

Written Submission on the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the Operation of the NDIS Quality and Safeguards Commission since it commenced operation on 1 July 2018.

Submitted to:

Joint Standing Committee on the National Disability Insurance Scheme

Prepared by:

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Only About Quality

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About Only About Quality Pty Ltd & its Director, Kathy Rees

Only About Quality Pty Ltd (hereafter referred to as ‘OAQ’) primarily assists interested individuals to prepare for their initial and subsequent audits. Its Director, Kathy Rees, is the parent of a person with significant disabilities, the Director of a former registered service provider, as well as being a contracted NDIS auditor.

Kathy writes blogs about various aspects of auditing work as well as current issues that are occurring in the disability and social services sectors. Her book, *‘Courageous Auditing: Beyond Compliance – towards being a catalyst for change’* is due to be published in September 2020.

OAQ’s response to this NDIS Inquiry is informed by Kathy’s:

- Practical experience as the Director of a registered service with the Queensland Government for almost ten (10) years, with the registration subsequently transitioning to the NDIS before the service ceased operations at the end of 2019.
- Contracted experience as a NDIS auditor since July 1, 2018.
- Contracted experience with the Queensland, New South Wales and Victorian quality framework systems for almost ten (10) years.
- Over thirty years of practical and project involvement in the disability sector.
- Research experience, including (but not limited to) NDIS-specific issues impacting on participants conducted for FaHCSIA as well as research conducted for Griffith University regarding self-management practices.
- Continued involvement in conducting projects involving the wellbeing of people with disabilities. For example, for Queensland Health, the Office of the Public Advocate, Office of the Public Guardian, as well as for Community Resource Unit (CRU) and other community agencies.
- Experience in assisting prospective service providers to address quality, risk and safeguards within their organisation’s preparations for audit.

Focus of this Submission

The focus of this Submission examines part (c) The adequacy and effectiveness of the NDIS Practice Standards included in the Terms of Reference established for the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the Operation of the NDIS Quality and Safeguards Commission since it commenced operation on 1 July 2018.

This Submission includes a review of the main issues before providing suggestions for further action.

In particular, the focus within this Submission is on:

- (a) The adequacy, or otherwise, of the NDIS Practice Standards addressing abuse, neglect and exploitation of participants.

The auditor’s role in identifying and reporting on the required safeguards for vulnerable individuals is also discussed.

The main issues addressed in this Submission refer to:

1. The limited scope of attention in the indicators addressing violence, abuse, neglect and exploitation to review issues for participants living in residential settings or living on their own in the community while being supported by a service provider.
2. The requirement for specific Rules to address the risks associated with violence, abuse, neglect and exploitation.
3. Potential improvements to auditor practice across a number of essential areas where risk may be apparent, including (but limited to):
 - addressing the *quality* of service delivery, not just focusing on document compliance;
 - strengthening the connections with other Government agencies, such as the Community Visitor Program, in relation to participant risk;
 - strengthening the consistency of practice amongst auditors as well as the certification bodies registered as NDIS Auditors.

Responses to the adequacy and effectiveness of the NDIS Practice Standards

1. **The limited scope of attention in the indicators addressing violence, abuse, neglect and exploitation to review issues for participants living in residential settings or living on their own in the community while being supported by a service provider.**

Data continues to be routinely collected by researchers, State and Federal Governments as well as elsewhere in the world that demonstrates how often violence, exploitation, abuse and neglect continues to occur for people with disabilities of all ages. It is not only family members who abuse, neglect and exploit individuals; frequently, paid staff working for organisations purporting to provide professional and caring support to people with disabilities are also involved in these atrocious and criminal activities. In recent years, reports have highlighted the difficulties and barriers people with disabilities experience to get the support and justice they have every right to access and have.

A review of the Quality Indicator Guidelines suggests the requirements to address these events are not detailed enough to adequately highlight the actual risk to individual participants. Unfortunately, some service providers question the inclusion of violence in the indicators, stating the NDIA does not provide a clear definition about what is meant by ‘violence’. Research has highlighted the experience of violence, abuse, neglect and exploitation as being far more prevalent for people with disability than for people without a disability. Visual evidence in media reports in recent years has shown some extremely distressing examples of what abled bodied people can do to people with disabilities, and the impact on the life of the abused person is often devastating and soul destroying for these people.

The current structure of the indicators addressing violence, abuse, neglect and exploitation are broad and do not adequately identify the types of risks that participants may experience in residential settings or within their own home in the community. While the indicators may be written in such a way as to cover a wide range of scenarios, specific attention to the risks for participants in their homes should be clearly stated.

