

NDS Submission to the Review of Victoria's Reportable Conduct Scheme

October 2022

About National Disability Services

National Disability Services (NDS) is the peak body in Victoria and Australia for non-government disability service providers, with over 270 members in Victoria and more than 1100 members nationally. We provide information and networking opportunities to our members and policy advice to State, Territory and Commonwealth governments. NDS has a diverse and vibrant membership, comprised of small, medium, and larger service providers that deliver direct and indirect support to people with disability. Our members collectively offer the full range of disability services; from supported independent living and specialist disability accommodation services to respite, therapy, community access and employment.

Introduction

National Disability Services welcomes the chance to make a submission to the Review of Victoria's Reportable Conduct Scheme. Five years into the implementation of the scheme, this is a timely opportunity to reflect on the positive impacts of the Scheme and discuss issues associated with the scheme's rollout.

NDS and the disability sector strongly support mechanisms to ensure the safety of children and uphold the right of children to freedom from abuse, neglect, violence and exploitation. We welcome the Victorian Government's commitment to securing these rights for children in Victoria. NDS is deeply concerned that children with disabilities are more likely to experience physical or sexual violence than other children, and is committed to supporting the sector to foster child-safe organisations.

The disability sector operates within a complex regulatory environment, with comprehensive regulatory oversight at the national level under the National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission), and significant requirements to comply with various regulation, accreditation and reporting requirements at the Victorian State Government level. The Reportable Conduct Scheme, which establishes mandatory reporting requirements for all Victorian disability service providers, forms part of this complex web of regulatory oversight.

This submission will provide an overview of some of the key issues associated with the Reportable Conduct Scheme based on feedback from the disability sector.

Key Issues

Lack of clarity around the scope of disability services that fall under the scheme

NDS understands that the scope of the Reportable Conduct Scheme applies to a range of organisations including those that 'provide disability services, including but not limited to, registered disability service providers.' NDS is concerned that this definition is unclear and may cause confusion amongst organisations within our sector. In particular, the term 'registered disability service providers' is vague, and it is unclear whether this refers to providers registered with the National Disability Insurance Scheme (NDIS) or with the State Government. Furthermore, it is unclear which types of disability service providers are in-scope; for example, whether disability employment services (DES) or supported employment environments are included.

Relevance of requirements for disability services who do not support children

A number of service providers have raised concerns about the wide scope of disability services that are included under the scheme. In particular, providers have questioned why disability service providers who *do not* provide services to children or come into contact with children are included in the scope of the scheme. Disability service providers are required to comply with a significant breadth of regulatory schemes at a national and state level which amount to considerable administrative burden, substantial training requirements and significant work to ensure compliance. Service providers who do not provide services to children have raised frustrations that activities to comply with the Reportable Conduct Scheme, including mandatory staff training, are costly, burdensome, and take time which could be better spent on other quality and safeguarding activities which are more relevant to their clients, staff and organisations. NDS would support an adjustment to the scope of the scheme to limit application of the requirements only to disability service providers who provide supports to children or regularly come into contact with children in the delivery of services.

Implementing the scheme in organisations where some staff do not interact with children:

Some providers have expressed concerns about the fact that the Reportable Conduct Scheme applies to all staff in an in-scope organisation, rather than just the staff who provide supports to children or come into contact with children in their roles. NDS acknowledges that it is reasonable that all senior leaders in an in-scope organisation should fall under the scheme, as well as any staff who come into contact with children in their roles. However, we question the relevance of the scheme to workers operating in areas of an organisation that do not come into contact with children. For example, we would argue that it is unnecessary for a worker who provides in-home supports to recipients of aged care services to undertake training about the Reportable Conduct Scheme. NDS would support a review of the scope or requirements of the scheme to remove instances where workers who do not encounter children in their employment are required to comply with significant requirements under the Reportable Conduct Scheme.

Understanding of the scheme in the disability sector:

NDS is concerned that there is a lack of understanding among service providers about the scheme, associated requirements and the processes to investigate allegations of reportable conduct. This appears to be reflected in data which indicates underreporting in the sector. NDS would support greater communications and guidance about the scheme and associated requirements for disability service providers.

Requirements for the 'head' of organisations:

NDS members have raised concerns with restrictions around who is able to undertake activities under the scheme. In particular, members questioned a perceived requirement that the head of the organisation must report incidents and cannot delegate this task to an approved representative. Other incident reporting mechanisms (for example, that of the NDIS Commission) allow for reporting by an approved representative of the organisation. NDS would support mechanisms whereby heads of organisations can delegate reporting duties to other individuals, including quality or operations managers, to allow for more direct reporting of information and reduce burden on CEOs.

Training requirements:

A number of NDS members raised concerns about the training requirements under the Reportable Conduct Scheme. Under NDIS price settings, resources to cover the cost of training are significantly constrained. NDS members raised concerns about the costs associated with training staff who do not interact with children. They also noted concerns related to the financial and administrative burden of having to develop their own training resources. NDS would like to see the development of a two-tiered approach to training requirements within the scheme, which could continue to require the current level of training for staff who come into contact with children, but also support a proportionate level of training (e.g. through requirements to provide information sheets) for workers who do not come into contact with children in their roles but who work in organisations which support children. NDS would also strongly support investment in the development of online training modules and other resources which could be accessed by workers covered by the Reportable Conduct Scheme in order to reduce the workload for organisations.

For any queries about this submission, please contact myself or Clare Hambly, Senior Policy and Projects Officer, National Disability Services – clare.hambly@nds.org.au.

Kind regards,

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