ABN: 93 056 378 299

14 July 2020

REPONSE TO JOINT STANDING COMMITTEE ON THE NDIS QUALITY AND SAFEGUARDS COMMISSION

The Joint Standing Committee on the National Disability Insurance Scheme (NDIS), chaired by the Hon Kevin Andrews MP, is established to inquire into and report on the implementation, performance and governance of the NDIS. As part of this role, the committee has determined to conduct an inquiry into the NDIS Quality and Safeguards Commission.

As part of the committee's role to inquire into the implementation, performance and governance of the National Disability Insurance Scheme (NDIS), the committee will inquire and report on the operation of the NDIS Quality and Safeguards Commission since it commenced operation on 1 July 2018.

Please find below our response in regard to the terms of reference of the Committee:

a. The monitoring, investigation and enforcement powers available to the Commission, and how those powers are exercised in practice;

   We have had one experience in regard to Investigators from the Commission coming to interview staff and review a reportable incident investigation, which was in December 2019. There has been no feedback, update or communication since then and the matter is still open.

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

   Our experience with the Commission in relation to reportable incidents and complaints has been varied.

   Our experience has been that some complaint officers are more knowledgeable and more responsive than others. Some complaint officers were happy to provide instruction on what should happen, however when they were asked to commit this to writing, declined to do so. One particular officer would ring and demand a return phone call immediately. This shows a total lack of understanding of how a disability service works and what we deal with on a day to day basis. All communication should be in writing, rather than over the phone so there is a record of what is communicated.

   On the whole, the Reportable Incident division is helpful and knowledgeable and most have relevant sector experience, although I would suspect that they have a large work load, more than what was anticipated.

c. The adequacy and effectiveness of the NDIS Code of Conduct and the NDIS Practice Standards;

I believe the NDIS Code of Conduct is adequate for workers and is an easily understandable guide on what is expected from all workers. From a Provider point of view this supplements our Code of Conduct and provides clear instruction on what is expected of workers.

The Provider Code of Conduct and Practice Standards are more than adequate for Providers that have to undergo Certification, however I don't believe that the verification process is robust enough, especially for sole traders in the Support Coordination area.

We have had one particular experience with a Support Coordinator who did not consult with the participant/family/guardian before submitting documentation to the NDIA and in fact withdrew the application for SIL funding. We were advised that the NDIS Commission would not look into complaints against these type of providers.

The NDIS Practice Standards are on the whole adequate however there are some areas that overlap with each other. The self-assessment process is extremely time consuming, very repetitive and the online portal for lodging this is not user friendly.
It appears that systems within the portal do not interface with each other, for example when service outlets are added to the Registration, this is not populated in other areas on the portal.
Considering that the portal was in development for over 12 months it would be reasonable to expect a state of the art portal be delivered with up to date technology.

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

The organisation underwent the NDIS Registration Audit in October 2019 and the final report was submitted in January 2020 to the Commission. To date we are yet to receive any response as to whether our Registration has been approved. There does not appear to be a time frame for completion for the Q&S Commission when Providers need to adhere to strict guidelines to maintain their registration. The self-assessment process on the NDIS Commission portal was once of the most onerous self-assessments that I have undertaken and I have been doing these for approximately 10 years in Disability, OOHC and Aged Care.

I cannot comment on the Worker Screening arrangements as these have not been implemented as yet. I would however hope that the portal is going to be upgraded and improved before introducing this in February 2021.

e. The effectiveness of communication and engagement between the Commission and state and territory authorities;

Communication and engagement has been an issue since the implementation of the NDIS Q&S Commission in 2018. When changes were made to Practice Guides, for example the upgrade to Reportable Incidents in June 2019, there was no communication to Providers. I stumbled across this change by checking the portal. There was a change in the definition of sexual misconduct, specifically crossing professional boundaries, that was not communicated to providers. The change to the wording to include that it must have sexual implications or connotations was an important change to the scope of this definition.

We have also had the experience of receiving contradictory information in relation to a restrictive practice. We received written confirmation that as the participant had a diagnosis of Polydipsia the strategies were not considered to be a restrictive practice however approximately 8 months later when it was questioned again we were advised that it was. This created confusion amongst the staff and the Practitioner involved.

