



Submission from SkillsIQ Limited to the Discussion Paper – National Disability Insurance Scheme – Code of Conduct

SkillsIQ Limited is pleased to have the opportunity to respond to the invitation to submit feedback to the NDIS Code of Conduct Discussion Paper (“the Discussion Paper”) as an interested party.

Introduction

SkillsIQ is a national not-for-profit Skills Service Organisation (SSO) supporting industry to develop standards to equip the people-facing workforce with the right skills for jobs now and in the future. One of the 17 Industry Reference Committees (IRCs) we support is the Direct Client Care and Support IRC, and the workers in this sector make up a significant proportion of the Health and Community Services workforce. Workers in Direct Client Care and Support operate in sub-sectors that include Disability.

Our Response to the Draft Document

Our feedback on the Discussion Paper corresponds to the four main questions posed, as follows:

- Why we need an NDIS Code of Conduct.

SkillsIQ strongly endorses and supports the need for a National Disability Insurance Scheme (NDIS) Code of Conduct to ensure the safety of the public. SkillsIQ has considered the Discussion Paper, which outlines how the NDIS Code of Conduct will assist in promoting safe and ethical service delivery by clearly setting out expectations of providers and workers who are operating in the NDIS market.

- What is included in the NDIS Code of Conduct?

SkillsIQ agrees with the proposal that the NDIS Code of Conduct should reflect the core tenets of the National Standards for Disability Services such as respecting people with disability, listening to and being guided by what a person wants, respecting people’s right to privacy and prohibiting behaviours that may cause harm. SkillsIQ also believes that including certain unacceptable behaviours, such as exploitative or otherwise unethical treatment; neglect, and vengeful or deceptive behaviour in response to a complaint or incident, will ensure that the NDIS Code strikes the right balance in the protection of vulnerable care recipients.

- Who will be covered by the NDIS Code of Conduct?

SkillsIQ believes that everyone who is operating in the NDIS market should be covered by the NDIS Code of Conduct. The Discussion Paper proposes a broad group of providers and workers be covered by the NDIS Code of Conduct. Skills IQ agrees with this proposal and encourages the new NDIS Quality and Safeguards Commission (“the Commission”), which

has power to oversee the NDIS Code, to establish processes to minimise and manage duplication and overlap with other regulatory and professional bodies.

- How will the NDIS Code of Conduct be applied?

The implementation and enforcement of, and compliance with, the NDIS Code of Conduct across such a large number of participants and such a diverse workforce will require significant communication and coordination at many levels. Service providers are required to have complaints management systems and processes in place. It is not clear what guidance and assistance will be provided by the Commission to assist in the implementation and management of relevant systems and processes. SkillsIQ encourages the Commission to establish template processes to assist participants in the implementation and management of systems and processes.

Further, SkillsIQ recommends that all participants be made aware of the NDIS Code of Conduct; what it means to them; what their responsibilities are in relation to the Code (particularly for self-managing participants), and the importance of understanding their role in identifying and reporting any breaches of the Code. To enable participants to understand their rights and responsibilities in relation to the Code, SkillsIQ recommends that information be provided in Easy English and other accessible formats for the participant audiences. We note there is an Easy English version for the disabled and recommend that an Easy English version be developed that specifically targets workers and providers.

The Discussion Paper provides a flow chart on page 36 (Appendix A): Process of Code of Conduct Investigation and Enforcement. SkillsIQ considers that this process for investigation and enforcement is not made clear in the body or text of the Discussion Paper. The submission, in our view, does not adequately address the areas of the enforcement of, and compliance with, the NDIS Code of Conduct which will be a critical area for providers and workers.

Part Two of the Discussion Paper outlines and discusses scenarios under the nine areas of the NDIS Code. We understand there was a qualitative survey conducted on these nine areas, in which SkillsIQ did not participate. For the requirement of registered and unregistered providers to hold adequate insurance (heading 2.9), SkillsIQ recommends that the NDIS Code specifies the level of insurance cover that is required and how the Commission will audit to ensure cover is taken out by providers.

Further Observations:

- Competency and Supervision

SkillsIQ notes that the disability sector is made up of diverse roles. The scope of practice for direct support workers is undefined and variable. To enhance the safety of vulnerable recipients in the NDIS market, SkillsIQ believes that workers' competencies should be matched to support participants' individual needs, rather than on the basis of workers' qualifications.

While the Discussion Paper makes reference to the importance of competency of workers (see page 22), it does not consider the circumstances of the sole trader who is both a worker and a provider. Where the Code has an expectation for providers to offer reasonable supervision, this may be challenging or non-existent for sole traders. SkillsIQ also highlights a concern about supervision in relation to direct support workers working remotely in people's homes and/or in regional communities.

- Collaboration

Skills IQ notes the June 2017 report by the *Senate Community Affairs References Committee - Future of Australia's Aged Care sector workforce* and the work being done under the NDIS on care worker regulation. In Recommendation 3 of the Report (attached) at page 102, the Committee recommended that the "aged care workforce strategy include a review of existing programs and resources available for workforce development and support and ensure consideration of the NDIS Integrated Market, Sector and Workforce Strategy to identify overlapping issues and competitive pressures between the sectors and how they may be addressed".

In keeping with this approach, Skills IQ suggests that the Commission continue to collaborate with relevant stakeholders to ensure consistency between regulation of the NDIS, disability, aged care and the acute health care sectors where possible.

Conclusion

SkillsIQ strongly endorses and supports the NDIS Code of Conduct.

SkillsIQ expresses a strong interest in both its implementation and enforcement.

SkillsIQ encourages the Commission to develop and establish: -

- a) processes for implementation and enforcement;
- b) template processes to assist participants in the implementation and management of systems; and
- c) ways to avoid duplication with other regulatory and professional bodies.

We are happy to work with NDIS in any further development of the NDIS Code or participate in conveying further feedback, as requested.



Yasmin King
Chief Executive Officer
SkillsIQ
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Attachment: Report by the *Senate Community Affairs References Committee - Future of Australia's Aged Care sector workforce*