

# Chapter 9

## National Disability Insurance Scheme

9.1 This chapter examines various challenges and opportunities presented by the rollout of the National Disability Insurance Scheme (NDIS), to reduce violence, abuse and neglect of people with disability<sup>1</sup>.

9.2 Witnesses generally welcomed changes to the disability sector arising from implementation of the NDIS.<sup>2</sup> Many saw the scheme as an opportunity to identify long-standing concerns and implement nationally consistent standards and practices that better support the human rights of people with disability—such as the right to be free from exploitation, violence and abuse (Article 16 of the Convention on the Rights of Persons with Disabilities).

9.3 In addition to recognising the opportunities afforded by the NDIS, witnesses observed that some elements of the scheme do not assist with the elimination of violence, abuse and neglect in residential and institutional disability settings.

9.4 Chapter 9 discusses some of the key issues including:

- NDIS coverage;
- self-directed disability support;
- unit pricing; and
- the Australian Council of Governments' Disability Reform Council consultation paper on a quality and safeguarding framework.

### NDIS coverage

9.5 The NDIS was launched in July 2013 and will be rolled out nationally over a three-year period (2016–2019), except in Western Australia which has not yet signed up to the scheme.<sup>3</sup> The NDIS will replace existing disability service systems with a

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1 *Terms of Reference (l)*: the challenges that arise from moving towards an individualised funding arrangement, like the National Disability Insurance Scheme, including the capacity of service providers to identify, respond to and prevent instances of violence, abuse and neglect against people with disability; and *Terms of Reference (m)*: what elements are required in a national quality framework that can safeguard people with disability from violence, abuse and neglect in institutional and residential settings.

2 For example: Dr Louise Roufeil, Executive Manager, Professional Practice, Australian Psychological Society, *Committee Hansard*, Melbourne, 30 June 2015, p. 32.

3 Western Australia is currently trialling the National Disability Insurance Scheme (NDIS) My Way model in the Lower South West and Cockburn–Kwinana areas and the NDIS in the Perth Hills area: <http://disability.wa.gov.au/wa-ndis-my-way/wa-ndis-my-way/>, accessed 30 September 2015; <http://www.ndis.gov.au/about-us/our-sites/wa>, accessed 9 November 2015.

uniform framework, for those people with disability who qualify as participants (an estimated 460,000 people).<sup>4</sup>

9.6 People with disability who wish to participate in the NDIS must first meet certain access requirements. During the trial period (July 2013–June 2016), the requirements relate to residency within a trial site, age and status as an Australian resident, and entail a disability or early intervention requirement.<sup>5</sup> After the scheme has been rolled out within a jurisdiction, all people with disability within that state or territory will be covered by the NDIS, subject to similar criteria.<sup>6</sup>

9.7 People with disability who do not qualify as participants in the NDIS will continue to receive supports and services from existing Commonwealth, state and territory-based disability service systems and intersecting systems (such as the aged care system).<sup>7</sup>

***No coverage for non-participants and no coverage in some areas***

9.8 In this context, the committee received evidence expressing concern with the current focus on the NDIS to the exclusion of non-scheme participants, whose supports might be adversely affected by the roll out. Ms Therese Sands, Co-Chief Executive Officer of People with Disability Australia and Australian Cross Disability Alliance (Disability Alliance) member, said:

We have...been very concerned about jurisdictions such as New South Wales that have wanted to hand over all of their funding to the Commonwealth. We have been raising issues around what that means for people who have not got an NDIS package and what their plan is for the rest of the across-government service provision...we are very aware that we need to be progressing them to come to some agreement or commitment—a recommitment and a refocus on the NDS [National Disability Strategy] and...some kind of mechanism that will drive that. Otherwise, there will be significant issues for people who will completely fall through the gaps. They may have already been falling through the gaps in the broken service system we had before, but we will now see people falling through different

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4 Senator the Hon Mitch Fifield and the Hon Malcolm Turnbull MP, Prime Minister, 'Delivering the National Disability Insurance Scheme', joint media release, 16 September 2015, <http://www.formerministers.dss.gov.au/15426/delivering-the-national-disability-insurance-scheme/>, accessed 30 September 2015.

5 The NDIS Access checklist is available online at <http://www.ndis.gov.au/ndis-access-checklist>, accessed 29 October 2015

6 For the New South Wales example: see NDIS, *What is the National Disability Insurance Scheme, Information about the NDIS, what it does and how to access it*, factsheet, 25 August 2015, <http://www.ndis.gov.au/sites/default/files/documents/our-sites/NDIS-NSW-roll-out-Participant-pack.pdf>, accessed 29 October 2015.

7 Existing disability service systems will also provide for people with disability who qualify as participants in the NDIS but whose individual plan has not yet commenced.

kinds of gaps because there is no disability support mechanism for them...This is an opportunity to change that[.]<sup>8</sup>

9.9 The First Peoples Disability Network Australia spoke about the situation of people with disability in regional and remote Australia, suggesting that the NDIS approach is too narrow when a broader approach—such as through the National Disability Strategy (NDS)—is warranted:

From an Aboriginal perspective, this is a really critical issue. We talk about the need for a whole-of-community response to disability, particularly in regional and remote Australia. There is a real risk that it is going to be framed as an NDIS-only response. You could well have a situation where the National Disability Insurance Agency may work quite well with Aboriginal people, but the National Disability Insurance Scheme will not create accessible footpaths in Wadeye or create an accessible environment where someone can travel 500 metres down the road in their wheelchair to get into the general store. Unless we have a process where everyone gets an opportunity to say what is needed in the community, it is not going to work...It does not necessarily mean that it has to be a service system response either...If you look at the way disability is responded to in developing countries where there is no government mechanism, there are ways in which people come together and support people with disability perfectly well...We think we have an opportunity here to make a really substantial difference in Aboriginal Australia...there is a very real risk that all the eggs are in the NDIS basket, as everyone keeps saying, and that is why we have to revisit or reinvigorate the National Disability Strategy.<sup>9</sup>

9.10 Witnesses—such as Ms Christina Ryan, General Manager of Advocacy for Inclusion—highlighted that, even for scheme participants, the NDIS does not address all the needs of people with disability. Ms Ryan identified housing as a critical and specific example:

The NDIS gives us a significant opportunity to change [segregated and institutional environments], but, as we know, it is actually specifically prevented from providing housing solutions for people. So, the one glimmer of hope for people with disabilities in this country today—the NDIS—is actually not the solution...People are still being forced to cohabit with people who are being violent towards them. People are still being forced to live in arrangements that they are telling us they really do not want to be in or that they are frightened of. We have to change this.<sup>10</sup>

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8 Ms Therese Sands, Co-Chief Executive Officer, People with Disability Australia, *Committee Hansard*, Sydney, 27 August 2015, p. 44.

