

Submission to the Royal Commission on the Safeguards and quality issues paper

One driver of the transition to the National Disability Insurance Scheme (NDIS) was the belief that a 'market-based' model would incentivise provider efficiency, as well as improve the overall quality of services through provider competition. As rollout comes to an end, the NDIS is delivering many of its goals, and will continue to do so. It would be naïve however to presume market forces alone will produce safe, high-quality services. Mechanisms to drive quality in organisations, from within and without, are paramount. In order for the goals of the NDIS to be achieved and for people with disability to have access to high-quality disability services, there needs to be appropriate regulation and registration, sufficient numbers of options within the 'market', service user capacity, and enough workers in the sector to meet the demand for services.

The NDIS also provoked tensions between policy settings which encourage providers to develop a 'business mindset', and those which espouse the interests of the participant. Sometimes these approaches pull in the same direction, such as when service users select organisations for quality. Sometimes they do not—for example, in the assumptions which underpin the price model concerning higher supervision ratios for supports¹. Another implication is the entrance of non-traditional—including more for-profit—providers into the sector. The NDIS also allows service users to engage unregistered providers, which brings a range of risks. Also, concern about competition may be stifling collaboration among providers.

NDS has previously advised the Royal Commission² of the challenges faced by a sector transitioning from multiple, state-based quality and safeguarding systems to a single national regulator, the NDIS Quality and Safeguards Commission ('NDIS Commission'; 'the Commission'). Responses to NDS's Annual Market Survey, detailed in our '2020 State of the Disability Sector' report, paint a picture of a resilient sector which is keen to continue to work towards a higher level of quality, in concert with the regulator³. In order to achieve this, support for organisations, as well as improvements to the way the sector is regulated, are required.

NDS, as the peak body for disability service providers, constantly encourages providers to consider how disability supports can be provided in a high-quality and safe way. This submission focuses on areas of service provision to which particular attention should be paid, especially where this concerns strategies to address violence, abuse, neglect and

¹ See 'Workforce' section below.

² In NDS's response to the Restrictive practices issues paper, available [here](#).

³ NDS 2020, *State of the Disability Sector report*, National Disability Services, Canberra.

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exploitation. In some cases this is explicit, such as responding to allegations; in others it is less concrete, such as supporting the development of positive organisational cultures. It broadly considers key values, challenges and opportunities at an organisational level, then at a system level, and the role people with disability can have. We conclude by considering some particular areas of note.

Organisational level

Some academic literature has identified a shift from individual-focussed ‘bad apple’-type models for explaining abuse in services to a greater focus on safeguarding from an organisational and systems/sector point of view. Marsland, Oakes & White (2007)⁴ note weaknesses in preventing abuse in services include: professionals missing signs or early indicators that service users may be at risk; and instances where warning signs are received but not appropriately acted on. NDS’s Zero Tolerance Framework provides dedicated sections to support workers to understand, prevent and respond to abuse.

The need for staff involvement in decision-making was identified decades ago⁵—particularly the values of commitment and personal worth it fosters in staff. At the same time, there was a recognition that lack of resources can result in an emphasis on ‘survival, on getting by’⁶. The link between the quality of practice and the availability of resources has been acknowledged by the Joint Standing Committee on the NDIS⁷.

NDS suggests the following characteristics are key for organisations to prevent violence, abuse, neglect and exploitation of the people they support.

- **Organisational strategies** that value, facilitate and promote:
 - Service user decision making and self-advocacy
 - Service user feedback and risk enablement
 - The role of trusted informal supports
 - The celebration of genuine successes and good performance
 - Reflective practice
- **Clear and consistent messages, systems and practices** that facilitate a commitment to a zero-tolerance attitude to violence, abuse neglect and exploitation throughout the organisation, including via:

⁴ Marsland, D, Oakes, P & White, C 2007, ‘Abuse in care? The identification of early indicators of the abuse of people with learning disabilities in residential settings’, *Journal of Adult Protection*, vol. 9, no. 4, pp. 6-20.

⁵ Wardhaugh, J & Wilding P 1993, ‘Towards an explanation of the corruption of care’, *Critical Social Policy*, vol. 13, no. 37, pp. 4-31.

