

CEO Collaboration

**Response to the NDIS
Quality and Safeguarding
Framework Review**

26 May 2023

CEO Collaboration Submission into NDIS Review of Quality and Safeguards

Framework

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About CEO Collaboration

The CEO Collaboration is a collective of 109 CEO and Executive level professionals (please see appendix A) from the disability sector who have come together to stay informed on the latest developments in the sector, share best practices, benchmark their practices against others and shape improvements in the sector.

This group represents over 84 registered disability service providers, including over 42,000 participants and 26,000 employees, and more than \$2.33B in National Disability Insurance Scheme (NDIS) revenue. Initially formed in response to the COVID-19 pandemic, the CEO Collaboration has evolved to provide a platform for CEO and senior executives to discuss and solve issues in a collaborative manner. The group have previously driven a number of submissions and projects including:

- Royal Commission into Violence, Abuse, Violence, Neglect and Exploitation of People with Disabilities – Hearing into Emergency response and Preparedness
- SIL Own Motion Inquiry
- Uber partnership for vaccination centres for Australians living with disability
- Risk-based Practice Framework for Centre based Day Services
- Victorian AHA Workforce Plan – Implementation Tool

The input of the CEO Collaboration to the Quality and Safeguards Framework Review is essential in ensuring that the Framework meets the needs of all stakeholders, particularly those of participants and service providers in the disability sector.

Consultation

The CEO Collaboration collectively elected to make a group submission to the Quality and Safeguarding Framework consultation during the April regular meeting. It was important to represent all views of the group fairly, so multiple feedback mechanisms were implemented, including online meetings as a group or individually, as well as through written responses shared via email.

A representative of the CEO Collaboration synthesised the group's feedback to create the submission, circulating the submission back to the group for review before publication. This ensures the views contained within are an accurate reflection of the group's views.

What is working well about the Framework?

In consultation The CEO Collaboration reached a consensus that the Quality and Safeguards Framework is essential for establishing principles and outcomes for the safeguarding and regulatory system. The Framework presents providers with an understanding of choice and control and serves as an important point of reference when discussing matters with individuals and families.

However, the Framework is in need of updating to reflect the changing nature of the National Disability Insurance Scheme (NDIS) market. Since it was first published in 2016, the market has changed significantly with a proliferation of new providers, new types of service providers and an increasing number of self-managed participants. The phenomenal growth of the NDIS has also contributed to changing market dynamics and ever-evolving forms of service provision. Unfortunately, the Framework has not adapted in tandem with the evolving landscape of the NDIS, its participants and the market that supports them.

Some of the CEO Collaboration's participants said the Framework is no longer fit for purpose. Instead, the current approach to regulation is seen as a continuation of traditional and historic measures, with the focus on corrective and preventative provisions, failing to achieve the Framework's objective of true choice and control.

The CEO Collaboration found it challenging to list items that are working well as opposed to items that are not working well. There was consensus that the general principles and themes contained in the current Framework are theoretically sound. In particular, the incorporation of human rights principles was deemed essential. The overall principles were also seen as useful for NDIS providers to use to inform participants and their families about their rights and protections within the scheme.

Overall, the CEO Collaboration recognises the importance of the Quality and Safeguards Framework but also acknowledges the need for improvements that better address the needs of NDIS participants; registered and unregistered providers; and the purpose of the scheme. By revising and updating the Framework to reflect the changes in the market, the disability service sector can continue to provide quality support and care to individuals and families, while also meeting the intended objectives of the Framework.

What is not working well to promote safeguards of people with disability and the quality of supports?

The CEO Collaboration agreed that the current Framework provides more of a philosophical set of principles rather than a clear, workable Framework. The current Framework lacks actionable guidance on what needs to be done to achieve compliance and ensure measurable improvements to participant safety. In particular, the CEO Collaboration was of the opinion that the Framework - in its current form - has not been properly implemented. One member of the Collaboration made the correlation between a lack of clear Framework principles and lack of implementation, stating that the reason the Framework has not been fully implemented is *because* it is too unclear to begin with. Consequently, it was generally agreed that the Framework is in need of a reset. A reset that takes into consideration current issues faced by the sector and a reset that ensures that organisations can better understand and therefore, achieve compliance obligations to safeguard participants.