Also when Reportable incidents are closed there is no notification sent to the Provider, nor is there a closure date that is displayed on the portal. We learn that reportable incidents are closed by checking the portal.

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

How do we find out what financial resources are available to the Commission?

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Given that there are a large number of reportable incidents that are not closed and it is taking on average over 6 months to get to some, I would hazard a guess that there are not enough staff to look at these.

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

Given that NSW was one of the first states introduced and there was little to no documentation available at the time I would say that this had a significant impact on Providers.

Also for the first 12 months every Reportable Incident had to be completed manually, even though there had been a significant lead time (at least 12 months) for the commencement of the Q&S Commission.

Providers were left to interpret the changes and train their staff with little or no guidance form the Commission. One of the biggest areas that is still causing concern is the GP's and their prescribing of medication and defining the purpose for which it has been prescribed.

This has been our biggest stumbling block. Trying to educate and explain to GP's why we need this information on medication charts, when they had been prescribing medication for behaviour management for some people for years. The lack of consultation by the Q&S Commission in the areas of GP's is deeply concerning. We are two years on and still battling some GP's in this area, some have just refused to continue to support our people due to the paperwork required.

There was also significant issues with the introduction of the NSW RPA system, which is still not a user friendly system. The system still contains bugs such as being unable to upload PDF's to a submission. The "fix" advised by the NSW "help team" is to re-print, re-scan and re-upload all the documents. Perhaps if there was collaboration between states the best system could be implemented for everyone.

I refer to the letter dated 06 July, 2020 from the Commissioner requesting further information on unauthorised restrictive practices from July 2019 to June 2020. The Commissioner states that there has been a significant increase in the reporting of unauthorised restrictive practices and that NDIS Commission is now escalating its compliance activities to ensure that registered providers meet their obligations. We have seen an increase in the number of unauthorised restrictive practices as a result of a medication change and the Practitioner has advised that "they don't have time to update the plan within the time frame" so "we will just have to report it to the Commission." This has occurred on a couple of occasions and mostly from Practitioners who are employed by large organisations as they say their caseload is too big and they don't have enough time to deal with the paperwork.

However, there are some Practitioners who are very responsive to participant needs and are working extremely hard to amend plans within time frames, these are generally the smaller self-employed Practitioners and are very few in numbers.

I would also question why the information that is being requested via "spreadsheets" is not available on the NDIS Commission portal. If this monitoring was required why was this not built into the original system. Apparently the system is still in "BETA" mode after two years so modifications could still be made.

h. Any related matters.

Prior to the Commission commencing we were promised that the impost on time and resources would be minimal. This in practice is far from true. The commission like any bureaucracy creates paperwork. The time and cost of filling in reportable incidents is far greater than the NSW state requirements prior to transition to the NDIS Q&S Commission. Restrictive practice is another area that has required massive documentation increase for providers, clinicians and GP's. We have seen ample evidence of clinicians asking if participants have a restrictive practice in their plan – when told yes they decline the work as it's too time consuming and their costs are not covered. This sector does not need to lose any further clinicians due to onerous costly requirements. I am stating that I am all for quality but it comes at a cost and that cost needs to be budgeted for like any other commercial cost of doing business. For service providers we have the same issue. The cost to maintain quality has increased markedly since the commission first started. In our case we had to hire a specialist in this area, create systems and process far more complex than under previous state requirements. The user experience with the commission's web site is appalling, the system is not user friendly nor intuitive and does not interface with the State RPA portal. My point again is I have no issues with quality but it costs money and as a not for profit any legislated cost needs to be offset by funding. The NDIS has a cost model they still rely on which they have admitted has major faults but at no time was the cost of quality per hour, including administration ever costed into the hourly rate. The cost model was created a year or more before the commission came into being and has never been adjusted to encompass quality costs. The NDIS standard answer is it's in the allowance for admin which is not true. I would seek information from the NDIS clearly showing how quality and safeguarding costs for providers was arrived at and compensated for in their hourly rate.

Regards

David Carey

Chief Executive Officer