# NDIS Review – NDIS Participant Safeguarding

**acia**

leading quality in
community services

Prepared By:

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# EXECUTIVE SUMMARY

Thank you for the opportunity to provide feedback on the NDIS Participant Safeguarding.

## SUMMARY OF RECOMMENDATIONS

ACIA supports the work being done to further improve participant safeguarding and recommends the following:

- That work continue to be done to consider how to integrate the needs of people with disability, across schemes (and not just within the NDIS).
- That a national database of safeguarding concerns and significant incidents be established that can be utilised, analysed and reported on by all schemes (subject to appropriate confidentiality filtering), to ensure participant safeguarding is managed holistically.
- That the focus on building capacity be maintained as a priority for investment and innovation.
- That support for participants that goes beyond information provision is critical to success in building capacity.
- The approach to participant safeguarding needs to be streamlined to conceptual diagrams with concise narratives. Otherwise, participants and providers will continue to find it complexity and difficult to understand, use and comply.

Safeguarding will remain a challenging issue unless there is a consistent approach across the nation and schemes.

ACIA further welcomes any clarification of items discussed in this submission or other related areas from relevant parties in order to support the quality and safeguarding of the sector to better meet the needs of the community.

# CONTENT

# RESPONSE

ACIA supports efforts to improve safeguarding for NDIS participants. The response below is structured to respond to the items outlined in the scope document. ACIA has kept its response short, in order to respect the submissions made by other organisations.

## 1. What does safety and safeguarding mean to participants?
### a) When do participants feel safe and unsafe? What helps participants to feel safe?

As this question is directly related to participant views and experiences, ACIA respectfully defers to submissions from participants.

## 2. What is working well, and not well, to promote the safeguarding of participants?
### a) Are there other issues about participant safeguarding that the Review should consider? If so, what issues?

An area of particular interest to ACIA is the intersection of systems from the perspective of participants. An NDIS participant may receive services from a number of systems (aged care, state/territory funded personal injury schemes) in addition to the NDIS.

There is a risk of a siloed approach that misses or exacerbates risk for the person. ACIA notes the work that is being done to better integrate systems and processes between the NDIA and NDIS Commission, as well as the work with the Aged Care Commission. ACIA also notes the references in the paper to state or territory funded disability supports outside of the NDIS.

ACIA requests that further consideration be given to establishing and supporting mechanisms to share quality and safeguarding concerns across all people with disability. Concerns identified in one jurisdiction may go unidentified in another, due to the matters being related to a person who is not an NDIS participant.

### 3. Do you agree with the issues about participant safeguarding identified in this paper?
#### a) Are there other issues about participant safeguarding that the Review should consider? If so, what issues?

ACIA supports the range of issues identified in the paper as being areas that require further consideration. In particular:

- The timeliness of response to changes in circumstances.
  - More consideration should be given to how to empower the system to manage changes in circumstances. Providers in the community industry can be placed in challenging situations where they know a change in services are required but not yet approved (with no certainty regarding whether they will be approved). This can result in a provider changing its services to ensure the participant receives appropriate services and maintains safeguarding, at its own cost – or a participant being put at significant safeguarding risk.
  - It may be possible to consider allowing flexibility in provider services for certain classifications of participants (considered vulnerable when circumstances change), with auditing applied to providers periodically (e.g. who exercise the 'flexibility' frequently, exercised for a participant frequently, etc).

  It is acknowledged that this topic is covered later in the paper.
- Building capacity in participants and their families and carers.
  - This is considered critical to build a sustainable approach to participant safeguarding.
  - The investment in building capacity in natural safeguards has considerable cost-benefit advantages.
  - Consideration should be given to developing short accessible online material that assists participants and their families and carers:
    - To ask the right questions of their providers.
    - To know what is reasonable to expect from a provider.
    - How to make complaints or raise issues with a provider (and then with the Commission if not resolved).
    - Who they can talk to.
  - The paper introduces the concept of a capital model. This seems like an effective way to consider the different aspects of capacity.

The paper comments on the calls for a more intensive, direct support for participants in complex and more vulnerable circumstances who have very low personal and/or social capital – to support them to ensure a proactive and holistic approach to safeguarding their interests and wellbeing.

- ACIA supports the calls for a case management function and acknowledges the need to carefully consider how it might work.

- ACIA suggests consideration be given to:
  - Ensuring the independence of the case management function (to increase 'trust') by having third party organisations (not NDIA, not Commission, not providers).
  - Establishing the function with clear boundaries.
  - Whether the function would be positioned as 'advocacy', 'advisory', or 'decision-making support'.
  - Mechanisms for periodic review, to ensure that participant safeguarding is maintained.

## 4. What do you think about the draft proposals for change identified in this paper?
### a) What is good about these proposals? Is the balance right between the dignity of risk and supporting participants to be safe? What could be different or better?
### b) Is anything missing from these proposals? If so, what?
### c) Do you have different ideas to improve participant safeguarding? If so, what?