Several elements have not been fully implemented or addressed under the current Framework:

1. The CEO Collaboration identified worker screening as an essential aspect requiring improvement. Currently, notifications relating to worker screening checks are not communicated quickly enough between the Commission and the relevant parties conducting checks. Significant risks arise as a result of the delay or lack of communication. Workers may be appointed that are unfit for the job or who pose a risk to the participant if worker screening checks are not conducted within a timely manner. A member of the CEO Collaboration suggested there should be more liaison and better linkage between the incident reporting system and worker screening system to ensure the two systems operate cohesively, reducing administrative burden and blurred responsibility.
2. The CEO Collaboration also identified that the current system imposes onerous, repetitive and often inconsistent demands on providers due to the duplication of reporting requirements between states and federal authorities. In particular, restrictive practice differs in every State and Territory, resulting in inconsistent, time consuming and unnecessarily complicated compliance requirements. If duplication and differentiation is removed, there will be better consistency and clarity across the state and federal requirements, ensuring that providers can meet their obligations without confusion, repetition and ambiguity.
3. Some members of the CEO Collaboration raised concerns about the inconsistency between registered and unregistered providers reporting obligations. Safeguards should be added to permit the NDIS Quality & Safeguards Commission to monitor and regulate non-registered providers. Namely, through a Complaints Management System and an Incident Management System for all providers, both registered and unregistered. This could also be achieved through a combined system. This would include mandatory reporting obligations for certain practices and implications for non-compliance. This would ensure better consistency across the sector and ensure both registered and unregistered providers are held accountable.
4. One CEO Collaboration member raised the point that the Framework is intended to “facilitate informed decision making”, yet the current Framework does not readily provide participants with an understanding of the difference between a registered and unregistered provider. This means participants may not be in a position to fully appreciate the difference between registered and unregistered providers and raises the question around whether it has led to informed decision making. The Framework needs to better implement the capability building requirements needed to facilitate informed decision making. This should include additional safeguards that explain the differences between provider models, to ensure informed decision making is truly possible.
5. The current Framework uses unclear terminology and lacks clear principles which affects the ability of providers to implement the Framework. There should be clearer definitions and guidance so that providers can better understand their obligations. One CEO Collaboration member suggested incorporating more best-practice scenarios and examples to assist providers in understanding their obligations.

Adopting a co-design approach to a new Framework (with participants and providers) would also improve provider understanding and applicability of the Framework. Additionally, clearer registration categories and direction around poor conduct should be included to address current inadequacies and lack of clarity.

6. The CEO Collaboration agreed that current auditing requirements are excessive and instead of relying solely on audits there should be more pre-audit forums where collaboration and the sharing of best practices can be discussed. These forums could offer advice on how to improve current processes and practise. The current audit model simply checks a box and is too rigid to promote constructive feedback or encourage growth. The Commission should also use audit data to be more proactive in compliance monitoring. This could be achieved by benchmarking incident reports, focussing on providers with low performance, and correlating performance against complaints. In addition, the Commission should also consider increasing the data it makes available to the sector, to enable providers to self-assess their performance against benchmarks and better manage their safeguard compliance.
7. There was also an emphasis from the CEO Collaboration that the Commission needs to provide more education and capacity-building for participants, their families and providers. Participants need more information on what constitutes quality and acceptable service standards, including access to audit reports and more resources during plan reviews.
8. CEO collaboration members also highlighted that current strategies have not effectively addressed the distinct experience of culturally and linguistically diverse participants, including those of First Nations origin, as well as individuals who identify with diverse genders and sexualities. Current support systems often lack cultural sensitivity and this diversity needs to be better enshrined to promote quality and safeguards to meet individual needs.

