

## Graeme Head

DG Hi, listeners, and welcome to Reasonable and Necessary, Australia's premier podcast series on everything you ever wanted to know about the National Disability Insurance Scheme. I'm your host, Dr. George Taleporos, and on today's episode, we're talking about safety and quality under the NDIS. So while the National Disability Insurance Agency might be providing funding for the supports, it's not the job of the agency to ensure quality. That responsibility lies with the second agency, the newly established NDIS Quality and Safeguards Commission. To learn more, I'm very lucky to announce that we have in our studios commissioner Graeme Head. Welcome, Graeme. Thanks for joining us.

GH Thanks, George, good to be here.

DG So you're the head of the commission and your name is Graeme Head, any coincidence there?

GH No, you're not the first person to ask that question, but I think there's, I think I can say without fear of contradiction that it's not my surname that caused me to put my hand up for this.

DG So what caused you to put your hand up for this role?

GH I think that the NDIS is an extraordinarily important initiative in what it's seeking to do and I believe that the quality and safeguarding arrangements that have been put in place are long overdue and a really important set of tools to really improve outcomes for people and I wanted to be a part of making that happen.

DG Do you have any personal experience of disability?

GH So I don't have a disability myself and neither do any of my direct family members, I have close friends with a disability, I've had colleagues over the years with a disability, and I've done some work on disability issues in previous roles, most recently when I was the public service commissioner in New South Wales, and did some work to help turn around the decline in disability-related employment in the public sector.

DG That's a very important role.

GH It is.

DG Now, people will want to know what is this Quality and Safety Commission and what's it going to do?

GH So, as part of arrangements for setting up the NDIS, governments agreed a couple of years ago almost to a quality and safeguarding framework to address some of the long-standing issues associated with quality of services, but also safety issues, and governments agreed to a framework signed up to by the Prime Minister and Premiers of states and territories late in 2017 and the commission is the new national body

that's really been set up to put that framework in place, and what that means is we will register service providers and require them to have the necessary auditing certification or verification, depending on what supports they provide and will have the powers to take compliance action in respect of service providers. Importantly, the commission will receive complaints from participants or other members of the community about the provision of services to people with disability, we will be doing really important work through our behaviour support program on working to, over time, reduce and eliminate the use of restrictive practices, and we'll have an array of other functions that are related to those core functions, so it's a pretty broad set of functions that we've got around all of the key planks of safety and quality.

DG That's a lot of responsibilities and you mentioned the registering of services, my understanding of the NDIS is that people have choice over whether they register or unregister a provider, if for example, they're self managing or as opposed to being agency managed, can you just sort of explain for people who might not be that familiar, what kind of powers do you have over registered providers? What powers do you have?

GH So, I might take a step back and just say that in the same way that choice and control is an important feature of the design of the NDIS, to date, that's reflected in the design of the quality and safeguarding arrangements. There are some features of the new quality and safeguarding system that apply to all providers, whether they're registered or not. There's a new code of conduct which very simply sets out reasonable expectations about how people involved in the delivery of services to NDIS participants would be expected to behave, and whether your service providers are registered or not, that code applies to them, so it's a really important new tool for people to ensure that services are being provided to them in a respectful way that recognises their rights.

DG And that then could be really useful for a person with a disability to work with because they could go to their provider and say, that comes under privacy, you just said all my private information with family members that I didn't agree to, for example, is that how you see people empowering themselves with that code?

GH Yeah, I think the code is a really important and simple new tool for people. Now we as a regulator, of course, can use the code in a more conventional regulatory manner, but themselves, people with disability will be able to use the code as a tool when they're self managing, and also they can make complaints to us about circumstances where they believe that services are not being provided in compliance with the code, so it's a really important new feature of the system. You asked me about the powers we have in respect of registered providers, so first we do form the registration functions, so for those registration groups who providers are registered for, they make an application to us, we determine whether or not they meet the criteria for registration, and then we can place conditions on that registration. If you are a registered provider, there are two pathways to your registration, if you are not

providing complex supports, you might only require a very simple verification process that checks that you are what you say you are and you're qualified to do the sorts of things you're offering. For people providing more complex supports, their registration process requires an audit against new practice standards that are part of a quality and safeguarding framework, so that registration process is hard about an uplift in quality, and of course, we have the capacity to monitor people's compliance with their certificate of registration and their actions in response to audit findings and to take actions if people aren't doing the right thing.

DG Now we know that there's a real history of bad behaviour in the disability sector, particularly when you look at the results of the Ombudsman report in Victoria, there was a national enquiry a couple of years ago that showed that abuse and neglect are rife, particularly in supported accommodation, do you think that will change as a result of having this new commission?

GH So, the point you make that it's a new commission is an important point. We've never had a national body whose job it is to think and act on these issues and that's its sole purpose, so I think the focus the Quality and Safeguards Commission brings is a really important development, it's also the case that one of our functions is that we receive reports of what are defined as reportable incidents, so they include where there is abuse or neglect of a person with a disability, so there are new obligations on providers to report a whole range of matters, which means that we then can, I guess, have a higher level of visibility of where there is poor behaviour and a capacity to respond to those things, so it is a significant new development and I do expect absolutely that the commission's establishment and its powers in relation to those things are going to make a big difference in that area.

DG The new commission, and this is a commission that's particularly based on the fact that you have been established after learning a lot more about this issue of abuse of people with disabilities, has it learnt from all the terrible things that have happened previously? Do you think it has now been able to translate that into real action for people?