9 Mr Damian Griffis, Chief Executive Officer, First Peoples Disability Network Australia, *Committee Hansard*, Sydney, 27 August 2015, pp 44–45.

10 Ms Christina Ryan, General Manager, Advocacy for Inclusion, *Committee Hansard*, Canberra, 21 August 2015, p. 8. Also see: Mr David Craig, Project Coordinator, Victorian Advocacy League for Individuals with Disabilities, *Committee Hansard*, Melbourne, 30 June 2015, p. 49; Ms Therese Sands, Co-Chief Executive Officer of People with Disability Australia and Australian Cross Disability Alliance, *Committee Hansard*, Sydney, 27 August 2015, p. 44.

**Committee view**

9.11 The committee acknowledges that the NDIS is an evolving program, which provides a timely opportunity to address long-standing issues in the disability sector for people participating in the scheme. The committee is concerned however, that the NDIS does not address the critical area of accommodation, which is the setting in which violence, abuse and neglect is most likely to occur. The committee considers that this matter requires further attention.

**Self-directed disability support**

9.12 In August 2011, the Productivity Commission published its report titled *Disability Care and Support*.<sup>11</sup> The report recommended the creation of the NDIS and the incorporation of self-directed disability support as a core feature of the scheme. The Australian Government accepted this recommendation and in March 2013 the *National Disability Insurance Scheme Act 2013* (NDIS Act) was enacted.<sup>12</sup>

**Preparation for self-directed disability support**

9.13 The United Nations Committee on the Rights of Persons with Disabilities commended the introduction of a national scheme for self-directed disability support.<sup>13</sup> However, advocacy bodies questioned whether people with disability have been adequately prepared to assume the role provided for in the NDIS.

9.14 The Chief Executive Officer of the National Disability Insurance Agency (NDIA), Mr David Bowen, told the committee that the NDIS strikes 'a reasonably good balance in making sure that supportive voices are heard but that the plan reflects the desires of the person and not what someone else thinks is best for them'. Further:

We recognise that there are people with extremely profound disabilities who, as a result of that, have limited communication and for whom the type and duration of their engagement requires a highly specialised approach to planning. So in some cases we have outsourced that or purchased it in as an additional resource...The majority of people in our scheme with intellectual disability can, with appropriate support, express their own wishes and desires, and I am strongly opposed to having, under the guise of supported decision making, in effect substituted decision making coming back into play. So the training for our planners is very much around—to the extent that it is possible, and in most cases it is—it being the voice of the person

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11 Productivity Commission, *Disability Care and Support*, Report No. 54, Canberra, 31 July 2011, <http://www.pc.gov.au/inquiries/completed/disability-support/report>, accessed 30 September 2015.

12 Part 2 of Chapter 3 of the *National Disability Insurance Scheme Act 2013* focuses on self-direction through the creation and management of participants' plans.

13 Committee on the Rights of Persons with Disabilities, *Concluding Observations Australia*, UN Doc. CRPD/C/AUS/CO/1, 2013, p. 1, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAUS%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAUS%2fCO%2f1&Lang=en), accessed 30 September 2015.

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and their goals and aspirations that come through in the plan. We spend a lot of time with our own staff in training on this.<sup>14</sup>

9.15 Advocacy for Inclusion expressed the view that people with disability have not been adequately prepared to take charge of their plans but this is an important precursor to being able to articulate a need for a safer and more caring living environment:

We need people to be prepared for their planning. This has been just left by the wayside. All the resources have gone into preparing service providers—because the poor, delicate things need a lot of help to get ready—but people with disabilities have not been getting much of that. They need to be got ready as well. They need to be given an opportunity to outline how they would run their lives if they had an opportunity to do so—removing the controls, removing the barriers that they have to getting out there. People need to be given the opportunity to say, 'I'm not comfortable with X person or with the way this person is looking after me'.<sup>15</sup>

9.16 Ms Ryan specifically noted that, in the Australian Capital Territory trial site, the NDIA has facilitated the opportunity for a person with disability to meet with a planner without a guardian, support worker or family member alongside:

We know from working with people individually over the years through individual advocacy that they often say stuff to us that they would never say in another space if the person was present. It is a bit like teenagers talking when their parents are there. You are not going to say all these things. You need to be able to say something. You want to test drive it. Often it is because the person does not want to upset the people that care about them. They do not want to say, 'All of this hard work you've gone to to get me into this house that I hate living in; I would rather do something else. I do not want to be saying that. It's upsetting.' So they do not say it. But the reality is that they are forced into an environment they do not like. The planning process for the NDIS has to create that opportunity...They are doing that quite well locally; they need to do it better.<sup>16</sup>

9.17 Victoria's Public Advocate, Ms Colleen Pearce, highlighted as a main concern the particular situation of people with cognitive impairment:

...the people most marginalised through the NDIS process are people with an intellectual disability and associated communication impairment, living in an institution or group home setting, who do not have family support or

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14 Mr David Bowen, Chief Executive Officer of NDIA, *Committee Hansard*, Melbourne, 30 June 2015, p. 41.

15 Ms Christina Ryan, *Committee Hansard*, Canberra, 21 August 2015, p. 13. Also see: Ms Mary Mallett, Chief Executive Officer, Disability Advocacy Network Australia, *Committee Hansard*, Canberra, 21 August 2015, p. 14, who suggested that the NDIA provide funding to facilitate self-advocacy preplanning.

16 Ms Christina Ryan, *Committee Hansard*, Canberra, 21 August 2015, p. 13.

independent advocacy. They may have little capacity to become more confident and skilled consumers in the NDIS market-driven philosophy.<sup>17</sup>

9.18 Ms Pearce argued that such people will never become empowered consumers.<sup>18</sup> Dr Louise Roufeil from the Australian Psychological Society agreed that the NDIS does not satisfactorily address that issue as:

It is beyond the capacity of the average planners to be making those sorts of judgements about capacity. If it was someone in a court of law, the degree of assessment that would occur to make those decisions would be considerable, but we do not do the same for people with a disability.<sup>19</sup>

9.19 Professor Richard Bruggemann, the Disability Senior Practitioner in South Australia (appearing in a private capacity), added that participants are likely to require more than one session with a planner in order to produce their individualised plans:

What about the guy who has never made a decision in his life? This is not going to take one session; it might take 10 sessions over six months, and some teasing out of the things that he really likes doing. If we do not do that, in my view, he is being abused, systemically, by us not taking the time to find out what is important to him.