ACIA supports the three proposals and has the following comments:
- The NDIS participant safeguarding strategy should have a long term goal of becoming an integrated strategy across schemes – and not just focused on the NDIS. ACIA considers that risk and safeguarding concerns can be impacted by other schemes and the community would benefit from a holistic approach.
- The emphasis on building capacity is welcomed.
- There is a great deal of complexity in all of the proposals. ACIA urges that consideration be given to how to simplify the proposals as much as possible.
- Governments have an obligation to have protections in place for the community and it cannot do so if it does not have access to information or be able to implement appropriate strategies. Whilst dignity of risk remains a paramount consideration, it cannot override safeguarding.

## 5. What could be done beyond the NDIS to improve the safeguarding of people with disability?

In addition to what is covered in the paper, State-funded schemes should have a key role in ensuring the safeguarding of people with disability. They should be involved in:
- Establishing a shared vision for risk and safeguarding.
- Share information and work cooperatively with other schemes.

## 6. What should an NDIS-wide participant safeguarding strategy cover?

ACIA suggest the following be considered:

- How state and territory funded schemes might contribute to the overall strategy. For example information and incident information for people not funded by the NDIS but similar or the same services or providers.

The content of the paper makes the participant safeguarding strategy sound more like a framework, rather than a strategy. If it is strategy that articulates the goals/outcomes to be achieved and the activities that will be undertaken during the left of the strategy to improve safeguarding, ACIA suggests the following:

- Investing in a database and reporting that can be used by all parties (including state and territory funded schemes for management of safeguarding for their schemes). This would assist in establishing benchmarks, embedding consistent definitions and support analysis and reporting.
- A small number of goals or outcomes that represent the successful implementation of the strategy – for example:
  - Safeguarding concerns are materially reduced.
  - NDIS participants feel safe in the services they receive.
  - NDIS participants feel safe in raising safeguarding concerns.
  - NDIS participants feel involved in resolving safeguarding concerns.

## 7. When and how should participants and their supporters be engaged in communication about risk and safeguards in the NDIS? Why would this be the best approach?

It is important to start early and develop the conversation about risk and safeguarding over time.
The risk and safeguarding discussion may look different at different points in the participant life. For example:

- At entry into the NDIS, risk and safeguarding might be about:
  - Being introduced to the terminology
  - Learning how to identify risk and safeguarding issues that might be relevant to the participant
  - Learning how to raise and resolve concerns
- Over time, risk and safeguarding might be about:
  - Providers becoming familiar with personal finances.
  - Family supports changing over time.
  - Need for respite.
  - Becoming older or becoming an adult.

ACIA acknowledges that people wish to learn and engage in different ways. To support this, a variety of information and engagement options should be available, including:

- Material printed from websites

- Brochures
- Short online videos
- Webinars
- External case management for those most at risk.

## 8. Who should communicate about these concepts with participants, and why? What skills or attributes are required to best support this?

Discussion with a professional who has worked with the participant and their family and understands the needs and goals of the participant would be ideal.

ACIA acknowledges that the NDIS market is large and not everyone needs (or wants) a high level of personal interaction. As a result, the range of communication options outlined against question 7 are suggested.

The examples outlined in the paper (planner, advocate, another person, self-led process) are all reasonable options and should be part of the range of ways participants can be supported.

## 9. What helps build natural safeguards in participants' lives? What makes this harder?

The capital model discussed earlier in the paper provides a useful framework when thinking about natural safeguards. If the model is used in a slight different context, it could become:

- What is it about the participant themselves (their strength, resilience, behaviour, etc) that helps or hinders risk and safeguarding?
- What is it about the participant's material capital that supports or challenges safeguarding?
- What is it about the participant's skills and knowledge that will assist safeguarding or make it more challenging?
- What is it about the participant's family and community that will assist safeguarding or make it more challenging?

What makes issues such as safeguarding potentially complex to understand, navigate and manage is the range of different definitions, perspectives, strategies, frameworks, etc that are used.

To address that complexity, ACIA suggests that a model be developed that

- Has a core approach, where the components can be universally applied. This might include a very simple INPUTS – PROCESS-OUTPUT model that processes are fit into
- Then utilises a pyscho-social domains approach to considering the participant and their circumstances or concerns. For any one participant at any one time, different domains would be important to focus on.
- The key becomes that the same model and the same pyscho-social domains are part of the conversation on a regular basis – embedding knowledge and practice.

## 10. What can be done to support participants in decision-making?

The paper outlines an appropriate range of supports for participants in decision-making. ACIA suggests it could also include:

- Short online videos that focus on particular issue – to assist participants and their families to take a 'just-in-time' approach – they need to know something about a particular topic now and there is a short (4-10 minute) video on that very topic.
- Material about what NDIS does and doesn't fund and the criteria that is considered in that decision-making.

## 11. How should information sharing between government agencies to promote safeguarding be balanced with privacy considerations?