⁶ Ibid (p. 15).

⁷ Commonwealth of Australia 2020, *Joint Standing Committee on the National Disability Insurance Scheme: NDIS Workforce Interim Report*, viewed 21 January 2021, <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024501/toc_pdf/NDISWorkforceInterimReport.pdf;fileType=application/pdf>.

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- Staff and board recruitment. This may include a variety of tools and methods for screening, vetting and assessing employment candidates for their values alignment and suitability for a role
- Regular performance reviews and monitoring
- Service-user-safety outcome measurement
- Policies, procedures and practices which provide a framework for managing conflicts of interest, reporting and managing incidents and complaints, and procedural fairness and disciplinary actions for employees
- **An organisational culture** which supports:
 - A strong appreciation among all staff for the value and implementation of effective risk, incident and complaints reporting and management, and skills and authority in addressing obstacles in their implementation
 - A culture of continuous improvement, learning from mistakes and seeking and acting on suggestions for innovative ways of achieving goals
- An organisational structure which champions supervision and reflective practice at all levels of the organisation. Services require a funding model which supports this.
- The use of Trauma-Informed Care as an approach to preventing violence, abuse, neglect and exploitation. (To support this, NDS recently released a [series of videos](#) on trauma-informed support.)

Some examples of organisational actions taken by providers include:

- Regular surveys of service users on quality of life indicators and human rights
- The use of service user advisory committees to provide input into the leadership and governance of the organisation
- Investment in quality management systems, including internal audits in relation to incidents and complaints
- Paying people with disability to attend services and report back to the organisation on key indicators of quality

NDS initiatives

Zero Tolerance

Zero Tolerance⁸ aims to drive continuous improvement in disability service delivery by:

- Informing organisations about abuse, how to prevent, identify and respond to it
- Encouraging positive speaking-up cultures, a positive attitude to complaints, and driving reflective practice and continuous improvement
- Recognising that combating abuse is not a point-in-time event, but requires ongoing learning, reflection, conversations and vigilance
- Encouraging organisations to focus on improvement of service quality at all times, not only when something adverse occurs

Resources focusing on the following topics are available:

- [Understanding Abuse \(including Human Rights, and identifying abuse\)](#)
- [Preventing Abuse \(with a focus on positive cultures\)](#)

⁸ A fuller overview of Zero Tolerance was provided in NDS's in response to the Royal Commission's issues paper on rights and attitudes, accessible [here](#).

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- [Responding to Abuse](#)
- [Trauma-informed Support](#)
- [Recognising restrictive practices](#)
- [Considering Positive Behaviour Support during Covid-19](#)

Feedback to NDS about Zero Tolerance resources has been overwhelmingly positive, with providers highlighting the realistic dramatised scenarios, the rich conversations sparked, and frequently the changing of perceptions and attitudes among workers who use the resources⁹.

Conversations and Collaborations

NDS was funded by the NDIS Commission to deliver a capacity-development program for behaviour support practitioners in every state/territory over 2019-20 and again in 2020-21. NDS has previously relayed to the Royal Commission information on our Conversations and Collaborations project¹⁰. The program of activities for this financial year are:

- Behaviour Support Practitioner Workshops
 - Understand the intersection of health, well-being and behavioural expression of needs
 - Plain English, practical positive behaviour support plans
 - Interim plans – debriefing, dignity and risk
 - Chemical restraint – how you can support reduction
- National Virtual Conference on Positive Behaviour Support
- Train-the-trainer workshops working to embed abuse prevention in organisations using the Zero Tolerance suite of tools
 - Supporting teams with positive behaviour support approaches
 - Introduction to supporting people with complex communication needs
 - How to use Zero Tolerance resources in everyday staff support and supervision
- Quarterly Community of Practice promoting the prevention of abuse and the use of Zero Tolerance resources

Risks, Incidents and Complaints

Funded by the NDIS Commission, NDS is developing resources for small and medium-sized providers to assist manage their risk, incident and complaint management systems. The project aims to increase providers' understanding and adoption of quality management and continuous improvement processes that meet NDIS Commission requirements and drive high-quality outcomes for participants. Issues identified in consultations include: limited understanding of risk management principles; issues with implementing policies and procedures; and limited understanding and implementation of

⁹ See NDS's response to the Rights and attitudes issues paper (p. 6) for examples (available [here](#)).

