

VICTORIA SAYS - TO HELL WITH THE NDIS –A proposal to create a stand-alone quality and safeguarding system

Abstract: This submission is in response to the Consultation paper developed by Victoria's Department of Health and Human Services that purports to discuss the establishment and implementation of an accreditation and registration system.

The submission writers do not deny the importance of registering disability workers and accrediting disability focussed education and training programs and they acknowledge the likelihood that once the NDIS is fully rolled out, states and territories may well administer such matters. However, beyond this the Consultation paper must be seen for what it is. The Consultation paper represents a sham.

The sham is evident in five principal ways:

1. The paper goes well beyond accreditation and registration and instead it in effect promotes the establishment of a stand-alone quality and safeguarding system for Victoria.
2. The paper's promotion of a stand-alone quality and safeguarding system denies the reality that the full roll out of the NDIS in Victoria is due to occur on 1 July 2019.
3. The paper ignores the fact that Victoria is a signatory to the NDIS.
4. The paper conveniently ignores the fact that a national Quality and Safeguarding framework will operate under a Commissioner and this will occur before 1 July 2019.
5. The directions set by the paper snubs the process established for the development of the NDIS and promotes Victoria as its own fiefdom

The writers urge that the Consultation paper is withdrawn and that Victoria meets its obligation as a signatory to the NDIS.

Submission Writers: Max Jackson and Margaret Ryan

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The Burning Question – Why such an initiative?

1. This submission contends that registering people who work in the disability sector and accrediting disability education and training programs should occur.
2. In establishing such a requirement, however, it is essential that a number of considerations be addressed before making any assumptions about registration and accreditation.
3. Principally, the considerations include:
 - How are registration and accreditation defined?
 - What does a registration and accreditation scheme do?
 - Who should be registered and accredited?
 - How is the disability sector defined?
 - Who should the scheme apply to and who constitutes a disability support worker?
 - Who should be responsible for administering the system?
 - What should be the relationship between the states/territories and the NDIS in relation to the future registration and accreditation?
 - Are accreditation and registration but two factors as part of a broader quality and safeguarding activities?
 - The policy and regulatory context
4. This submission addresses the above issues and in so doing challenges particular factors put forward in the Consultation paper.
5. Just as significant, however, this submission also challenges the Consultation paper promoting what is in effect a stand-alone “*independent, legislated registration and accreditation scheme for Victoria’s disability workforce*” (the scheme) when in fact the proposed scheme goes well beyond accreditation and registration.
6. While this submission accepts, in part, the rationale for Victoria seeking to introduce its own accreditation and registration scheme at this time, the submission totally opposes what is in fact proposed in the Consultation paper as a quality and safeguarding scheme under the guise of accreditation and registration.
7. The NDIS was created as a national system to be applied across all states and territories. It was not intended that the disability sector across Australia would continue to operate as a set of individual fiefdoms controlled and self-directed according to the old state/territory model.
8. Therefore, one of the gravest dangers facing the NDIS will be the desire of individual states and territories to maintain their hold on the old style authority and independence at the local level.
9. Significantly, the primary challenge therefore is that of the future relationship between Victoria’s proposed system that encompasses elements beyond accreditation and registration and the Quality and Safeguarding Framework being established by the NDIS.
10. Therefore, in the longer term while it may well be that in order to meet an efficiency objective of administering a specific registration and accreditation system this may need to be done at the individual state/territory level, this cannot and must not be assumed to suggest the creation and operation of multiple systems parading as quality and safeguarding.
11. Thus, this submission argues that while it may be desirable that Victoria seeks to establish a disability worker registration and training accreditation system as an interim arrangement only, for Victoria to go beyond this and seek to establish what is in effect a quality and safeguarding system separate from directions established by the NDIS Quality and Safeguards Commission, compromises the intent of the NDIS.

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Principal Considerations - Clarifying Concepts

12. Over the past several decades the disability sector has been subject to an ongoing barrage of new terminology and changing ideology. This might be argued to represent growth and demonstrate a natural progression of positive development. Equally it can be argued that selectivity is alive and well, whereby those in positions of power and influence either deliberately or inadvertently seek to use ideology and self-created interpretations to push a line that smacks of social engineering. The Consultation paper provides an example of this where the parameters of accreditation and registration have been pushed well beyond their specific definitions.

13. The above claim is evidenced in the various matters discussed below.

How is registration and accreditation defined?

14. Page 5 of the Consultation paper provides definitions for registration and accreditation under separate headings. Interestingly, both definitions commence with the words “*in this context*”. While it might be that the use of such words infers the context as being “*the disability sector*” particular comments throughout the paper suggest that the “*context*” goes beyond the disability sector and seeks to capture mainstream individuals and private enterprise businesses who, while perhaps providing a service to a person with a disability re not disability businesses or workers. A simple example is that of the local hairdresser in any High Street in any suburb or town in Victoria. That person may provide a service to a disabled person whereby the disabled person is using his or her allocated NDIA funds to purchase a grooming service. It is ludicrous to suggest that such a mainstream provider must therefore be registered, if indeed “*the context*” goes beyond a clearly defined disability sector.

