

# Choice and control to safely live a good life of belonging and citizenship



Independent Advisory Council to the NDIS  
June 2021

## Table of Contents

|   |    |
|---|----|
| Choice and control to safely live a good life of belonging and citizenship  | 1  |
| Introduction  | 3  |
| 1 Introduction  | 3  |
| 2 Context   | 4  |
| 3 Understanding risk  | 7  |
| 3.1 Factors that increase risk  | 7  |
| 3.2 Factors that reduce risk  | 8  |
| 3.3 The dignity of risk   | 9  |
| 4 Assessment of risk  | 10 |
| 5 Assisting people to feel and be safe: developmental strategies            | 13 |
| 5.1 Strategies that support people to develop Personal Capital              | 13 |
| 5.2 Strategies that support people to develop their Knowledge Capital       | 14 |
| 5.3 Strategies that support people to develop their Social Capital          | 15 |
| 5.4 Strategies that support people to develop their Material Capital        | 15 |
| 6 Assisting people to feel and be safe: preventative strategies             | 16 |
| 6.1 Developing a safety mentality   | 16 |
| 6.2 NDIA infrastructure supports  | 16 |
| 7 Recommendations   | 17 |
| 8 References  | 19 |
| Appendix 1 Roles and responsibilities for 'at risk' NIDS participants.      | 20 |
| Appendix 2 Components of the NDIS Quality and Safeguarding Framework        | 21 |
| Appendix 3 Actions that directly support and empower people with disability | 23 |
| Appendix 4 Model of Citizenship Support                                     | 27 |

# 1 Introduction

In the context of COVID 19 and the recent high-profile cases of violence, abuse, neglect and death of NDIS participants, there is a strong system wide focus on improving supports for people with disability who are at risk of being harmed. It is imperative however that the design of supports to mitigate risk of being harmed is underpinned by an analysis of factors that increase and reduce risk so that approaches to mitigation are effective.

Service system responses to mitigate the risk of harm to people who are seen as vulnerable are described as safeguards, namely measures taken to protect someone or to prevent something undesirable happening. Traditionally, protection measures that were supposed to reduce the risk of being harmed, of experiencing violence, abuse and neglect, curtailed people's freedom and in fact increased their risk.

The rights based framework of the NDIS Quality and Safeguarding Framework<sup>1</sup> defines safeguards as *actions designed to protect the rights of people to be safe from the risk of harm, abuse and neglect while maximising the choice and control they have over their lives.*<sup>2</sup> This definition was further clarified by the WA Disability Services Commission describing safeguards as *supports and mechanisms that promote, enhance and protect an individual's human rights, decision making, choice and control, safety and wellbeing, citizenship and quality of life.*<sup>3</sup>

This paper provides advice to the NDIA Board as to an approach to assist participants, their families and carers to develop strategies for their personal safety to enable them to live a full life safely. While acknowledging the broader context in which participant safety is being considered and the varying accountabilities of community and government entities, this paper focusses on those levers available to the NDIA and the Department of Social Services (DSS):

- analyses factors that increase and reduce risk
- describes frameworks that could be used to identify and assess risk
- describes developmental strategies that have been used to support and empower people with disability
- describes preventative strategies that will assist the NDIA and DSS to strengthen participant capacity to feel and be safe

---

<sup>1</sup> Australian Government Department of Social Services (2016), *NDIS Quality and Safeguarding Framework* p102 Accessed at [NDIS Quality and Safeguarding Framework](#) 21 January 2021

<sup>2</sup> Australian Government Department of Social Services (2016)

<sup>3</sup> Disability Services Commission (2018) Position Paper Individual Safeguarding. Accessed at [Position Paper: Individual Safeguarding](#) 21 January 2021

- recommends the way forward to enable the NDIA to empower participants to be active agents in safely living full lives of belonging and citizenship.

## 2 Context

It is the view of the NDIS Commission that risk assessment to identify people at greater risk of harm should take place across the whole service and support ecosystem which includes NDIS planners, disability support providers, family, friends, and the broader community. Consistent with this position, this advice is built on the recognition of enabling people with disability to be and feel safe is a whole of government / whole of community responsibility with an outline of responsibilities outlined in Appendix 1.

The NDIS Quality and Safeguarding Framework provides the foundation of a national approach to ensure high quality supports and safe environments for all NDIS participants. The Minister's introduction to the Framework highlights the expectation that the Framework will *support participants to make informed choices, while ensuring there are appropriate safeguards in place to facilitate high quality support provision in a new market environment.*<sup>4</sup>

The Framework (Appendix 2) has three domains: supporting and empowering people with disability, promoting a safe and competent workforce and encouraging safe, innovative high quality support provision. Each of the three domains includes developmental, preventive and corrective components.