I think that in Australia we have a great opportunity, with the NDS and the NDIS, to do things much better. In the past, we have had our rhetoric about what we say is important and what we even think is going to happen, but when you drill down you often find that the lives of many people with disabilities are empty and boring, and they are dependent on other people. And we can do much better than that.<sup>20</sup>

9.20 Another witness—Mr Robbi Williams from JFA Purple Orange—commented that it will take time for participants to become comfortable with self-advocacy. For that reason, and because of ingrained attitudes in the disability sector, the NDIS will not eliminate or reduce the risk of violence, abuse and neglect in institutional and residential settings:

It will not. There are a couple of reasons why it will not. First of all, it is going to take a while for people living with a disability and their families to move into the potency of having choice and control, because we have spent the last 1,000 years training people not to have that and they are not going to just get that overnight. We have seen it in other jurisdictions. It takes time for the momentum to build for people to take hold of the opportunities that they will have, having genuine jurisdiction over the supports that they can have in their lives.

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17 Ms Colleen Pearce, Office of the Public Advocate, Victoria, *Committee Hansard*, Melbourne, 30 June 2015, p. 33.

18 Ms Colleen Pearce, *Committee Hansard*, Melbourne, 30 June 2015, p. 33.

19 Dr Louise Roufeil, *Committee Hansard*, Melbourne, 30 June 2015, p. 35.

20 Professor Richard Bruggemann, *Committee Hansard*, Adelaide, 28 August 2015, pp 26–27.

The other reason is that there are plenty of forces keen on maintaining the status quo. It is quite unsettling the paradigm shift that is required. If you are used to running services in a particular way and you have to retool those services to genuinely respond to the imperatives of people having choice and control to people having valued participation in community life and the economy, that is a fundamental change to the way services should ply their business, and I think it is really scary for the vast majority of them.<sup>21</sup>

9.21 Professor Bruggemann also cautioned against vested interests and argued that, rather than enabling independence and participation, there is a 'propensity in the NDIS for dependency making':

Consider the man who has just got his \$50,000-a-year package to help him do things. Instead of going to an organisation that has a background in working with people with disabilities, was probably developed by families 30 years ago and has had an ethos of doing this, one of the new providers, who is in this business because there is a way of making money—'\$26 billion; I've got to have a bit of that'—sees this guy. There are two options for the way in which he might be supported. The first way is that you actually give him some support to learn new skills so that he can do his own cooking, that he can do these things, and he has got some system in place so that he does not have to have somebody stay in the house overnight. He has a phone; he knows how to use it. The next time he does his plan, it is going to cost \$15,000 a year to support him because he is now more independent. Would you say: 'Heavens above, that's \$35,000 of income we're going to lose. Why don't we just keep doing what we've always done: keep him dependent'? I think there are some things we have to look at within the NDIS.<sup>22</sup>

#### ***Committee view***

9.22 It is concerning that evidence suggests that in the implementation of the NDIS, the primary focus to date appears to have been on preparing providers, rather than the people the scheme is intended to benefit. This does not appear to be consistent with the central feature of NDIS—self-directed disability care.

9.23 Based on the evidence presented, the committee considers that more effort and resources need to be invested in supporting participants—in both the short and long term—particularly those participants with intellectual impairment who might require additional support.

9.24 Providing NDIS participants—and more broadly, all people with disability—with the knowledge, skills and confidence to identify and articulate goals and needs enables those people to recognise and safeguard against violence, abuse or neglect in their living environment (also see chapter 7).

21 Mr Robbi Williams, Chief Executive Officer, JFA Purple Orange *Committee Hansard*, Adelaide, 28 August 2015, p. 55.

22 Professor Richard Bruggemann, *Committee Hansard*, Adelaide, 28 August 2015, p. 26.

## Unit pricing

9.25 Chapter 8 discussed evidence presented to the committee of existing disability workforce issues that can cause or exacerbate the risk of violence, abuse and neglect of people with disability. Another issue featured in the evidence was how unit pricing affects quality and safeguards provided by people who work in the sector. Providers and unions contended that the unit pricing calculated and set by the NDIA will not ensure the provision of quality service and mitigate against the risk of violence, abuse and neglect in residential and institutional settings.

### *Unit pricing arrangements*

9.26 The NDIS Act states that a funded support must represent 'value for money in that the costs of the support are reasonable, relative to both the benefits achieved and the cost of alternative support'.<sup>23</sup> According to the NDIA, the prices for supports have been structured to reflect this statutory requirement and:

...reflect prices in comparable schemes in trial site areas and work jointly undertaken by NDS and NDIA to establish an efficient price for personal care and community access.<sup>24</sup>

### *Interaction of unit pricing arrangements with disability workforce issues*

9.27 Although the NDIA has recently reviewed unit pricing arrangements for the NDIS, witnesses indicated that there is still significant discord between remuneration in the disability care sector and the quality and safeguards that should be incorporated into the scheme.

9.28 Mr Lloyd Williams from the Health Services Union and the Health and Community Services Union (Victorian Branch) stated that there is a critical link between quality and safety, which is not—but should be—factored into the unit pricing:

...the full marketised fundamentals of the NDIS system are wrong...funding around quality, funding around safeguards, and funding for service providers around delivering ongoing professional development for their staff should be built into the pricing. These things all cost money. Quality costs money. Paying disability support workers decent wages and conditions so that working in disability is a career of choice—and not just flooded by people who want to move through the system—is important. Currently the funding is solely based on the absolute minimum employment

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23 Paragraph 34(1)(c) of the *National Disability Insurance Scheme Act 2013*.

24 National Disability Insurance Scheme website, *Pricing and Payment*, <http://www.ndis.gov.au/providers/pricing-and-payment>, accessed 2 November 2015. The unit pricing arrangements were recently reviewed, with effect from 1 August 2015: NDIS website, *Pricing and catalogue changes from 1 August 2015*, <http://www.ndis.gov.au/providers/pricing-and-payment/pricing-changes-2015>, accessed 9 November 2015.