Appropriate sharing of information across schemes (Commonwealth and State) is paramount to the effective operation and funding of supports for people with disability. ACIA suggests:

- The need to share information between schemes be clearly communicated to NDIS participants on acceptance to the NDIS.
- That information-exchange be focused on:
  - o Risk and safeguarding.
  - o Provider service.
  - o Participant acceptance of schemes, including details of disability.
  - o Services funded for participants.
- That a central database be established across Schemes, to provide a national approach.

Without this approach Schemes:

- Cannot operate effectively and efficiently.
- Face increased risk of duplicated services (participants accessing services from multiple schemes).
- Face increased risk for participants of receiving inadequate services.

## 12. What kinds of support and advice might participants need to effectively advocate for their right to be safe or to support safeguarding?

ACIA supports the following:

- Free access for participants and their families to:
  - o Website information, brochures and on-line videos outlining support and advice options.
  - o Online, telephone and face to face options for Government support services (like state funded legal services advice).

- Additional training and development for support coordinators and planners to identify risk and safeguarding issues, engage in person centred discussions and support participant led decision-making.
- NDIS funded support for participants at risk.

## 13. What options for outreach and visitation or other support can be provided to participants in different higher-risk settings and circumstances?

ACIA supports the concept of a national outreach and visitation program focused on the checking on and promoting the wellbeing and safeguarding of participants. ACIA also supports:

- A state based approach to the outreach and visitation program, in order to ensure it is broad based rather than NDIS specific.
- NDIS funding States to provide services for NDIS participants.
- The outreach and visitation program covering state funded people with disability.
- The outreach and visitation program including private homes, if services are funded by the Commonwealth or State Government.
- The outreach and visitation program having a responsibility to refer issues of concern to the relevant scheme funder (whether that is a participant concern or an observed provider concern).
- The establishment of a national database, ensuring consistent data is collected, analysed and reported.

## 14. How should any model for outreach and visitation operate for participants living in private homes? Should this be based on participants opting into or opting out of receiving visits or other forms of outreach?

ACIA suggests that participants opt out of outreach and visitation services but must do so in writing.

# BACKGROUND - AUSTRALIAN COMMUNITY INDUSTRY ALLIANCE (ACIA)

ACIA is the peak body in Australia representing aged care, disability and community care focused on quality management in care and service provision.

The Australian Community Industry Standards (ACIS) is managed by ACIA and is a standard that, whilst strives for a level of consistency with the NDIS and Aged Care Standards, is also focused on driving improved quality and safeguarding outcomes in the community services industry. The mapping done when ACIS 4.0 was implemented in 2021 shows the following.

| ACIS 4.0 | NDIS Standards | Aged Care Standards |
|---|---|---|
| Rights & Responsibilities | 🟢 | 🟡 Increased human rights |
| Corporate Governance | 🟢 | 🟢 |
| Clinical Governance | 🔴 New standard | 🟡 Increased governance |
| Service Delivery | 🟢 | 🟢 |
| Service Environment | 🟢 Inc new requirements | 🟢 |
| Add. Physical Support | 🟡 Increased scope | 🟡 Increased scope |
| Add. Behav. Support | 🟡 New cognitive imp. std | 🟢 |
| Add. Mental Health | 🔴 New standard | 🔴 New standard |
| Add. Assistive Technology | 🔴 New standard | 🔴 New standard |
| **TEAM**: RN +1 | 2 (non RN*) | 2 (non RN) |
| **DURATION**: 1yr* | 1.5 years | 3 years |

🟢 Similar Standard   🟡 Largely Similar   🔴 New Standard

ACIA is the national peak body representing community care and support providers, including private, not-for-profit, and charitable organisations. Nationally ACIA represents over 100 provider organisations, which collectively employ more than 150,000 FTE workers and supports more than 35,000 clients. ACIA also supports the disability and aged care sectors and works with government departments and authorities, including:

- State Disability Agencies such as Department of Family and Community Services, Ageing Disability and Home Care NSW, Department of Health Human Services Victoria and Disability Services QLD
- icare NSW includes: Lifetime Care and Support Authority, Workers Insurance, Dust Diseases Care, Self-Insurance, and Builders Warranty.
- Lifetime Support Authority South Australia
- Motor Industry Accidents Board, Tasmania
- Transport Accident Commission Victoria
- Workers Compensations Schemes in multiple states

- Representation at the National Aged Care Alliance
- Department of Health
- Department of Social Services

ACIA's vision is to advocate and lead the aged care, community care and disability sector to ensure the quality and safeguarding of complex and vulnerable people, by supporting members to continue to improve in care and service delivery. ACIAs goal is to provide a framework and resources to support & advocate for the needs of complex & vulnerable clients in care. To achieve this vision and goal, ACIA provides education, resources, and support to the industry and develops and administers its own quality standard and scheme (endorsed by the Joint Accreditation System for Australia and New Zealand JAS-ANZ).

This is summarised in our current strategic plan which is illustrated overleaf: