Government of
South Australia

# Safeguarding Task Force

# Interim Report

15 June 2020

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# Contents

# 1 Background

The Minister for Human Services established the Safeguarding Task Force on 21 May 2020 with responsibility to examine and report quickly on gaps and areas that need strengthening in safeguarding arrangements for people with disabilities living in the State.

> *It is clear we have some gaps in our system for our most vulnerable people with disabilities. The case of Ann Marie Smith has just shocked everyone. There have been many failings and we want to correct them.*
>
> *Minister Michelle Lensink 2020*

The suffering and death of Ann Marie Smith has galvanised the community. The sheer horror of what is alleged to have occurred in the last 12 months of her life and the manner of her death is what nightmares are made of.

For people with disabilities, particularly those who are more vulnerable because of physical limitations or communication difficulties, there is an overwhelming fear that what happened to Ann Marie could happen to them.

For parents of children with disabilities, it sets fire to a pervading anxiety about “will my beloved son or daughter be looked after properly when I am gone or can’t care for them anymore?”

For service providers, there is sharply heightened dread that their policies, procedures and training of staff might let them down – for a fate like Ann Marie’s to occur for any person with a disability supported by their organisation would be catastrophic.

For Government agencies consideration must be given to what policy settings and systemic failures allowed Ann Marie to suffer the fate she did.

This is not an exercise in apportioning blame – other investigations will uncover what specifically happened to Ann Marie. There is a police investigation, coroner’s examination and an independent inquiry by Hon. Alan Robertson (a former Federal Court judge) on behalf of the NDIS Quality and Safeguards Commission. The purpose of this Task Force is to quickly identify gaps in services and systemic failures that let this tragic event occur. If those gaps and failures are not rectified, similar tragedies could occur again.

Members of the Task Force want to emphasise that the ways in which a person with a disability connects to others and is able to direct and control what happens in their own life will proactively avoid abuse and neglect.

*By creating a good life you are preventing abuse.*

*Prof Sally Robinson*

The final report of the Safeguarding Task Force (due on 31 July 2020) will deal at length with *developmental* measures – how people with disabilities are empowered through education, experience and opportunity so that they can have a good life – and how government policy can foster that development.

This interim report concentrates on *preventative* measures, whereby government and agencies have policies, staff training and safeguards in place to minimise the risk of abuse or neglect while, at the same time, not derogating from the freedom and agency of the participant.

This interim report also deals with *corrective* matters – how the system responds when things go wrong. How are policies, procedures and training modified to mitigate the risk of reoccurrence of adverse events?

The final report will have more to say on all these matters as the Task Force considers evidence and options and listens to the views expressed by many individuals and groups who wish to have input.

# 2 Methodology

The membership of the Safeguarding Task Force is listed in Attachment 1. The membership comprises people with a lived experience of disability, family members, service providers and State Government officials. This allows multiple perspectives to be tapped. The Terms of Reference for the Task Force are given in Attachment 2. The Task Force has met on two occasions (27 May and 10 June 2020) prior to submitting this Interim Report on 15 June 2020 and some Task Force members have made written submissions (which will be included in the final Task Force report).

Importantly, the co-chairs are meeting with a wide variety of people who want to talk to them between meetings, a list that will continue to grow over the period leading up to lodging the Final Report of the Task Force on 31 July 2020. The Final Report will make recommendations to address the gaps in safeguarding identified in this Interim Report, taking into account what people have told us. We are not having public hearings or seeking formal submissions – that is a task left to others, especially the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission) which has signalled its intent to take up this matter at a later time. A version of the final report will be available in easy English.

This Interim Report looks at systemic issues that create gaps in safeguarding arising from the operation of the National Disability Insurance Agency (NDIA), the NDIS Quality and Safeguards Commission (the Commission) and State Government agencies.

# 3 The National Disability Insurance Agency (NDIA)

While there have been many issues identified in the performance of the National Disability Insurance Agency (NDIA), ranging from timeliness and responsiveness of the agency through to their way of doing business, we are concentrating on matters that bear directly on safeguarding.