Registration

15. The definition given for registration goes beyond registering a person who is deemed to have an appropriate qualification to work in the disability sector. This is done by the inclusion of the assessment of “*integrity and other characteristics*”. This submission argues that it is not the role, responsibility or authority of a registration body to undertake an assessment of integrity and other characteristics. The writers of this submission argue that an individual’s personal qualities, beyond that of his or her qualifications and/or experience, must be the role, responsibility and authority of the employing agency. Clearly, along with police checks, the potential employer must make the determination as to the suitability of an applicant to work for that agency.

16. This desire to go beyond formal qualifications represents a tendency that is evident throughout the Consultation paper of what might be called a “*capture all*” approach. For a registration body to usurp the authority and responsibility of a potential employer is ill conceived.

Accreditation

17. In relation to the definition of accreditation, this submission concurs with the view there ought be a process for assessing the quality of educational and training programs and granting official recognition of such programs.

18. Notwithstanding this however, this submission challenges the position detailed in the accreditation definition that the accreditation authority should be responsible for and have authority to require applicants to “*sit an examination set by the regulator*”.

19. While the writers note the comments on page 9 of the Consultation paper about “*the regulator*”, in the section Definition of Key Terms no definition is provided for the term “*regulator*”. This submission challenges any suggestion that the accreditation authority should have any involvement in the setting and supervising of any examination. Beyond this however, is perhaps the more significant issue, that being whether the sitting and the passing

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of an examination should be considered to be the equivalent of a qualification necessary for registration.

20. The writers of this submission acknowledge that in some other fields, particularly medical, it is not uncommon for an overseas doctor seeking registration in Victoria, and where that doctor's qualifications are not recognised in Victoria, for the doctor to be required to sit an examination. However, in relation to the disability sector and particularly in relation to entry-level qualifications such as a Certificate IV, the writers argue that if the authorities are serious about professionalising the disability workforce, then where an applicant for accreditation is not qualified, rather than provide the "opportunity to sit an examination", the person should be required to complete an approved qualification.
21. Further on the matter of accrediting educational and training entities, the writers of this submission query how the Victorian proposal fits with the "Keeping our sector strong – Victoria's workforce plan for the NDIS". This plan, released in October 2016, states that "the Victorian Government will work closely with the NDIS Implementation Taskforce to identify measures of success and monitor the progress of the plan throughout the transition to the NDIS". Significantly, the plan included additional funding for the Future Social Service Institute, "a unique collaboration between the Victorian Council of Social Services (VCOSS), RMIT University, and the Labor Government to ensure its operation in 2017 and into the future." This collaboration gave the authority to the Institute to design world-best education programs, help train the workforce of the future, research emerging reform trends and opportunities and empower not-for-profits to reorientate to a global market.
22. Further, the writers of this submission also query how the proposal fits with already established skills and training accreditation authorities.

What does a registration and accreditation scheme do?

23. The Consultation paper lists what are promoted in the paper to be nine functions of a registration and accreditation scheme. However, as a precursor to providing the details of a registration and accreditation scheme, the paper also provides commentary in two preliminary paragraphs.
24. Paragraph one advises that a regulator will be appointed and the power of the regulator will be created in law. While the opening of this paragraph makes reference to a "legislated registration and accreditation scheme" the rest of the paragraph then makes a quantum leap to suggesting that the regulator will have the authority to carry out "a range of safeguarding or quality assurance functions".
25. On this matter the writers of this submission suggest that given the broad nature of quality and safeguarding, then to suggest that registration and accreditation is in effect the umbrella of quality and safeguarding totally misses the point of what is meant by quality and safeguarding. Of themselves accreditation and registration are but two very specific actions. As such, the writers of this submission submit that to then suggest that the establishment of the registration and accreditation scheme constitutes the establishment of "a range of safeguarding or quality assurance functions" is wrong and ill conceived.
26. Further in relation to paragraph one, it then states that placing "a range of safeguarding or quality assurance functions" under the authority of a regulator would generally be more efficient and effective than if such functions "were left to individual employers, service providers or users to manage". The writers suggest in the strongest terms possible that the authors of the Consultation paper seem to have little understanding of how the disability sector works as an employer-employee service system and even more concerning little understanding of the intent of the NDIS is to establish and operate as a consumer model.
27. Given the NDIS represents a consumer model, it must therefore be taken to suggest that not only is the relationship between the consumer, as in the NDIS participant, and the individual

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service provider be it an entity or an individual, but also that service providers operate as independent businesses. Therefore, they must not have their authority as employers and service deliverers usurped by some outside body. The whole essence of a consumer model in our society is that of the relationship between the purchaser of services and the provider of services.