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standards. So there is no capacity for career structures that advance people. Everything is set at the lowest common denominator.<sup>25</sup>

9.29 At the Melbourne hearing, UnitingCare lifeAssist illustrated the disparity in unit pricing under the NDIS and mental health services. Ms Helen Killmier, Executive Manager, Disability Solutions, contended that the critical issue of funding needs to be resolved based on what is the appropriate level of care for people with disability:

...organisations do not have enough dollars to do what they need to do. If you look at a basic unit of cost under the pricing schedule for the NDIS and at a basic unit of cost under the mental health re-commissioned services, it is not quite double, but it is close to double. So your basic unit of cost to work with someone with a disability is almost half that required to work with someone who has a mental health issue. Having spoken a lot to people in the mental health environment, and me being in the disability environment, the sorts of interventions required, the sorts of skills of practitioners required, are not vastly different in [mental health]. There are some obvious differences, but there is a huge salary discrepancy. Really, we are asking disability support workers, who are amongst the lowest paid people in our society, to care for people who can have some of the most chronic and the most complex behaviour support needs.<sup>26</sup>

9.30 The Tasmanian Branch of the Health and Community Services Union called on the NDIA to review the adequacy of unit pricing, to ensure that it provides a guaranteed and ongoing supply of high-quality, trained and skilled disability support workers.<sup>27</sup> Across the country, the United Voice WA emphasised that 'retaining good quality workers is key to exposing and overcoming abuse and neglect in the sector' and 'it is essential that the paid workforce be acknowledged as a vital part of the solution'.<sup>28</sup>

9.31 Another provider —Northcott—echoed these concerns and acknowledged that the future provision of quality training and support for staff is uncertain in the context of unit pricing. Its representative, Ms Hilary Smith, said:

I expect the current picture may not be what the eventual picture is going to be for the affordability or otherwise of training. Our position would be that, if we were looking at something that stays pretty much static from now, then, yes, training is going to be increasingly difficult to provide as services become increasingly flexible as funding for those services becomes increasingly fragmented.<sup>29</sup>

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25 Mr Lloyd Williams, National President, Health Services Union, *Committee Hansard*, Sydney, 27 August 2015, p. 13.

26 Ms Helen Killmier, Executive Manager, Disability Solutions, UnitingCare lifeAssist, *Committee Hansard*, Melbourne, 30 June 2015, p. 31.

27 Ms Tammy Munro, Lead Organiser, *Committee Hansard*, Sydney, 27 August 2015, p. 9.

28 Ms Kelly Shay, Assistant Secretary, *Committee Hansard*, Perth, 10 April 2015, p. 40.

29 Business Development and Partnerships Coordinator, *Committee Hansard*, Sydney, 27 August 2015, p. 29.

9.32 In response to these concerns, the NDIA informed the committee that, while most people tend to focus on the base unit price, this does not reflect the large variety of prices paid under the NDIS for disability services:

People tend to look at the dominant one, which is the per hour cost for personal care on Monday to Friday, and they extrapolate from that. We pay different rates for therapists, for example, compared to day care workers. We will pay additional loadings where higher levels of skill are required...As to whether that is at a level that will attract workers into the industry, we base that on the current award rates that operate for the majority of the sector. And the area where the efficiency and price can be gained is not by cutting the salary of frontline staff but by the organisations becoming more efficient in terms of labour utilisation, reducing the span of control, cutting out some of the unnecessary multiple layers of supervisors and managers in the industry and chopping their corporate overheads. There is certainly not any focus on trying to reduce the remuneration of workers. We accept the award rates as being a reasonable starting point.<sup>30</sup>

9.33 In August 2013, the then Australian Government announced that it would establish 'a forum of disability sector and workforce experts to help ensure the disability workforce is ready for the full implementation of DisabilityCare Australia [now the NDIS] by 2019'. The Hon Jenny Macklin MP, then Minister for Disability Reform stated:

The Forum will identify the training and skill requirements of the disability workforce under DisabilityCare and provide advice on recruiting and retaining workers, as well as how to meet the needs of specific groups and communities.<sup>31</sup>

9.34 Although established, the Disability Workforce National Consultative Forum had not met by January 2014, when the Government described the proposal as 'rushed'.<sup>32</sup>

#### ***Committee view***

9.35 Economic realities are an important consideration in the creation of a sustainable NDIS. However, providers and unions have raised concerns that the current pricing does not appear to allow for, or ensure, the quality and safeguards that would result from a well-paid and well-trained disability care workforce. This should be investigated.

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30 Mr David Bowen, *Committee Hansard*, Melbourne, 30 June 2015, p. 40.

31 The Hon. Jenny Macklin MP, Minister for Disability Reform, and Ms Amanda Rishworth, Parliamentary Secretary for Disabilities and Carers, 'Expert Forum to Advise on DisabilityCare Australia Workforce', joint campaign media release, 9 August 2013, p. 1.

32 V Edwards, 'Coalition defends delay to 'rushed' disability forum', *The Australian*, 20 January 2014, p. 3.

9.36 The committee agrees that workforce issues are integral to combatting violence, abuse and neglect in disability care settings. The committee does not think it possible to improve disability care and support without addressing these issues, which are long-standing and likely to be exacerbated with the predicted expansion of the workforce under the NDIS.

9.37 The committee considers that the valuable work of the Productivity Commission (reported in *Disability Care and Support*) would be complemented by a review of the challenges facing the disability care workforce and the formulation of options to ensure the provision of a high quality disability care workforce now and into the future.

### **Consultation paper on a quality and safeguarding framework**

9.38 In February 2015, the Disability Reform Council released a consultation paper describing the options that have been developed for the NDIS quality and safeguarding framework.<sup>33</sup> The consultation paper canvassed a range of key issues—such as provider registration, complaints handling systems, employment screening, self-managed plans and restrictive practices.

9.39 During the consultation period (which finished in April 2015), the Department of Social Services (DSS) received over 200 submissions, held public forums in capital cities and regional centres, and facilitated targeted workshops with hard-to-reach groups (for example, Aboriginal and Torres Strait Islander peoples with disability). DSS is currently focussed on the preparation of a Regulation Impact Statement for Council of Australian Governments' consideration in late 2015 or early 2016.<sup>34</sup>

9.40 In the inquiry, the three-year transition period to the NDIS (2016–2019) was noted. The architecture for this transition is high-level bilateral agreements with each jurisdiction (New South Wales and Victoria now being in place), followed by detailed implementation plans.<sup>35</sup>

9.41 DSS officers noted that the implementation arrangements will encompass the issue of roles and responsibilities, which will require some time to negotiate and design:

Some things might actually be a single national function; other things might be federated and nationally consistent. But, in terms of the overall

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33 NDIS Senior Officials Working Group, *Consultation Paper: Proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework*, Disability Reform Council, February 2015, <https://engage.dss.gov.au/wp-content/uploads/2015/01/Proposal-for-an-NDIS-Quality-and-Safeguarding-framework-7.pdf>, accessed 27 October 2015.

