



Submission to the Inquiry into the NDIS Quality and Safeguards Commission

Submitted by Liz Forsyth on behalf of Brain Injury SA

To Whom it May Concern

I write as CEO of the above organization in response to the invitation advertised to contribute to the above Inquiry into the NDIS Quality and Safeguards Commission. As both a manager and Occupational Therapist I have worked in the Disability and Community Service Sector for over 35 years. For three years I was a member of the National Working Party on Disability Employment Service standards, representing the then Association for Competitive Employment. The working party was charged with developing the original Disability Employment Service Standards and assessment criteria. I was subsequently engaged as a consultant to write the Best Practice manual to support employment services implement quality systems to meet the service standards developed. In my career I have worked on a number of quality-based projects including taking three different services with whom I was employed to quality accreditation across three different assessment jurisdictions including ISO, Australian Service Excellence Standards and accreditation as a Vocational Education and Training provider.

Brain Injury SA (BISA) operates as a state based Peak Body and a service provider for the ABI community in South Australia. We provide a range of services to people living with brain injury under various funding streams including NDAP and the NDIS.

I am making contribution to the above inquiry in relation to the applicable Terms of Reference as shown from the perspective of a service provider who has some exposure to the NDIS Quality and Safeguards Commission through registration application, enquiry and responding to a complaint raised against Brain Injury SA.

b. The effectiveness of the Commission in responding to concerns, complaints and reportable incidents including allegations of abuse and neglect of NDIS participants

As a service provider BISA holds a high level of respect for the role played by the Commission in implementing and monitoring the safety and quality of services being provided under the NDIS. We recognize the importance of this role and as an organization work to comply with or exceed the standards it establishes or develops.

Despite defining within the Provider Governance and Operational Management model a requirement for providers to operate a complaints management and resolution system, this is not currently the first port of call of the NDIS Commission. The NDIS Commission approached us with a complaint concerned that it would arrive as an "allegation" when it was an operational issue. On discussion, it was clear the complainant had not made any attempt to resolve the issue through BISA's complaints resolution system. The Commission agreed to direct the complainant back to this, but it seemed a considerable waste of resources that this had not been their starting suggestion to the complainant. It is acknowledged there could be complaints of such seriousness that this is not appropriate, but in this case it was concerning that the complainant had not been referred to what is

a standard requirement of providers. It is identified that in a competitive market that this could encourage malicious complaints that get elevated too quickly to the Commission, without the provider given any opportunity to resolve operational issues directly

Recommendation

That the Commission works actively to ensure complaints are resolved directly with the provider through the required complaints process where possible, and that enquiry on utilization of the provider's complaints process is the first step of dealing with a complaint unless it concerns a matter of seriousness that warrants a direct approach to the provider by the Commission. Utilization of the provider's complaint process can be audited by the auditor, including the provider's capacity to find resolutions to complaints made.

c. The adequacy and effectiveness of provider registration and worker screening arrangements, including the level of transparency and public access to information regarding decisions and actions taken by the Commission

Our experience of re-registering has been highly delayed and poorly communicated. In turn, this has limited the development of highly needed services. The following summarises our negative experiences of this.

Under pressure to complete our re-registration process within a prescribed timeframe, delays occurred in booking our auditor of choice. We sought an extension in October before the expiry of our timeframe through the on-line system, which in turn prescribes a timeframe for response by the Commission of 5 days. We heard nothing further and we still had had no formal approval of our requested extension when the auditor finally completed their audit in mid-December.

Our audit was completed before Christmas 2019 with no non compliances. This audit also sought a provisional certification to provide a specialist Positive Behaviour Support Service for people with Brain Injury, a service we had identified as much needed and highly sought after. The full audit report was finalized by our auditors and their auditing approval process in February 2020 and the report lodged on 24th February 2020.

We have had two phone calls from somebody at the Commission on 25th May 2020, requesting some further information regarding personal details of Responsible Persons and the operational hours of two of our service outlets. They were sent in two separate emails and with one attended to by BISA and one missed in error. Two weeks later there was follow up from the Commission regarding the missed request and was attended to the same day, providing to the Commission the missing information. The details requested of Responsible Persons is on the ACNC website, having lodged our return at the beginning of the year. The request for operational hours, whilst important information seems surprising given the completion of the audit. I was informed it was about the Commission undertaking their necessary checks as part of the re-registration process. It is unclear how these checks are needed when they have already been undertaken via the audit process, including checking the applicable safety and security clearances of Board members and all staff.

It is now 27th July 2020 and we have still not received finalization of our audit and have been unable to commence our Positive Behaviour Support Service as a result. We have heard nothing since mid-June and enquiry has given us the reply that it is being processed and to wait and that we cannot commence the Positive Behaviour Support services until it is received. It is unclear what the audit process did not identify that is needed by the Commission to finalise our certification. The auditors spent two days on site, reviewed our documentation, spoke to our participants, interviewed Board

and staff and observed our services. They were professional and thorough and cost over \$10,000. We do not understand a process that utilizes a professional auditing service and then follows through with checking what seems like minor operational details, without any timely resolution when the requested information is provided. There has been no communication regarding delays in the finalization of the certification. There were no non-compliances in our audit to be examined further. This does not appear to be a fair and responsible quality system, which in turn is limiting the development of services needed. Whilst there has been COVID 19 to manage during this period, all our auditing process was completed and fully submitted before this occurred. Desk processing by the Commission was what remained to be done, and I am assuming could continue despite lock down requirements.