28. Just as important is the independence of providers in staff selection, service deliver, monitoring staff performance and internal discipline actions if and where necessary. Paragraph one is not only naïve but is an indictment on those responsible for understanding and applying the principles of the NDIS.
29. Paragraph two, while quite rightly suggesting that registration and accreditation should be responsible for setting and maintaining minimum standards “for entry to, and practice in a profession or occupation” nonetheless goes beyond the role of registration and accreditation when it suggests that a scheme associated with registration and accreditation should also become police, judge and jury in dealing with breaches. This is as though the regulator should have the authority to establish a hierarchy of actions that may be taken against an accredited body or a registered individual. Thus while the writers of this submission do not oppose the regulatory body having the authority to de-accredit and de-register, they are opposed to such a regulatory body having a complaints management and disciplinary function.

Nine functions

30. The increased focus on quality and safeguarding and the intent of the NDIS to create a Quality and Safeguards Commission has caused many to promote a misguided understanding as to what constitutes quality and safeguarding.
31. It is of concern, as is the case in the Consultation paper that registration and accreditation are promoted as though they represent actions that will of themselves create quality and safeguard the rights of people with a disability. This is a naïve view and demonstrates a lack of understanding by those who promote it.
32. Certainly demanding approved minimum qualifications for people seeking to work in the disability sector could go some way to improving the quality of service delivery, as could the accreditation of training courses deemed to be appropriate for the training of disability workers. Of themselves, however, registration and accreditation are but a very small part of a quality and safeguarding framework.
33. Unfortunately, there is an increasing tendency to confuse the particular elements of a quality and safeguarding framework. This tendency is highlighted on page 9 of the Consultation paper, where of the nine elements listed the writers of this submission contend that not all should be a direct part of a registration and accreditation scheme. This submission supports the inclusion of the following:
- Setting enforceable qualifications for entry to practice
 - Accrediting education and training programs
 - Maintaining a public register of qualified workers
34. Of the remaining six elements, the writers challenge their inclusion:
35. **Pre-registration screening:** As already noted further above, making decisions about employment and the associated screening of potential employees, should not be part of a registration and accreditation scheme. To suggest that a registration and accreditation body has a greater understanding and feel for whom might best to fill a particular vacancy in an individual service is nonsense and suggests that employers are not capable of screening potential employees, undertaking police checks and determining suitability. Again, the inclusion of this element is another example of a ‘catch all’ approach aimed at giving power and control to a central body.