---

<sup>4</sup> Australian Government Department of Social Services (2016), p 4

**TABLE 1** EXTRACT FROM THE DEVELOPMENTAL AND PREVENTATIVE COMPONENTS OF THE NDIS QUALITY AND SAFEGUARDING FRAMEWORK FOR INDIVIDUALS (SUPPORTING AND EMPOWERING PEOPLE WITH DISABILITY)

| <b>Developmental: Building capability and support systems*</b>   | <b>Preventative: Preventing harm and promoting quality**</b>   |
|--|--|
| <p><b>Providing participants information for decision-making:</b></p> <ul style="list-style-type: none"> <li>• Providing accessible information on how the NDIS works, participant rights, providers and complaints processes</li> </ul> | <p><b>Safeguarding participants through planning, implementation and review processes</b></p> <ul style="list-style-type: none"> <li>• Having formal safeguards in the NDIS planning, implementation and review processes</li> </ul> |
| <p><b>Building participants' capability</b></p> <ul style="list-style-type: none"> <li>• Supporting participants to build knowledge, skills and confidence to exercise choice and control</li> </ul>                                     | <p><b>Funding advocacy services</b></p> <ul style="list-style-type: none"> <li>• Funding formal individual and systemic advocacy services outside of the NDIS</li> </ul>   |
| <p><b>Strengthening natural supports</b></p> <ul style="list-style-type: none"> <li>• Supporting participants to strengthen family and other support networks and participate fully in their community</li> </ul>                        | <p><b>Supporting self-managing participants</b></p> <ul style="list-style-type: none"> <li>• Ensuring self-managing participants are equipped to manage their supports</li> </ul>  |

\*Links to information, linkages and capacity building for individuals

\*\*Links to supported and substitute decision-making (guardianship systems) and National Disability Advocacy Framework for individuals

The Quality and Safeguarding Framework focuses on people with disability in the disability service system. Enabling people with disability to be and feel safe is a whole of government / whole of community responsibility and the very poor outcomes of the first National Disability Strategy (2010-2020) have left many people with disability *shut out*, as reported by the National People with Disability and Carer Council in its 2009 report that led to the development of the first National Disability Strategy. Many mainstream and community service systems continue to make inadequate adjustments to enable people with disability to be welcomed and actively included in their communities, robbing them of the opportunity for relationships, the most significant safeguard for vulnerable people.

The submission of the Independent Advisory Council (Council) to the planning of the second National Disability Strategy urged the Australian Government to focus on citizenship and inclusion of people with disability with a whole of government strategy co-designed by people with disability in the context of a strong sector of Disabled Persons' Organisations (DPOs). A key recommendation of Council was that intergovernmental action ensure seamless interfaces between mainstream services systems and the NDIS so that decisions are made in the best interests of individuals rather than the best interests of service

systems. Council argued that this would reduce the risk of being harmed resulting from territorial battles within and between governments.

The COVID 19 pandemic and the death of Ms Ann-Marie Smith in April 2020 are significant contextual factors that have significantly heightened the awareness of risk and the need for safety planning. National collaboration between DSS, the NDIA, the NDIS Quality and Safeguards Commission and State and Territory Governments has resulted in work to strengthen supports and protections for people with disability at risk of harm, ensuring the provision of sufficient support to:

- access and navigate service systems to meet their needs,
- receive coordinated and integrated services across systems and
- understand their rights and have recourse to effective quality and safeguards.

Actions planned and underway as a result of the collaboration include a comprehensive stocktake of current activities, data analysis to support risk profiling and the development of system action plans to improve supports to people with disability at risk of harm.

Specifically, the NDIA has committed to: Participant check-ins, data sharing and protocol development that will protect people with disability at risk of harm; and the National Community Connector Program and the review of Support Coordination and Partners in the Community that have potential to build participant capacity but need a targeted focus. There are however no planned developmental strategies that work directly with participants to assist them to plan for their own safety. Appendix 2 identifies national activities that aim to support and empower people with disability, but all bar resources developed by the Victorian Department of Health and Human Services<sup>5</sup> and an ACT COVID 19 strategy<sup>6</sup> do not appear to work directly building the capacity of participants, their families and carers.

Council seeks to contribute to the national collaboration by focusing on what the NDIA can do to assist people with disability, their families and carers (where appropriate) to take their own actions to feel and be safe. The participant work lies within the developmental component of the NDIS Quality and Safeguarding Framework in the domain of supporting and empowering people with disability with NDIA work to support participant actions in the preventative component of Framework. These are areas for which major responsibility sits with the NDIS and DSS.

Council advice is based on:

- UK material on personalisation and safeguarding that provides guidance to people with disability, their families and friends, service providers and government about how to enable independence and choice in safe ways.
- 2015 Council's advice to the NDIA Board entitled "*How can the NDIS help participants enhance their personal safeguards in order to experience greater independence, economic participation and community inclusion?*" The advice argued the case for a different approach to risk, drawing on UK material about systems that

---

<sup>5</sup> VIC - Department of Health and Human Services, Dignity, respect and safer services - Victoria's disability abuse prevention strategy

<sup>6</sup> ACT - Office for Disability, ACT Community Services Directorate, ACT Disability COVID-19 Strategy

integrate personalisation and safeguarding to enable people with disability to live full lives safely. The advice recommended the NDIA prioritise assisting people with disability to develop personal safeguards and speak up for themselves with actions related to: highlighting and providing guidance through information; capacity building through the ILC and reasonable and necessary support; training for NDIA and LAC staff and facilitating market and sector development in risk enablement.

- UK and Australian material designed to assist people with disability through COVID emergency.
- The Independent Review of the adequacy of the regulation of the supports and services provided to Ms Anne-Marie Smith, an NDIS participant who died 6 April 2020.
- The South Australian Government Safeguarding Taskforce into the death of Ms Ann-Marie Smith.
- Material related to supporting and empowering people with disability in relation to risk and safeguarding from the NDIA and NDIS Quality & Safeguards websites.
- The stocktake of work between DSS, the NDIA, the NDIS Quality and Safeguards Commission and State and Territory Governments to strengthen supports and protections for people with disability at risk of harm.

