

Australian Capital Territory

Disability Services Approved Standard 2014 (No 1)

Disallowable instrument DI2014-191

made under the

Disability Services Act 1991, s 5A Approval of standards

EXPLANATORY STATEMENT

Authorising provision

Subsection 5A(1) of the *Disability Services Act 1991* (the Act) empowers the Minister to approve standards about the provision of specialist disability services by specialist disability service providers under the Act.

Introduction

The ACT National Disability Insurance Scheme (NDIS) Trial will commence on 1 July 2014 in tandem with the Disability Services Act as amended from 1 July 2014. Agreement was not reached on the design of a nationally consistent quality assurance and safeguarding framework prior to the commencement of the first NDIS trial sites.

In developing the Intergovernmental Agreement (IGA) for the National Disability Insurance Scheme (NDIS) Trial, it was agreed that the existing Quality Assurance frameworks and safeguarding arrangements in each State and Territory would remain until the Commonwealth, States and Territories reach agreement on the design and implementation of a national approach to quality and safeguarding.

This means that the safeguarding and quality obligations that are currently expected of Territory funded providers of disability services in the ACT will continue during the ACT Trial of the NDIS.

The ACT is the only trial site where conditions will mirror the full-scheme environment of the NDIS. For this reason, the ACT trial will offer valuable lessons. The safeguarding and quality approach adopted during Trial in the ACT is the only instance where this framework needs to capture and oversight the full suite of relevant disability services; both those currently funded by the Territory and any new relevant market entrants.

In light of the introduction of the NDIS, the ACT will progressively cease to have a direct funding relationship with disability services as the funds transition to the National Disability Insurance Agency (NDIA). The amendments to the Act remove the reliance on a funding relationship and the requirement for disability service

providers to enter into an agreement with the Minister in order to be within the scope of the regulatory regime of the Act.

In the current environment, funding agreements are the primary mechanism through which services are required to comply with approved standards and which mandate minimum safeguards. The amendments to the Act provide the Territory with the mechanism and authority to compel compliance with existing quality assurance frameworks and safeguard arrangements in the absence of a contractual relationship.

Standards

For the purposes of the amended Act and the Disability Services Approved Standard 2014 (No 1), including those outlined in Schedule 1, the term ‘standards’ captures and applies to key safeguards and quality standards with which specialist disability services must comply. For ease of clarity and understanding, it can be helpful to think of the standards as ‘rules’ that apply to specialist disability services and provide safeguards for people with a disability in receipt of those services.

Likewise, it can be useful to think of the national standards, outlined in Schedule 1, with which specialist disability services are required to be consistent with, as ‘quality standards’, i.e., standards that establish minimum quality benchmarks relevant to each service type.

Quality Frameworks

All Specialist Disability Service Providers are required to deliver services compliant with one of the approved sets of national standards as declared in this instrument. Specialist Disability Service Providers must, upon request of the Director-General, and in the format specified, be able to provide evidence of compliance with, or evidence of capacity to comply with, one of the approved sets of national standards as declared in this instrument.

Specialist disability service providers will implement quality improvement processes and measures, including:

- (1) Participants and carers are involved in the planning, implementation and evaluation of the specialist disability service provision.
- (2) The specialist disability service provider is actively working towards quality improvement and is expected to review its practice against one of the sets of recognised quality indicators as declared in this instrument.
- (3) The Specialist Disability Service Provider delivers a non-discriminatory Service, which is sensitive to the social and cultural values of the Participant and the Participant’s family, and the community.

Explanation of Sections

Section 1 names the instrument as the *Disability Services Approved Standard 2014 (No 1)*.

Section 2 states that the instrument commences on 1 July 2014.

Section 3 (1) requires specialist disability service providers to deliver specialist disability services according to one of the approved national standards set out in Schedule 1 and to provide evidence of their capacity to comply if requested. S3 (2) enables the Director-General to approve alternative standards or require additional standards to apply.

Section 4 requires specialist disability service providers to have appropriate and adequate insurance for their assets, staff and volunteers and to produce evidence if requested by the Director-General.

Section 5 (1) to (3) states that specialist disability service providers must only employ fit and proper persons to deliver specialist disability services. A specialist disability service provider must be satisfied that the individual can demonstrate the necessary qualities to provide an adequate standard of care.

Section 6 requires providers to have procedures for receiving feedback, resolving complaints and providing advice of alternative avenues available for the resolution of complaints about the provision of specialist disability services, including the Disability and Community Services Commissioner.

Section 7 (1) and (2) compels a specialist disability service provider to notify the Director-General of any changes to governance arrangements, any adverse financial circumstances and any intention to seek exemption from complying with any Territory law. Specialist disability service providers must ensure all information they provide on request is current and true.

Section 8 requires specialist disability service providers to protect the personal information of individuals receiving services and to use the information only for the purposes of fulfilling legal and service delivery obligations.