The objectives of the quality and safeguarding framework are to advance the rights of people with disabilities and minimise the risk to harm, while maximising the choice and control they have over their lives: p. 11.

34 Department of Social Services, *Submission 104*, p. 30.

35 Mrs McDevitt, Department of Social Services (DSS), *Committee Hansard*, Canberra, 21 August 2015, p. 4.

framework, it will encompass a range of things that actually go to what will remain in almost any scenario—state functions, such as guardianship responsibilities, justice responsibilities. To talk about 'absolutely uniform'...would not be realistic. It is probably a shading along a continuum.<sup>36</sup>

### ***Benefits of a national safeguarding framework***

9.42 The Victorian Parliament's Family and Community Development Committee and the Victorian Ombudsman have recently inquired into disability-related matters.<sup>37</sup> Both of those inquiries noted that the national roll-out of the NDIS presents an opportunity to consider safeguarding mechanisms that protect the rights and dignity of people with disability. For example, the Family and Community Development Committee reported:

It is a chance to look beyond the boundaries of what is currently in place in various states and territories and to consider what would be the most effective and appropriate quality and safeguarding system for service providers in Australia operating in the context of the NDIS.

It also provides an opportunity to learn from the strengths and weaknesses of existing systems, while considering an entirely new framework with relevant functions and adequate powers.<sup>38</sup>

9.43 In submissions and evidence, the committee heard that there is considerable support for national consistency in high quality and strong safeguards for all people with disability at risk of violence, abuse and neglect.<sup>39</sup> The committee also heard various concerns—for example, regarding the delay in implementation of a new quality and safeguards framework and that framework's ability to effect change.

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36 Mr Bruce Smith, Branch Manager, National Disability Insurance Scheme, DSS, Canberra, 21 August 2015, p. 4. Also see: Mrs McDevitt, DSS, Canberra, 21 August 2015, p. 4.

37 Parliament of Victoria, Family and Community Development Committee, *Inquiry into Abuse in Disability Services*, August 2015, [http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/58th/Abuse\\_in\\_disability\\_services/FCDC\\_58-01\\_Interim\\_Report\\_-\\_Abuse\\_in\\_Disability\\_Services.pdf](http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/58th/Abuse_in_disability_services/FCDC_58-01_Interim_Report_-_Abuse_in_Disability_Services.pdf), accessed 2 November 2015.

Victorian Ombudsman, *Reporting and investigation of allegations of abuse in the disability sectors: Phase 1—the effectiveness of statutory oversight*, June 2015, <https://www.ombudsman.vic.gov.au/Investigations/Investigation-into-disability-abuse-reporting>, accessed 2 November 2015.

38 Parliament of Victoria, Family and Community Development Committee, *Inquiry into Abuse in Disability Services*, August 2015, p. xviii.

Also see: Victorian Ombudsman, *Reporting and investigation of allegations of abuse in the disability sectors: Phase 1—the effectiveness of statutory oversight*, June 2015. The Victorian Ombudsman endorsed the good practices operating in Victoria (such as the role of Community Visitors) and cautioned against a national framework that reduces existing safeguards in Victoria: paras 20–21 and 549.

39 For example: Professor Richard Bruggemann, *Committee Hansard*, Adelaide, 28 August 2015, p. 24.

9.44 A representative from the Australian Psychological Society gave evidence that, in the trial sites, the risk of violence, abuse and neglect is increasing as providers attempt to manage behavioural issues without high-level behaviour management support (due to the closure of state-based disability services):

...our feedback from our members at the trial sites raises enormous concerns that what is happening at the moment is potentially going to make things worse in terms of the possibility for violence and abuse towards people with a disability...the delay in implementing some sort of quality framework that is sufficient is of concern. The quality framework that was released offered a number of options, from a very low level to a very high level. I would hope that the higher level that we supported is able to be funded...but it would obviously require significant investment to put that in place. Certainly the stories we are hearing from members, particularly in the Newcastle site, would suggest that the quicker that happens the better.<sup>40</sup>

9.45 Several submitters spoke about the various frameworks and mechanisms that already exist to safeguard people with disability from violence, abuse and neglect. Yet, it was argued, these complex and inter-related arrangements are not effective for all people with disability.

9.46 Ms Carolyn Frohmader, Executive Director of Women with Disabilities Australia and member of the Disability Alliance, raised the issue of 'policy siloing', where policy and national frameworks are related but not connected:

...we talked in our submission about the National Disability Strategy. Then over here we have the National Plan to Reduce Violence against Women and their Children. Then we have the National Framework for Protecting Australia's Children. The National Disability Strategy is not connected to the national violence plan. The national violence plan is only focused on intimate partner violence, and does not include institutional settings. The way the National Disability Strategy addresses violence against people with disabilities is to say 'make sure we implement the national plan to prevent violence against women'...We have a national child protection framework that is actually about child protection. So we have this policy siloing where, yes, we know these things but this one is not connected to this one is not connected to this one. And it is just incredibly problematic.<sup>41</sup>

9.47 In addition, Ms Frohmader told the committee that People with Disabilities Australia has been 'very vocal about our concerns of a national scheme bringing in eight or nine schemes into one', particularly where the one scheme does not cover all people with disabilities:

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40 Dr Louise Roufeil, *Committee Hansard*, Melbourne, 30 June 2015, p. 34. Also see: Mr Peter Cross, President, United Voices for People with Disabilities, *Committee Hansard*, Melbourne, 30 June 2015, p. 45, who queried whether improvement in safeguards and protections will be delayed until full roll out of the NDIS.

41 *Committee Hansard*, Sydney, 27 August 2015, p. 40.