## 3 Understanding risk

### 3.1 Factors that increase risk

NDIS Commission outlines factors are most likely to place a participant at risk of harm. These include:

- personal factors (including but not limited to the **nature of the person's disability** which, for example, may mean they are entirely dependent on the support of others to undertake the most basic (and often intimate) life tasks
- a **person's circumstances** such as whether they live alone and receive assistive products for personal care and safety, behaviour supports, diet management supports, high intensity health related supports, are over 55, live in vulnerable housing, are Indigenous or are children in out of home care
- **support factors**, including, but not limited to, the extent to which they rely on formal supports, the range of people providing those supports and the place where those supports are delivered including live in supported accommodation, receive high levels of personal care (over 6 hours per week, Under-utilisation of their plans and with a single billing provider.

Analysing and building on the work of the NDIS Commission, Council identifies policies, practices, and life experiences that increase risk for people with disability. These include those that:

- treat people with disability as 'other' including those that:

## OFFICIAL

- do not respect the voice and unique characteristics of the individual including their identity, gender, culture, religion and age
- disconnect people from the way in which they see themselves
- segregate people and isolate them from community
- project an image of people other than as citizens including as objects of pity, eternal children and menace
- lead to stigma, marginalisation, discrimination and pervasive power imbalances
- lead people to live in poverty and in inappropriate housing
- require people to use service systems that
  - provide unresponsive 'one size fits all' approaches
  - prevent people having control over day to day and larger life decisions
  - normalise abusive practices
  - do not address issues of culture in services
  - provide training without ethical reflection
- prioritise the maintenance of system boundaries over what is best for the individual
- rely on weak safeguards as if they are strong including
  - do not recognise the limits, fragility and possible dysfunctionality of existing safeguards and supports
  - have significant confidence in the safety generated by the presence of a Support Coordinator or case manager or by corrective safeguards such as complaints processes
  - focus on responding to individual instances of harm at the expense of developmental and preventative approaches that address systemic issues

The South Australian Taskforce<sup>7</sup> established following the death of Ms Smith identified a number of safeguarding gaps that represent policies and practices that had harmed Ms Smith. Issues raised by the safeguarding gaps include lack of identification of practices that placed her at risk of being harmed, lack of proactive strategies for individuals at risk, conflicts of interest, isolation and lack of clarity as to how to raise a concern. Council has drawn attention to a number of these issues in previous pieces of advice.

### 3.2 Factors that reduce risk

Whilst violence and abuse prevention and response measures are important, they may be far less potent in practice than having a good friend or family member who watches out for the person. In fact, *the best safeguard for any potentially vulnerable individual is to have a number of people in their lives, who make sure the person is not left to their own devices when things go wrong.*<sup>8</sup>

Factors that help people with disability to feel and be safe derive from themes identified by Council in its 2014 paper *Reasonable and necessary support across the lifespan: an*

---

<sup>7</sup> Government of South Australia, (2020) Safeguarding Taskforce Report Accessed <https://dhs.sa.gov.au/latest-news/safeguarding-taskforce> 25 January 2021

<sup>8</sup> Robertson, A, (2020), Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020, P42



*ordinary life for people with disability.* The themes were drawn from evidence of factors associated with positive health and wellbeing and include:

- positive relationships
- a sense of belonging
- individual autonomy
- active involvement in decision making
- active engagement in the physical, social, economic and cultural community
- using our unique strengths in ways that provide a challenge, and
- making a contribution.

Council described these factors as enablers of an ordinary life and recommended that reasonable and necessary support be used to enable participants to experience these factors. These factors should inform principles to underpin safeguarding actions.

### 3.3 The dignity of risk

The lives of people with disability are often restricted as a result of an ableist fear that they may not have a good understanding of the risks involved in their choices and that services will be held responsible for their ‘unwise’ decisions. Service response to risk is often driven by fear of being blamed by families, being sued for negligence, attracting unwelcome media attention and suffering reputational damage.

Everyone is entitled to be supported to experience the dignity of risk, to make mistakes and learn from them. This is how most people develop their skills. The peak UK provider organisation, Skills for Care UK<sup>9</sup> made the case that providers needed to learn to “work with risk”, to recognise that, within the right circumstances, risk can be beneficial. This was supported by the UK Government in its 2007 Report, *Independence, choice and risk: a guide to best practice in supported decision making*<sup>10</sup> with the lead premise that people have the right to lead their lives to the full as long as that does not stop others doing the same. The report argued that: *...fear of supporting people to take reasonable risk in their daily lives can prevent them from doing good things that most people take for granted...By taking account of the benefits in terms of independence, wellbeing and choice, it should be possible for a person to have a support plan which enables them to manage identified risks and to live their lives in ways that suit them best.*<sup>11</sup>

The analysis of factors that increase and decrease risk leads Council to the view that supports designed to mitigate risk of harm must give priority to supporting participants to seek a life of belonging and citizenship because these are the approaches most likely to

---

<sup>9</sup> Skills for Care, (2011), *Learning to live with risk: an introduction for service providers*,

<sup>10</sup> UK Department of Health (2007), *Independence, choice and risk: a guide to best practice in supported decision making*. Accessed

<https://lx.iriss.org.uk/sites/default/files/resources/Independence%2C%20choice.pdf> 28 January 2021

<sup>11</sup> UK Department of Health (2007), P3

increase the *number of people in their lives, who make sure the person is not left to their own devices when things go wrong.*<sup>12</sup>

## 4 Assessment of risk

A key question is how to assist participants to assess their capacities and the risks associated with their functional impairment, their environment and their use of service systems to enable them to live a full life safely.