¹⁰ See NDS's response to the Restrictive practices issues paper, Appendix (available [here](#)).

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continuous quality improvement practices. Resources are currently under development with uptake phase scheduled for April-July 2021.

Other quality and safeguarding supports for providers include the NDIS Commission Worker Orientation Module (which NDS was commissioned to produce) and the development of practical resources, such as guides on [Quality Management](#).

The extent to which an organisation is able to implement features in the above section will be determined — to varying degrees — by broader policy settings such as those addressed in the following section.

System level

The introduction of regulation by the NDIS Commission has been paired with a winding back of the roles of some state-based disability services regulators. For example, the Victorian Office of the Disability Services Commission notes its expectation that its role will significantly decrease during 2020-21, and it has been referring more matters to the NDIS Commission¹¹. Nonetheless, some state-based authorities will continue to have a role—including public guardians, public advocates, and those that screen workers and authorise restrictive practices. People with disability will also continue to use non-NDIS funded services (including mainstream services). NDS has outlined our expectation that all governments support people with disability to achieve their goals in a recent submission on the National Disability Strategy¹².

NDIS Commission

NDS has supported the establishment of the NDIS Commission to replace the patchwork of quality and safeguarding systems across the country. NDIS participants should enjoy the protection of the same quality and safeguarding system, regardless of where they live. Still, the work undertaken to move towards a national system has been immense: difficulties in implementation have been exacerbated by substantially different starting points in providers' understandings of and preparedness for operating in a modern regulatory system. This work is ongoing. NDS recently provided feedback on potential improvements in a [written submission](#) to the Joint Standing Committee Inquiry into the NDIS Quality and Safeguards Commission; some information below is drawn from that response.

Potential for greater education and information provision

¹¹ Disability Services Commissioner (Victoria) 2020, *Submission 13: Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the NDIS Quality and Safeguards Commission*, viewed 21 January 2021, <<https://www.aph.gov.au/DocumentStore.ashx?id=82d5edec-9e34-46b2-a479-21a1aa0f5249&subId=690458>>.

¹² National Disability Service 2020, *Submission to the National Disability Strategy and NDIS Outcomes Frameworks*, viewed 29 January 2021 <<https://www.nds.org.au/item/nds-submission-national-disability-strategy-and-ndis-outcomes-framework>>.

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Policymaking literature identifies four broad types of policy ‘tool’ which governments and their agencies can employ to attempt to achieve their goals—these are nodality (or information manipulation and provision), authority, treasure and organisation¹³. While the NDIS Commission has shown a preference for use of authority and information provision, NDS believes its impact could be more effective through developing its role supporting the organisational development and education of service providers. This can occur in a number of ways:

- **A stronger developmental role with providers.** This could be undertaken by providing free training on zero-tolerance cultures, and resources relating to registration compliance requirements regarding preventing violence, abuse, neglect and exploitation. These could include understanding the risk factors and prevention techniques involving violence, exploitation, abuse, neglect¹⁴¹⁵.
- **Greater level of detail regarding compliance and enforcement breaches, and penalties applied.** The level of detail provided is currently limited. There are examples (including Australian health and safety and aged care regulators, and the disability services regulator in New Zealand¹⁶) which show how a level of detail can be provided whilst maintaining appropriate privacy considerations. NDS suggests information be released pertaining to: the nature of the breach as proven; how long it occurred; any actions taken by the NDIS Commission; and any penalties issued. This has potential to provide not only a general deterrent to other service providers, but may be educative in assisting them to understand how the regulator expects disability services should be delivered and support providers’ practical and proactive approaches.
- **Greater timeliness of complaint notification to providers.** In one example, a provider reported a complaint made to the Commission in January was only notified to the provider in September. Being unaware of the complaint (as it had not been made directly to the provider, as is the complainant’s right) meant the provider was unable to respond promptly.
- **More clarity on responsibility of information provision to providers between the NDIA and NDIS Commission.** This has been borne out in particular during the Covid-19 pandemic where information provided to service providers was sometimes slow, haphazard or insufficient. A need for greater information sharing between the NDIA and NDIS Commission was identified in

¹³ Hood, C 1985, *Tools of Government*, University of Microfilms International, Mich, US.

