

**Standing Committee on Community Affairs
Legislation Committee**

Public Hearing – 2 August 2021
ANSWER TO QUESTION ON NOTICE

Social Services Portfolio

Topic: Inquiry into the National Disability Insurance Scheme Amendment (Improving Supports for At Risk Participants) Bill 2021

Question reference number: IQ21-000073

Senator: Jordon Steele-John

Type of Question: Written. **Hansard Page/s:**

Date set by the Committee for the return of answer: 4 August 2021

Question:

Safeguarding

Item 32 - inserts new paragraph 73ZN(3)(c). New paragraph 73ZN(3)(c) enables a banning order to be made subject to specified conditions. Without limiting the kinds of conditions that may be imposed, this may include conditions that the subject of the banning order must provide a copy of the banning order to prospective employers where the banning order restricts them from engaging in some but not all activities related to disability service provisions. This assists the employer to ensure the worker is not involved in those activities. A condition could also be imposed which requires the subject of the banning order to undertake and successfully complete specified training or skill development and provide evidence of this to the Commissioner.

The decision to subject a provider or worker to a banning order is the most serious regulatory action the Commission can enforce. Some banning orders may restrict a provider or worker from providing certain supports to maintain safeguards to participants. In this circumstance, the banning order may specify that the provider or worker must provide a copy of the conditions to existing or potential employers.

- Does this, in practice, mean that someone who has breached their responsibilities and caused harm to participants is still allowed to, under some circumstances, work as a support worker?

Answer:

The power to attach conditions to a banning order could be used to ban a person from working in some types of roles but enable the person to continue to work in a type of role in which they pose no risk to people with disability provided they take action required by the condition to remedy deficits in the way they have provided services to people with disability in a particular setting. The condition might require skill development or training in a particular area. The power to attach conditions recognises that it is can be appropriate for a worker's conduct to be considered in a broader context of, say, a lack of supervision, skill

development, training and understanding of what is required of them by the NDIS Code of Conduct and under the NDIS Practice Standards. A worker may have acted in the mistaken belief that their conduct was appropriate.