William's Model of Citizenship Support<sup>13</sup> (Appendix 3) provides a proactive approach to enable people with disability (with their families and carers as appropriate) to review their lives, assess their challenges related to safety and plan strategies that move toward feeling and being safe. Through a framework called the Four Capitals, the Model of Citizenship outlines the way in which a person's life chances derive from their:

- Personal Capital, seen in their confidence, control, vision, self-worth, strengths and potential (*Who I am*)
- Knowledge Capital, seen in their skills, knowledge and ability to use their knowledge for action (*What I know*)
- Material Capital, seen in their income, a job, home and public resources in their community such as libraries, beaches, parks (*What I have*)
- Social Capital, seen in their relationships and community connections (*Who I know*).

Walker, Fulton and Bonyhady<sup>14</sup> applied the Four Capitals Framework to develop a personalised approach to safeguards that enables **all** citizens to self-assess gaps in their capital resources to identify risks to the person and their life. Based on the assumption that the more capital one has, the lower the risk, and the less capital one has, the higher the risk, the approach facilitates the development of a personalised plan to build capital in the immediate and long term.

---

<sup>12</sup> Robertson, A, (2020) P42

<sup>13</sup> Williams, R, (2013) Model of Citizenship Support 2<sup>nd</sup> edition, Accessed [Model of Citizenship Support 2nd Edition](#) 21 Jan 2021

<sup>14</sup> Walker, M., Fulton, K., and Bonyhady, B., (2013) A personalised approach to safeguards in the NDIS. Accessed [A personalised Approach to Safeguards in the NDIS](#) 21 January 2021

TABLE 2 WALKER ET AL APPROACH IDENTIFIES LEVELS OF CITIZEN CAPITAL

| Level                      | Personal Capital   | Knowledge Capital   | Social Capital  | Material Capital  | Risk |
|----------------------------|--|---|---|---|------|
| <b>Significant capital</b> | Ability to self-advocate, strong identity, ability to make decisions, confident in self-determination, autonomous physical capacity                      | Have recognised qualifications, skills and expertise. Capacity to access knowledge and information and to act on this knowledge | Lots of people connected to the person including family, friends, strong community presence and participation | Financially secure with sufficient resources to meet my needs. Has a job and security of tenure | Low  |
| <b>Reasonable capital</b>  | Can make significant decisions known, limited understanding of their identity, reasonable sense of confidence, reasonable control over physical autonomy | Have knowledge and expertise that enables the person's lifestyle. Limited access to information and can act on this information | Family, friends and some community presence   | Sufficient funds to meet my needs and lifestyle with security of tenure                         |      |
| <b>Fair capital</b>        | Require support with decision making, limited self-advocacy, limited understanding of own determination / direction including wishes and needs           | Requires support to acknowledge / promote skills and contributions. Require support to access information                       | One or two family, paid support team, no community connections  | Limited funds. Mostly manages to meet needs and lifestyle, with limited security of tenure      |      |

**OFFICIAL**

| Level              | Personal Capital   | Knowledge Capital  | Social Capital                                | Material Capital  | Risk |
|--------------------|--|--|---|---|------|
| <b>Low capital</b> | Little personal capacity in making major decision, limited communication, limited autonomy over physical space and limited ability to create direction | Limited education, limited access to information and knowledge. Limited and disconnected to cultural knowledge and communities | No unpaid people in life. Limited paid people | Reliant on income support, no employment, no inheritance, no secure housing, debt | High |

## 5 Assisting people to feel and be safe: developmental strategies

The Quality and Safeguarding Framework identifies developmental strategies to support and empower people with disability as providing participants with information for decision making, building participants' capability and strengthening natural supports.

The Model of Citizenship Support frames developmental strategies in relation to their contribution to retaining and building Personal, Knowledge, Social and Material Capitals. It also provides a framework that could be used for the measurement of outcomes.

### 5.1 Strategies that support people to develop Personal Capital

The Model of Citizenship Support describes a person with significant Personal Capital as a person who has a sense of who they are, their worth, and the vision they are moving toward. Its six elements include an acknowledgement of the person's inherent potential, their strengths, their self-worth, their personal vision of a good life, their personal control of the decisions and actions they make in their life and the confidence or courage to act.

In order to genuinely enable people with cognitive impairment to understand their rights, capacity building must include what the VALID refers to as the six powers of self-advocacy, namely the power of: self-expression; self-confidence; self-development; self-determination, self-reliance; and of self-esteem.<sup>15</sup> It involves strategies that take place over time, are underpinned by a strong rights framework, and include the capacity to address the individual and systemic issues that are identified. For example, in working with people to understand their rights and build their capacity to exercise their rights, it is likely that people will disclose examples of the abuse of their rights. It is essential that action is taken to ensure the abuse stops and to prevent similar abuse against others in similar circumstances. This both enables rights to be upheld and enhances the confidence of the person to speak up.

Capacity building in self-advocacy is best undertaken under the auspice of an advocacy agency or DPO with relevant knowledge, skills, experience and minimal conflict of interest. It must recognise the clear limits of self-advocacy acknowledging that self-advocacy may be ineffective and lead to further victimisation and discrimination where there is significant power imbalance between a vulnerable person and a decision maker, where there is significant conflict and where there are allegations of violence, abuse and neglect. Peer networks are important avenues to learn self-advocacy skills and to gain experience in speaking out in day-to-day situations.