¹⁴ Both the Aged Care Quality and Safety Commission and the Australian Commission on Safety and Quality in Health Care house publications, resources and information on topical, poor performing areas of practice in a way that is easy to navigate and is accessible for a wide range of providers.

¹⁵ NDS’s Conversations and Collaborations, and Risks, Incidents and Complaints projects (referred to above) lay strong foundations for this work.

¹⁶ See: information available on New Zealand’s Health and Disability Commission website: <https://www.hdc.org.nz/decisions/search-decisions/>.

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the Robertson Report into the circumstances surrounding the death of Ann Marie Smith¹⁷.

- **Greater use, interrogation and interpretation of data** (including more publicly available information regarding aggregated audit findings). The NDIS Commission has a national view of the disability sector which no authority has ever had before. This, combined with the amount of data available to the Commission and emerging technologies, could allow for deep and authoritative insights about the state of quality and safeguarding across the country. The NDIS Commission should use this ability to determine where the sector can improve, and where services may require more education to improve the quality of service.
- **Highlighting key themes the NDIS Commission is observing with respect to quality and safeguarding across the country.** Whereas regulator reports often highlight particular areas where sectors require particular improvement¹⁸, the NDIS Commission's annual reports to date primarily focus on activity it has undertaken and statistics regarding complaints and reportable incidents, with little further interpretation. NDS hopes the NDIS Commission will draw out themes and areas of particular need for focus as it begins to form a deeper understanding of the sector. NDS members seek benchmarks to understand their level of competency in respect to other organisations and greater transparency regarding the Commission's focus areas.
- **Promoting evidence-based practice** on preventing and responding to all forms of violence, exploitation, neglect, and abuse by disability providers. This may involve promotion of good-practice examples and sharing of quality approaches via information such as the ongoing publication of providers' approaches.
- **Centralising a clearing house of resources** that the NDIS Commission funds to enable access by providers, similar to those by the Aged Care Quality and Safety Commission and the Australian Commission on Safety and Quality in Health Care.

NDS acknowledges the NDIS Commission's response to the need to build capacity among providers, including through several grants rounds. For NDS's part, grants received have allowed for projects such as Conversations and Collaborations, and Risks, Incidents and Complaints, outlined above.

¹⁷ See Recommendation 1: Robertson, Alan 2020, *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020: Report to the Commissioner of the NDIS Quality and Safeguards*

Commission (p. 7), viewed 27 January 2021,

<<https://www.ndiscommission.gov.au/sites/default/files/documents/2020-09/independent-review-report-commissioner-public-310820.pdf>>.

¹⁸ For examples, see: Victorian OSDC's 2019-20 [report on preventable deaths in care](#); Victorian OPA's '[I'm too scared to come out of my room](#)'; NSW Ombudsman's report on [Abuse and neglect of vulnerable adults](#).

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Relationship with providers

NDS looks to the NDIS Commission to foster a more collaborative relationship with providers as it matures. This would allow for greater opportunities for the regulator to hear from providers about the barriers they face in providing safe and high-quality services, and opportunities for co-design and celebration of good practice. In 2020, only 29 per cent of providers believed the NDIS Commission is working well with providers; 33 per cent said this isn't the case¹⁹.

Providers highlight the need for support to build their capacity. For example, the NSW Ombudsman previously held roundtables to discuss common issues with the sector; a similar level of dialogue with the NDIS Commission would be welcome. This could serve to broaden the focus from registration, compliance and reporting, to discussions around being proactive and preventative—and allow service providers to share knowledge and good practice. For instance, a forum could be convened for stories regarding restraint reduction/elimination (with appropriate consents and authenticity), thus ensuring ongoing focus on improvement.

