

***Submission: The Joint Standing Committee on the  
National Disability Insurance Scheme: Inquiry into the  
NDIS Quality and Safeguards Commission***

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**QDN**

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

Submitted to the Disability Royal Commission  
August 2020

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## About Queenslanders with Disability Network (QDN)

Queenslanders with Disability Network (QDN) is an organisation of, for, and with people with disability. QDN operates a state-wide network of 2,000+ members and supporters who provide information, feedback and views based on their lived experience, which inform the organisation's systemic advocacy activities. We believe people with disability should always be at the table when decisions are made that directly impact their lives.

QDN also currently hosts 21 peer support groups across Queensland, made up of people with a diverse range of disabilities, and convened by people with disability. The groups network socially, share information, life experiences and solutions to create more inclusive lives and communities. Local groups are a safe space for people with disability to share information on topics that are of interest to them, to extend their social networks and to build capacity and leadership skills. Groups usually meet on a monthly or bi-monthly basis and meetings can be face-to-face or virtual.

## Introduction

Queenslanders with Disability Network (QDN) welcomes the opportunity to make a submission to The Joint Standing Committee on the National Disability Insurance Scheme's Inquiry into the NDIS Quality and Safeguards Commission (the Commission). In preparing this submission, QDN consulted members on their experiences with the Commission.

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.

The Commission's primary responsibilities include registering service providers, handling complaints, recording adverse incidents and monitoring the use of restrictive practices. The Commission also has responsibility for the national register of workers to ensure safety around non-approved workers. Finally, the Commission has responsibility for ensuring services have a workforce that complies with the NDIS Code of Conduct and Practice Standards.

The Commission's role in safeguarding people with disability who receive their services and supports through the National Disability Insurance Scheme (NDIS) is essential. As seen by recent high-profile deaths of people with disability and testimony to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), the Commission's oversight responsibilities can be a matter of life and death. There is no doubt that this oversight responsibility is complex and cannot be achieved by one agency alone. Protecting people with disability from violence, abuse, neglect and exploitation requires a whole of community response with the Commission, the NDIS, people with disability, service providers, disability advocacy organisations and all levels of government working collaboratively.

It is important as the lead agency for oversight of the safety and quality of the NDIS, people with disability see the Commission has an important role in delivering quality policies, processes and communication methods and set an example of best practice.

To effectively protect people with disability from violence, abuse, neglect and exploitation, the Commission needs to have greater focus on ensuring they are accessible, responsive and accountable to all people with disability. This requires:

- Improved engagement with people with disability and their families, including more accessible communication
- Streamlined and clearer complaints processes with a focus on tangible outcomes for people with disability
- A transparent performance framework, requiring greater monitoring and public reporting

## **Engagement with people with disability**

For the Commission to deliver on its responsibilities to safeguard people with disability receiving NDIS funded supports, the Commission needs to embed and enhance its engagement with the grassroots disability community. This includes increased and targeted engagement with people with disability, their families and advocacy organisations that represent people with disability.

### ***Lack of awareness and understanding of Commission's role***

In the Commission's establishment phase, the limited broad range of effective engagement with the disability community has meant that the role and responsibilities of the Commission are broadly unknown or misunderstood by many people with disability. QDN members' knowledge of the Commission varies, ranging from not knowing the Commission exists to significant misunderstandings about what the

Commission does and a lack of awareness of the rights of people with disability to report improper actions by service providers.

Of the QDN members who were aware of the Commission, the overwhelming perception was that the Commission works closely with service providers but was inaccessible to people with disability. In particular, some QDN members believe the Commission's work is largely focussed on supporting service providers to meet their obligations and didn't see the Commission had a role in supporting people with disability to uphold their rights, including navigating complaints processes and as a result that people with disability were missing out.

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***"I personally feel having staff with lived experience of disability is very helpful towards understanding the concerns and situations PWD often encounter." – QDN member***

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To build the capacity and understanding of people with disability to about the Commission's role, QDN recommends the Commission develop and implement a strategic engagement plan with a focus on increasing awareness of the Commission, its role and intersectionality with the rights of people with disability to receive safe and quality services. The engagement plan should be co-designed with people with disability, their families and disability advocacy organisations to ensure the needs of all disability types are appropriately addressed. The plan should be made public and include key performance indicators that the Commission is required to publicly report against.