Importantly, in considering safety of participants, this process does not create a vibrant environment of quality with feedback and continuous improvement. As an organization, we have continued onwards to develop our systems, with a commitment to continuous improvement, rendering any audit outcome already 6 months out of date. We understand that re-auditing occurs 12 months from certification and if this is the case it will be at least 18 months from the audit process before we begin again. This potentially increases risks for participants of receiving services that are not meeting prescribed standards. It also does not help in planning the resource allocation for the audit process. Providers are investing in quality development which in turn is not being supported by the Commission in their lack of quality in the handling of the applications.

Recommendation

There needs to be serious review of the registering and re-registering process that gives appropriate regard to the work of the auditors, trust in their findings for timely finalization of the certification and create regular engagement and understanding of the role of the Commission on actively growing quality. Services need a more active process to demonstrate their commitment to quality which they can live and develop over time. Periodic submission on improvements achieved could form part of this process, adding to preparation for the next audit encouraging ongoing review of what makes a service better and what participants are wanting and value.

f. The human and financial resources available to the Commission, and whether these resources are adequate for the Commission to properly execute its functions.

In light of the detailed experience above, it would be easy to conclude this is not the case. However, it is important to consider the inefficiencies that are occurring and given this is a requirement of quality, maybe resource requirements need to be considered against some risk and efficiency frameworks. The quality system cannot grow and develop to offer service improvements and build safety from assessment if it is bogged down in its own delays. The lack of interaction with providers on their registration processes leaves services in limbo and uncertain where the important function of the Commission lies when it is invisible and silent.

Recommendation

Interaction with services needs to be positive and engaging, so services know it is there to build and monitor quality, not just be contacting services when there is a complaint. Respect is built for a scrutinizing and compliance focused agency when services feel supported in what they are trying to achieve for their participants.

g. Management of the transition period, including impacts on other commonwealth and state-based oversight, safeguarding and community engagement programs.

For people living with complex needs in the community, the transition to the NDIS as it has occurred, has resulted in there being a loss of a single point of contact for safety, oversight and co-ordination of need when crises occur. Service providers do not know where to go when they are not coping with the complex needs of an individual, which may fluctuate in intensity resulting in periodic crisis.

Provision of the required level of supervision to support workers assisting people with complex needs is currently not funded. The NDIS has a suggested ratio of one supervisor to 15 Support Worker. This can be at odds with working to achieve standards of practice required by the Commission where participants require frequent assistance to troubleshoot complex problems and ensure appropriate safeguards are in place. The reality of this ratio in operation is concerning. Support Coordinators and LAC's expect that the agency providing support workers will take on the responsibility of addressing any issues arising within the supports provided. Our experience of many of our complex clients is that this often requires daily correspondence with the support team involved, to resolve issues that would otherwise place our clients in a great deal of risk in terms of their behavior, health and interface with the law.

The hourly rate for support work may cover the administrative aspect of rostering for routine services, approving timesheets, processing leave, ensuring plans and goals are reviewed but would not come close to covering the time and expertise required to support complex individuals. We are being approached on a regular basis by LAC's, Support Coordinators, other service providers and families about providing support workers equipped with the skills and experience needed to manage people with ABI and complex needs. We have expanded this service on a limited basis as we recognize that the input required to appropriately train, supervise and support these workers is frequently provided at a loss to the provider.

Additionally, participants can be at the mercy of a system that combines support co-ordination with service provision creating conflict of interest and overt control in service arrangements. We have witnessed a number of risks in the way this is experienced by vulnerable individuals whose capacity for judgement and decision making is impaired. Rather than promoting choice and control this arrangement tends to impede it. We understand that if a support co-ordinator has offered at least three providers to choose from including their own service, this is considered demonstration of meeting the required standard in the provision of choice. This appears to be a low bar of compliance in meeting the Commission's standard in choice and control, ensure no conflict of interest exists and that the participant's needs are met in the best possible way.

Recommendation

Brain Injury SA has identified the need for a case management service for a number of its participants, some of which we are able to resource through insurance arrangements. This service does increase safety and manage needs with detailed and skilled knowledge of disability in ways that support co-ordination or even specialist support co-ordination cannot. Consistently available but not always needed, it also saves resources, as a number of critical issues are noted and managed early, avoiding the risk of homelessness, criminal or socially unacceptable behaviour and family/informal support relationship or service breakdowns. We think this service has been lost in the transition to NDIS and offered protection to those most at risk of destructive events, neglect and exploitation by others. Consideration should be given to its introduction under the NDIS service framework. This and support co-ordination should be kept very separate from direct support and

other service provision to further ensure protection of the individual from overt control and misuse of resources available to them.

Some data should be collected as to the frequency of support co-ordinators simultaneously providing the support service, ensuring choice and control are being reliably enacted by participants.

h. Any related matters

Unfortunately, the system does seem to have been set up in isolation to other service standards established in the Disability Sector creating duplication of auditing processes that address the same issues. This demands expenditure on auditing several times for an organization on what are commonly shared standards when their foundation is in the Disability Service standards. As both an advocacy and NDIS service provider we must meet two separate sets of standards which could be merged and selectively applied according to the services being provided. Disability Employment Services also share a number of key issues in their service standards. Services bear the cost of this duplication which in turn takes resources away from service development and delivery.

Recommendation

A merged system based in the Disability Service Standards could reduce auditing costs and ensure more time is spent on auditing specifics of service types thereby deepening quality assessment in how services are provided.