

# Response to the Quality and Safeguarding Framework for the National Disability Insurance Scheme

---

# QDN

QUEENSLANDERS WITH DISABILITY NETWORK  
*NOTHING ABOUT US... WITHOUT US*

## CONTENTS

<b>Response to the Quality and Safeguarding Framework for the National Disability Insurance Scheme .....</b>	<b>1</b>
About Queenslanders with Disability Network (QDN) .....	3
Value Statement on People with Disability .....	3
<b>QDN Consultation .....</b>	<b>4</b>
Consultation Questions.....	4
Analysis .....	4
<b>Overview.....</b>	<b>5</b>
<b>QDN preferred options - proposed framework .....</b>	<b>6</b>
NDIA provider registration.....	6
Systems for handling complaints .....	6
Ensuring staff are safe to work with participants.....	6
Safeguards for people who manage their own plans.....	7
Reducing and eliminating restrictive practice in NDIS funded supports.....	7
<b>Summary of key themes and related recommendations .....</b>	<b>8</b>
1. Safeguarding and quality implementation .....	8
Individual.....	8
Service.....	10
System.....	11
2. Participant Readiness, Capacity and Knowledge .....	13
3. Community and Specialised Supports .....	14

## About Queenslanders with Disability Network (QDN)

QDN is an organisation of, for, and with people with disability and the organisation's motto is "nothing about us without us." QDN operates a state-wide network of members who provide information, feedback and views from a consumer perspective to inform systemic policy feedback to Government and peak bodies. QDN also provides information and referral support to people with disability.

QDN has over 700 members across Queensland. All of QDN's voting members are people with disability.

## Value Statement on People with Disability

QDN's work in providing feedback and input into systemic policy issues is based upon the organisation's core values and the place of people with disability in an inclusive, Australian society.

QDN believes that:

- All people with disability have a right to a place in the community and have contributions to make to community. This is as empowered, free citizens who are as valued, present, participating and welcomed as members of any dynamic and diverse society.
- The place of people with disability in the community is not just about people with disability having a house in the community. Core to this is that they are welcomed in the community as ordinary citizens where they are genuinely given opportunities to contribute and actively participate. People with disability need to be in communities where their individuality, their talents, and their lived experiences of disability are recognised and acknowledged.
- Culturally and historically, people with disability are not afforded the same value, opportunities or access to community life.
- Any inclusion in community for people with disability is conditional and vulnerable to withdrawal.
- Many people with disability in Queensland are excluded from the most basic experiences of ordinary lives.
- Current exclusionary practices are unacceptable and must be challenged.
- These issues affect not only people with disability but the whole community.
- The responsibility is shared. It lies within government (federal, state and local) and the community at large, to ensure that people with disability have a place and are resourced to belong in community.

## QDN CONSULTATION

A consultation was undertaken by QDN with its members (via interview, survey and focus groups) and with key allies. QDN also collaborated with key sector organisations aligned with QDN's values, within the disability sector in Queensland, to inform the development of QDN's response.

### Consultation Questions

Participants in the survey, focus group or phone interviews were asked the same questions:

1. What is the single most important issue to you in terms of the Quality?
2. What is the single most important issue to you in terms of Safeguards?
3. What do you think is helpful/useful about the proposed framework?
4. What do you think is problematic about the proposed framework?
5. What do you think is missing from the proposed framework?

### Analysis

Comprehensive notes were recorded (as verbatim as possible) and returned surveys were included verbatim. Data was thematically analysed to provide a collective summary of the consultation feedback.

QDN's submission also includes a series of recommendations which have grown out of the consultation feedback.

## OVERVIEW

Queenslanders with Disability Network Ltd (QDN) welcomes the opportunity to provide feedback on the National Disability Insurance Scheme (NDIS) Quality and Safeguards draft Framework and acknowledges the importance of this work for people with disability in the implementation of the scheme.

The United Nation Convention of the Rights of People with Disability (2006) (CRPD) provides the international context for safeguarding and upholding the rights of people with disability. The principles of the CPRD and articles form the basis for national and state based policy frameworks for disability, and a foundation for building a framework that has developmental, preventative and corrective measures to safeguard the rights of people within the scheme and ensure access to quality supports and services.