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***"The Commission should engage (pay) people with disability to be peer leaders and conduct accessible peer education and be involved in media campaigns about the work of the Commission, encouraging people to make contact with the Commission so they can speak out and make complaints about the services and supports they receive." – QDN member***

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### ***Accessible communication***

Accessible communication is key to ensuring people with disability understand the role of the Commission and feel confident raising issues and making complaints. QDN members identified that the Commission's external communication was overly bureaucratic and primarily tailored to meet the needs of service providers.

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***"The name 'NDIS Quality and Safeguards Commission' is even confusing. Looking at that you wouldn't know that they are here to protect us [people with disability]. Going to their website doesn't instantly make that any clearer. It takes you so long to work out how to make a complaint and even then, you don't really know what they'll do with it." – QDN member***

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QDN recommends that the Commission consults directly with people with disability to redevelop their external communication materials, ensuring they are accessible, including a greater focus on simplified messaging and Easy English.

The Commission also has an important responsibility to ensure their communication resources support people with disability to better understand the practical application of their rights and what to expect from service providers. For example, in the day to day lives of people with disability:

- What do quality NDIS services look like?
- What does compliance look like?
- What does privacy and informed consent look like?
- What constitutes violence, abuse, neglect and exploitation?

Without the foundational understanding of their rights, people with disability and their families are unable to make informed decisions on if and how to make a complaint or raise an issue with the Commission.

### ***Improved communication around worker screening***

With a nationally consistent approach to worker screening to begin in February 2021, QDN strongly supports the development of a dedicated communication strategy around why worker screening is important and what the changes mean for people with disability. Currently, there is limited knowledge and significant misunderstanding around what worker screening means for people with disability and their support workers. It is critical that the Commission's communication around worker screening acknowledges that worker screening will never be a fail-safe or 'silver bullet' solution for preventing violence, abuse, neglect and exploitation against people with disability. All levels of government - indeed, the entire community – need to work together to prevent, identify and stop the mistreatment of people with disability wherever it occurs.

However, the lead up to the start of the national approach provides an important opportunity for the Commission to improve and embed better communication with people with disability around what worker screening does and does not achieve, how to apply for it and how to stay informed about changes in worker registration. The Queensland Parliament recently held an inquiry on legislation to implement the new national worker screening system. QDN's submission to that inquiry made practical recommendations for improving communication based on consultation with QDN members, including:

- All materials need to be available in plain English, Easy Read and AUSLAN versions
- An alternative process for applying for a worker screening check for people who do not have digital access and skills or for those who have poor literacy skills. Suggestions included a phonenumber, paper process for applications and mail alerts if a worker's status changes
- Developing a resource with tips on how people with disability should approach having a conversation with their support workers about applying for worker screening
- All websites connected to the new worker screening process must be screen reader compatible
- Develop specific communications strategies for Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse people with disability, their families and providers
- Information sessions for NDIS participants in the lead up to the start of the new worker screening system starting
- Simple online videos explaining the new system, which include AUSLAN and captioning

## ***People with disability's knowledge and understanding of their responsibilities***

People with disability as NDIS participants who self-manage, and plan manage have a range of responsibilities under the Commission. Both for current participants who opt to operate under this model, and future participants who may wish to move to this level of management of their NDIS plans, it is critical that appropriate resources are put in place to provide people with information, skills and capacity building to ensure they have what they need. It is important that going forward that initiatives are in place to build participant's capacity to self-manage well and within legislative frameworks. QDN acknowledges the importance of the work being undertaken by services who are independent of being an NDIS Registered Provider and acknowledges the role and capacity of peer support to be effective mechanisms to deliver this information.

Furthermore, QDN believes there is another important piece of work for the Commission to undertake to support all NDIS participants to better understand their rights under the NDIS Code of Conduct (the Code). While most QDN members report being aware that the Code exists, most are unclear or uncertain on how the Code is practically applied to their everyday lives and interacts with support services. The Commission needs to develop and implement a dedicated strategy to build the capacity of people with disability to understand their rights under the Code, how to advocate for these rights in their day-to-day lives and how to respond if they believe their rights are not being upheld.

## **Response to complaints processes**

Testimony from the Disability Royal Commission and the recent independent Safeguarding Task Force Report in South Australia have both shown that accessible complaints mechanisms are key to preventing and responding to the ongoing abuse, neglect and exploitation of people with disability.

