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Inquiry into NDIS Quality and Safeguards Commission

MHCC ACT submission

Mental Health Community Coalition ACT

Peak Body in the ACT for the Community Mental Health Sector

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About MHCC ACT

The Mental Health Community Coalition of the ACT (MHCC ACT) is a membership-based organisation which was established in 2004 as a peak agency. It provides vital advocacy, representational and capacity building roles for the Not for Profit (NFP) community-managed mental health sector in the ACT. This sector covers the range of nongovernment organisations (NGO) that offer recovery, early intervention, prevention, health promotion and community support services for people with a mental illness. The MHCC ACT vision is to be the voice for quality mental health services shaped by lived experience. Our purpose is to foster the capacity of ACT community managed mental health services to support people to live a meaningful and dignified life.

Our strategic goals are:

- To support providers to deliver quality, sustainable, recovery-oriented services
- To represent our members and provide advice that is valued and respected
- To showcase the role of community managed services in supporting peoples' recovery
- To ensure MHCC ACT is well governed, ethical and has good employment practices.

Preamble

MHCC ACT would like to thank the Standing Committee for the opportunity to make a submission on the performance of the NDIS Quality and Safeguards Commission. This submission is based on feedback from our members regarding their dealings with the Commission. We will be limiting this submission to points from the terms of reference in relation to the input received from our member organisations. We also note that our member organisations primarily provide services to people with psychosocial disability (PSD) and consequently our comments are from that perspective.

Concerns raised in response to the terms of reference

- a. The effectiveness of the Commission in responding to concerns, complaints and reportable incidents – including allegations of abuse and neglect of NDIS participants;
 - Our member organisations have mentioned a highly variable experience from the Commission in handling complaints or incidents. Sometime there is an immediate response, others wait months to hear back and sometimes there is no communication from the Commission.
 - Providers have raised that there is a lack of clarity and consistency regarding the definition of what is deemed an ‘incident’. The guidelines on the website lack clarity about what is a reportable incident. When contacting the commission and talking to someone in person, the answer changes, depending on who you talk to.
 - Providers are unable to save a copy of a form for their own records when submitting a form to the Commission.
- b. The adequacy and effectiveness of the NDIS Code of Conduct and the NDIS Practice Standards;

“The NDIS Practice Standards create an important benchmark for providers to assess their performance, and to demonstrate how they provide high quality and safe supports and services to NDIS participants.”¹

 - The NDIS Practice Standards rightfully require service providers to be able to offer quality services to participants of the NDIS. To be able to do that providers have to be able to attract and retain highly trained and qualified staff. Unfortunately, the NDIA does not provide adequate funding to providers for most services to allow them to deliver quality services. The NDIS pricing guide is not a reflection of the true cost of service delivery in the sector. Qualified staff leave the sector due to low pay, irregular hours and short term contracts. Providers do not have the funding for adequate supervision and

¹ [The NDIS Practice Standards](#)

staff development under the current pricing scheme. MHCC ACT would like to refer to a previous submission we did earlier this year to the Joint Standing Committee on the NDIS workforce inquiry for more on this topic.²

- Our members mentioned the lack of transparency regarding the NDIS pricing guide. Despite many submissions, comments and recommendations from various sector stakeholders, there has been no publicly available response and very little change in areas which are repeatedly raised as being an impediment to achieving the objectives of the scheme in delivering choice and control of high quality services for participants with PSD. Providers have been raising the issue of low pricing for the past seven years via various submissions and consultations but in most cases if change has been made it has not been adequate. The sentiment is that the NDIA does not change anything until a crisis presents itself and then it is a scramble to fix the problem. Our members believe that an investigation into the assumptions and models underpinning NDIS pricing guide is needed. The sector also wants more transparency from the NDIA on who is consulted in price setting and item design in the guide and how consultation participants are selected. Our members believe that the price guide does not reflect consultation with organisations aiming to offer best practice evidence informed services. Given its role in ensuring service quality, we believe the Commission has a role to play in guaranteeing quality service delivery by an appropriately resourced sector.
- *“To support safeguarding for people subject to restrictive practices, the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 (the Rules) require that a registered provider of specialist behaviour support services must use a behaviour support practitioner whom the NDIS Quality and Safeguards Commissioner considers suitable”³.*
 - A lack of registered specialist behavioural support providers⁴ makes it difficult to get behaviour support plans for participants in place in a timely manner. This has the potential to put participants, carers and service providers at risk.
 - Additionally, providers are finding that the information on restrictive practices is not straight forward and still evolving. This makes it difficult to understand what is required from service providers. This allows for misunderstanding and leads to risks for the participants, carers and service providers due to lack of clear guidance and information. There is a need for a standard process to provide clarity for all the different stakeholders involved.

² [MHCC ACT Submission to the NDIS workforce inquiry](#)

³ [Notification of behavioural support practitioners](#)

⁴ Currently there are none registered in the ACT according to the NDIS providers list

- c. 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.

