



Professor Bruce Bonyhady AM and Ms Lisa Paul AO PSM  
Co-chairs, Independent Review Panel  
NDIS Review

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Dear Professor Bonyhady and Ms Paul

### **Further submission to the NDIS Review – NDIS Participant Safeguarding**

In February 2023, the Victorian Commission for Children and Young People (the Commission) provided a detailed submission to the NDIS Review (enclosed). We provide this further brief submission in response to the NDIS Participant Safeguarding Proposals Paper.

Our previous submission highlighted a series of issues relating to children and young people and made recommendations relevant to the proposals outlined in this paper. These issues and recommendations are summarised below, to help ensure that the NDIS Review's recommendations address the specific needs and experiences of children and young people, including those at increased risk of abuse and neglect. We also make brief comments relevant to the recent NDIS Quality and Safeguarding Framework issues paper.

The Commission is concerned about the lack of specific attention given to children and young people in both consultation papers. However, we are pleased that the NDIS Review has partnered with community organisations to engage with children, young people and their families to inform its work.<sup>1</sup> We encourage the NDIS Review to ensure that children and young people's views and experiences inform further development of the NDIS Review's proposals.

### **Draft proposal 1: An NDIS-wide participant safeguarding strategy**

The Commission is supportive of the development of a clear strategy, designed with participants, that articulates the roles and responsibilities of all government agencies in coordinating and delivering on participant safeguarding objectives.<sup>2</sup>

As over 40 per cent of NDIS participants are under the age of 15,<sup>3</sup> and children with disability are particularly vulnerable to 'risk of experiencing all types of violence',<sup>4</sup> addressing children and young people's needs must be a priority in any safeguarding strategy.

Any strategy must also expressly address cohorts of child participants at heightened risk of experiencing abuse and neglect. These include child participants involved with Child Protection, as highlighted in our previous submission.<sup>5</sup> These children often have limited or inconsistent natural safeguards, such as protective adults to support and advocate for them. Our inquiries demonstrate the risk of abuse and harm they can face at home.<sup>6</sup> They may also have limited opportunities to self-advocate or raise concerns about their safety or supports they are receiving.

The Commission supports the strategy's proposed focus on coordinating various parts of government across jurisdictions, so that every agency's safeguarding role is clear. This should include improved interaction and information-sharing between the NDIS and Child Protection, as our previous submission recommended.<sup>7</sup> Cohesion between these systems is essential to supporting the proposed participant-centred approach to safeguarding.<sup>8</sup>

### **Recommendation 1**

That the proposed NDIS-wide participant safeguarding strategy be designed with child participants and expressly address:

- children and young people's needs as a priority
- cohorts of child participants at heightened risk of experiencing abuse and neglect, including child participants involved with Child Protection
- the need for improved interaction and information-sharing between the NDIS and Child Protection.

### **Draft proposal 2: Improved and individualised approach to work with participants to understand risk and build safeguards**

The NDIS Review's 'preliminary view that there are further opportunities to improve proactive, individualised and participant-led conversations about risk and safeguards'<sup>9</sup> has particular relevance for children and young people.<sup>10</sup> As our previous submission noted, the Commission's inquiries have consistently found children and young people with disability are often not included in decision-making and planning about them.<sup>11</sup>

In our 2022 inquiry into services provided to two young people known to Child Protection, we found limited direct engagement by Local Area Coordinators and NDIA Planners with the young people. This meant NDIS professionals did not adequately identify the harms to which the young people were subjected.<sup>12</sup>

As previously recommended, NDIS professionals need improved guidance on the rights of children and young people to participate in decisions that affect them and giving children and young people opportunities to have their say and inform decision-making.<sup>13</sup>

Direct engagement with children and young people should include child-centred conversations about risks and safeguards. We support the NDIS Review's proposed individualised approach to building safeguards with participants and their understanding of risks, through meaningful conversations with the participants and their supporters, and active monitoring over time.<sup>14</sup> For children and young people, an individualised approach requires developmentally appropriate, trauma aware, culturally safe and inclusive engagement.

Informing children and young people about their rights, and empowering them to participate in decisions that affect them, is essential to keeping children and young people safe. This is reflected in Victoria's Child Safe Standards, which aim to keep children and young people safe in their contact with organisations.<sup>15</sup>

### **Recommendation 2**

That the NDIS Review's proposal for improved 'proactive, individualised and participant-led conversations about risk and safeguards' expressly recognise the need to engage with children and young people directly, in ways that are developmentally appropriate, trauma aware and culturally safe and inclusive.

### **Draft proposal 3: Improved safeguards deployed on an individual basis**

When considering how to improve general and targeted safeguards available to NDIS participants (and their carers), it is essential that the NDIS Review consider the circumstances and needs of families experiencing vulnerability, particularly where parents are struggling to meet their children's needs and Child Protection is involved.

As our previous submission demonstrated,<sup>16</sup> these families are likely to require targeted safeguards, such as (for example) funding for education on rights, risks and safety, and improved support in navigating the system and implementing plans.<sup>17</sup> In recent years the Victorian Government has funded specialist roles to help vulnerable families participate effectively in the NDIS.<sup>18</sup>

The Commission has previously recommended that children and young people known to Child Protection receive support from independent advocates in NDIS pre-planning and planning processes.<sup>19</sup> We support expanded availability of individual advocacy services for these children and young people.