GH Well, I do think that the commission is being created at a time where there is a lot of knowledge and awareness of these issues and we've been given functions and powers that relate to those issues, and I think importantly, we've also established very good relationships with some of the organisations that have been doing work on these issues in the past, so in terms of implementation, South Australia and New South Wales come into the jurisdiction of the Quality and Safeguards Commission from 1 July this year, and most of the rest of the country comes in on 1 July in 2019. As part of leading up to New South Wales and South Australia coming in, we've been doing a lot of work with organisations in those jurisdictions that have worked on those issues. So, for instance, the New South Wales Ombudsman's office, so it's not like we're starting without any sense of what the issues have been and what some of the good work has been, so the model we're taking in setting up the commission is to, in fact,

build into some of our processes the learnings that have been drawn by organisations such as the New South Wales Ombudsman in some of the work that it's done in this area. There's been very good, not just consultation, but, collaboration between the organisations in setting up our processes.

DG It sounds really positive. And I might move now to some of the practical things that people might want to know, if for example, there might be people listening who are unhappy with their services who are funded by the NDIS, they're accessing a service, a registered service and they're not happy with it, what can they do?

GH It's important for people to understand that the commission's got a very specific role that relates to quality and safeguards, so if you're a person with disability, receiving support through the NDIS, if you've got a problem with your plan or plan review or process, that remains a matter for the agency and the agency's complaint processes relate to that, but if you're, if you have a complaint about the conduct of a service provider or a quality or safety issue related to the services you're receiving, you'll be able to contact the Quality and Safeguards Commission and we will be able to help you with that complaint. Now, even where you contact us about something that's not directly our responsibility, we'll work with you to get you to the right organisation to have your complaint dealt with properly, so we want to make the process, we want to encourage people to speak up and we want people, once they've spoken up, to be supported to get to the right person in terms of that complaint being handled.

DG I think that's really reassuring because people want to at least know that there's somewhere they can go. You also made that really important distinction, that I think people need to really remember, is that you're not there to respond to complaints about the NDIS itself, and that that is effectively done through the AAT, the Administrative Appeals Tribunal or through the Commonwealth Ombudsman or other avenues, so they come then to the services themselves.

GH The services and the quality and safety issues related to those, so in particular, I think people being aware. We will do a lot of work to reach out to participants over the coming months about what the code of conduct says because that's a really, really important way of saying there are certain fundamental things that you should expect your service providers to do, and where they're not doing that, in the first instance, we will encourage people to raise those issues with their service providers. But, if they feel uncomfortable doing that or if they feel that they've raised the issues and they've not been heard, or they're not being responded to, then making a complaint to the commission is exactly what we would encourage people to do.

DG What if they want to complain about the commission?

GH Well, if they want to complain about the commission, they can complain directly to us, like all organisations, we will have processes around getting feedback about our own performance including how we deal with complaints about our own performance, and if people are not happy with how we've responded, then again, there are some

things that they would be able to take to the Commonwealth Ombudsman. And, of course, some of our decisions that we make as an organisation are reviewable decisions and can be considered in the AAT, etc, but that's more in relation to decisions we make about providers.

DG I'm really interested in understanding, and I think there'll be people who want a better understanding, of how to know when they should complain and how to know when it's just the way it is and there are people who just might feel like they're unhappy. But, does that mean they should make a complaint? Or, at what point does someone go to the point of calling or are you happy for people to just call you and say, I'm just not quite sure if this is a problem and I'm just not sure if this is something you can help with?

GH Well, I think it's very important that people, if they feel uncomfortable about something that's happening related to the services that they're receiving, that they feel that they can act on that discomfort. And, we would encourage, one of the things that we will do is try and reach out through a range of organisations and to participants directly to make sure that people understand the code of conduct, understand how they can make it work for them, but certainly, if people are unsure about things and they're not sure who they can talk to about something that is making them feel uncomfortable, then it's absolutely fine for them to contact us. Even if that doesn't result in a formal complaint, they may be able to clarify the issue, they may get some additional information and they may or may not decide, depending on whether they're going to lodge a formal complaint.

DG Is it better to raise a complaint first with a provider?

GH Yes, typically, that would be what we encourage people to do because really, what we would expect is that there's good two-way communication between people receiving supports and their service providers and that it's a natural part of being in that relationship, that you would raise things about problems you're having. So, we would always encourage people, if they feel comfortable to do so, to in the first instance, raise issues with providers, but if they don't feel comfortable doing that and they're feeling uncomfortable about something about their supports, then they should raise the matter with somebody else and they may determine to raise the matter with us.

DG There may be some people listening who want to call you, they want to complain, they're unhappy with their service, but they're afraid. They're afraid of retribution, they're afraid that their service provider might get angry or in some way, respond in a way that makes them feel even more unsafe, what would you say to them?

GH So, what I would say to them is that the system as we're building it is about both encouraging people to speak up, but also supporting people so that when they speak up, the fact that they've spoken up produces a positive outcome for them, not a negative situation, so the commission is establishing its complaints function with very experienced people who've worked extensively in this space before, including

disability-related complaints in another jurisdiction, so we're really conscious of the fact that it's important for people to feel safe when they speak up, and that means that we have to have the right skills in our staff who are handling those matters, who understand those feelings and sensitivities, but also the right processes to safeguard people when they're making a complaint.

DG And what do you do with that complaint when you receive it? What happens?

GH So there's a lengthy process in the act, as you can imagine, which I won't go through, but essentially, there's an obligation on the organisation to examine every complaint it receives and determine whether or not it's going to take it further or what it's going to do with the complaint. And really, it depends on the nature of the issue what we would either suggest happens or what we would determine, so we might, for instance, receive a complaint.

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