Other strategies to build Personal Capital include having an effective system of communication that allows each individual to communicate and having appropriate information and support to make and contribute to the making of decisions. Too many

---

<sup>15</sup> [VALID six powers of self-advocacy](#)

people with increased risk of being harmed have little or no voice in major and minor decisions in their lives leading to significant damage to their identity and their belief in themselves.

The availability of supports to build Personal Capital are variable. Many resources have been developed to provide guidance in assisting people with disability to enhance their communication, speak up, make decisions and have greater control of their environment but opportunities for people to be supported (including by peers) to use those resources are limited.

Investment is required to ensure all participants have the means to communicate, have enough appropriate accessible information to support decision-making and have the opportunity and support to build their capacity.

## **5.2 Strategies that support people to develop their Knowledge Capital**

Information is critical to the exercise of personal agency, to test ideas, assess risk, make informed choices and take informed actions. The Model of Citizenship Support describes a person who has significant Knowledge Capital as a person who knows how to make best use of the knowledge, skill and information pathways they already have, and can extend those pathways. Knowledge Capital develops through life experience, education, training and career, all areas in which many people with increased vulnerability have had depleted opportunities. The Council submission to DSS in relation to the National Disability Strategy recommended multiple strategies to remove barriers and enhance opportunities so that people with disability are able to develop Knowledge Capital.

The availability of support to advance Knowledge Capital is improving. The ILC had an information stream from which there was significant investment in the development of information resources and services. The NDIA provision of I Pads early in the COVID 19 pandemic to any participant who did not have access to a device was very valuable in enabling participants to access information and stay connected during the pandemic and beyond. Peer networks provide informal opportunities for people with disability to learn from their peers and have the potential to provide more structured learning opportunities. The NDIA Home and Living policy provides opportunities for participants and their families and carers to access, understand and apply information about options for supported living. These are examples of investment to develop Knowledge Capital that need to continue and be extended to all areas of support that will assist participants to have good lives.

### 5.3 Strategies that support people to develop their Social Capital

The Model of Citizenship Support describes a person who has significant Social Capital as a person who a range of active connections in their life and opportunities to form new connections and deepen connections into Fellowship<sup>16</sup>.

Some people with disability only have contact with people who are paid. They have low Personal and Knowledge capital and little access to information and experience that might help them to develop service agreements that deliver support to achieve life goals of relationships, contribution and citizenship rather than viewing services as an end in themselves.

Building Social Capital involves approaches to maintain connections and grow new connections in ways that deepen into a bond and friendship. Some people at risk of being harmed may need support to maintain social connections, such as support to pick up the phone, remember people's birthdays and anniversaries, meet their neighbours. Some may also need assistance to grow their connections. The work of Stancliffe et al<sup>17</sup> assisting older workers to transition from Australian Disability Enterprises (ADEs) to retirement illustrates that people who have led very sheltered lives can build relationship and it is never too late to start. The research demonstrated that sustained effort over a significant period of time was successful in enabling older workers to join a range of community groups and experience the pleasures of belonging and engagement at a level they had never experienced before. It also demonstrated that work with an individual must be matched with work to build a welcoming community. Guides to inclusive practice have operationalised the research with effective strategies including giving people the opportunity to explore their interests, finding an ordinary community group that enabled people to pursue their interest and building and most importantly supporting natural networks within the local group to support the person.

Other examples of investments to develop Social Capital include assistance to build circles of support, build community relationships, develop friendships, and peer support.

### 5.4 Strategies that support people to develop their Material Capital

The Model of Citizenship Support distinguishes between personal Material Capital and public Material Capital arguing that a person with significant Material Capital has access to a home and a job paying a living wage (personal material capital) and has access to public transportation, libraries, community centres, open spaces, shopping malls, government buildings, sport and recreation venues etc. (public Material Capital).

---

<sup>16</sup> Williams (2013) P48 relationships of deeper mutual regard, the development of trust and the establishment of a bond.

<sup>17</sup> Stancliffe, R., Wilson, N., Gambin, N. & Bigby, C., (2013) *Transition to retirement: a guide to inclusive practice*. Accessed at [Transition to retirement: a guide to inclusive practice](#) 25 January 2021

Building Material Capital is about growing the range of personal material resources under the ownership or control of the person. Personalised budgets and support to find and maintain employment are examples of strategies to increase personal material capital. Building the person's use of typical public material resources is also important to increase their overall Material Capital.

Putting these developmental strategies into practice requires support and a process for people to assess their capacities and challenges, and plan, implement, review and renew strategies for their personal safety. Frameworks such as the Model of Citizenship Support play one part but must be coupled with capacity building to develop a safeguarding mentality and access to skilled LACs and Support Coordinators to facilitate the work.

## 6 Assisting people to feel and be safe: preventative strategies

The Quality and Safeguarding Framework identifies preventative strategies to support and empower people with disability via the planning, plan implementation and review processes, funding advocacy services and supporting self-managing participants.

### 6.1 Developing a safety mentality

It is essential to change the conversation so that discussions about choice and control include a safety mentality. The suggested narrative becomes:

*Choice and control to live a good life safely*

*Belonging and citizenship provide the path to feeling and being safe*

A campaign like approach may be useful for participants, their families and carers with ILC funds for events and resources delivered by Disabled Persons Organisations (DPOs) and Family Organisations (FOs). It is important that information is delivered by a trusted source of people with disability and their families and facilitates access to peer networks to share stories and insights about integrating safety planning with choice, control and a full life. A user led auspice will also **ensure that the focus remains on life planning safely rather service planning to mitigate risk.**

### 6.2 NDIA infrastructure supports

NDIA infrastructure that supports participants to plan, implement, review and renew strategies for their personal safety includes planners, LACs and support coordinators. All must be able to communicate the safety mentality authentically with participants without causing alarm.