QDN members reported general confusion around the Commission's complaints processes, including:

- If they can make a complaint to the Commission
- When to make a complaint
- How to make a complaint
- Who can make a complaint
- How a complaint is investigated
- The potential outcomes from making a complaint
- What communication to expect during and after an investigation into a complaint

QDN recommends that the Commission's complaints process is reviewed, including dedicated consultation with people with disability, to understand participants knowledge, barriers and steps to improve the process and ensure that the mechanisms for responding to a complaint are clear, streamlined and effective. This includes a transparent process for escalation and a robust risk framework for assessments of complaints to prioritise the level of investigation that is undertaken and how this is communicated to the participant and/or their family noting the requirements for confidentiality and privacy. The findings and recommendations of this review should be made public. This will give people with disability and their families greater certainty and confidence in taking a complaint to the Commission and ultimately help to

encourage more people to come forward when they become aware of improper behaviour by a service provider.

Additionally, the Commission needs to improve communication with NDIS participants who make a complaint. This includes explaining how their complaint will be investigated, following up to advise on where their complaint is up to and the outcomes and findings when an investigation is finalised. Informing people with disability of the outcome of their complaint is key to building trust in the oversight system.

QDN members also reported concern that there is inconsistency at times depending on jurisdiction in how the Commission responds to complaints and people with disability feel it is important that nationally consistent approach is taken.

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***“A national approach to how the NDIS Commission staff conduct themselves, handle complaints and clear processes for both, as well as mandatory contact with the person lodging the complaint at its resolution to discuss reasons for the decision, are necessary for a functional service.” – QDN member***

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QDN members also support increasing the Commission’s investigative powers and ability to issue penalties which have more impact for services providers who are found to have breached their responsibilities under NDIS policies and legislation as one mechanism for shifting compliance and driving behaviour change.

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***“The NDIS Commission needs more power to fine providers and do so on a broader scale to reduce cases of abuse against people with disability, which are extremely common.” – QDN member***

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## **Transparent performance mechanisms**

The Commission would benefit from the development of a performance framework that focuses on delivering tangible outcomes for people with disability.

Currently, the Commission’s performance measures are intangible and people with disability report that it is challenging to relate this to their real-life outcomes. While providing the overall number of complaints is helpful, it does not paint the full picture. The release of more qualitative data would not only help to identify systemic issues with the NDIS, but also show how the Commission is delivering outcomes for people with a disability. For example, while the Commission does disclose the number of resolved cases, there is not a breakdown of how the cases were resolved and what it means for the people with disability. With the Federal Government’s announcement in June that it will expand the powers of the Commission to ban providers, it is important that there is a commitment to providing regular public reporting on the number of services providers who are banned or have their registration revoked. Overall, more frequent and timely reporting around tighter performance measures would ensure that people with disability could better understand how the Commission works and hold it accountable.

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***“The Commission needs to be seen to be taking firm, decisive action on the recent incidences of violence, abuse, neglect and exploitation of people with disability portrayed in the media.”***  
**– QDN member**

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Furthermore, greater transparency would also lead to greater public awareness around issues facing people with disability. It is critical that the entire community is made more aware of these issues if we are ever to create the long-term changes that are needed to keep people with disability safe.

## **Conclusion**

The work of the Commission remains vital to ensuring people with disability, their families and the broader community have faith that the NDIS is delivering quality services and most importantly is keeping people with disability safe.

The recommendations from the Disability Royal Commission will provide a vital way forward for the Commission. However, there are improvements the Commission can be making right now to protect people with disability from violence, abuse, neglect and exploitation. QDN recommends the Commission immediately works on enhancing their engagement with people with disability; reviewing and strengthening their complaints processes, and providing greater transparency around their performance and outcomes for people with disability.

QDN recommends that the Federal Government increases the Commission’s resources, including more staff, so that it can deliver the level of quality and safeguarding that people with disability expect and deserve.

Crucially, the Commission must commit to consulting people with disability in the development, design and implementation of updated policies, procedures and projects. The Commission should be transparent about how they consult with people with disability and be publicly accountable to this commitment.

People with disability should always be at the table where decisions are made about their lives.

QDN thanks the Committee for the opportunity to make a submission to this inquiry and looks forward to working collaboratively, including with the Commission, to improve outcomes for people with disability.