There are so many people who are not going to be eligible—who will not be covered. So we argued: why can't we have a national statutory protection with the NDIS safeguards framework as a component of it? Why do we have to have one for that, one for that and one for that? The idea that somehow the quality safeguards framework is going to address this issue of violence against people with disability across all forms of institutional and residential settings is a nonsense. It just will not happen. Right from the early days we were arguing that it needed to be much broader than that. If you are going to bring nine schemes into one national scheme, why not think about that a bit more logically so that anybody with a disability—regardless of their setting and regardless of whether they are an NDIS recipient, and most of them will not be—can have the same protections.<sup>42</sup>

9.48 Advocacy for Inclusion also commented on existing mechanisms that target violence and abuse. However, Ms Ryan indicated that the inability of people with disability in institutional and residential settings to access these systems should be rectified without the need for separate disability structures and systems:

At what point can we start to recognise that people with disability should have the right to use the same mechanisms that everybody else is using? That is actually quite rare in this country. It does not happen...the domestic violence legislation, for example, in every state and territory except New South Wales does not cover these living circumstances, so you cannot actually stick your hand up and say, 'I've got violence happening in my home that needs to be responded to.' There is no way that you can access the services that are appropriate to getting outcomes through that. We struggle enormously with that barrier. There are some real solutions that we could find. In fact, in New South Wales, where these households are recognised under the domestic violence legislation, they are able to change some of those outcomes. It also has raised enormous awareness around the fact that this is violence, naming it. People do not see that it is a form of violence. They do not get that it is abuse. The course that we are currently developing for women to be safe, to recognise violence, to understand it and be able to access paths out of it has been put together by a reference group of self-advocates of women with disabilities. They get violence, but the term 'abuse' was so vague and so opaque that it was really hard to understand what it meant.<sup>43</sup>

9.49 Another provider—UnitingCare West—told the committee that a quality and safeguarding system is often good for formal service providers but does not take into account the fact that there are also informal service providers:

The disability system is predicated on having an interface of informal providers and formal providers...[F]or vulnerable people with disabilities in particular, we need to make sure that the whole system, not just the formal provider system, is built around safe principles and safe processes.<sup>44</sup>

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42 *Committee Hansard*, Sydney, 27 August 2015, p. 45.

43 *Committee Hansard*, Canberra, 21 August 2015, p. 12.

44 Ms Sue Ash AO, Chief Executive Officer, *Committee Hansard*, Perth, 10 April 2015, p. 7.

***Committee view***

9.50 The committee notes the evidence of the Australian Psychological Society regarding increasing levels of violence, abuse and neglect, as provider supports are withdrawn in the transition to the NDIS. This is highly concerning and the committee urges all jurisdictions to take all necessary steps to immediately identify and manage any such incidences.

9.51 The committee is also extremely concerned that, nationwide, domestic violence legislation (with one exception) does not recognise the circumstances of people with disability living in residential and institutional settings. The committee considers that this situation should be rectified without delay.

9.52 The committee heard that there is support for a national protective framework for all people with disability at risk of violence, abuse and neglect regardless of their living arrangements. The committee heard also that current safeguarding frameworks (see chapters five and eight) can be inaccessible, making it difficult for people with disability to obtain redress, particularly without assistance from family, friends and independent advocates. This should not be the case.

9.53 People with disability are valued members of our community and are entitled to access any and all protections provided for the benefit of the wider Australian community.

9.54 Consistent with this view, the committee considers that a single overarching safeguarding framework, working in collaboration with existing Commonwealth, state and territory based systems, would be extremely beneficial. Such a framework should apply nationally to all people with disability and provide identifiable, accessible, consistent and strong mechanisms for eliminating violence, abuse and neglect in residential and institutional settings.

***Complaints handling within the NDIS quality and safeguarding framework***

9.55 As indicated earlier in this chapter, there are five key elements proposed for the NDIS quality and safeguarding framework.<sup>45</sup> Some of these elements were discussed throughout the inquiry but not in connection with the NDIS or the proposed framework. This section of the report focuses on the key element of the framework on which advocates and people with disability commented—that is, complaints handling systems.

***Outline of the complaints handling considerations***

9.56 The *Consultation Paper: Proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework* stated that an effective and nationally consistent complaints mechanism could be a key safeguard under the NDIS. That paper presented the following three options for consideration:

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45 The five key elements are: provider registration; complaints handling systems; employment screening; self-managed plans; and restrictive practices.

- Option 1: Self-regulation—providers would develop and operate their own complaints management and feedback systems;
- Option 2: Internal and external complaints handling requirements—NDIS registration conditions would prescribe a set of minimum standards for provider level complaints handling, with an independent complaints review process (possibly an industry-initiated complaints body, professional board or contracted third party); and
- Option 3: Independent statutory complaints function—NDIS registration conditions would require providers to demonstrate effective internal complaints handling processes, with a formal external complaints body (either a complaints office within the NDIA or a separate complaints body).<sup>46</sup>

*Need for an independent body with enforcement powers*

9.57 The concept of an independent body with investigative and oversight functions resonated strongly with advocacy bodies and people with disability.<sup>47</sup> As one witness explained, 'you cannot expect the abusers to police themselves'.<sup>48</sup>

9.58 The Disability Alliance captured the common argument that existing complaints mechanisms across the board are ad hoc and largely ineffective in investigating, responding to, and preventing violence against people with disability across a range of settings, and reform would have to be applied to both the emerging NDIS sector, as well as existing disability service sectors:

Australia urgently requires an independent statutory national protection authority with specific purpose legislation to address and respond to all forms of violence against people with disability, regardless of the setting in which it occurs and regardless of who perpetrates it.<sup>49</sup>

9.59 Ms Kim Chandler, the Acting Public Advocate for Queensland, gave evidence that, in that jurisdiction, the Office of the Public Guardian is 'probably the closest equivalent' to an independent body with investigative and oversight functions. However, it does not cover all people living in disability residential services, who must have recourse to the relevant body (for example, the Health Ombudsman for complaints regarding physical health provision):

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46 NDIS Senior Officials Working Group, *Consultation Paper: Proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework*, Disability Reform Council, February 2015, pp 52–55.

47 For example, NSW Disability Network Forum, *Submission 55*, p. 9. .

48 Ms Rayna Lamb, Coordinator, Women With Disabilities WA Inc., *Committee Hansard*, Perth, 10 April 2015, p. 21. Also see: Ms Samantha Connor, *Committee Hansard*, Perth, 10 April 2015, p. 34.