Planners need to be able to highlight safety in the planning process.



In its paper on Local Area Coordination, Council recommended a reconceptualization of the role to focus on supporting participants to be included in the community, proposing the target group as all people with disability, including participants in the intensive and super intensive streams. In this context LACs would undertake most of the work related to assisting participants to plan for their safety. Given however the NDIA decision that planners and support coordinators will be key to assisting participants in the intensive and super intensive streams, they will necessarily need to be responsible for assisting these participants to plan for their safety.

The success of work in supporting participants to plan for their own safety will depend upon:

- caseloads that enable the relationship-based work of walking alongside a person to support their inclusion in the community
- being underpinned by best practice citizenship focused planning resources (such via Model of Citizenship Support) that will assist LACs to support participants to review their lives, assess their challenges related to safety and plan implement, review and renew strategies that enable them to feel and be safe
- the availability of content-based resources that assist in planning for specific types of risk such as those associated with moving out of home, preparing for emergencies etc.

It will be important for the NDIA to use a citizenship framework for safety to discern impact of its approach including by monitoring outcomes related to participant safety and market development in Scheme funded supports.

## 7 Recommendations

In order to assist participants, their families and carers to develop strategies to live a full life safely, Council recommends that the NDIA:

1. develops and promotes a safety mentality linking choice and control with living a good life safely and framing belonging and citizenship as the pathway to feeling and being safe.
2. develops principles to guide safety planning to support participants toward increasing the seven enablers of an ordinary life, namely relationships, belonging, autonomy, decision making, social, economic and cultural participation, challenge and contribution.
3. ensures that for each participant, an identified role is allocated primary responsibility to assist the participant, their family and carers to review the participant's life, assess the challenges related to safety and plan, implement, review and renew their personal strategies to feel and be safe. This approach should complement other relevant whole of government initiatives being contemplated to improve coordination and interfaces with mainstream services.
4. ensures that staff involved in assisting participants to plan for their personal safety have the requisite competency and support with the use:
  - a. best practice citizenship focused planning resources

## OFFICIAL

- b. content based resources that assist people with disability to plan for safety around specific types of risk such as those associated with relationships, healthy touching, catching public transport, moving out of home, taking a job, self-managing one's NDIS plan, preparing for emergencies, using social media, sexual health, having your first holiday without supervising adults etc.
- 5. monitors the impact of work to build participant safety including:
  - a. outcomes related to enhanced enablers of an ordinary life (the Model of Citizenship Support provides one possible framework by which the Agency could identify additional outcome measures)
  - b. the use of a citizenship framework to monitor market development in Scheme funded supports to determine movement toward enhanced safety of participants
  - c. factors that contribute to participant safety (including the relationship between plan implementation and citizen-based safety outcomes) and amend practice guidance in the light of evidence.
- 6. makes representation to DSS to fund DPOs and FOs to build the capacity of participants and their families to use evidence-based resources to plan, implement, review and renew strategies for their personal safety to feel and be safe.

## 8 References

Australian Government Department of Social Services (2016) *NDIS Quality and Safeguards Framework*. Accessed at [NDIS Quality and Safeguards Framework](#) 21 January 2021

Disability Services Commission (2018) Position Paper Individual Safeguarding. Accessed at [Position Paper Individual Safeguarding](#)

Duffy, S & Gillespie J, 2009, *Personalisation and Safeguarding*, viewed 29 June 2015, [Personalisation and Safeguarding](#)

Government of South Australia, (2020) Safeguarding Taskforce Report Accessed [Safeguarding taskforce report](#)

Independent Advisory Council of the NDIS (2015) *How can the NDIS help participants enhance their personal safeguards in order to experience greater independence, economic participation and community inclusion*

Robertson, A, (2020), Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020,

Skills for Care, (2011), *Learning to live with risk: an introduction for service providers*,

Social Care Institute for Excellence, SCIE Report 36 (2010) *Enabling risk, ensuring safety: self-directed support and personal budgets* Accessed [Enabling risk, ensuring safety: self-directed support and personal budgets](#) 28 January 2021

Stancliffe, R., Wilson, N., Gambin, N. & Bigby, C., (2013) *Transition to retirement: a guide to inclusive practice*. Accessed at [Transition to retirement: a guide to inclusive practice](#) 25 January 2021

UK Department of Health (2007), *Independence, choice and risk: a guide to best practice in supported decision making*. Accessed [Independence, choice and risk: a guide to best practice in supported decision making](#) 28 January 2021

Valid Inc., *Self-Advocacy Resources Catalogue*, viewed 15 June 2015, [Self-Advocacy Resources Catalogue](#)

Walker, M., Fulton, K., and Bonyhady, B., (2013) A personalised approach to safeguards in the NDIS. Accessed [A personalised approach to safeguards in the NDIS](#) 21 January 2021

Williams, R, (2013) Model of Citizenship Support 2<sup>nd</sup> edition, Accessed [Model of Citizenship Support 2nd Edition](#) 21 January 2021

## Appendix 1 Roles and responsibilities for 'at risk' NDIS participants.

Responsibilities for safety of 'at risk' NDIS participants is a whole of government / whole of community responsibility.