Providers may be in a position where they become aware of a person's particular vulnerability, but find it difficult to know who to raise this with. The death of Ann Marie Smith pointed to a need to better identify vulnerable NDIS participants during planning who may need additional safeguards. Providers (and people known to the participant) should have the ability to flag an NDIS participant as potentially vulnerable to the NDIS Commission.

Unregistered providers

NDS believes all workers delivering face-to-face support to NDIS participants should be required to hold a worker clearance. While the NDIS Code of Conduct provides sound guidance to staff and organisations, NDS continues to have concerns around its adequacy as an enforcement tool. All NDIS providers, registered and unregistered, must adhere to the Code. Still, greater weight is placed on the Code in the absence of a requirement for worker clearances for all workers supporting NDIS participants (including those engaged by unregistered providers and self-managed participants).

Questions surrounding the regulation of unregistered providers continue to proliferate, particularly with respect to organisations which offer 'gig-based' service provision via apps. NDS has heard anecdotally of a growth in unregistered providers during the COVID-19 pandemic as individuals and businesses elsewhere in the economy are displaced. A competitive NDIS 'market' (in combination with cost of registration and audit) has the potential to incentivise providers avoiding registration to gain a competitive advantage, without the same requirements for quality and safeguarding²⁰.

¹⁹ NDS 2020, *State of the Disability Sector report*, p. 26, National Disability Services, Canberra.

²⁰ A list of the requirements of registered NDIS providers is available on the [NDIS website](#).

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Such providers often charge lower prices than traditional providers, due primarily to their limited number of direct employees and overheads.

Market model

A fundamental challenge to the market model of the NDIS is ‘thin markets’, where there are insufficient providers to service a geographical area or service type. Without sufficient numbers of service providers, the ability for a service user to have ‘choice and control’ over the services they use is limited. In cases of ‘market failure’, services are required but not available. In 2020, 79 percent of providers reported they had received requests for services they have not been able to provide in the last 12 months (up from 69 per cent in 2018). For most providers, they turned service users away because they didn’t have capacity (69 per cent), didn’t provide the requested service (51 per cent), or the service user’s plan wouldn’t cover the requested services (47 per cent). While there is no clear indicator for market failure, plan underutilisation is a potential sign. NDS suggests significant plan underutilisation, particularly in areas where there are thin service markets, should form a trigger for an investigation from the NDIA/LAC/Support Coordinator to ensure people are contacted to offer them assistance to implement their plan.

The role people with disability can play

Another key tenet of the NDIS is developing the capacity of people with disability. This may include their ability to discern high-quality services and to take actions to safeguard themselves from potential harm. Advocacy—both individual and systemic—has a particularly important role to play, but can only operate at full effectiveness if it is properly resourced. Disability service providers largely support greater advocacy for the people they support: only 20 per cent of providers in 2020 believed there is sufficient advocacy for the people they support. Three-quarters noted that helping clients understand and navigate the NDIS—work advocates may undertake—meant they had less focus on service provision²¹.

Self-advocacy is an important skill which can form a ‘natural’ safeguard against poor practice. The [‘It’s OK to Complain!’](#) information campaign, run by the Victorian Office of the Disability Services Commissioner (ODSC), acknowledged a potential tendency in some people with disability to be acquiescent, and encouraged people with disability to raise complaints where appropriate. The campaign was highly regarded, and backed by significant ongoing investment and promotion. In a recent submission, the ODSC notes people are less likely to speak up about larger issues if they are unable to speak up about ‘the little things’²².

²¹ NDS 2020, *State of the Disability Sector report*, p. 24, National Disability Services, Canberra.

²² Disability Services Commissioner (Victoria) 2020, *Submission 13: Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the NDIS Quality and Safeguards Commission*, viewed 21 January 2021, <<https://www.aph.gov.au/DocumentStore.ashx?id=82d5edec-9e34-46b2-a479-21a1aa0f5249&subId=690458>>.

