, and their families, carers, friends and advocates.

In the same way that it is a requirement that people with disability receive appropriate information delivered in an accessible way (as described on page 13, NDIS Code of Conduct discussion paper), all providers must also ensure processes are **communication accessible** to allow individuals with communication disability to provide information in the form of complaints and feedback. Such processes can include accepting feedback in various verbal and written modalities, or allowing the individual to utilise support persons, interpreters and/or any other system of communication support. We therefore recommend the inclusion of a clear statement in this section of the Code of Conduct to highlight the need for complaints/feedback pathways to be communication accessible.

If Speech Pathology Australia can assist in any other way or provide additional information please contact Cathy Olsson, National Advisor Disability, by email disability@speechpathologyaustralia.org.au or by phone on 03 9642 4899.