



Submission in Response to the Consultation on the NDIS Quality and Safeguarding Framework

1. Introduction

The CASS Care Limited, as an entity of the group commonly known in the community as “CASS”, welcomes the opportunity to lodge a submission to the NDIS Review regarding the consultation on the NDIS Quality and Safeguarding Framework (the Framework). As a longstanding community services provider, CASS has been dedicated to assisting people with disability and their families from culturally and linguistically diverse (CALD) backgrounds and advocating on their behalf. Our submission contains the views, experiences and feedback we received from NDIS participants, their carers and family members, disability services workers and CALD community representatives, through one-to-one discussions, face-to-face group consultations and focus group interviews. Our disability services representatives also share their observations and experiences while supporting NDIS participants and community members to communicate and interact with the National Disability Insurance Agency (NDIA).

1.1 About Our Group

We are commonly known in the community as “CASS”, our brand name. We are a multi-discipline community services provider, delivering a comprehensive range of social and welfare services to multicultural communities, aiming to cater and satisfy the needs of people from CALD backgrounds.

CASS consists of a group of entities, all of which are registered charities and listed companies limited by guarantee, including principally the parent entity, the Chinese Australian Services Society Ltd (founded in 1981), and the subsidiary, CASS Care Ltd (established in 2002) which is also an endorsed public benevolent institution (PBI) by the Australian Taxation Office.

Over the past 42 years, CASS has grown from a concept into a major social and welfare services provider with a comprehensive range of community services, catering the needs of cradle to seniors, including residential aged care, child care, home ageing and disability services, vocation and training, volunteering, settlement and health services, Chinese language classes, cultural and interests classes, etc. At present, more than 5,000 families access CASS services and activities every week. CASS employs over 610 staff members and has a team of over 350 active volunteers helping to deliver services and activities to people from CALD backgrounds and the wider community.

Specifically, CASS Disability Services has 20 years of extensive experience in providing culturally and linguistically sensitive and safe quality services to support people with disability from CALD backgrounds and fulfill their multifaceted needs since 2003. With the full-blown roll-out of NDIS in 2017, CASS has expanded its disability services provision from Group Homes, Centre-based Day Programs, Flexible Respite to Individual Support, Centre-based Day Programs, Support Coordination, Plan Management, Specialist Disability Accommodation (SDA), Supported Independent Living (SIL), Medium Term Accommodation and Short-Term Accommodation services.

In view of the acute needs of the CALD communities, CASS also operates carers groups, promotes the NDIS to multicultural communities, and facilitates non-NDIS people with disability to access the Scheme with support from CASS's own financial resources.

CASS is an approved NDIS registered services provider and has always been complying with quality standards and all relevant requirements to provide quality services to people with disability in the CALD communities. As CASS is an active party in the disability services industry, the effects of the NDIS Framework are known to and felt vividly by CASS. Hence, CASS is uniquely placed to contribute to the work of this consultation on the Framework, especially affecting people with disability from CALD backgrounds.

1.2 Our Response to the Consultation

According to the *NDIS Quality and Safeguarding Framework* report released in December 2016, the Framework is needed to ensure that capability is built in the new market-based

system, the rights of people with disability are upheld, and the benefits of the NDIS are realised. In addition to advancing the rights of people with disability, the Framework is required to support choice and control in the NDIS by empowering individuals and driving quality improvement.

Since its roll out in 2017, the NDIS market has grown and changed significantly over the past six years. As of 31 December 2022, the NDIS has grown to over 570,000 participants and is expected to increase further. Therefore, it is both timely and essential to review the Framework now to identify what has worked well and what needs to be improved to ensure the Framework remains fit for the purpose.

In contributing to the consultation, we would like to share the following challenges and issues faced by CALD participants when accessing and using NDIS services and offer some recommendations.

2. Challenges and Issues

2.1 Service quality and safety issues raised by non-NDIS registered providers not covered in the Framework

According to the latest NDIS quarterly report for the second quarter of FY2022–23, as of 31 December 2022, of the 151,037 providers who supported plan-managed NDIS participants, only 13,638 or 9 percent opted to be registered, while 137,399 or 91 percent are not registered. At present, NDIS participants who self-manage or plan-manage their NDIS funding can choose to receive supports and services from non-NDIS registered providers, with the exception of certain types of supports.