Our members believe that the registration process is in many cases needlessly onerous and costly. It is lengthy and requires excessive paperwork. This is particularly the case when staff/professionals and organisations already have recognised qualifications, membership of professional associations, accreditation and the like. The heavy reliance on desktop reviews and policies causes unnecessary red tape for small providers and sole traders and does not address the real drivers of quality services in such providers. The sector understands that we provide services for vulnerable people and the need for proper oversight and regulation, but there is a distinct difference between “good” and “bad” red tape. Good red tape is a series of necessary checks and balances and a second pair of eyes on proceedings. Bad red tape occurs when too much bureaucratic process bogs things down⁵ (adding excess time; getting in the way of productivity). Smaller providers in particular do not find that the current processes adequately address the real drivers of quality service in a human service environment.

- d. Any related matters.

To finish MHHC ACT would like to refer to the latest item on the NDIS pricing guide, the psychosocial disability recovery coach. While MHHC ACT sees the introduction of this position as a step in the right direction of establishing a foundation of mental health recovery in the NDIS, we would like to raise some concerns about the way this position was introduced. These concerns are similar to concerns that have been raised in the past regarding the way the NDIA introduces new things.

- Lack of consultation by the NDIA. Despite announcing the plans to introduce the recovery coach as a new item in November 2019 and the assurance the sector would be extensively consulted before and after a discussion paper was published, none of these things happened. There was no widespread consultation across the sector nor was there a widely distributed consultation paper on what the recovery coach would look like. This was not only very disappointing but is a missed opportunity for the NDIA to get input from a variety of stakeholders.
- It could be argued that this lack of information and engagement from the NDIA has led to widespread dissatisfaction with the structure and pricing of

⁵ Neil Pharaoh, [Better regulations and less red tape for the social purpose sector? I'd like to see that](#), Pro Bono Australia, 2020.

this position. Questions are being asked why the recovery coach is priced lower than a support coordinator despite the fact you need specific qualifications and ongoing training to be a recovery coach, and a recovery coach can also undertake any of the individual tasks of a support coordinator. Once again there is a lack of transparency about how the NDIA came to its decision on pricing. To date, none of the explanations we have heard for these decisions are logical, and we have seen nothing in writing. Furthermore, through our various networks of organisations and peak bodies across Australia, we do not know of any organisation which was part of this consultation.

- The NDIA is continuing its disappointing track record in providing frameworks and processes for service providers to work within. To illustrate what we mean, we refer to psychosocial disability. The psychosocial recovery coach was introduced in the 2020 price guide while the framework around psychosocial disability and recovery is still in development and not due until April 2021. Additionally, despite the existence of a national framework for recovery-oriented practice, the NDIA has decided to develop its own recovery framework. This does not demonstrate a commitment to quality and safeguards.
- MHCC ACT welcomes that the NDIA is responding to feedback from the sector and participants for need to create a more effective and recovery oriented framework for people with psychosocial disability but we fear rushing out the recovery coach in light of all the issues highlighted above is likely to cause problems that could have been prevented, and possibly even mean that the uptake of this new support item is lower than anticipated.

Recommendations

Based on the above issues raised by our members, MHCC ACT makes the following recommendations:

- Improve the complaints and accidents processes of the Commission:
 - Develop processes that enable consistency in handling complaints
 - Make sure that there is transparency when handling complaints and include regular updates to all involved parties; inform all parties of outcomes of an investigation
 - Introduce a transparent procedure for when complaints are not being responded to in a timely manner
- Improve the service provider registration process
 - By reducing the amount of red tape to avoid excessive, duplicative and unnecessary administrative workloads and speed up the registration process.

- An onerous registration process does not guarantee quality and safe providers, there is a need to look for other parameters to assess how a provider is performing – for example by working with and trusting standards imposed by existing professional associations, accreditation processes and the like.
- Review the availability of auditing agencies and audit processes to ensure viable price points for small providers and sole traders.
- NDIS Pricing guide
 - MHCC ACT advocates for more transparency, consultation and scrutiny around processes involved in developing the NDIS pricing guide.
 - Require the NDIA to hold more widespread consultations across the sector to inform the pricing guide. Require the NDIA to demonstrate that they have consulted a representative sample of the sector in each state and territory, and between different regions ranging from cities to remote. All this must be done in a timely and transparent manner.
- Consultation processes
 - When asking for consultation there has to be adequate time for the sector to respond to consultations in a thorough and meaningful way.
 - There should be transparency in the responses provided – for example publicly accessible on their website
 - The NDIA should be required to respond to the issues raised, in a timely manner.
- Restrictive practices
 - More clarity is needed on the requirements for service providers when having to deal with restrictive practices
 - Address the lack of specialist behavioural support providers so that participants can have behavioural plans tailored to their needs.
- Create the ability for service providers to download/save all the forms they submit to the commission for their own records.
- To guarantee quality service delivery and proper safeguards the Commission must make sure that the NDIA has clear frameworks and/or guidelines in place before releasing new items or requests new services.

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