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Other elements which can support people with disability to safeguard themselves include:

- Supporting people to have a wide circle of support outside the service system, including increased community contact
- Greater funding in NDIS packages for the development of self-advocacy skills, understanding of rights and the development of supported decision-making
- Ensuring sufficient 'natural safeguards', such as the ability for family and friends to visit services. This should be in conjunction with a well-resourced national Community Visitors scheme
- The provision of multiple avenues for complaints, and an assurance from providers that services will not be adversely affected by complaints

Specific areas of note

Workforce

Supporting the NDIS's increased workforce demand while ensuring high-quality, skilled workers is an ongoing challenge²³. A trend towards casualisation appears to be reversing however: 62 per cent of all employees were permanent in 2020²⁴.

The NDIA considers the cost associated with workforce training to be built into the price able to be charged for services. The sector believes the allowance for this training is inadequate to develop and maintain a disability workforce of a high quality. Providers also speak about the increased time spent on NDIS administration as impinging on resources that could otherwise be focussed on improving quality and safeguarding. Service providers avoid student placements as NDIS prices do not accommodate student supervision. This is particularly concerning in the context of the continued scarcity of allied health professionals, who continue to be the most difficult to recruit and retain²⁵.

One service provider has noted:

'When we talk [about] training and competency to the NDIA, the standard response back is ... that is a business decision you need to make ... you will need to prioritise what is important to your business. What is currently delivered cannot be compromised. The level of training provided [now is] what just meets safeguard expectations.'²⁶

NDS has expressed serious concerns about a recent decision to lift the supervision ratio to 1:15 (FTE). The ability for management to review issues, and foster and maintain

²³ DSS's [NDIS Market and Workforce Strategy \(2019\)](#) estimated an extra 90,000 workers were needed between 2019 and about 2024.

²⁴ Ibid.

²⁵ NDS 2020, *State of the Disability Sector report*, National Disability Services, Canberra.

²⁶ Ibid, p. 27.

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good practice, among a team of up to 30 staff (given the rate of casual workers in the sector) is limited. Providers continue to express concern that this may mean lead to workforce de-professionalisation. High-quality supervision is particularly important in guarding against abuse. Increased allowance for supervision, training and reflective practice needs to be included in the NDIS price caps charged for many supports.

Restrictive Practices

The importance of education about restrictive practices has been highlighted in the *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Sector*. NDS has previously relayed to the Royal Commission the variation in knowledge, understanding and regulation of restrictive practices across jurisdictions²⁷. To support an effort to ensure restrictive practices are used only where necessary, and to support their reduction and elimination, a number of actions are recommended for the Commission's consideration:

Educational

- Targeted funding to jurisdictions, related to patterns of unauthorised restrictive practices for education and consultation²⁸.
- Broader community education on recognising restrictive practices is conducted, which reaches families and unregistered service providers. This could include funding campaigns to reach these groups with existing training, paired with messaging to providers highlighting the advantages of registration.
- One-off grants are provided to small/regional unregistered service providers which identify restrictive practices and are willing to then become registered, rather than opt out of supporting the service user. Grants may support elimination of the restrictive practice and/or registration of the provider.
- An education campaign on understanding chemical restraint is rolled out nationally to providers, families, behaviour support practitioners and medical practitioners.

Operational

- Activity Reports include reporting on authorised use of restrictive practices.
- PRODA, the reporting system for unauthorised restrictive practices, is adjusted to allow for additional data points (such as the reason for the unauthorised restrictive practice) to be entered at the time of reporting. This would reduce follow-up requests for compliance information and contribute to a stronger integrated dataset.

The aspiration of national consistency laid out in the National Framework is a laudable one. Material such as the [Regulated Restrictive Practices Guide](#), released recently by the NDIS Commission, are positive steps in reaching this goal. However, still more can

²⁷ In NDS's response to the Restrictive practices issues paper, available [here](#).

²⁸ Some information on jurisdictions is provided in the NDIS Commission's *Activity Report: 1 July 2019 to 30 June 2020* (p 6)

<<https://www.ndiscommission.gov.au/sites/default/files/documents/2020-09/1620-ndis-activity-report-jul19-jun20-70-accessible.pdf>>.

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be done. The suggestion above — for the NDIS Commission to utilise its significant collection of data to draw themes and lessons for the sector — could be particularly useful in tracking the reduction and elimination of restrictive practices among jurisdictions and service types over time.