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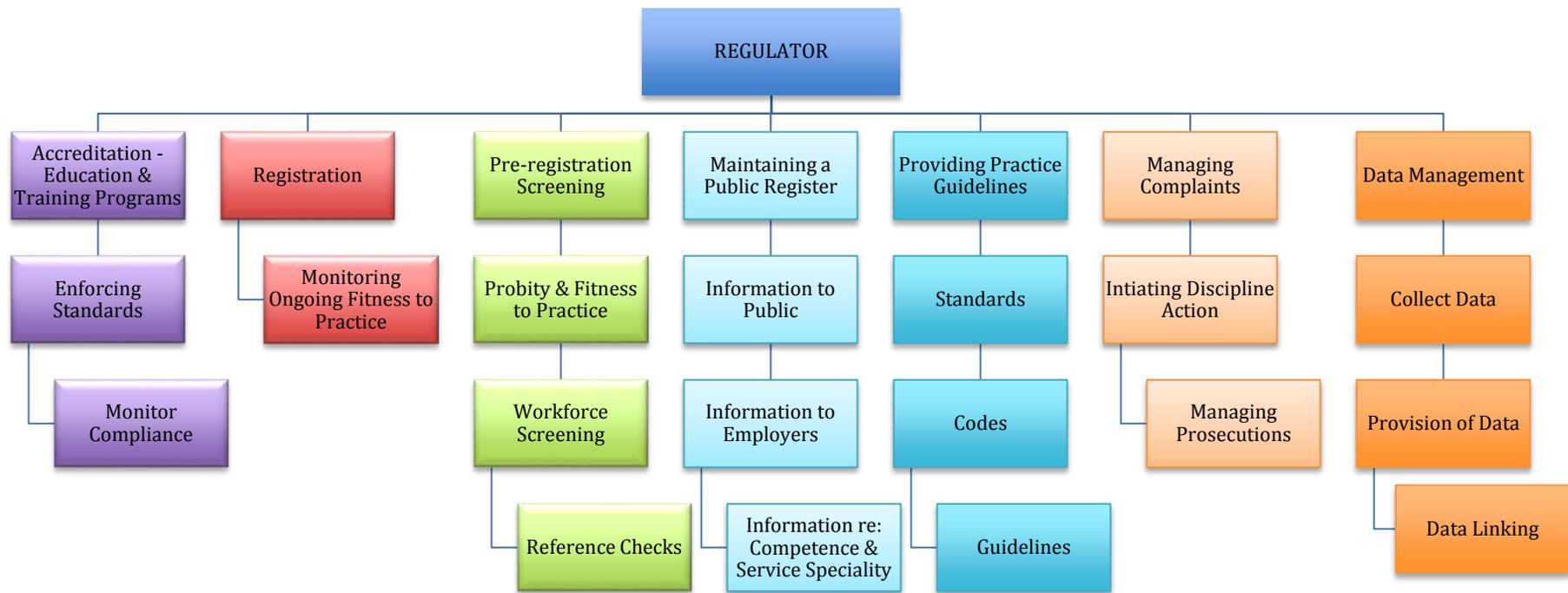
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- 36. Providing practice guidelines:** The suggestion of a registration and accreditation body to provide practice guidelines is also nonsense. The registration of an individual says that that individual has been approved as having an acceptable qualification to work in the field. As such, it must reasonably be assumed that the person has the necessary skills in the delivery of services to people with disabilities. Additionally, the NDIS is currently developing a Code of Conduct that will apply to registered individuals and entity providers. For the Consultation paper to suggest the provision of practice guidelines and determining what constitutes accepted conduct is a case of duplicating the work of the NDIS Quality and Safeguards Commission and is yet another example of Victoria seeking to control anything and everything associated with disability.
- 37. Monitoring ongoing fitness to practice:** Similar to that of screening potential employees, this element also constitutes a matter that goes beyond registration and accreditation. The writers of the Consultation paper have not demonstrated any understanding of how workforce management occurs in the real world of disability. To suggest that everything can be regulated through a single regulator is plain silly. If it is, for example, that an employee in an agency does not have a Working with Children Check, then it is clear that the employer is not eligible to employ that person. A simple rule of good management is to ensure that those responsible for employing and managing staff are allowed to do so without the interference of a “big brother”.
- 38.** Disability is a human service, it is not a service system that should be over-regulated and controlled from the top. Indeed, to be brutally critical, despite over three decades of government oversighting of the disability sector in Victoria, the implementation of Victoria’s quality and safeguarding system has hardly been one of excellence. Indeed, it is reasonable to suggest that many with the power and responsibility for monitoring and controlling the disability sector have largely failed.
- 39. Managing complaints and discipline:** Despite the Consultation paper supposedly being about registration and accreditation this element serves, as another example of where the authors of the paper suggest that what should be established in Victoria should go beyond registration and accreditation. Managing complaints and discipline firstly starts at the delivery end of the service system. Therefore there must be an onus placed on employers, in the first instance, to take responsibility for this element. Secondly, there is already in existence particular legislation and entities that have some responsibility for this function.
- 40.** The history of disability in Victoria in relation to managing complaints and then enacting discipline outcomes as appropriate has been a total failure. This is not because the system does not exist. It is primarily because of the failure of those with the centralised authority to do their job. To suggest, as the Consultation paper does, that managing complaints and discipline, if placed in the hands of a regulator, would in some ways “*protect the public*” is argued by the writers of this submission to go well beyond the disability sector and any role and authority that the regulator should have.
- 41. Managing prosecutions:** Do the writers of the Consultation paper truly believe that a regulator responsible for registration and accreditation should have a prosecuting function? Indeed, the example given in the paper of a person falsely claiming they are qualified and registered to practice must serve as an indication that the regulator has failed in the first instance, this being because if the regulator had done his job in registering, then no one should slip through the system.
- 42.** Further, if the rules of employment are well established, then equally an employer should not employ anyone who is not qualified. Further, how stupid is the statement that the regulator should prosecute people “*who carry out restricted acts when unregistered*”? Does this therefore suggest that if an individual is registered and carries out a restricted act no prosecution should occur?

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- 43. Reporting and linking data:** Why should a regulator responsible for registration and accreditation assume an authority for workforce planning, service planning and system improvement? This is not the way industry and employment works. It is the market that must determine the need for more training courses, and it must be the employers who determine their ongoing needs in terms of employees.
- 44.** This section of the Consultation paper demonstrates the propensity of those responsible for planning for the future in the disability sector to not only take a paternalistic approach to people with a disability, but to suggest that the disability sector is so vastly different to other human service areas that it needs to be treated in a way that is well beyond that which is considered to be commonsense.
- 45.** The writers of this submission ask the question: Why is it that centralised planning and policy people see the need to have a catch-all approach, where they believe that a centralised authority is the best way to do business? In part, the writers suggest the answer lies in the contention that those responsible for the Consultation paper do not fully understand that registration and accreditation is not the total of quality and safeguarding and have treated it as though it should encompass everything as identified on page 9 of the Consultation paper. This totally misses the point.
- 46.** The diagram below illustrates how far the concept of accreditation and registration has been expanded in the Consultation paper to include non-accreditation and non-registration elements.



