Mental Health Council OF TASMANIA

www.mhct.org

Inquiry into the NDIS Quality and Safeguards Commission

Submission to the Joint Standing Committee

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About Us

The Mental Health Council of Tasmania (MHCT) is the peak body for community managed mental health services in Tasmania. We represent and promote the interests of our members and work closely with Tasmanian Government agencies and Primary Health Tasmania to ensure sectoral input into public policies and programs. We have a strong commitment to enabling better mental health care access and outcomes for every Tasmanian. Our purpose is to improve mental health for all Tasmanians, and our vision is for all Tasmanians to have awareness of, and value, their mental health and wellbeing.

Introduction

MHCT welcomes the opportunity to respond to the Joint Standing Committee's Inquiry into the NDIS Quality and Safeguards Commission (QSC). Our response is informed by direct consultation with our members and relates specifically to Tasmania's Community Managed Mental Health Sector. The submission is informed by the expertise and experience of our members. MHCT has consulted with service delivery member organisations to develop our submission, however given the COVID-19 situation and limited capacity for extensive consultation, four organisations were involved in consultation: two national organisations with a state-based presence; and two state-based organisations providing a range of mental health services including NDIS supports.

This submission is structured around the Joint Standing Committee's Terms of Reference, with a specific focus on Terms of Reference points a, c and d. Consultation in regard to these points pertains to the Tasmanian Community Managed Mental Health sector and organisations with experience in supporting individuals who are participants in the NDIS under the psychosocial disability stream.

MHCT Recommendations

- **Recommendation 1:**
  The QSC provides clear and specific instructions on what should be reported on to the NDIS provider, including the level of detail and information required.

- **Recommendation 2:**
  The QSC should explore ways to streamline reporting processes while at the same time ensuring the QSC gain the required information.

- **Recommendation 3:**
  Explore how the QSC can develop a culture of continuous improvement and collaboration through feedback and support with NDIS providers.

- **Recommendation 4:**
  Explore ways to support NDIS providers in reducing the burden of reporting on restrictive practice as it relates to duty of care on a case-by-case basis and in recognition of State and Federal legislation.

- **Recommendation 5:**
  Identify ways to work collaboratively with service providers during the registration process to support continuous improvement as per Recommendation 1.

- **Recommendation 6:**
  Identify ways to streamline workforce screening and compliance processes, particularly in relation to encouraging more allied health professionals to enter the NDIS space.

Response to Terms of Reference

a) The monitoring, investigation and enforcement powers available to the NDIS Quality and Safeguards Commission, and how those powers are exercised in practice

Through consultation with our members, MHCT understands that within the Tasmanian context, the sector is not yet mature in terms of extensive experience with the QSC in relation to monitoring, investigation and enforcement powers. However, MHCT members identified that the processes in reporting to the QSC require a significant time investment and on occasion create complexity. In particular, MHCT has heard the following concerns from members in relation to the reporting processes to the QSC:

- *Ambiguity on reporting requirements* - reporting requirements to the QSC are quite extensive, and often it is not necessarily clear what should and should not be reported to the QSC. In some instances, the QSC has provided feedback following lodgement of reports stating that the provider is not required to report on particular elements.

- *Additional requests for information* - MHCT members recognised the importance of gathering certain information to ensure that safety for participations is paramount, however, this does create extra burden on providers as additional requests are not something that can be planned or budgeted for. MHCT members suggested that some information requested may easily be collected using the data and information already held by the NDIA, and that sourcing the information directly from the NDIA in the first instance, then requesting any further information from providers, would be a preferable solution.

- *Requests for information out of scope* – MHCT members have noted that at times the QSC may request further information regarding practices out of scope of the NDIS provider's capacity. For example, requests for information relating to participant medications. Information on medications relies on the medical practitioner, and this information is not necessarily readily available to the NDIS provider.

- *Lack of feedback and collaboration* – MHCT members noted that there is limited feedback and collaboration between NDIS providers and the QSC. '*There is a lot of reporting but there isn't much around what we can take from learnings, so the loop doesn't come back, it would be good if there was some mechanism for that*' – NDIS provider. Additionally, MHCT has heard that on occasion, the tone in communications from the QSC can at times be somewhat threatening and at other times collegial depending on the QSC staff member assigned to the communications.

