

Submission to the National Disability Engagement Scheme (NDIS) Code of Conduct Consultation

National Mental Health Commission
June 2017

Introduction

Thank you for the opportunity to comment on the NDIS Code of Conduct.

The purpose of the National Mental Health Commission (the Commission) is to provide insight, advice and evidence on ways to continuously improve Australia's mental health and suicide prevention systems and to act as a catalyst for change to achieve those improvements. This includes increasing accountability and transparency in mental health through the provision of independent reports and advice to the Australian Government and the community. The Commission provides cross-sectoral leadership on the policy, programs, services and systems that support better mental health and social and emotional wellbeing in Australia.

The Commission wishes to congratulate the NDIA on a draft Code of Conduct that is built on the values of dignity, respect and effective communication. In particular we would like to commend the NDIA for inclusion of carers, friends, support people and advocates as a significant part of the code of conduct.

The Commission notes that many components of the NDIS and its Quality and Safeguarding Framework are still under development. For example, there is an ongoing need for specific focus and guidance around psychosocial disability in relation to assessing eligibility, determining reasonable and necessary supports, and the interface between the NDIS and mainstream services for people with psychosocial disability. As a whole the NDIS Quality and Safeguarding Framework will be critical to ensuring the fair and consistent application of the NDIS overall. It is important the Code of Conduct is considered alongside the various other framework components and in this context of ongoing development.

More specifically, the following suggestions may help improve the Code of Conduct and its outcomes.

Service Gaps

The Commission has heard anecdotal evidence that there are currently issues with the amount of choice some NDIS recipients have, in particular those living in rural and remote areas. We understand that this may be a localised implementation issues, rather than systemic, however we suggest the code of conduct acknowledge the issue and outline what recipients can expect when they are unable to access the services or choice of services that they want, and what providers are expected to do when this occurs and to support improvements in this area.

In addition, the Commission recommends that the Code of Conduct addresses the need for outreach and engagement with clients and potential clients who are 'hard to reach' and what is expected of services in terms of reaching out to people who find it challenging to approach them.

Who is the code of conduct applicable to?

The code of conduct seems to primarily focus on the relationship between the NDIA, the NDIS Quality and Safeguards Commission and service providers, setting out the requirements for how providers must work with people with a disability. The Commission suggests the code of conduct might also be considered for application more broadly, for example to scheme administrators and the people assessing whether a person with a disability is eligible for the scheme. This also links to our suggestion regarding outreach and engagement, as scheme administrators and assessors may be important in reaching out to people that are 'hard to reach' and the Code of Conduct may be vehicle for outlining their responsibilities in this area.



Restraint

The Commission supports working towards eliminating seclusion and restraint from services for people experiencing mental health difficulties (for further information, please refer to the Commission's Position Statement on seclusion and restraint in mental health at <http://mentalhealthcommission.gov.au/our-work/national-seclusion-and-restraint-project/our-position-paper-a-case-for-change.aspx>). The Commission understands this complex area is currently under consideration in relation to services provided through the NDIS and we are aware that the discussion paper refers to "restrictive practice oversight" which sits with the NDIS Quality and Safeguards Commission.

The Commission recommends that the Code of Conduct explicitly refers to restraint and restrictive practices, or to the area within the Framework that deals with this. We suggest the Code of Conduct specifically outline the expectations under the Code of Conduct in relation to the use of restraint. This could be achieved by setting very clear guidelines on the use of restraint that incorporates a commitment to the elimination of the use of restraint by services, or at minimum, cross referencing other materials that provide this level of guidance for both providers and service users within the Code of Conduct itself.

Specific mention of psychosocial disability

The draft code of conduct mentions psychosocial disability once (in relation to increase risk of sexual assault and exploitation). The NMHC believes that people with psychosocial disabilities have particular needs and these should be addressed more specifically in other areas of the code. For instance, a person with psychosocial disabilities may require active, changing levels of support, and this could be acknowledged in the area "Promote individual rights to freedom of expression, self-determination and decision making."

Active Assistance and Guidance

The Commission believes that the Code of Conduct may not be clear enough regarding the need to provide active assistance and guidance to people with a disability that may make it difficult for them to exercise full choice and control in accessing the scheme and then planning and managing their supports. This is a particular issue for people with cognitive, intellectual or psychosocial disabilities. We suggest that the Code of Conduct outlines the requirement for services to provide such active guidance, referring also to the importance of including family, carers and other support people as part of this where appropriate.

Principles of recovery

The principles of recovery align very well with the principles that underpin the code of conduct and, we believe, the NDIS in general. While these principles can be found in the General Principles of the NDIS Act, we believe some of these principles could be referenced more effectively within the Code of Conduct itself. In particular, the importance of partnership between consumers, carers and services could be referred within the Code, perhaps as part of the areas "promote individual rights" and "act with integrity, honesty and transparency," or in a new section. We would be pleased to provide more detailed advice around recovery-oriented language and practices if that would be of assistance.

Once again, thank you for the opportunity to comment on the NDIS Code of Conduct. The Commission looks forward to working closely with you in the future on matters of quality, safety and equity, among others, and would be pleased to provide further input in the future.

Yours sincerely,



Professor Allan Fels AO

Chair

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