Who should be registered and accredited?

47. In relation to what entities should be accredited, it seems sensible to suggest that any education or training establishment that purports to be delivering an education or training course specifically targeted to delivering training to students seeking to be employed in the disability sector, then these should be the targeted organisation for accreditation. On this matter however, the writers issue a word of caution suggesting that whatever the regulator establishes as guidelines, they must not have the potential to operate on what might be called “*bracket creep*”. This being whereby the regulator has the potential to become overly enthusiastic or indeed controlling by seeking to impose his power over education and training establishments that are not delivering courses specifically and wholly related to the disability sector.
48. Notwithstanding the above comments in relation to accreditation however, the writers question why the regulator should have an accreditation authority in any event. They note that already established in Victoria are bodies, including a Skills Commissioner, who functions include accreditation of education and training courses. By way of example, there are a number of certificate levels related to disability studies and these have been accredited and operate as vehicles through which graduates are able to present for employment in the disability sector.
49. As noted previously throughout this submission, the tendency for policy people who develop consultations such as that which is the subject of this submission have a concerning tendency to adopt a “*grab all*” approach and consider that everything related to disability should come under a single authority. Indeed it can be argued that the single authority model in the guise of the Department of Health and Human Services and its various iterations over a period of more than three decades has indeed failed people with disabilities and their families. Hence, it was in part for this reason that various inquiries were established over recent years. It is concerning that little attention seems to have been given to Victoria’s Disability Act 2006 whereby the Secretary of DHHS already has a multiplicity of responsibilities and authorities. What is it about the establishment of a regulator with proposed broad sweeping responsibilities that suggests that such an entity will do any better? This being particularly given where there is a high potential of duplication with that of the role and authority of NDIS Quality and Safeguards Commissioner.
50. In relation to the registration of individuals, the writers support such a concept, particularly noting that registration is not new and applies to a broad range of professions and occupations, from plumbers to doctors. The risk of what is being proposed in the Consultation paper is that the registration process has the potential to become a “*big brother*” process. Registration must be about ensuring that the requirements for registration are met. And as such, registration should not drift into the realm of the other elements that have been identified.

How is the disability sector defined?

51. The words “*disability sector*” are often used as though there is a common understanding of what they mean. The writers argue that with the increased push over recent years towards inclusion and social integration, some people have blurred the line between what might specifically be defined as the “*disability sector*” and that of the broader community and mainstream service options. The significance of establishing a clear understanding of what constitutes the “*disability sector*” has a direct relationship to the concepts of course accreditation and disability worker registration. If it is that some policy practitioners have not made or are unable to make a distinction between the “*disability sector*” and other service sectors and the broader community, then there is a high potential that there will be a push to include individuals and service entities that are not part of the “*disability sector*” under the proposed accreditation and registration regime.
52. Whether intended or not, the diagram on page 11 of the Consultation paper provides a clear distinction between what can be deemed to be the “*disability sector*” and other parts of the broader community. While this diagram acknowledges that an individual with a disability

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may receive supports and services from a broad range of entities, and in a broad range of ways, specifically the diagram delineates those types of provisions from “*specialist disability services*”. The writers contend that “*specialist disability services*” no matter what their type and function should constitute the “*disability sector*”. Therefore, by association, it should only be people employed in specialist disability services who should be subject to registration.

Who should the scheme apply to and who constitutes a disability support worker?

53. Section 3 of the Consultation paper – Who should the scheme apply to? – Acknowledges a range of possibilities as to who should be registered. When considered in the context of the diagram on page 11 of the paper, it is evident that people with disabilities, as indeed is the case of non-disabled people, engage with a broad range of supports in a range of spheres within the community. The writers of this submission contend that the segment identified as *Specialist Disability Services* should be the only consideration when addressing the question of whom the scheme should apply to. Therefore given this, the writers of this submission contend that the only people who should be targeted for registration are those who work with people with disabilities in specifically designated disability entities.

54. As such, it is important to note that while many individuals or service entities may provide services and supports to people with disability, if this is not within a designated disability agency, then such people and entities must not be deemed to be disability workers. Obvious examples include allied health and medical professionals, recreation service providers, transport providers, and those who provide mainstream business services and may from time to time engage with a person with a disability.