Recommendation 1
The QSC provides clear and specific instructions on what should be reported on to the NDIS provider, including the level of detail and information required.

Recommendation 2
The QSC should explore ways to streamline reporting processes while at the same time ensuring the QSC gain the required information.

Recommendation 3
Explore how the QSC can develop a culture of continuous improvement and collaboration through feedback and support with NDIS providers.

c) The adequacy and effectiveness of the NDIS Code of Conduct and the NDIS Practice Standards

MHCT members noted that the Code of Conduct and Practice Standards aligned relatively well with their own organisations' quality and practice standards. However, there was some incongruence in terms of how NDIS providers align their organisational duty of care to the NDIS standards relating to specifically choice and control, and this is of particular concern within the psychosocial disability space. Additionally, MHCT have heard that there are incongruencies between the state and federal legislation in regard to restrictive practices, causing further ambiguity to NDIS providers.

> *'The NDIS practice standards assume the person has capacity to make appropriate decisions and that the person has good advocacy support around them which is not always the case,' NDIS Provider*

MHCT members recognise the importance of reporting on restrictive practices (in particular, practices that cause harm and trauma) and the importance of choice and control for the NDIS participant. However, in some circumstances, these practices are in place as a duty of care to the participant and on the advice of medical professionals to support the health and wellbeing of the NDIS participant. In these circumstances, a behavioural support plan (BSP) provides the required documentation to fulfil NDIS practice standards, however, in Tasmania, the waitlist to acquire a BSP is lengthy and in the interim NDIS providers must continue to weigh up duty of care to the NDIS participant versus the NDIS participant's choice and control.

Provider example of duty of care vs choice and control:

The health of an NDIS participant is compromised - if he could drink soft drink every minute of the day he would. As part of supporting the participant's physical health, the gentleman has a diabetes management plan in place which has been agreed by the Participant and by his Mental Health Case Manager, GP and family, where a can of soft drink is provided at agreed intervals throughout the day. However, under the NDIS practice standards, because there is not a Behaviour Support Plan in place yet (awaiting availability of practitioners) this is classified as a restrictive practice. As an organisation, the provider has a duty of care not to cause harm, but it conflicts with the NDIS practice standards.

The burden falls on the provider to report on each incident of a restrictive practice. When pertaining to the above example, this could potentially be on a daily basis, which causes an increase in administrative workload, often uncompensated under current NDIS pricing arrangements.

Recommendation 4
Explore ways to support NDIS providers in reducing the burden of reporting on restrictive practice as it relates to duty of care on a case by case basis and in recognition of state and federal legislation.

d) The adequacy and effectiveness of provider registration and worker screening arrangements, including the level of transparency and public access to information regarding the decisions and actions taken by the NDIS Quality and Safeguards Commission

MHCT members recognise the significant importance of the provider registration and auditing process in maintaining quality and safety for NDIS participants. However, it is important to recognise that the registration process does require a significant financial undertaking which can impact on an organisation's decision to become an NDIS provider.

> *'Out of sixteen clinicians we only have four that are willing to work in the NDIS space,' MHCT Member*

MHCT members expressed that the process to undertake registration requires a significant time and cost investment by the organisation, with some members in larger organisations indicating that it can take up to three FTE to complete the process. Additionally, MHCT members indicated that the process for the QSC to determine and confirm registration can take up to 6 months, with limited opportunity for organisations to address any concerns or rectify elements identified by the QSC prior to a decision being made. MHCT has heard that the QSC auditing process differs from other auditing processes where service providers can review their audit prior to submission. In the case of the QSC process, the audit is sent directly to the QSC without the provider having an opportunity to review or make comment.

MHCT members also explained that the costs involved to ensure a compliant workforce was not congruent with current NDIS pricing. In particular, the set NDIS pricing does not completely compensate for supervision and professional development. Additionally, some NDIS support items require extensive screening. For example, providing specialist behaviour support requires a portfolio of evidence, along with extensive further training which depending on the qualifications of the workers, and in some circumstances, may have already been undertaken within their professional training.

Recommendation 5

Identify ways to work collaboratively with service providers during the registration process to support continuous improvement as per Recommendation 1.

Recommendation 6

Identify ways to streamline workforce screening and compliance processes, particularly in relation to encouraging more allied health professionals to enter the NDIS space.

Mental Health Council of Tasmania
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