The NDIA is responsible for all aspects of the NDIS planning process, including access decisions, identifying the appropriate decision-maker, developing a participant's plan, and reviewing and rolling over the plan.

The NDIS Commission is responsible for regulating and monitoring the quality and safety of NDIS providers and workers including through registration and audit requirements, monitoring and responding to complaints and reportable incidents and providing oversight and clinical leadership for behaviour support and the elimination of restrictive practices.

Providers and workers delivering services to participants have the key responsibility for ensuring day to day well-being of participants both in the way they deliver services and as the early warning system for when things are going wrong. Under both the practice standards and the code of conduct, providers and workers have an obligation to ensure the safety of participants including identifying and acting on issues that may put a participant at risk.

In relation to safety, the primary responsibilities of mainstream services and supports are

- identifying potential NDIS participants and support them to make contact with the NDIA including through warm referrals
- providing inclusive supports and services which are accessible to people with disability
- exchanging information with other mainstream services and the NDIS to ensure that issues and risks are identified, and decisions are made based on a holistic understanding of each person's needs.

The community plays an important informal role in acknowledging and including people with disability and noticing and speaking up if people with disability appear to be at risk of violence, abuse, neglect or exploitation.

# Appendix 2 Components of the NDIS Quality and Safeguarding Framework

## Underpinning foundations

- *UN Convention on the Rights of Persons with Disabilities; National Disability Strategy 2010–2020;*
- National Disability Insurance Scheme Act 2013

TABLE 3 INDIVIDUALS: SUPPORTING AND EMPOWERING PEOPLE WITH DISABILITY

| <b>Developmental:</b> Building capability and support systems   | <b>Preventative:</b> Preventing harm and promoting quality   | <b>Corrective:</b> Responding if things go wrong  |
|---|--|---|
| <b>Providing participants information for decision-making</b><br><br>Providing accessible information on how the NDIS works, participant rights, providers and complaints processes | <b>Safeguarding participants through planning, implementation and review processes</b><br><br>Having formal safeguards in the NDIS planning, implementation and review processes | <b>Responding to complaints</b><br><br>NDIS complaints commissioner receiving and responding to complaints about NDIS-funded supports, as well as ensuring that all registered providers have an internal complaints system |
| <b>Building participants' capability</b><br><br>Supporting participants to build knowledge, skills and confidence to exercise choice and control                                    | <b>Funding advocacy services</b><br><br>Funding formal individual and systemic advocacy services outside of the NDIS   | <b>Responding to serious incidents</b><br><br>Providers reporting on and commissioner investigating dangerous situations  |
| <b>Strengthening natural supports</b><br><br>Supporting participants to strengthen family and other support networks and participate fully in their community                       | <b>Supporting self-managing participants</b><br><br>Ensuring self-managing participants are equipped to manage their supports  | <b>Community visitors</b><br><br>Continuing existing state and territory schemes during the transition and conducting a review to evaluate their role in full scheme  |
| <i>Links to information, linkages and capacity building</i>   | <i>Links to supported and substitute decision-making (guardianship systems) and National Disability Advocacy Framework</i>   | <i>Links to universal protections outside the NDIS (e.g. police, other regulatory and complaints systems)</i>   |

## WORKFORCE: PROMOTING A SAFE AND COMPETENT WORKFORCE

| <b>Developmental:</b> Building capability and support systems  | <b>Preventative:</b> Preventing harm and promoting quality | <b>Corrective:</b> Responding if things go wrong   |
|--|--|--|
| <b>Building a skilled and safe workforce</b><br><br>Supporting the development of an NDIS workforce with the | <b>Screening workers</b>                                   | <b>Monitoring worker conduct</b><br><br>Monitoring through employee screening functions, serious |

## OFFICIAL

|  |  |  |
|--|--|--|
| <b>Developmental:</b> Building capability and support systems    | <b>Preventative:</b> Preventing harm and promoting quality   | <b>Corrective:</b> Responding if things go wrong                 |
| attitudes and skills that meet the needs of participants         | Screening workers to help ensure they keep people with disability safe<br><br>Ensuring workers have the skills for specific roles through provider quality assurance system and registration | incident reports, complaints and breaches of the code of conduct |
| <i>Links to Integrated Market, Sector and Workforce Strategy</i> | <i>Links to National Framework for Protecting Australia's Children</i>   |  |

### PROVIDERS: ENCOURAGING SAFE, INNOVATIVE, HIGH-QUALITY SUPPORT PROVISION

|   |  |   |
|---|--|---|
| <b>Developmental:</b> Building capability and support systems   | <b>Preventative:</b> Preventing harm and promoting quality   | <b>Corrective:</b> Responding if things go wrong  |
| <b>Building provider capacity and best practice</b><br><br>Supporting the development of a diverse and sustainable provider market able to meet demand and provide safe and high-quality services | <b>Reducing restrictive practices</b><br><br>Ensuring restrictive practices are reduced or eliminated by introducing consistent quality requirements for behaviour support practitioners and relevant providers, and reporting. The senior practitioner will conduct an educative role in the reduction of restrictive practices | <b>Investigating non-compliance with the code of conduct</b><br><br>Investigating potential breaches of the code of conduct and taking appropriate action |
|   | <b>Ensuring provider safety and quality</b><br><br>Having provider quality requirements proportionate to the type of support offered and the needs of participants, and that builds a culture of continuous improvement. This includes oversight of the NDIS market  | De-register or bar as NDIS provider   |
| <i>Links to NDIS Sector Development Fund</i>  | <i>Links to National Framework for Reducing and Eliminating Restrictive Practices</i>  |   |