55. Registration therefore must only relate to the registration of workers working in the disability sector. The question posed on page 22 of the Consultation paper – What about those not required to register? – Is argued by the writers of this submission to be an unnecessary question. If it came to pass that there was an attempt to in some way to register all people who provide a service to a person with a disability, then the writers argue that this would not only be unworkable but would provide a high potential for mainstream service providers to reject people with disabilities as customers.

Who should be responsible for administering the system?

56. The consultation paper has unambiguously answered this question by suggesting that there should be a regulator. This therefore assumes there should be some form of regulatory body for which this regulator is responsible. Thus it further assumes that there will need to be a fairly significant staffing component if the regulatory body is indeed to meet the demands and responsibilities as detailed on page 9 of the Consultation paper.

57. As already noted elsewhere in this submission, the writers oppose the inclusion of the broad range of functions attributed to a registration and accreditation scheme. Further, as also detailed elsewhere in this paper, the writers argue against establishing a separate accreditation body for disability specific educational and training programs. Therefore, the matter to be considered is: If the registration of disability workers is to be established, who should do this and how should it be done? Given the existence of a large number of registration bodies, the writers contend that a registration body established for disability workers should in some ways operate on what might be called “*the standard model*”. A significant danger existing in the disability field and becoming more and more prevalent is that of promoting disability as being so different from every other sector that it needs its very own special processes. What an incongruity. When at the other end of the scale the ideologues promote inclusion, integration, and the notion that people with disabilities should not be singled out as being different and should be able to live ordinary lives the same as everyone else in the community.

58. On this matter therefore, the writers of this submission point to the dangers inherent in the Consultation paper of not only seeking to establish something far broader than what

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operates in other sectors of our community, but that there is the desire and intent to set up a system that is separate from and will operate independent from the NDIS Commission.

What should be the relationship between the states/territories and the NDIS in relation to the future registration and accreditation of disability workers?

59. Along with all other states and territories (excluding WA) Victoria is a signatory to the establishment and implementation of the NDIS. The significance of Victoria’s commitment to the NDIS is paramount; this being because it acknowledges the NDIS is a national system.
60. The implications of the concept of a national system go well beyond simply saying “*we want to be part of it*”. The clear and unambiguous reality is that it means that Victoria signed up to accepting the creation of a national quality and safeguarding framework and the establishment of a national Quality and Safeguards Commission.

Accreditation and registration - two factors only

61. As the writers of the Consultation paper ought be aware, the Federal Parliament is currently considering a Bill to amend the NDIS Act. The intent of the Bill is to legally endorse the establishment of an NDIS Quality and Safeguards Commission headed up by a Commissioner and by association to provide the Commission with the role, responsibility and legal authority to establish a broad range of activities associated with quality and safeguarding.
62. The table further below details the proposed functions of the NDIS Quality and Safeguards Commission to be pursued through the Bill and compares and contrast them with the functions listed on page 9 of the Consultation paper.
63. Given the sense of duplication identified in the table, promoting a stand-alone accreditation and registration system in Victoria clearly shows there is no need for myopic analysis to recognise that what is being proposed in Victoria is largely reflective of the responsibilities of the NDIS Commission.
64. Notwithstanding Victoria’s desire to immediately establish its own system, this reality therefore raises the question: What should be the relationship between the states and territories, including Victoria, and the NDIS Commission in relation not just to the registration and accreditation but also to the broader elements of quality and safeguarding.
65. For the Consultation paper not to consider the Bill and the Federal Parliament’s intention to amend the NDIS Act 2013 is more than a significant oversight. It must be considered to be a blatant rejection of Victoria’s responsibilities and obligations as a signatory to the NDIS.

What is different?

66. The table below compares and contrasts the nine-point proposal for Victoria and the NDIS Quality and Safeguarding Framework.

The Consultation Paper’s Nine Point Proposal (Reference page 9 of the Consultation paper)	The NDIS Quality and Safeguarding Framework (Reference – Summary of the NDIS Act Bill)
Setting enforceable qualifications for entry to practice	Reflective of - Registration and regulation of NDIS providers
Pre-registration screening	Establishing a screening policy but implementation at state/territory level
Accrediting education and training programs	N/A
Maintaining a public register of qualified workers	N/A
Providing practice guidance	Practice standards and a Code of Conduct
Monitoring ongoing fitness to practice	Compliance monitoring

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Managing complaints and discipline	Complaints management system
Managing prosecutions	Investigations and enforcement actions
Reporting and linking data	Information sharing arrangements

67. There is no room to debate the above. The Consultation paper is seeking to propose a stand-alone system for Victoria that largely relocates the NDIUS Quality and Safeguarding Framework.
68. Victoria must accept the NDIS operational platform as evidenced in the Bill and the tasks to be assigned to the NDIS Quality and Safeguards Commission.
69. The Victorian proposal, therefore, has no credibility in the context of a national system.