This significant and rapid growth of the non-NDIS registered providers, relative to what was envisaged when the Framework was implemented six years ago, raises widespread concerns about how risk is being managed for the NDIS participants in the market. While all registered providers and workers are bound by the *NDIS Code of Conduct* and subject to the NDIS Quality and Safeguards Commission's complaints process, the Framework does not cover non-NDIS registered providers and currently there is inadequate oversight over non-NDIS registered providers, leaving self-managed and plan-managed participants, who have

autonomy to choose their own providers and services outside the Framework, are vulnerable to various service quality and safety issues.

2.2 Non-NDIS registered providers do not have to show compliance with NDIS safety, quality and workforce regulations.

The lack of transparent control on quality standards and supervision would cause harm to NDIS participants and even lead to incalculable damage to the industry in the long run. Amongst the 30 percent of NDIS participants who are self-managing plans and paying providers directly, the lack of registration means there would be operations with unregulated quality standards, unaccountable operators, and little visibility on who receives payments, opening the door to fraud and scams as well as risks of violence, abuse, neglect and exploitation.

NDIS-registered providers invest significant resources and efforts to ensure the quality of their services by striving to pass the NDIS certification and verification, however, non-NDIS-registered providers are not obligated to undergo this process. Notwithstanding the situation, both registered and non-registered providers can charge the same unit price for their services, which puts registered providers at a disadvantaged position in the competitive market.

It has been widely recognised that there is a major loophole for NDIS to allow over 90 percent of the service providers to be non-NDIS registered, largely avoiding safety and quality requirements and exposing the Scheme to fraud and scams. While the Department of Social Services has acknowledged the need to have greater protection for self-managed and plan-managed participants, but their proposed solution is inadequate just by creating a list of acceptable service providers, which does not provide a comprehensive approach to guarantee service quality and safety for NDIS participants.

In August 2022, Hon Bill Shorten MP, the Minister for NDIS, asked for a review of NDIS and asked the Scheme's commissioner for advice on how registration might be developed to improve quality and safety. On 10 April 2023, the NDIA released a new *Participant Safeguarding Policy* which outlines the commitment to support people with disability who

engage with the NDIS to create or expand safeguards to improve their safety and minimise the risks. It is pleasing to learn the positive development, however, more work is needed to be done in the face of the existing challenges and issues. Government intervention and thoughtful regulation are sorely needed to ensure that care and support quality standards are maintained and strengthened, NDIS workers' rights are protected, and the integrity of the disability service sector is assured.

2.3 The Framework does not address the specific needs of NDIS participants of CALD backgrounds

The Framework has been successful in providing assistance to many NDIS participants, but unfortunately, it does not adequately and specifically meet the needs of those NDIS participants of CALD backgrounds. According to the feedback of our NDIS participants, their family members and carers, one main challenge they encountered in accessing NDIS services is that the Scheme and the NDIA do not have sufficient bilingual resources to support the cultural and language needs of multicultural communities.

NDIS participants of CALD backgrounds who have limited English proficiency face additional barriers due to language issues. This makes it difficult for them to fully understand the resources and appeal processes available to them. When those non-English speaking participants or their carers contact the NDIA, due to their language barriers, they are unable to freely express their needs and difficulties, which further affects their ability to access NDIS services and relevant supports. Even though they can access free interpreting services, it does not comprehensively meet CALD participants' cultural and language needs. When we consulted CALD participants and their carers to gather their feedback, some reflected in interviews that the quality of interpreters is inconsistent, and some interpreters lack NDIS-related knowledge. This results in misinterpretation among planners/local area coordinators (LAC), participants, and carers.

Currently, the NDIA and the Administrative Appeals Tribunal are the two avenues for appeals against the NDIA's decisions for NDIS funding cuts or reductions. However, these mechanisms are not designed nor equipped to address the lack of information in CALD languages within the Framework. It means that NDIS participants of CALD backgrounds

would struggle to appeal the NDIA's decisions which they do not understand. The language barrier would also make it extremely difficult for CALD participants to appeal funding cuts/reductions issues without proper channels. Consequently, this leaves CALD participants with limited options for recourse when their NDIS funding is reduced or cut by the NDIA. It is essential that the NDIS Framework is capable of better meeting the needs of participants of CALD backgrounds.