The National Disability Strategy 2010-2020 endorsed by all levels of government, provides the national policy framework and building blocks to achieve the vision of an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens. The six priority areas for action provide the foundations for building safeguards and quality in a developmental way, including inclusive and accessible communities, rights protection, justice and legislation, economic security, personal and community support, learning and skills and health and wellbeing.

The implementation of the CRPD and the National Disability Strategy 2010-2020 across all portfolios and levels of government will contribute to the development and building of natural safeguards within our communities. Improved accountability and alignment to international and national frameworks across all levels of government will help communities achieve natural safeguards and improved outcomes for people with disability. Through outcome based performance measures which align to the articles of the convention and the six priority areas for action of the national strategy, we can clearly identify progress and measure the implementation of these goals and actions.

QDN acknowledges the importance of quality and safeguarding and of getting the right balance that will afford people the choice and control they need to live a good and ordinary life, alongside the measures and regulations to ensure the system is accountable and operates in a way that upholds the rights and well-being of the individual.

QDN's overall position in relation to options in the consultation paper is detailed below, followed by a range of recommendations around implementation of the framework, informed by broad consultation feedback.

## **QDN PREFERRED OPTIONS - PROPOSED FRAMEWORK**

### **NDIA provider registration**

QDN supports the implementation of a national Code of Conduct as a minimum requirement for registration. QDN also supports core components of a quality evaluation framework which focus on participant experiences. QDN recognises that in a market, providers will be driven to demonstrate their outcome measures against national standards for disability services in order to attract customers and maintain their desired share of the market. QDN recognises that the additional costs to providers to meet mandatory evaluation would be passed onto participants, and may work to disadvantage people's access to affordable services. In a maturing market, while still developing, consideration could be given to greater safeguards to manage entry to market for providers in the initial stages.

### **Systems for handling complaints**

QDN supports option 3 – independent statutory complaints function to ensure people with disability are afforded safeguards that ensure transparent, independent management of complaints. QDN supports this to be an independent office that sits outside the NDIA to afford greater scrutiny. It is essential as part of this system, that the appropriate supports are provided to participants throughout the complaints process. QDN supports that all the details of option 2 – internal and external complaints handling would also be in place for providers to ensure minimum requirements for how providers handle complaints and systems in place to prevent retribution to complainant.

### **Ensuring staff are safe to work with participants**

QDN supports Option 3 – working with vulnerable people clearances. QDN believes it is essential that national consistent measures are in place to safeguard vulnerable people, and a centralised checking mechanism, similar to that adopted under the Australian National Registration and Accreditation Scheme for Health Practitioners. However, QDN does not support the implications of additional costs being passed onto the participant.

QDN supports Option 2 which includes responsibility of employers to undertake appropriate screening of employees, and police checks for certain roles. QDN sees some level of risk with employees having to give permission to obtain police checks, and greater guidance and clarity is required within this option about who has responsibility to gain the police check.

## **Safeguards for people who manage their own plans**

QDN supports Option 1 – building the capacity of participants to manage their own plans. It is essential that in upholding the intent and principles of the NDIS, that option 1 and appropriate resources are put in place to provide people with what they need. Key skills and knowledge needs to include areas of industrial relations and human resources to build participant's capacity to self-manage well and within legislative frameworks to safeguard people who want to make this choice.

## **Reducing and eliminating restrictive practice in NDIS funded supports**

QDN supports 4 – restrictive practices could only be authorised by an independent decision maker to ensure participant's rights are upheld and decisions are informed and independent. QDN believes it is important that restrictive practices in place have clear legislated requirements about their use, and that there is a clear separation between the provider and decision maker to ensure decisions are being made in the best interests of the participant, and remove risks to both people with disability and providers. As within current Queensland legislation, an authorised decision maker can be the family or a person formally appointed to the role, depending on the type of restrictive practice in place. This would reduce the costs and delays with decisions if an independent decision maker can be individuals in person's life not only formal guardianship tribunals.