Policy and Regulatory Context

70. Despite the Consultation paper having a section entitled “*Policy and Regulatory Context*”, this section is deficient in two ways.
71. Firstly, the section includes commentary on a number of matters that are not specific to policy and regulation and instead provides a “*thumb nail description*” of the nature of professions who may provide supports to people with disability. Associated with this there is also a section on training and qualifications, which is simply a description about qualifications in the disability sector.
72. Secondly, despite this section then providing commentary on the policy and regulatory context, it provides no explanation as to the contextual arrangements and obligations of Victoria being a signatory to the NDIS.
73. Notwithstanding the current policy and regulatory context operating in Victoria, no assumption can be made about how they will operate when the NDIS is fully rolled out. For example, while reference is made to the Victorian Ombudsman, Victoria’s Disability Act 2006, Victoria’s Equal Opportunity Act 2010, Victoria’s Disability Services Commissioner, Victoria’s Disability Worker Exclusion Scheme, surely no assumptions can be made about whether these entities and practices will continue to apply to people with a disability in Victoria under a fully rolled out NDIS that is subject to the NDIS Quality and Safeguards Commission.
74. The significance of this section of the Consultation paper is in section 2.4.3 on page 16, where reference is made to the NDIS Act 2013 (Cth) and the NDIS Quality and Safeguarding Framework. Sadly, the handful of paragraphs under this heading provides no commentary or projections as to the significance of the NDIS on Victoria post 1 July 2019.
75. Surely a paper purporting to implement a scheme in Victoria where the inference is that such a scheme will continue post 1 July 2019 deserves detailed commentary. Indeed, for the writers of the Consultation paper not to provide an explanation as to the way the NDIS Quality and Safeguarding Framework is expected to operate in Victoria post 1 July 2019 can only be described as a dereliction of obligation to the NDIS and raises a serious integrity question.

What is already known?

76. We already know that a Bill to amend the current NDIS Act will likely go before federal parliament later this year or early next year. We also know that amendments to the NDIS Act will see the establishment of a Quality and Safeguards Commission and further to this, we know that the Commission will have a broad range of responsibilities and authorities. Included among these are the establishment and application of a Code of Conduct, a raft of factors associated with registration, the management of complaints and investigative authorities, as well as actions that can be taken to prosecute those who fail to meet the quality standards or Code of Conduct. Added to this of course, is the reality that the NDIS will be fully rolled out in Victoria on 1 July 2019.

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77. Thus while it is all very well for the Victorian Government to have “*developed principles that will guide the establishment of the registration and accreditation scheme*” the missing link is that of – Where will Victoria’s scheme fit with the role, responsibilities and authority of the NDIS Commission? Further to this, and associated with the 1 July 2019 timeline, is the question of – *How long do the writers of the Consultation paper estimate that the development and implementation of a Victorian legislated registration and accreditation scheme will take?*
78. Given the broad brush of inclusions promoted by the Consultation paper, it is clear that the development and implementation will be a complex task. Legislation itself will need to be forthcoming, either by way of amendments to existing legislation or new legislation.
79. History tells us that legislative action and change in the disability sector in Victoria is slow to achieve. New policies and processes will need to be created. A real live present example of the slowness of this is that of the development of a revised Client Incident Management System (CIMS). This activity was commenced in January 2016. It was originally due to be completed and implemented by July 2017 but recent advice provided by the Department of Health and Human Services now pushes the implement date out to January 2018. A period of two years and yet incident reporting is but one small feature of a quality and safeguarding framework, and particularly noting that complaints management and discipline outcomes are promoted in the Consultation paper as being part of the proposed registration and accreditation scheme.

The Realities of Time

80. The writers of this submission submit that what they call the realities of time cannot be ignored and thus pose the legitimate questions in the context of the time-line map below: -
- (i) What consideration has been given to the time realities associated with the development and implementation of what is proposed?
 - (ii) What consideration has been given to the time lines to make legislative amendments?

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81. A time-line map for the 20-month period – November 2017 to July 2019

Timeframe	Required Actions	Comment
May 2016	Final Report released - Inquiry into Disability Services	
November 2016	Government response to Final Report	Government announcement to establish “an independent, legislated registration and accreditation scheme”.
September 2017	Consultation paper released	Contents of Consultation paper go well beyond what the Government announced.
20/10/2017	Closing date for responses to Consultation paper	Noted as being approximately 12 months after Government response to final report.
Late 2017	Victorian Government decision on scheme	Government decision approximately 12 months post the response to the Committee’s report.
??	Required legislative amendments	What will they be and how long will they take to be drafted and put to parliament and legislation come into effect?
??	Advertising and appointment of independent Regulator	How long will this take?
??	Appointment of regulatory staff and establishment of office	How long will this take?
??	Development of registration and accreditation protocols, policy, practice standards and guidelines, complaints system, data system etc	How long will this take?
??	Launch of system	When is this expected to be? Reasonable assumption is that Victoria’s scheme is unlikely to come on stream much before the full rollout of the NDIS, or indeed if at all.
1/7/2019	Application of NDIS Quality and Safeguarding Framework to coincide with full rollout of the NDIS in Victoria.	Assumption must be interim only and thus should cease. Post 1 July 2019.

