



29 May 2023

Re: NDIS Review—Quality and Safeguarding Framework

Dear Review Panel,

Inclusion Australia is the national Disability Representative Organisation representing the rights and interests of Australians with an intellectual disability and their families. Founded in 1954, our mission is to work to make sure people with an intellectual disability have the same opportunities as people without disability. We have teams in Victoria, Western Australia, and the Northern Territory, and we have member organisations in New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia.

We thank the Commission for the opportunity to provide feedback on the NDIS Quality and Safeguarding Framework (the Framework) as part of the NDIS Review.

There are three main points we wish to raise as ways of achieving a reset of the Framework to drive more effective and holistic quality and safeguarding in the NDIS.

1. Design a clear purpose for the Framework

Our community has told us that the Framework's purpose is unclear and confusing.

Many people we have spoken to have not been aware of the Framework and its intended role in shaping a safeguarding approach across NDIS services. This contributes to a sense of a lack of shared, consistent expectations of what constitutes effective safeguarding and high-quality supports in the Scheme. Further, our community has told us they are not seeing evidence that the current Framework is driving the Commission's decision-making or compliance activities, and that much more needs to be done by the Commission to deliver ongoing, effective safeguarding and the continuous improvement within NDIS-funded services.

We have been told time and again that it is difficult to find the Framework online, and we have not been able to find an Easy Read version at all.

Given the current opportunity to reset and position the Framework as a mandate to drive the provision of quality and safeguarding within the NDIS, it is vital that its purpose is clear, accessible, easily found and understood by everyone.

In addition, its purpose needs to be aspirational and set a mandate for action and positive change that both emboldens participants to expect and advocate for the utmost quality and safeguarding within their NDIS supports, and enhances the responsibility of the NDIS workforce to meet those expectations and deal with complaints in an effective and human rights-based manner.

It is crucial that these drivers are balanced. While it is necessary to build capacity among NDIS participants to exercise their rights and expectations, this must be coupled with access to self-advocacy training and opportunities. Additionally, the Commission and the Framework must also recognise that the inherent power imbalance between providers and participants makes it both illogical and unfair to place the onus of responsibility on participants to drive quality.

We are concerned that if the Framework relies on a complaints-driven approach to safeguarding, it will lead to the onus being on participants to drive quality. That means the power imbalance will be perpetuated, and people with an intellectual disability, especially non-speaking people or people with complex communication needs, will be further disempowered.

To address this, a significant investment in independent capacity building information and resources is needed in the long-term. In the short-term, the Framework must be designed in a way that:

- Genuinely recognises this power imbalance between providers and participants
- Actively diminishes the onus of responsibility on participants to drive quality, and works to better resource and implement drivers of quality and safeguarding through providers, including capacity-building among support workers
- Designs measures to sustainably resource ongoing capacity building activities.

This is because our community has told us that the Framework's objectives set a low bar in terms of expectations of what constitutes quality and safeguarding within the NDIS.

For example, one of the current Framework's objectives is:

Allow participants to live free from abuse, violence, neglect and exploitation.¹

As a fundamental human right, it goes without saying that people should live free from abuse, violence, neglect and exploitation. However, that this objective is framed as an 'allowance' (rather than an assurance) of the Framework sets a low expectation for what quality and safeguarding really mean in peoples' lives.

In effect, it says that merely the absence of abuse, violence, neglect and exploitation equates to effective quality and safeguarding within the NDIS.

As fundamental as freedom from violence, abuse, neglect and exploitation is in itself, this cannot be the benchmark for what constitutes quality and safeguarding within the NDIS.

There is now an opportunity for the Framework to raise the expectations of what quality and safety mean in practice in the lives of people with an intellectual disability, with active measures to achieve better outcomes: it should be aspirational in tone and provide a clear, easily understood mandate to create a society in which people with an intellectual disability can live an inclusive life, which yes, is one free from violence, abuse, neglect and exploitation—but this does not equate on its own to quality and safeguarding within the NDIS.

¹ NDIS Quality and Safeguarding Framework. 2016. Page 11. Retrieved from: https://www.dss.gov.au/sites/default/files/documents/04_2017/ndis_quality_and_safeguarding_framework_final.pdf

2. Create consistency by ensuring the Framework reflects relevant policy and legislative settings

The current Framework states its consistency with the *NDIS Act 2013*, but there are other legislative and policy settings that the Framework needs to be unambiguously linked to. The Framework's purpose should be consistently and clearly connected with both Australia's Disability Strategy 2021-2031—particularly its outcome areas of Safety, Rights and Justice²—and the *Disability Discrimination Act 1992*.

The Framework must also be updated to reflect changes in policy. For example, the current Framework talks about 'informed decision-making',³ which clearly needs to be updated to reflect the principles of the recent NDIS Supported decision-making policy and best practice around supported decision-making approaches. The Framework should be founded in human rights and support the Commission to be a contemporary, rights-based regulator.

We agree with the points within the Issues Paper that outline the lack of long-term, whole-of-scheme approaches to NDIS quality and safeguarding arrangements. As such, any reset of the objectives of the Framework must connect with these legislative and policy settings as a way of driving clearer and more consistent principles and, as a consequence, more consistent shared understandings of the Framework's purpose.

Importantly, that consistency needs to be communicated in an accessible way to drive shared high expectations among all people involved in the NDIS—whether participants, providers, support workers, etc.

3. Create effective expectations by sustainably resourcing, monitoring and implementing the objectives of the Framework

Our community has told us that there is little evidence that the current Framework has been effective in driving quality in the NDIS. Although we have seen that active safeguarding measures have been implemented with a degree of success, there are still improvements to be made.

In large part, this is due to the lack of resourcing, implementation and monitoring of quality and safeguarding in a nationally consistent way. NDIS service providers—including individual support workers—need to be properly equipped (whether, for example, through training; professional development; or increased monitoring) to be able to deliver on those quality and safeguarding measures outlined in the Framework. Similarly, NDIS participants need to be supported and resourced to access ongoing capacity-building activities.

Any reset of the Framework must take this need for adequate resourcing into account, and the Commission must be proactive in designing and properly resourcing strategies for implementation and monitoring of the provision of quality and safeguarding.

² "Safety, Rights and Justice", Australia's Disability Strategy 2021-2031. Retrieved from:

<https://www.disabilitygateway.gov.au/sites/default/files/documents/2021-11/1786-australias-disability.pdf>

³ NDIS Quality and Safeguarding Framework. 2016. Page 11. Retrieved from:

https://www.dss.gov.au/sites/default/files/documents/04_2017/ndis_quality_and_safeguarding_framework_final.pdf

In addition, the Framework needs to be clear on what everyone's role is within the implementation of quality and safeguarding within the NDIS—including the clear communication of what NDIS participants should expect from their support services.

We warmly thank the NDIS Review Panel for the opportunity to contribute feedback on the Framework. We welcome any further opportunities to consult on specific issues raised in this letter.

Kind regards,

A handwritten signature in purple ink, appearing to read 'Catherine McAlpine', with a stylized flourish at the end.

Catherine McAlpine
Chief Executive Officer