It is essential that different types of restrictive practices require different levels of authorisation, such as containment and seclusion. QDN also believes it is important that mandatory reporting of restrictive practices be in place as part of the safeguards to provide greater monitoring and ability to measure the reduction or elimination of a practice.

## SUMMARY OF KEY THEMES AND RELATED RECOMMENDATIONS

In QDN's engagement with members and key stakeholders, three central themes emerged:

- Safeguarding and quality implementation
- Participant readiness, capacity and knowledge
- Community and specialised supports

QDN provides the following summary of consultation feedback received, with a focus on individual, service and system level issues. These are accompanied by a range of key recommendations that evolved in the context of discussion around the three key themes. QDN has included key recommendations to inform further considerations and design.

### 1. Safeguarding and quality implementation

#### Individual

QDN received broad ranging feedback from members who acknowledged the opportunities that the NDIS brings for people to have the supports they need to live a good life as citizens with full social and economic participation in Australian society. QDN believes it is important for people with disability to have access to multiple safeguards that are both informal (unpaid) and formal (paid) at individual, service and system levels. It is essential that individuals, the mainstream and specialist disability workforce, providers and the National Disability Insurance Agency (NDIA) are all supported in this transition, and each part of the system is given the opportunity to build capacity to realise the shift in practices and culture towards individual choice and control and full social and economic inclusion.

From an individual perspective, it is important that any safeguards that are in place take into consideration the evolving and changing nature of people's capacity to grow, learn and develop their skills.

Feedback overall acknowledged that safety is explained differently for each person and is linked to a **feeling** of safety within a range of contexts, experience and settings. Risk is closely linked to safety where there is recognition that at different ages and stages, people with disability like all people will take different risks. Risk is also linked with the perceptions of fear, whether someone is at actual risk or the potential for risk. As one respondent noted "we don't want people with disability to be segregated and isolated because of **fears** around their safety by other people". There was recognition of the balance between keeping people safe and accessing a good and ordinary life.

In safeguarding the rights of the individual, QDN also believes it is fundamental for participants to have access to a range of different providers to avoid conflicts of interest, especially across providers delivering a range of supports to a person which include pre-planning and planning components and mainstream and specialist disability supports.

The following areas, detailed below, were identified as important considerations during consultations.

### ***Access to appropriate supports***

A key safeguarding issue for people with disability was a fear that existing supports could be eroded over time as people move to receive supports under the NDIS. A wide range of issues and strategies were identified to address such erosion, including the need for:

- Innovative, wide ranging residential options and accommodation support models that ensure people have choice and control, beyond institutional practices within service settings;
- Coordinated services and support across disability and mainstream services, facilitated by an integrated approach across systems and programs, with a particular focus upon:
  - Community Care (previously HACC) funding and support;
  - The Queensland Government's taxi subsidy scheme;
  - The Queensland Government's aids and equipment scheme; and
  - Public and private housing;
- Peoples' current support levels to be maintained and people not be disadvantaged under a new system; and
- Approaches that facilitate, rather than negatively impact upon, the health and well-being of carers who provide many aspects of a person's informal support.

### ***Complaints handling***

Complaints handling was recognised as a complex issue particularly where people with disability feared "retribution or being labelled as difficult" in the face of making complaint. It was noted that safeguards for a person making a complaint were required so they would not be the subject of unmerited restrictive practices or other forms of retribution.

### ***Individual advocacy***

Individual independent advocacy was identified as fundamental to any quality and safeguarding framework and important for all people, particularly those with limited voice and natural informal supports in their life. QDN recognises that advocacy builds upon, and compliments, a person's natural and peer supports (family, friends) and the role people choose to play as self-advocates and decision makers as citizens.

Respondents raised that things should not have to "go bad before we start doing advocacy" and it could be included in planning as a safeguarding process. They also stressed that advocacy is required to support people with disability in all systems that they may have to

deal with such as fair trade practices, discrimination, health, education, housing and so on. The importance of developing the skills and capacity of individuals to become their own advocates and decision makers was also raised. Feedback stressed the importance of advocacy being in place from the beginning, and things should not have to 'go bad before we start doing advocacy'. Further, advocacy should empower a person's pre-planning and planning activities and their navigation of the scheme, including engagement with other systems. Notably, advocacy is required to support people with disability across all agencies they may have to deal with such as health, education, housing and transport.