Employment

Supported employment

The recent inclusion of a ‘rights at work’ clause for supported employees in the SES Award ([clause 32](#)) requires employers to take all reasonable steps to provide supported employees with information needed to exercise their employment rights. The clause specifies employers should provide information to, and ensure representation by, a supported employee’s nominee (including family member, union or advocate). The clause also addresses dispute resolution and other grievances.

Key actions supported employment providers can undertake include:

- Thorough vetting of prospective support staff
- Involvement of unions as advocates for supported employees
- Staff training/induction and internal learning platforms with relevant modules, and regular refreshment of this knowledge

Open employment

As part of their funding agreement, employment service providers must maintain their certification against the National Standards for Disability Services (NSDS). The Quality Assurance system is administered at arm’s length from the Commonwealth by JAS-ANZ, and audits are conducted by accredited third party Certifying Bodies. While Disability Employment Support (DES) providers remain covered by the NSDS, supported employees (except those ineligible for the NDIS) are now covered by the NDIS Quality and Safeguarding Framework and NDIS Commission.

While ‘quality’ is a key performance indicator in the DES performance framework structure, it is not included in the [DES Star Ratings system](#). The DES quality framework includes four areas underpinned by the Disability Service Standards: provider capability, service delivery, engagement and client experience. NDS has strongly advocated for DES Star Ratings to incorporate qualitative elements which align with the four areas of the existing quality framework. These elements should reflect the quality of service-user experience, with a focus on organisational practices which help to prevent violence, abuse, neglect and exploitation. The Department of Social Services has indicated it is considering including qualitative elements in the Star Ratings framework.

Key actions open employment providers can undertake include:

- Monitoring that employers are meeting their legal responsibility to ensure a safe workplace, legitimate wages and appropriate industrial relations coverage
- Providing jobseekers information on their workplace rights and protections, including relevant contacts
- Considering White Ribbon accreditation

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- Introducing clear expectations and processes to ensure all staff are welcomed and included
- Actively seeking detailed feedback from jobseekers and employees, which can feed into the standards accreditation process
- Ensuring DES provider staff regularly visit workplaces
- Building jobseekers'/employees' capacity to speak up and be responsible for their own safety—teaching and using models of supported decision-making
- Ensuring jobseekers/employees are assisted by a planning officer and an employment consultant so they have more than one person to communicate with

Areas for improvement

There are concerns that the DES assessment process may prevent service user choice and control, and contribute to poor outcomes (for example, by referral to a service which cannot meet service user needs). The Standards accreditation under the NSDS is not sufficiently recognised as evidence of high-quality service provision, including in demonstrating choice and control. This could be addressed by incorporating the NSDS Quality Assurance accreditation results into the DES performance management system.

Regional and remote services

In addition to the above considerations, service providers in regional and remote areas experience an overlay of other challenges.

- For regional, remote and smaller organisations, conducting complaints processes at arm's length from the subject of the complaint can be particularly difficult. Small or thin markets and close-knit communities can limit the ability for the service user to: choose to use another service; and make an anonymous complaint about a worker or provider. In one example, a number of family members worked with one service user (with whom they all had an existing relationship), adding complexity to maintaining appropriate complaints procedures.
- Some people in these areas may be entirely serviced by one or two service providers. Having an independent visitor (such as a Community Visitor) is an important safeguard.
- In thin markets in particular, concerns around conflict of interest are more pronounced. One NDS member has developed a template for managing conflict when recommending services run by their own (or closely affiliated) organisation. The template lists all other provider options and why the particular service was chosen.
- Providers (particularly small and in rural and regional areas) continue to say cost of audit is prohibitive to registration. An analysis of this issue is warranted.

Conclusion

As the national quality and safeguarding system matures, questions should continue to be asked about the best methods for ensuring supports are safe and of high quality. This submission has provided an overview of some elements—at organisational and system levels—which can serve to guard against abuse and drive continuous improvement. In some cases, these things are in-train, but require incentivisation and/or

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adequate resourcing; in some cases, they require changes to existing systems, to ensure providers are assisted to support people with disability achieve their goals.

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National Disability Services is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-quality supports and life opportunities for people with disability. Its Australia-wide membership includes more than 1100 non-government organisations which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.