The Framework must be updated to reflect the changes in the scheme, its participants and the market. In order to better serve a more mature NDIS, a reset is necessary to incorporate the lessons learned from the implementations so far, accurately represent the current context and establish a more effective quality and safeguards system .

Is there still a need for a Framework?

Yes. The CEO Collaboration unanimously agreed the Quality and Safeguards Framework is both important and necessary to ensure high quality support and safe environments for all NDIS participants.

What role should the Framework play going forward?

The CEO Collaboration agreed that the Framework should adopt a more consultative and collaborative role between providers and the Commission. It was noted that the original intention of the Framework was for the Commission to offer capacity building skills and opportunities to participants, workers and providers alike. This is recognised under the “developmental” tranche of the Framework. The CEO Collaboration notes that the educational-capacity building component has not been implemented as intended. Proper

capability building is more than just a website article but instead requires training, education among the sector and building information awareness through a proactive means.

The current Framework is centred on preventative and corrective tranches, with a particular focus on audit as the primary mechanism for quality and safeguarding. It was agreed that going-forward, the Collaboration would like to see the Commission adopt more of a proactive, relational and incentive-driven approach and could do this by implementing or paying greater attention to the developmental aspects of the Framework.

The Framework promised the Commission's "quality assurance requirements will assist registered providers to identify weaknesses, build capability and drive continuous improvement". In practice, quality assurance (including the audit process) is currently being used as a more of a "stick" approach, not linked to any process of continuous improvement. The CEO Collaboration agreed that the Commission should provide greater informal insight, through more accessible communication channels, including accessible and more readily available advice from the Commission on the interpretation of the standards. Better causal connection between providers and the Commission will empower providers to implement a best practice approach and ensure a proactive rather than reactive approach.

What should a future Framework look like?

A future Framework should include clearer guidelines and principles that facilitate an easier and more effective approach to the implementation of quality and safeguards. By reducing the use of vague terminology couched in overarching policy statements that prove unclear or unworkable when it comes to implementation, the result would be a clearer and more readily implementable set of Framework guidelines. The fact that the current Framework is difficult to implement is a clear indication of the kind of pitfalls a new Framework should avoid.

Compliance standards should also be based on proven outcome-based principles. It is critical for them to be reviewed for effectiveness to ensure the burden of regulatory compliance is not unnecessarily onerous for little or no proven quality improvement. The CEO Collaboration noted that compliance standards come at a cost, and the limited resources should not be diverted towards complying with standards that are not proven to increase safeguards for NDIS participants, especially if it results in less resource allocation towards areas that may offer better safeguard protections.

The CEO Collaboration were also generally in favour of revisiting the tiered model of registration proposed in the current Framework. The majority view of the Collaboration was for a universal set of minimum standards to be applied across the board – for all workers and providers. This would include a registration requirement for disability support workers, particularly for higher care supports. It is important to note that the minority view of the Collaboration disagreed with a universal minimum registration requirement for all workers, although they did agree that for shared living arrangements some kind of screening process is important.

Under the *universal set of minimum standards* proposed by the majority, it would look at implementing the tiered-approach envisaged in the current Framework in which Figure 3¹ -

¹ *NDIS Quality and Safeguarding Framework*, https://www.dss.gov.au/sites/default/files/documents/04_2017/ndis_quality_and_safeguarding_framework_final.pdf (pg 86)

Tiered provider requirements would be revisited to ensure, in particular higher risk supports, had to meet certain quality assurance standards and register in order to ensure oversight of participant safeguards. Under Figure 3 of the current Framework, the intention was clearly envisaged for a tiered approach as there is a distinction between small providers (i.e. sole operators doing gardening or cleaning - low risk small providers versus sole operators offering higher-risk supports) high-risk small providers and larger providers (who are similarly divided into low or high-risk). The suggestion is to adapt this model to ensure *a minimum benchmark for all providers by large, small or sole operators*, but to tier it by maintaining a higher-level of compliance requirements for larger or higher-risk providers. This minimum benchmark could include mandatory NDIS Worker Screening checks for both registered and unregistered providers.