49 *Submission 47*, p. 69. Also see: Ms Karen Williams, Guardianship Coordinator, Queensland Aged and Disability Advocacy, *Committee Hansard*, Brisbane, 16 October 2015, p. 36; Ms Kim Chandler, Acting Public Advocate, The Public Advocate, Queensland, *Committee Hansard*, Brisbane, 16 October 2015, p. 27, who commented similarly and endorsed the continuation of the inspectorate or external visitor programs.



At the moment it is very disparate and it is difficult for anyone to work out where to go or for anyone to take particular responsibility for that issue... one independent body with ombudsman-type powers would be very beneficial.<sup>50</sup>

9.60 The New South Wales Council for Intellectual Disability indicated one feature that it would particularly like to see is an independent complaints body and a person with lived experience involved in the process:

Independence is vital and that it is well resourced and has a good culture around disability. We know that if agencies get merged with other agencies sometimes the culture changes and they become much more legalistic and do not understand perhaps the lived experience of people as well. In New South Wales the guardianship tribunal has a community member who must have experience with disability.<sup>51</sup>

9.61 In its evidence, DSS informed the committee that respondents to the consultation paper had similarly supported an independent complaints mechanism with enforcement powers:

There was general support for a higher level of regulation across a number of areas, including complaints. People wanted a complaints system that is independent of providers—providers should have their own complaints arrangements but there should be one sitting beyond that. The general feeling also was that it should sit outside the agency and should have a range of powers to be able to follow up complaints.<sup>52</sup>

### ***Committee view***

9.62 The committee agrees with the Disability Alliance that existing complaints mechanisms are ad hoc and largely ineffective (also see chapters three, five and six). The NDIS quality and safeguarding framework proposes some options to address these issues, by creating an effective and nationally consistent complaints mechanism for scheme participants.

9.63 Evidence to the inquiry, and the Disability Reform Council, overwhelmingly supported the establishment of an independent body with enforceable investigative and oversight functions. The committee suggests that it would be imprudent to create one such system for NDIS participants and another for non-participants, which would unnecessarily complicate complaints handling mechanisms. The committee therefore considers that the functions of an independent complaints body should include investigation of complaints made by participants in the NDIS. The committee also notes the need for such a complaints body to be established in consultation with people with lived experience of violence, abuse and neglect.

50 *Committee Hansard*, Brisbane, 16 October 2015, p. 29.

51 *Committee Hansard*, Sydney, 27 August 2015, p. 6.

52 Mr Bruce Smith, *Committee Hansard*, Canberra, 21 August 2015, p. 5.

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*Advocacy, quality and safeguarding in the NDIS*

9.64 As noted in chapter 7, one strong theme to emerge from the evidence was the critical role of independent advocacy in the quality and safeguarding framework for people with disability. The committee heard from a range of people and organisations that the need for such advocacy will increase with the roll out of the NDIS and that this need has not been identified and considered in the consultation paper.

9.65 In its response to that consultation, the Disability Alliance stated that advocacy agencies are not equipped to meet the increasing demand arising from the introduction of the NDIS (especially in rural, regional and remote areas, for Aboriginal and Torres Strait Islander peoples with disability, and people with disability from culturally and linguistically diverse and non-English speaking backgrounds). The Disability Alliance elaborated on the role that advocates now perform:

NDIS participants seek assistance to find information about the NDIS; to understand the opportunities and challenges of the new system; develop their plans; receive decision making supports; liaise with the NDIA, and existing and potential service providers; choose between services and supports; manage their plan; employ support workers; and navigate complaint handling processes. Independent advocates play a key role in assisting with these issues, but to do so requires the acquisition of new and constantly changing knowledge and expertise in myriad areas, on top of providing advocacy support to people with disability who are not eligible for the NDIS or whose advocacy requirements are outside of the parameters of the NDIS' remit.<sup>53</sup>

9.66 Evidence from the Intellectual Disability Rights Service illustrated one person's activities as an advocate for scheme participants, in the process highlighting why resource constraints inhibit the ability of advocacy organisations to help all the people who contact them for assistance:

One of [the] coordinators of our Criminal Justice Support Network who is based in the Hunter region, Ken Clift, has been assisting some of the Criminal Justice Support Network clients with their transition into the NDIS. He has assisted them from the point at which they are having their eligibility for the scheme determined. He has been assisting them with preparation for meetings with planners, so going through all the preplanning materials that are sent to people as they are about to enter the NDIS. He has attended planning meetings with the client. And, before that,

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53 Australian Cross Disability Alliance, *Submission to Department of Social Services, Review of the National Disability Advocacy Framework*, 31 July 2015, p. 4, [https://engage.dss.gov.au/wp-content/uploads/2015/08/PDF-ACDA\\_DSS\\_NDAF\\_Discussion\\_FINAL-310715-311.pdf](https://engage.dss.gov.au/wp-content/uploads/2015/08/PDF-ACDA_DSS_NDAF_Discussion_FINAL-310715-311.pdf), accessed 7 October 2015. The alliance emphasised that scheme participants' access to advocacy should not be prioritised over other people with disabilities' access to advocacy. Also see: Ms Aine Healy, Executive Director, Advocacy, New South Wales Council for Intellectual Disability, *Committee Hansard*, Sydney, 27 August 2015, p. 5; Ms Mary Mallett, Chief Executive Officer, Disability Advocacy Network Australia, *Committee Hansard*, Canberra, 21 August 2015, pp 14–15.

he has assisted clients to think about how they might want their life to be under the NDIS. His existing knowledge and familiarity with the client and their circumstances have really been of benefit in that exercise because it can be very hard for some clients with intellectual disability, who may think in very concrete terms, to develop abstract ideas initially about what they would really like in their life or to think in practical terms about what sorts of supports they really need. He assists in helping clients to think about that and then to be able to express their needs in a planning meeting and then in working through with the client after a package is settled—working out what service providers might be appropriate for the client, assisting a client perhaps with interviewing service providers and finally, basically, getting the package and the way it is going to work sorted out. Mr Clift's estimate is that that process takes about 21 hours of advocate time, which would be spread perhaps over weeks or months, depending on the particular client situation and what has to be worked through. There is then the whole separate issue of monitoring how a package is working for a client, how their service supports are working for them, after a system is set up.<sup>54</sup>

9.67 The Commonwealth Ombudsman holds the view that 'it would be preferable to ensure that people with disability have access to advocacy as and when they need it'. Further:

...people with disability are likely to need particular support in engaging with the NDIS. This is especially the case given it is a new scheme trialled in limited sites and the fact that—in order to gain the most benefit—people with disability are encouraged to think more about how the disability supports they wish to receive relate to their goals, rather than simply what they 'need'.<sup>55</sup>

9.68 The New South Wales Council for Intellectual Disability informed the committee that, where available, advocacy has resulted in better plans and packages for scheme participants.<sup>56</sup> In contrast, the Commonwealth Ombudsman observed:

...others entering the scheme without the benefit of advocacy may not receive the most beneficial plan. This may be simply because they do not fully appreciate the range of choices that are available to them including the opportunity to think about goals (rather than only needs), or feel unable to clearly articulate the types and amounts of supports they should be entitled to access.