Child participants in contact with Child Protection face acute risks of harm where their parents hold choice and control over their child's NDIS plans but are unable to make decisions in their child's best interests.<sup>20</sup> We previously highlighted the need for the NDIS Review to recommend measures to better protect children in these situations, such as mechanisms to monitor the NDIS supports being delivered.<sup>21</sup>

Outreach and visitation, tailored for children and young people and properly resourced, may also be an appropriate safeguard for these high risk situations. We support this option being explored, with staff suitably trained to work with children and young people.

### **Recommendation 3**

That, in developing proposals to improve general and targeted safeguards, the NDIS Review expressly address the circumstances and needs of families experiencing vulnerability, particularly where parents are struggling to meet their children's needs and Child Protection is involved. This includes situations of acute risk where parents hold choice and control over their child's NDIS plans but are unable to make decisions in their child's best interests.

### **NDIS Quality and Safeguarding Framework**

The recent issues paper noted the significant number of participants self-managing their NDIS funding, and the unanticipated growth in the unregistered provider market to over 130,000 active unregistered providers.<sup>22</sup>

We previously raised our concern that the nature of the NDIS market presents acute risks for children and young people, and highlighted the need for stronger child-specific safeguarding standards applicable to all providers of NDIS-funded services for children (registered and unregistered).<sup>23</sup> Stronger, uniform child-specific standards are needed to better protect all child participants from the risk of abuse or harm from NDIS providers.

We also reiterate the need for the NDIS Quality and Safeguarding Framework to specifically address the unique requirements needed to protect children and young people from the risk of abuse or harm from NDIS providers. This includes guidance on the National Principles for Child Safe Organisations and providers' obligations under State and Territory Child Safe Standards and Reportable Conduct Schemes.<sup>24</sup>

Noting that the NDIS Review has identified that some mainstream services may not have been fully considered when the Framework was developed,<sup>25</sup> we recommend that the NDIS Review consider links with Child Protection, and other mainstream services working with children and young people experiencing vulnerability and risks to their safety (such as family violence, mental health and youth justice).

### **Recommendation 4**

That the NDIS Quality and Safeguarding Framework include clear links with mainstream service systems working with children and young people experiencing vulnerability and risks to their safety, including Child Protection, family violence, mental health and youth justice.

## Next steps

We strongly encourage the NDIS Review to ensure that its recommendations to the Disability Reform Ministers address the specific needs of, and risks for, children and young people.

The Commission has also welcomed recent engagement with the NDIA and the NDIS Quality and Safeguards Commissioner on the issues we have raised with the NDIS Review, and looks forward to further engagement.


If the Commission can assist further, please contact [REDACTED].

Yours sincerely



Liana Buchanan  
**Principal Commissioner**

15/06/2023



Meena Singh  
**Commissioner for Aboriginal  
Children and Young People**

16/06/2023

Encl: CCYP (Vic) submission to the NDIS Review, 10 February 2023

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<sup>1</sup> <https://www.ndisreview.gov.au/news/getting-it-right-children-young-people-and-their-families>

<sup>2</sup> *NDIS Participant Safeguarding: Proposals Paper on Participant Safeguarding* (Proposals Paper), p27.

<sup>3</sup> NDIS, *NDIS Quarterly report to disability ministers: Q3 2022-23*, <https://www.ndis.gov.au/about-us/publications/quarterly-reports>, p158 and p223

<sup>4</sup> Proposals Paper, p11. The proposals paper also notes that women and First Nations people with disability are at 'heightened risk of experiencing all types of violence'.

<sup>5</sup> See previous submission (pp 6-11, and Recommendation 4).

<sup>6</sup> See previous submission (pp 6-11).

<sup>7</sup> See previous submission (p11). This comment is also relevant to draft proposal 3 – Improving information sharing to identify risk (pp36-37).

<sup>8</sup> Proposals Paper (p26).

<sup>9</sup> Proposals Paper (p29).

<sup>10</sup> Proposals Paper (p29).

<sup>11</sup> See previous submission (pp7 and 10).

<sup>12</sup> See previous submission (p10).

<sup>13</sup> See previous submission (p11).

<sup>14</sup> Proposals Paper (p30).

<sup>15</sup> See information about Victoria's Child Safe Standards at pages 4-5 of our previous submission. Child Safe Standard 3 refers to children and young people being empowered about their rights, participate in decisions affecting them and are taken seriously. Guidance is available on the Commission's website on [creating a child safe organisation](#) and [empowerment and participation for organisations working with children and young people](#).

<sup>16</sup> See previous submission at (pp 7-8).

<sup>17</sup> Proposals Paper (pp37-38).

<sup>18</sup> See previous submission (p7). Also see the Victorian Government's Children with Complex Support Needs Program, which works with highly vulnerable families of children with complex disability support needs at risk of breakdown of family-based care: <https://providers.dffh.vic.gov.au/program-requirements-children-complex-disability-support-needs-victoria>. The Victorian Government also recently announced \$21.2 million in funding to

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introduce NDIS Navigators into all specialist schools by the end of 2025, with the first 30 to be introduced in 2023:  
<https://www.premier.vic.gov.au/best-education-students-disability>.

<sup>19</sup> See previous submission (p7).

<sup>20</sup> See previous submission (pp8-11).

<sup>21</sup> See recommendation 4.

<sup>22</sup> NDIS Quality and Safeguarding Framework – Issues Paper on the NDIS Quality and Safeguarding Framework (April 2023), p9.

<sup>23</sup> See previous submission (p4 and recommendation 1).

<sup>24</sup> See previous submission (pp3-5 and recommendation 2).

<sup>25</sup> NDIS Quality and Safeguarding Framework – Issues Paper on the NDIS Quality and Safeguarding Framework (April 2023), p14.