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24 July 2017

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Members

Thank you for the opportunity to respond to the *National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017* currently before the Senate and referred to the Committee on 15 June 2017. While Carers Victoria and Carers Queensland believe robust quality and safeguards are an essential component of the NDIS and support the Bill in principle, we share a number of concerns.

If passed, the Bill, will establish an independent NDIS Quality and Safeguards Commission and provide some guidance as to the statutory powers and functions of the Commission. These include: registration and regulation of NDIS providers; compliance monitoring; investigation and enforcement actions; complaints and reportable incidents; worker screening; behaviour support and information sharing arrangements.

The amount of detail in the amendment is insufficient to make an accurate assessment on the impacts to care relationships. The detail will come later via the introduction of Rules, enabled by proposed amendment to Section 209 of the *NDIS Act 2013*; which increases the number provisions for which NDIS Rules can be made.

Most of these new provisions are Category D (except for behaviour support and practice standards) meanings States and Territories only have to be consulted, rather than agree, on the Rules. Motions of disallowance will enable scrutiny of the Rules, but there may not be an opportunity for Parliamentary debate, or public consultation. These provisions include Rules made for the purposes of: quality assurance and safeguarding [s73B]; registration [s73E]; registration conditions [73H]; supervision [73N]; revocation [73P]; code of conduct; [73V]; complaints managements and resolutions [73 W &X]; incident management [73Y]; reportable incidents [73Z]; reviewable decisions [99]; and register of providers including ban orders [73ZS]. We would like to see these provisions moved into Category C, at a minimum, where a majority of the states and territories will have to agree on the Rules.

Behaviour support and practice standards, especially as they pertain to restrictive practices including seclusion and restraint moved from Category B into Category A; to ensure all states and territories agree. This would enable careful consideration of: current state and territory disability and mental health legislation and practices, how the National Senior Practitioner will work with the state and territory counterparts (if those offices will remain) and hopefully ensure the highest level of protections are agreed upon. Carers Victoria and Carers Queensland support in principle section 73(b)(1) requiring providers of high risk supports [specified classes of supports] to be NDIS registered and certified only. However, a great deal of scrutiny is required over the development of the Rules to supplement this section.

Our second issue with the Bill, as it has been drafted, is it incorporates the roles of the Senior Practitioner and the NDIS Complaints Commissioner into the Quality and Safeguards Commission. Our conclusion, drawn from the Quality and Safeguard Framework, was for these roles to be separate. The explanatory

memorandum does “envisage” the separate existence of these roles [paragraphs 315-318], but the Act does not seem to prevent these roles being collapsed into the Commission. Also, the Commissioner does not seem to have the authority to investigate complaints made about the NDIA. We consider these issues to be important and should be included in the Act proper.

With regards to the register of providers, we believe this information should be made public with respect to providers who are, or have been, subject to compliance orders, suspension, revocation, or ban orders. Section 73ZS(7)(b) does allow for the publication of the register to be set out in the Rules and we consider this to be essential for self-managing NDIS participants and carers being able to quickly ascertain the necessary information pertaining to the suitability of the people and services they engage.

Carers Victoria and Carers Queensland have been unable to ascertain whether proposed amendments prevent organisations subject to ban orders, re-emerging with new business names and ABNs and registering as different entities.

We would also like to see the public reporting of data on complaints, including complaints made by carers, referrals and reportable incidents. Complaints made by carers should trigger the inclusion of information on carer support services in future correspondence with the complainant. This is especially important if the nature of the complaint is psychologically distressing, as carer support services provide funded counselling and emotional support for carers.

This is consistent with two principles in the statement for Australia’s carers defined in the *Carer Recognition Act 2010 (Cth)*:

- the relationship between carers and the persons for whom they care should be recognised and respected
- carers should be considered as partners with other care providers in the provision of care, acknowledging the unique knowledge and experience of carers.

Lastly, to ensure the independence of the Commission, we believe the Commission should be required to regularly report to Parliament in carrying out its statutory functions.

Sincerely

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