## Appendix 3 Actions that directly support and empower people with disability

TABLE 4 NATIONAL STOCKTAKE OF ACTIONS THAT DIRECTLY SUPPORT AND EMPOWER PEOPLE WITH DISABILITY

| Activity                                    | Owner                | Outcomes  | Comments   |
|---|----------------------|---|--|
| <b>National Community Connector program</b> | NDIA                 | Better support for Australians with disability in rural and urban locations from four specific population groups to access the NDIS: Aboriginal and Torres Strait Islander (ATSI) communities, Culturally and Linguistically Diverse (CALD) communities, people experiencing psychosocial disabilities; and ageing parents or carers of people with disability. | There are four functions of the Community Connector role which may provide appropriate supports. The functions are: to engage (reducing barriers to accessing the NDIS by providing assertive outreach to people with disability and their representatives); to connect people with disability and their representatives to NDIS Planners, Partners in the Community (PITC) and mainstream supports; to collaborate with NDIS Planners, PITC and Support Coordinators to support participants to access the NDIS and utilise their plan; and to provide advice to NDIA, PITC and Support Coordinators around improving access to the NDIS. |
| <b>Avoid sole carer arrangements</b>        | Q&S C<br>By Feb 2021 | Grant to develop practice guidance to assist providers with meeting arrangements and to develop the capability of participants on service agreement arrangements and other aspects of risk management.  |  |

**OFFICIAL**

| Activity   | Owner   | Outcomes   | Comments  |
|--|---|--|---|
| <b>Intensive Support Team</b>  | Vic Dept. of Health & Human Services<br><br>Current         | Disability clients and their families are supported to navigate the NDIS and other sources of disability support when complex issues arise.<br><br>Professionals who engage with disability clients are supported to enhance their knowledge of disability systems/services. | Liaise with the NDIA and provide high level case management/ intervention support as required. The shared planning approach is aimed at people with more complex support needs, such as people who access multiple service streams, those on Supervised Treatment Orders or people with complex behaviours. To date they have supported approximately 1400 clients and still receive around 40 referrals per month.   |
| <b>Disability Incident Case Management team - VDRC</b>                                       | Vic Dept. of Health & Human Services<br><br>Since July 2020 | Disability clients in community and disability settings who are COVID positive or close contacts are able to continue to receive disability supports during their isolation period.  | Liaise with disability providers, NDIA and public health to ensure adequate contingency disability and communication supports are in place and provide high level case management as required. To date they have supported at least 132 active COVID 19 cases and many more hundreds of disability clients who are close contacts, some living in sensitive settings.   |
| <b>Dignity, respect and safer services - Victoria's disability abuse prevention strategy</b> | Vic Dept. of Health & Human Services<br><br>Completed       | Build the capacity of individuals and their families to understand their rights and to speak up about abuse. It provides mechanisms for embedding a culture of zero tolerance of abuse across the Victorian disability service sector  | Resources have been developed to build the capacity of individuals, families and carers to identify and report abuse in disability services, and to support disability advocacy. The abuse prevention strategy highlighted work funded by the department to prevent abuse and increase the capacity of people with disability to recognise and report abuse. These include:<br><br><ol style="list-style-type: none"> <li>1. training programs and educational resources for people with disability to help them identify and respond to abuse;</li> <li>2. the development of tools and resources to support people with complex communication needs to recognize and report abuse;</li> </ol> |



**OFFICIAL**

| Activity  | Owner   | Outcomes   | Comments  |
|---|---|--|---|
|   |   |  | <ul style="list-style-type: none"> <li>3. peer education programs exploring respectful relationships and the experiences of being a woman with disability;</li> <li>4. the development of resources for parents and guardians of children with disability to assist in choosing a provider and to support their child's emotional, physical and sexual development;</li> <li>5. developing resources and delivering workshops to increase culturally and linguistically diverse communities understanding and awareness of their right to be free from abuse and how to recognise abuse; and</li> <li>6. initiatives to strengthen advocacy including the Victorian Disability Advocacy Innovation Fund.</li> </ul> |
| <p><b>State Government will engage with the Commonwealth to identify how best to address the need for vulnerable NDIS participants to have regular health checks.</b></p> | <p>SA - Department of Human Services, Disability Access and Inclusion</p> <p>In development</p> | <p>Quality and safeguarding mechanism of participants to ensure their health and wellbeing is protected.</p> |   |

**OFFICIAL**

| Activity  | Owner  | Outcomes   | Comments |
|---|--|--|----------|
| <p><b>ACT Disability COVID 19 strategy</b></p>  | <p>ACT - Office for Disability, ACT Community Services Directorate</p> | <p>Phase 2: a better safety project that builds the confidence and skills of disability supporters to identify family and domestic abuse and violence; individual grants to reduce home-based pressures on people with disability and their family carers; training for disability support staff in infection control training and use of PPE; resources to better help people with disability and family members to be supported through an outbreak, particularly when experiencing isolation and quarantine</p> |          |
| <p><b>NSW Fire and Rescue to proactively visit areas with significant numbers of people with high risk vulnerability re fire/emergency prevention and preparedness (in development)</b></p> | <p>NSW Fire and rescue</p>   | <p>Prompt response from Emergency services to respond to requests for assistance from vulnerable /high risk groups.</p>  |          |

## Appendix 4 Model of Citizenship Support