One member of the CEO Collaboration rejected a model in which registration becomes a mandatory part of a universal minimum standard. In their view, this type of oversight would create a loss of choice and control as intended under the Framework.

It is worth noting that the proposal for a tiered system based on categories of risk aligns entirely with the recent Aged Care reforms and their new and improved program of regulatory oversight.² One of the CEO Collaboration members proposed a similar approach under a new NDIS Quality and Safeguards Framework.

Regarding restrictive practice, a new or revised Framework should be much more standardised and remove repetitive, inconsistent and complicated overlap between State, Territory and Federal laws. The current duplication results in a terrible participant experience, and wasted resources and onerous compliance requirements for providers. To achieve the important objective of recording, reducing and ultimately eliminating the use of restrictive practices, the system must be harmonised under a national approach. It could also standardise current practice around data uploads on the Commission website and ensure the onus is on the Commission to make better use of the data it receives. For instance, it could require the Commission to publish data, so providers have better visibility over benchmarks in the sector.

A suggestion by one of the members within the CEO Collaboration included a review of the Commission similar to the one that took place for the National Disability Insurance Agency (NDIA) Capacity/Capability Review. This could result in improved funding of the Commission as seen as a result of the NDIA review.

What monitoring of the implementation and ongoing effectiveness of the Framework is required?

The CEO Collaboration agreed that effective implementation of the Quality and Safeguards Framework can only occur if the Commission better educates providers as was intended under the developmental tranche of the Framework. More informal education around the requirements for effective implementation will ensure that providers have the skills to monitor their own performance in implementing the standards as part of a proactive approach. This

² *A new model for regulating aged-care - Consultation Paper 2 - Details of the proposed new model*, <https://www.health.gov.au/resources/publications/a-new-model-for-regulating-aged-care-consultation-paper-2-details-of-the-proposed-new-model?language=en> (pg. 41)

would permit internal monitoring and ongoing compliance as opposed to an approach whereby monitoring only occurs through audit measures and therefore, after the fact.

The CEO Collaboration noted that it is difficult to apply an audit-driven approach to monitoring because auditors are looking for a direct copy and paste of the standards. This is problematic because the standards are not written in operational or person-centred language and can instead be implemented in a general way that is not recognised by an auditor.

In addition, the audit information gathered to meet regulatory requirements is being underutilised as part of effective monitoring. There is currently a large volume of data collected through the auditing process which is held by the Commission. However, the Commission does not currently publish or harness the full potential of the audit data it collects. The CEO Collaboration agreed that the Commission could make better use of data and engage in meaningful data stewardship. This could include the publication of audit reports, enabling transparency for both participants and providers and better educating stakeholders to ensure they have access to informed decision-making based on sound and reliable information. It could also include publication of data that helps with sector benchmarking so that providers have an understanding of the areas in which to proactively aim for improvement, without it requiring audit for a reactive measure. This would permit outcomes focussed reporting - encouraging and rewarding providers who are demonstrating quality support by publishing the results of their hard work. By making this information freely available to participants, it would also enhance their informed choice and control when choosing a provider.

The CEO Collaboration also noted that the Commission could endeavour to better include the community voice as part of the feedback loop that informs effective monitoring and best-practice standards.

What supports, services and actors should the Framework cover?

The general consensus of the group was that the Framework should be applied universally across the sector for effective and nationally consistent safeguarding. This would include all types of service provider, intermediaries, and facilitators of support, albeit with the possibility for a tiered approach according to provider type or size.

What changes are required to the types of strategies and measures implemented under the Framework?

The Framework should be updated to better cover all providers both registered and unregistered. The current Framework focuses on quality and safeguarding for registered providers and does little to ensure there are similar measures applied for unregistered providers, especially those operating in high-risk support settings. While this was envisaged in the original Framework as part of the tiered system, in practice this has not been implemented.