Suggestions for the NDIA:

- 1. The indicators addressing violence, abuse, neglect and exploitation should be expanded to address the potential / actual risk for people with disabilities within a range of support service delivery settings, including (but not limited to) residential accommodation and privacy accommodation settings.**
- 2. The requirement to address violence should be a clear expectation in the indicators.**

- 2. The requirement for specific Rules to address the risks associated with violence, abuse, neglect and exploitation.**

The Practice Standards are accompanied by a number of essential Rules, including those addressing restrictive practices and behaviour support, specialist disability accommodation conditions, complaints management and resolution, as well as incident management and reportable incidents (amongst others). Significant attention is placed on addressing participant rights as well as the prevention or mitigation of risks in these Rules.

While incidents involving violence, abuse, neglect and exploitation are incorporated into the incident management and reportable incidents rules, situations where participants experience demeaning and degrading deaths or serious harm unfortunately continue to occur. Having specific Rules to address violence, abuse, neglect and exploitation are overdue and should now be developed and implemented for all registered providers, including those who undertake verification audits.

Suggestions for the NDIA:

- 1. A number of additional yet relevant indicators should be linked to dedicated NDIS Rules addressing violence, abuse, neglect and exploitation.**
- 2. All registered providers should be expected to comply with and address detailed Rules addressing violence, abuse, neglect and exploitation.**

- 3. Potential improvements to auditor practice across a number of essential areas where risk may be apparent to vulnerable participants.**

While it is true that service providers may not always understand that the details regarding violence, abuse, neglect and exploitation are not only managed by documentation alone, there are many opportunities to explore and identify ways to ameliorate the risk of these situations occurring to vulnerable participants. Safeguards must be in place, not simply talked about in policies and procedures, and participants should be assured that their providers ‘walk the talk’ in this area.

In reality, auditors are only one part of the review process: the organisation’s position about zero tolerance and the rigour with reporting abuse, neglect, exploitation and abuse are crucial in eliminating these experiences for people with disabilities, as are employees and volunteers, family members, loved ones and community members in reporting situations where concerns about abuse may be apparent. Certainly, there needs to be stronger and far more effective ways for the experiences of people with disabilities to be heard and rapidly acted upon, so that violence, abuse, neglect and exploitation should not ever occur in today’s world. To achieve this, strengthening the connections with other Government agencies, such as the Community Visitor Program, could be established to provide professional opportunities for participant risk to be addressed at a number of levels.

Suggestions for the NDIA:

- Obtaining the actual numbers of participants being supported by any registered organisation from the NDIS Quality and Safeguards Commission the day before the audit commences. This approach would provide a robust check point for the participant numbers provided by the organisation to the certification auditing agency and address situations where participants might be left off the list e.g. because they live in private accommodation.
- Implementing 'spot checks' of organisations – but not only on the organisation's head office: spot visits to the homes of people who live on their own or with other people could be conducted at the same time as the main office visit.
- Implementing an anonymous 'hotline' for people to report directly to the NDIA about their concerns regarding violence, abuse, neglect and exploitation.
- Checking on the organisation's procedures for senior staff to regularly visit participants in their homes, and not simply rely on reports from team leaders or coordinators. This provides not only an internal checking point but ensures no staff are so far removed from the delivery of services that cases where disturbing deaths occur could happen.
- Developing protocols for NDIS Auditors to liaise with agencies such as the Community Visitor program when risks for individual participants are alleged or known.
- Include wording in the indicators to address situations where service providers resist, or do not provide training to staff.
- Include wording in the indicators to address situations where inappropriate and demeaning language or support practices are used by staff when referring to people with disabilities.

Concluding comments:

OAQ believes the NDIS Quality and Safeguards Commission is a critically important agency, providing the basis for regulating NDIS providers, providing national consistency, promoting safety and quality services, resolving problems as well as identifying areas for improvement.

NDIS participants expect service providers to operate at a high standard and this expectation will continue to increase as time goes by, particularly as people understand the system better and appreciate the role of their rights within service delivery practices. OAQ believes it is critical that service providers and other people can demonstrate the ways they safeguard vulnerable people, not only within their systems and responses but, more importantly, with their daily support practices. The fundamental belief in the rights of people with disabilities should be actively championed all of the time, and not just when services are being audited or reviewed.

I would be pleased to provide further information or discuss the issues that have been raised in this Submission, if required.

Yours sincerely,

Kathy Rees

Director

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