2.4 Supports and resources from the NDIA are insufficient to fulfill the commitments and requirements of the Framework

The Framework outlines the responsibilities of the NDIA to make sure the needs of people with disability are met and NDIS participants have access to quality supports that are fit for their needs. However, inadequate attention has been paid by the NDIA itself to promote the quality of supports and services in the implementation of the Framework. Although the Framework recognizes the importance of formal individual advocacy in supporting people with disability to voice their concerns, it does not facilitate advocacy for obtaining additional resources to meet their needs. At the operational level, the NDIA has not been able to consistently provide sufficient supports and resources to ensure that the Framework's commitments and requirements are met in practice.

This problem was evident when one of our NDIS participants requested assistance from an individual advocate to visit his mother at a nursing home regularly and access library services with support, without compromising existing NDIS services. However, the advocate stated that she did not have the authority to request additional resources from the NDIA. Subsequently, when the participant's support coordinator approached the NDIA for a plan review, the funding for the participant's Supported Independent Living (SIL) funding was unexpectedly reduced from \$220,000 to \$130,000 per year without any explanation or any notice in advance from the NDIA.

The lack of sufficient resources and supports from the NDIA to fulfill the commitments and requirements of the Framework has left many NDIS participants in a vulnerable and unsupported state without the ability to make informed decisions about their lives. It is therefore essential for the NDIA to take steps in action to guarantee the provision of

sufficient supports and services and ensure that the Framework's commitments and requirements are met in practice, in order to ensure that people with disability are provided with the necessary resources and supports to live more independent and fulfilled lives.

2.5 The processes of NDIS services application and appealing the NDIA's decisions are complex and time-consuming

Some clients of our Settlement and Health Services Unit who need assistance with the NDIS services application, especially some parents with young kids with disabilities such as ADHD, have reported that the process for NDIS services application under NDIA is complex and time-consuming as well, that there are no language-appropriate workers to assist them with their applications or to understand the process, and that they felt bounced around by various NDIA divisions and different service providers during their referral contacts on landlines. For example, each state/territory of Australia has different Early Childhood Early Intervention (ECEI) Partners, but our clients or even community workers found it difficult in searching for the correct contacts for their services, which lead to their frustration and lack of confidence in the NDIS system.

Currently, NDIS participants must navigate the intricate procedures either through the NDIA or the Administrative Appeals Tribunal. The problem is that the process of appealing the NDIA's decisions is also highly complex and time-consuming. These procedures involve submitting a range of numerous documents, providing substantial evidence to support their cases, and for NDIS participants to wait for a long time to receive appeal feedback from the NDIA or the Administrative Appeals Tribunal.

This problem was evident when the funding of one of our NDIS participants was unexpectedly reduced from \$190,000 to \$150,000 per year without any explanation or any notice from the NDIA in advance. After an appeal on the NDIA's decision was submitted, it took more than one year for the participant to get the funding restored to the original level, and again NDIA did not notify the participant's support coordinator on the readjustment before or after the change of its decision.

It seems currently there are no standardised criteria in place to determine the levels of funding or resources allocated to NDIS participants. This lack of uniformity has resulted in some NDIS participants receiving more funding than others, even when their needs are

similar. This creates unfairness and can lead to a lack of confidence in the NDIS system among participants.

2.6 Lack of transparency in the NDIS assessment process

The Framework is clear that it seeks to promote quality and ensure effective safeguards. As part of the Scheme, eligible NDIS participants are required to undertake an assessment process with the NDIA in order to receive appropriate funding.

Unfortunately, despite the importance of the NDIS, the assessment process is shrouded in a lack of transparency. The information provided to the public regarding the assessment process is limited, leaving many NDIS participants and their families in the dark about how their needs are evaluated and what criteria the NDIA uses to determine the level of funding allocated. This lack of transparency can lead to frustration for NDIS participants, who would feel that the decisions of the NDIA are unjustified or unfair.