There should also be more national consistency to facilitate an easier application of the Framework's standards. For instance, restrictive practices remain unharmonised and significant differences exist in the requirements of each State and Territory. The CEO Collaboration would also like to see consistency between the Worker Screening checks that are currently conducted in the various States and Territories.

One member of the collaboration suggested it would be good practice to implement more evidence-based doctrine. This could be established concurrently alongside the standards or used as a way to reduce duplicative or redundant standards to those which are proven to be effective. This would also ensure everyone is guided in the same, consistent way. Having a set of cohesive policies and procedures will ensure better consistency in training and communication, which is critical for the highly casualised and diverse workforce.

In addition, it is recommended that the Commission ensure the Framework is better implemented by better educating providers, workers and participants on their rights and responsibilities. Capability and capacity building under the developmental part of the Framework is key to ensuring the Framework is implemented in a positive way, not just as a preventive or corrective measure.

Finally, the CEO Collaboration would like to see the Framework reworked into a workable set of guidelines. At present, a document of over 100 pages is unworkable in terms of clear and effective guidance. It is recommended that a new and clearer set of Framework guidelines could be drafted, with references out to additional documentation rather than confusing the reader as to the key principles contained within. It could also include a minimum requirement for certain behaviour support plans to ensure participants at greater risk are adequately safeguarded. Any review of the framework should align with the themes that have emerged as a result of the recent Disability Royal Commission, including themes such as “trauma informed, culturally sensitive, practice leadership and a rights based” approach.

Appendix A

Abacus Learning	Connect GV
Ability Assist	Connecting2 Australia
Ability Options	Continuity Care
Ability Works	Cooinda Terang Inc
Able Australia	Distinctive Options
Aces Incorporated	EACH
Action on Disability within Ethnic Communities Inc (ADEC)	ERMHA
Afford – The Australian Foundation for Disability	Focus Individualised Support Services
Afri Auscase	Garden Village
After Care	Gateway Support Services (transitioning from Mambourin, effective Apr 2023)
Alkira	Gellibrand Support Services
Araluen Centre	genU
Arts Project Australia	Goulburn Options
Australian Community Support Organisation	Headway Gippsland Inc
Bayley House	Health Ability
Biala Peninsula	Healthscope Independence Services
Bedford Group	Hearth Allied Health
Bet Group Global	Hireup
Better Health Network	IDV
Blairlogie Living & Learning Inc	Inclusion Melbourne
Burke and Beyond	Inlife Independent Living
Cerebral Palsy Support Network	Interchange Gippsland
Christie Centre Inc, Mildura	Interchange Inner East
Civic Disability Services	Irabina
Colac Otway Disability Accommodation Inc.	Knoxbrooke
Community Living Options (South Australia)	Koomarri
Community Living Options	Kyeema Support Services

Latrobe Valley Enterprises (LVE)	Outlook Vic
Leisure Networks	PALS Inc
Life Without Barriers	Pinarc Disability Support
Lifebridge Australia Ltd	Possability
LifeSkills – La Trobe University	Rubix Support
Living My Way	Sasscare
Lizard Centre	Scope (Aust) Ltd
Mambourin	Southern Stay Disability Services
Mamre Association Inc	South-West Institute of Tafe
Marriott Support Services	Statewide Autistic Services (sasi)
Melba Support Services	Sunbury Community Health
Mentis Assist	The Bridge Inc
Menzies Support Services	Therapy Pro
Milife-Victoria	Unisson Disability
Mind Australia	Uniting
Minda	VMCH
Monkami	Wallara
MPower Inc (Warnambool)	Watch Disability Services Inc
Mulleraterong	Waverley Industries
Nadrasca	Waverley Social Enterprises
NDS	Wdeaworks
Newidafe (Port Macquarie)	Windermere
Nextt	Yooralla
Nexus Inc	Your Best Life, Health & Disability
Nightlife Disability Services	You First Disability Services
OC Connections	
Omicare Alliance Limited	
Oncall Group	
Onemda	
Onside	