**Recommendation 1:**

QDN recommends that where people need access to independent individual advocacy it is made available from their initial point of engagement with the scheme and a range of individual advocacy approaches be funded to support this happening. Additionally, funding needs to be invested in initiatives that enable participants to have training and support to develop skills and capacity in self-advocacy.

## Service

At the service level, QDN identifies the following key areas below, for consideration and action.

### *Abuse, neglect and exploitation*

QDN identifies that it is essential that people with disability have access to safe and secure supports and systems are in place that protect people from abuse, neglect and exploitation. Participants also raised these need to be balanced as "no one wants people to be subjected to abuse neglect and violence but that does not mean you lock them behind secure doors forever either".

Feedback was received that current practices in place such as criminal history screening processes are only one part of safeguarding mechanisms, and do not necessarily ensure people are free from abuse. It was raised that such strategies need to be accompanied by safeguards which address prevention, early intervention and a response regime to incidences which encompasses workforce training, mandatory reporting of abuse, neglect and exploitation and a coherent, pro-active interface with the criminal justice system.

Feedback further reinforced it is essential that people with disability can access justice, and all parts of the system from police through to court staff and magistrates, judges can support people within this system.

**Recommendation 2:**

QDN recommends that safeguards be put in place around abuse, neglect and exploitation to address prevention, early intervention and responses that encompass system capability

to “red flag” patterns of incident reporting, regardless of whether the allegations have been substantiated through a formal process.

### ***Restrictive practices***

QDN supports the least restrictive principle for people who display behaviour that may cause harm to themselves or others and who may have restrictive practice in place. QDN supports the commitment to work to reduce or eliminate those restrictive practices. In such situations it is important that safeguards are in place to ensure people have skilled support workers in place to deliver quality supports that meet individual needs, and uphold the key elements of the NDIS – choice and control.

Consultation feedback strongly reinforced it is essential that people who are subject to restrictive practices have the same access to the core principles of the NDIS and are provided with the opportunity to exercise choice and control around the engagement of staff, self-management, and self-direction.

#### **Recommendation 3:**

QDN recommends that people subject to restrictive practices have the same access to the core principles and elements of the NDIS, to the greatest extent possible, to support them exercising choice and control around the engagement of staff, self-management and self-direction.

## **System**

### ***Systemic advocacy***

Systemic advocacy plays an important role in shaping and influencing system change, and ensuring that the voice of people with disability, their families and carer, and providers all have an opportunity to be heard. It is essential that this is funded and sits outside the system, to ensure independence.

#### **Recommendation 4:**

QDN recommends that systemic advocacy continues to be funded and it is funded and administered outside the NDIS and its overall system.

### ***Provider Market***

QDN acknowledges the role and actions that the NDIA will play in safeguarding the market until it is at a place of maturity to be able to function with less regulation. QDN members raised that it is vital that people with disability have access to vibrant, diverse and quality

markets regardless of where they live across metropolitan, regional, rural and remote communities.

### ***Administrative red tape***

Respondents held aspirational hopes that the NDIS would become the one point of assessment for application in other settings (e.g. taxi subsidy scheme) to reduce the burden of red tape in people's lives. There was a clear aspiration for the NDIS to safeguard against red tape in terms of prescriptive rules and acquittal of resources.

### ***Quality and compliance***

In terms of quality a range of issues were raised including the administrative, compliance and legislative aspects. It is essential that a balance of regulation and compliance is put in place that enables people with disability, their families and carers, and service providers to engage in a quality system, with consistent standards that does not drive high cost and burden on all parties. QDN respondents raised the importance of not having over-regulation for people who are fully self-managing, and under-regulation where there is no relevant registration body attached to a professional body. It was also identified the importance of considering the impact upon the person with disability if the costs are shifted to the participant, and how to clearly understand how this cost is identified within the pricing structure of supports.