82. Further to the time-line questions are those associated with the relationship between Victoria’s proposed system and that of the NDIS as in

- (i) What consideration has been given to the fact that the NDIS Quality and Safeguards Commission will assume authority in Victoria as from 1 July 2019?
- (ii) What consideration has been given to the reality that the proposed scheme for Victoria is in effect a duplication of the NDIS Commission’s responsibilities?
- (iii) What consideration has been given to the fact that Victoria is a signatory to the NDIS, which includes the application of the NDIS Quality and Safeguards Framework under the authority of a Commission?

83. Based on the above, this submission argues that any proposal that promotes a stand-alone disability worker registration and accreditation system for Victoria that extends beyond the full rollout of the NDIS in Victoria on 1 July 2019 is a dumb proposal.

84. It must be described as a proposal that smacks of blinkered, self-indulgent egocentricity.

85. While this submission acknowledges that the government of Victoria does have an obligation and responsibility to people with a disability in this state, nonetheless, the writers express

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their serious concern that the push to establish a stand-alone worker registration and accreditation scheme that in effect represents a quality and safeguarding framework goes beyond the intent of the NDIS to operate as a national system and indeed undermines it.

86. Thus, while as noted further above, establishing an interim system in Victoria for worker registration and educational and training program accreditation may well have merit, its establishment and application must not be allowed to operate on the basis of a never-ending time-line. It must be interim only in order to then ensure best fit with what comes out of the NDIS Commission.
87. As also noted further above the practicalities of introducing an interim system cannot be ignored, including the timing of the introduction. Again, as noted further above, DHHS has not been efficient in introducing revised or new procedures. To be brutally frank the level of efficiency has been appalling.
88. Thus, the implications for establishing an interim worker registration and accreditation system in Victoria in the form of the complexity identified in the Consultation paper must answer the question – How soon can it be done acknowledging that it is only some 20 months before the full roll out of the NDIS occur in Victoria?

Concluding comment

89. If it is that the Minister for Disability in Victoria is so hell bent on demonstrating his commitment to people with disabilities in Victoria and in part seeks to do so by proposing to establish and implement an accreditation and registration system, the writers do not object to this albeit with three provisos:
- (i) That the system is contained to accreditation and registration only.
 - (ii) That the system is interim, to cease as of 1 July 2019.
 - (iii) That by virtue of (ii) above, Victoria will become subject to the NDIS Quality and Safeguarding Framework and the NDIS Commission.
90. As outlined in this submission, the writers are highly critical of Victoria's self-centredness and the obvious intention to "go it alone" and by association ignore its obligation to participate in the national quality and safeguarding system.
91. Further to this of course is the obvious manipulation of terminology. On the one hand, the Consultation paper makes clear reference to establishing "an independent, legislated registration and accreditation scheme for Victoria's disability workforce". Yet, much of the commentary contained in the Consultation paper, and particularly the details outlined on page 9, go well beyond the two actions of accreditation of education and training programs and the registration of disability workers.
92. This constitutes a primary reason why the proposals outlined in the Consultation paper are at complete odds with the implementation of a national system. What is proposed in the Consultation paper is untenable, backward looking and undermining of a national system.
93. This nonsense must be brought to a halt, and those responsible for writing the Consultation paper and going beyond registration and accreditation must request their senior managers to advise the Minister that the proposal as detailed in the Consultation paper is a folly.
94. In addition to the folly of the Consultation paper going beyond the concepts of accreditation and registration, an equally major folly is the apparent development of the paper in isolation from the entities and processes that have been established to progress the finalisation of the "rules" relating to the NDIS. Therefore, the writers of this submission conclude by suggesting that if the Consultation paper has not been put to the COAG Disability Reform Council, and further if it has not been put to the Department of Social Security, then must be.

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95. The basis of this contention is that Victoria is a signatory to the NDIS, and also that Victoria via the Minister participates in the COAG Disability Reform Council. Noting that the Council is the principal body through which the critical developmental work associated with the NDIS is considered, then what Victoria is seeking to do as a stand-alone process should go before the Council.
96. Further, given that the Council's work is progressed by the Commonwealth Department of Social Security, the writers ask, has the Consultation paper been put to the Department for its consideration. And, if not why not?
97. The reflections identified in 94, 95 and 96 above expose Victoria's "*go it alone*" attitude and preparedness to ignore the fact that Victoria is a signed-up member of the NDIS.
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End of Submission