There are a number of avenues through which Government is seeking to inform current and prospective NDIS participants about their options for

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54 Ms Margot Morris, Principal Solicitor, *Committee Hansard*, Sydney, 27 August 2015, pp 4–5.

55 Commonwealth Ombudsman, *Submission to Department of Social Services, NDIS Quality and Safeguarding Framework Consultation*, 24 July 2015, p. 2, [http://www.ombudsman.gov.au/files/Submission\\_to\\_NDAF\\_review\\_July2015.pdf](http://www.ombudsman.gov.au/files/Submission_to_NDAF_review_July2015.pdf), accessed 7 October 2015. Also see: Dr Ken Baker, Chief Executive, National Disability Services, *Committee Hansard*, Canberra, 21 August 2015, p. 24, who agreed that people with disability should have access to advocacy if and when support is required.

56 Ms Aine Healy, *Committee Hansard*, Sydney, 27 August 2015, p. 4.

support. However, we suggest that advocacy must form a central and significant part of that information and support framework...a strong advocacy programme, which amongst other things, assists people with complaints and provides feedback on systemic issues, should form part of the quality and safeguarding framework for the national roll out of the NDIS.<sup>57</sup>

9.69 The committee also heard concerns regarding a suggestion that there will be no need for independent advocacy once the NDIS is rolled out. At public hearings, witnesses rejected the view that the NDIS will be a panacea for all matters affecting people with disability.

9.70 Ms Kelly Vincent MLA contended that there is a need for ongoing grassroots level advocacy for people with disability, as the NDIS will have no involvement in many of the day-to-day challenges experienced by people with disability:

...the NDIS was never meant to do things like make transport accessible, make the education accessible, improve access to footpaths and businesses and so on...there will be significant need for ongoing grassroots level advocacy about those basic day-to-day things...I would hate to see it continue to be a situation where we wait for people to start saying well, actually the NDIS is not going to help me with access to public transport, education, whatever it may be and then all of a sudden we say, 'Oh, of course we failed to give advocacy around that.' I think there will be significant need in order to properly meet the real needs of people with disability to have that ongoing grassroots level advocacy.<sup>58</sup>

9.71 The Villamanta Disability Rights Legal Service Inc. agreed:

There seem to be some thoughts among some circles that once the National Disability Insurance Scheme is up and running we will not need any independent disability advocacy, because all the problems will be solved. Well, let me tell you, I think about a quarter of the issues that Villamanta Disability Rights Legal Service works on are to do with things the National Disability Insurance Scheme might address and solve eventually, and the other three-quarters will continue to be major problems for people with a disability indefinitely into the future, and there will still be a big need for independent disability advocacy.<sup>59</sup>

9.72 In addition, the Public Advocate Queensland and Development Disability WA emphasised the need to support people with disability to navigate and interact with the disability service system, including through the capacity building provided by independent advocacy organisations.

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57 Commonwealth Ombudsman, *Submission to Department of Social Services, NDIS Quality and Safeguarding Framework Consultation*, 24 July 2015, pp 2–3.

58 Ms Kelly Vincent, MLA South Australian Parliament, *Committee Hansard*, Adelaide, 28 August 2015, p. 61.s

59 Ms Deidre Griffiths, Principal Solicitor and Executive Officer, *Committee Hansard*, Melbourne, 30 June 2015, p. 26.

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9.73 Ms Taryn Harvey, Chief Executive Officer of Development Disability WA, emphasised the need to prioritise and empower individuals and their families:

We never talk first about what we can do for people on the ground to help them raise the issues that concern them...let us actually invest in the kinds of mechanisms that will help people navigate the complaints process and support people's communication. They are the things that are standing in the way. When things do happen, families need to have somewhere clear that they can go to so that every time they are having that conversation with someone in the system, they feel supported...You can put whatever new standards and procedures in place, but the fundamental issue about people not feeling like they can take that challenge on is not going to change until we start investing in supporting people.<sup>60</sup>

9.74 Ms Chandler from the Office of the Public Advocate Queensland said:

Given that the vast majority of people who are participants in the NDIS at present—I think around 89 per cent—have some sort of intellectual or cognitive disability, this means that, according [to] the Convention on the Rights of Persons with Disabilities, reasonable accommodations need to be made to ensure they have appropriate communication, personal and decision-making supports not only to exercise choice and control but to express their dissatisfaction. Without...strong oversight and support and advocacy, quality standards for services, while they are important, really will not be sufficient...such an approach should be complemented by a strong social inclusion agenda for people with disability, a more just system that is more responsive to people with disability, and a zero tolerance approach to abuse, neglect and exploitation.<sup>61</sup>

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60 *Committee Hansard*, Perth, 10 April 2015, pp 36–37. Also see: Ms Mary Mallett, Chief Executive Officer, Disability Advocacy Network Australia, *Committee Hansard*, Canberra, 21 August 2015, p. 9.

61 Acting Public Advocate, *Committee Hansard*, Brisbane, 16 October 2015, p. 28.

***Concluding committee view***

9.75 Independent advocacy is critical to promoting quality and safeguards for all people with disability (see chapter seven). The committee is extremely concerned however that NDIS participants—about 460,000 people with disability—may not be adequately prepared for their role in the scheme and may not have access to support from advocates. Advocacy support could assist in the identification of circumstances of violence, abuse and neglect, and result in individualised plans that reduce the risk or incidence of such assaults.

9.76 While not every person with disability will choose to access independent advocacy, the committee concurs with the Commonwealth Ombudsman that the option must be readily available. The NDIS quality and safeguarding framework does not appear to address these concerns with bare mention of independent advocacy and no acknowledgement of advocates' role in quality and safeguarding processes. The committee considers that the quality and safeguarding framework should be explicitly linked to the National Disability Advocacy Framework, as discussed in chapter seven, in recognition of advocacy's important role in reducing violence against, and abuse and neglect of, people with disability.