



ABN 47 125 036 857

www.australianblindnessforum.org.au

@AustBlindForum

PO Box 1188

Canberra ACT 2601

ABF response to:

Senate Standing Committee Community Affairs – Legislation Committee

Inquiry into the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017

July 2017

About the Australian Blindness Forum

The Australian Blindness Forum is the peak body representing blindness, low vision and rehabilitation in the blindness sector. ABF was formed in 1992 and is funded only by its members. ABF is an Australian public company limited by guarantee and governed by a Board of Directors.

Membership of ABF is open to any organisation that has as its primary objects the provision of services to people who are blind or vision impaired, or whose activities are substantially connected with the welfare of people who are blind or vision impaired. ABF is represented in every state and territory of Australia.

As Australia's representative to the World Blind Union, the ABF has strong connections with the international blind and vision impaired community. ABF comprises 15 blindness sector organisations whose expertise and knowledge are reflected in the following comments.

Background

ABF appreciates the opportunity to provide a response to the Senate Standing Committee Community Affairs Legislation Committee inquiry into the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017 (the Bill).

ABF and its member organisations support every person's right to participate in and contribute to the community. This includes all people who are blind or vision impaired having the right to access services and technology and to live independently, inclusively and with dignity in the community.

This position is consistent with the:

- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
- *Disability Discrimination Act 1992* (DDA)
- National Disability Strategy 2010-2020.

ABF notes the explanatory memorandum explains that the Bill 'establishes an independent national Commission, to protect and prevent people with disability from experiencing harm arising from poor quality or unsafe supports or services under the National Disability Insurance Scheme (NDIS)'.

Overall, ABF supports a strong national system for regulation within the NDIS Quality and Safeguarding Framework and supports the enabling of NDIS participants to have dignity of risk. However, ABF believes that further clarity is required to ensure the role and powers of the Commission provide both service providers and consumers with certainty and safeguards to ensure a robust system. ABF is concerned that any ambiguity could lead to vexatious complaints against service providers and poor outcomes for consumers.

ABF Response

ABF has the following specific concerns and questions about the Bill, in particular in relation to the establishment of the Quality and Safeguards Commission (the Commission):

- the Bill refers to the Commission having jurisdiction over registered providers under the NDIS. It is not clear what jurisdiction the Commission will have over non-registered providers. Non-registered providers should be held to the same standard as registered providers. The potential inconsistencies associated with this would make the Commission and the overarching Quality and Safeguarding Framework much less effective.
- will service providers be given an opportunity to conduct an internal review of an incident even if it is reported (sometimes anonymously) to the Commission?
- how will a Commission investigation be conducted?
- when is the Code of Conduct triggered?
- is there a 'reasonable test' applied to complaints?
- can a complaint be referred by anyone? How does the Commission filter what might be a vexatious or unfounded complaint (based on a mis-communication or misinterpretation of events)?
- what time frames will be in place for the resolution of a complaint?
- what ongoing education and awareness campaign and training will the Commission deliver in order to ensure consumers are aware of the existence

of the Commission and their rights under the accompanying Code of Conduct?

- The jurisdiction of the Commission is not clear in relation to the provision of services to people who are over the age of 65 and within the disability sector. People who are over the age of 65 may be receiving services under some of programs associated with the NDIS, but are also considered part of the aged care sector. These services may be delivered in conjunction with aged care services. Therefore, ABF members have expressed concern and uncertainty about how the operation of the Commission will interact with other disability, aged care and health complaints bodies and processes. Further clarity around the interface between the many bodies, standards and regulations in this sector and the interaction with the aged care sector would provide more certainty for both service providers and consumers.
- At the moment, ABF members are reporting that the NDIS itself is not providing information to NDIS participants and potential participants in alternate formats so that the participant can have full access to all information. Therefore, it is imperative that any information from the Commission is delivered in an accessible way in order for participants to be kept informed about the role of the Commission, the progress of any complaints and any decisions relating to the provision of the participant's services.

Conclusion

ABF reiterates its support for a strong quality assurance and safeguards system to regulate the provision of goods and services under the NDIS. With further clarity and certainty, ABF hopes this Bill will enable the Commission to oversee a strong market for disability services that will not discriminate against niche specialist providers, such as those in the blindness sector, and that will ultimately benefit people with disability.