3. Our Recommendations

For the challenges and issues presented and discussed above, we would like to offer the following recommendations:

3.1 More effective oversights and enforcement actions should be implemented to ensure all NDIS service providers comply with the Framework and NDIS safety, quality and workforce regulations

- Universal registrations and regular audits should be enforced on all NDIS service providers. To eliminate the existing loophole of NDIS exposing participants to increasing fraud, scams and potential harms, a nationally universal mandatory registration system should be implemented to cover all providers to ensure they are fairly committed to the Framework, national standards and work regulations that would be routinely scrutinised.
- An interim independent audits and certification system should be established and implemented to monitor and oversee the current non-NDIS registered providers to ensure that they meet the robust practice standards and policies safeguarding the participants during the roll-out period of the universal national mandatory registration system.

3.2 More specific supports should be provided to participants of CALD backgrounds

- The NDIA should provide more navigation assistance to CALD participants and their families to identify providers of disability-related supports that offer a culturally safe and appropriate service.
- The NDIA should provide more supports to encourage service providers to offer quality service that is culturally appropriate, responsive and safe for all CALD participants, including providing information and support services in languages other than English (LOTE) as well as ensuring that the NDIS services application and NDIA decision appealing processes are designed to account for language barriers for improvement in the NDIS system and the Framework in the future.
- The NDIA and relevant departments should provide special grants for registered providers to enable quality disability-related specialist support to CALD participants and their families.
- The communication resources and materials should be developed and improved with translation into multiple community languages with easy-read versions. The NDIA can approach some reputable CALD service providers who have experienced bilingual workers with a wealth of knowledge and information about their communities and the NDIS to proofread the translated materials first.
- Continually working with different CALD community groups to improve The Strategy and its implementation of NDIS policies facilitating CALD community.
- Increase in-person communications, interactions and engagement to reach CALD participants who are most marginalised and disadvantaged.

3.3 Financial support be made available to providers that provide quality disability-related and specialist CALD services

- Supports are needed for registered NDIS services providers and not-for-profit organisations who are operating in full compliance to be sustainable and thrive in this highly competitive marketplace.
- Special grants or fundings can be available and accessible for service providers who provide quality disability-related and specialist CALD supports. In this way, it can mitigate the dimensional challenges faced by service providers in delivering care, support and services to CALD participants and their families. In an open market environment, CALD service providers need additional support and assistance in

infrastructure, bilingual staffing, and tailor-made in-language communication materials to serve CALD communities' cultural and language needs and be competitive in the NDIS market.

3.4 Introduce measures to streamline the process of appealing the NDIA's decisions

- The government should consider introducing various measures to streamline and improve the process of appealing the NDIA's decisions, such as allocating more staff to the NDIA to specifically deal with decision-appealing procedures instead of advising NDIS participants to lodge the appeals to the Administrative Appeals Tribunal in order to make the process more efficient and time-saving for NDIS participants.
- The government should consider introducing clear criteria for a standardised appeals process. This process could involve participants submitting a single document outlining their needs, with the NDIA staff making decisions based on a set of clear criteria. This would make the process of appealing decisions more efficient and ensure participants receive funding and resources in a fair and equitable manner.
- The government should consider introducing measures to ensure that NDIS participants are aware of their rights and how to appeal decisions. This could include introducing an online portal where participants can access information about the appeals process, as well as providing participants with dedicated support staff to assist them in navigating the process.
- The government should also consider introducing measures to ensure that the NDIA's decisions are made with accuracy and consistency, such as conducting regular reviews of the decisions made by the NDIA staff. This would help to ensure that all participants receive the funding and resources they need, in line with their individual needs.

3.5 Improve the transparency and provide more information in the NDIS assessment process

- The NDIS appeals processes should also be clearly outlined and accessible to allow all participants to challenge decisions they feel are not fair or justified.
- The NDIA should publish clear guidelines on how they determine the level of funding allocated, and what criteria they use to evaluate a participant's needs. This

information should also be provided to participants and their families to ensure they have a better understanding of the process and what to expect.

- The NDIA should provide more information on average funding amounts, to give participants an idea of what to expect in terms of funding and to ensure that those who are allocated less are given an explanation as to why. This will help to ensure that the assessment process remains fair and equitable and that participants feel their needs are being taken seriously.

4. Conclusion

We would appreciate the NDIS Review considers the viewpoints and concerns expressed in this submission. By adopting the strategies mentioned above, we believe it will assist in improving the current NDIS Quality and Safeguarding Framework, ensuring the high quality, flexibility and benefits that all NDIS participants and their families deserve.

We would be delighted to further discuss and elaborate on these issues and concerns.