It will be important for participants in the scheme to have access to information and build their capacity to navigate and understand quality standards and what makes a quality service when choosing their supports, however, there is also the recognition that participants are more likely to rely of the experience of others, 'word of mouth', individual experience to inform their choices about supports and providers.

#### **Recommendation 5:**

QDN recommends that participants in the scheme are supported to build capacity around quality, minimum standards.

### ***State and other legislative and regulatory interface***

Although the NDIS is national scheme, concerns were raised about the interfaces between the scheme and the various relevant State agencies and programs that fund and/or provide services needed to contribute to goals participants may have towards achieving "a good life". In addition, respondents raised this mix becomes even more challenging as it can involve the three tiers of the NDIS (the interface of these funding bodies).

Respondents repeatedly expressed concerns that 'people may miss out' on getting an integrated supports or that components of the supports they have been receiving could be left off. Many of these problems will require State solutions that are outside the scope of the NDIS and pose a real safeguarding and quality issue for people with disability.

## 2. Participant Readiness, Capacity and Knowledge

Consultation respondents collectively raised issues relating to participants and their capacity, readiness and knowledge about the NDIS. Some respondents shared concerns about the NDIS and missing out on it (“That for me these changes are frightening and confusing. I am worried about the changes because I haven’t had to think about this before. It has just happened for me previously”) and/or had misinformation about the NDIS, including what it is going to do, and the impact it will have on individual circumstances.

Feedback received from QDN members and also through QDN’s Ready to go NDIS Participant Readiness project reinforced the need for a broad range of participant readiness approaches, and that content and process around each needs to support disabilities wide range of learning needs. It also needs to encompass ways of building the capacity and knowledge of participants to navigate the NDIS.

Feedback collectively reinforced that the developmental section of the framework including information for participants and building natural safeguards is essential to the successful implementation of the NDIS. These are the building blocks to ensure individual people with disability and their families/carers are empowered to engage and navigate the system from an empowered and knowledgeable place about quality and safety.

Overall, the following issues were raised during consultations that are important for consideration in regards to the developmental elements of this framework:

- **Choice and control** was a central issue for participants in terms of having a narrow annual scope for input, learning to make choices when you have had very little opportunity before, understanding individual rights and responsibility within the funding and support constraints of choice and control.
- People need be afforded the opportunity to learn, grow and change over time and develop skills in a range of areas including advocacy, decision making and financial management.
- Exposure to some risk and experiencing failure was identified as an important component of life to developing resilience and skills, however respondents felt there is not consideration of this in the framework where people have ‘permission to fail’ and safe risk taking.
- The NDIS is contractual in nature which poses a whole set of new and different skills for people who may have never been exposed to a contract before, but that does not mean they are incapable.
- Obtaining knowledge from other people with disability or family members is an important aspect of learning and obtaining knowledge. Peer networks and local support groups such as those being established under the Disability Support Organisation Sector Development funding is providing the building blocks to support and facilitate this.

### 3. Community and Specialised Supports

Central to the NDIS is responding to people's needs by acquiring the appropriate community or specialist supports. This includes paid and unpaid supports, equipment, transport and services that fall outside the traditional disability model of 'care and support'.

The safeguarding and quality issues that respondents identified were as follows:

#### ***Workforce***

QDN recognises the need for a quality workforce that can adequately support the needs of individuals to exercise choice and control and achieve full social and economic participation. It is essential that the growing workforce, whether engaged directly by participants and/or their family/carers, or through a provider is trained to deliver quality supports, free from abuse, neglect and exploitation. Legislative frameworks and industrial relations also need to ensure that safeguards are in place for employers and employees within the context of the shifting arrangements of employment that may arise within the scheme.

#### ***Community and mainstream***

The successful implementation of the National Disability Strategy 2010-2020, including the NDIS is reliant on accessible and inclusive systems and communities, QDN believes it is essential that people with disability can access appropriate, affordable, accessible, timely, quality services and responses across employment, housing, health, transport and education. Safeguarding needs to take into consideration what actions need to be in place across these systems to ensure people can achieve social and economic participation, and full participation in society.

Queenslanders with Disability Network LTD

30 April, 2015