It is quite clear that the NDIS is a welcome innovation in Australia – a universal, national, insurance-based view of disability that enshrines respect for the individual participant and their ability to exercise choice over such matters as “who provides services” and to exercise control over precisely how those services are delivered. These are intrinsic rights founded on the United Nations Convention on the Rights of Persons with Disability, of which Australia is a signatory, and people with disabilities rightly demand that it is not lost. A drive to “safeguarding at all costs” could lead to loss of autonomy, denial of the ordinary risk-taking that all citizens enjoy and even a return to institutionalisation (even if that is virtual through such things as electronic monitoring).

> *We need to be careful that people don’t lose trust in the NDIS and the good things that it has done and also that we don’t portray every person with a disability as needy and vulnerable.*
>
> *Jacky Chant*

For the majority of NDIS participants the current model of service delivery works well, at least it will work well when all the administrative and organisational glitches of the NDIA are worked out. For a smaller group of participants the NDIA approach is inherently risky because a lack of support around their learning, physical, and communication needs can make them more vulnerable to neglect and abuse, including coercion. The National Disability Abuse and Neglect Hotline already exists but is not well known. This is a service that will take a report of abuse or neglect and triage to the relevant services.

The NDIA does not have a clear, transparent concept of “vulnerability”. The NDIA has avoided case management, due to concerns it leads to disempowerment and condescension. Instead, it has created numerous players with different roles that make perfect sense to the framers in the NDIA but make precious little sense to many participants or their families. So, the NDIA has the following cast of players:

- The Local Area Coordinator (who works with the participant to get their plan together and assists in navigating access to the wider community). The role of supporting people to access the wider community and mainstream services has been impacted by the rate of the roll out of the NDIS, placing a focus on getting people onto the scheme rather than connecting them with their community
- The NDIA Planner who signs off on the participant’s plan and may not have sufficient information about the participant to make an assessment of risks and vulnerabilities

- The Plan Manager who pays the participant's bills from service providers, if the participant so-chooses who may not have met the participant or be involved in aspects of their life
- The Support Coordinator who will only be included in the plan if the participant meets strict complexity guidelines, and is only funded temporarily while the participant needs help to engage service providers. There is frequently no opportunity for a long term relationship to develop a rapport as funding may not continue year to year. Support is time limited and considered capacity building and inappropriate for ongoing lifelong support. Less than 40% of NDIS plans include funding for support coordination and this is flagged by the NDIS as expecting to drop as time goes on.

As well as this cast of players there is an array of functions from local area coordination, support connection, support coordination, specialist support coordination, plan management and planning. If that sounds confusing and unnecessarily complex it is because it is. Many a participant or their nominee (usually a family member) is totally overwhelmed by this abundance of players and functions and they end up doing all the advocacy, lobbying, chasing up and coordination themselves (i.e. case management hasn't been done away with – it has lobbed back with the participant and/or their families to their detriment).

Vulnerable individuals are those with complex support needs (including communication difficulties), cognitive challenges, poverty, domestic violence or poor connection to family/friends/services. For individuals with any number of these vulnerabilities, putting together their services can be overwhelming and they do not know who to go to for help. Task Force members were at pains to emphasise that just because you have a disability that does not mean that you are therefore vulnerable. Some people may also be vulnerable due to not being aware of what they need and what support is available to them.

Having a process to identify vulnerable participants is key and having a single locus of responsibility *vis-a-vis* the participant is essential for good practice. It is critical that the participants or their families know where to go to for help, with a single point of contact who is responsible for looking out for the vulnerable clients and ensuring their supports. The best entity in the NDIS system to perform such functions is "support coordination", but it needs to be ongoing and it needs to be timely and responsive to need.

> *There are people who require case management FULL STOP! and there is no place for that in the scheme.*
>
> *Sam Paior*

Support Coordination also needs to be automatically inserted into the plan of any vulnerable participant. The participant must be supported by the LAC or NDIA to find and engage that service as a starting point. In addition, the support coordinator needs to ensure that all aspects of the participant's plan are implemented. The support coordinator provides an essential second pair of eyes to ensure bad things are not happening in a participant's life.

> *Case Management is so missing and most of those people are not aware that they can get support coordination in their package.*
>
> *Karen Rogers*

Any support coordinator that is employed by an agency that provides other services for that participant is not an independent pair of eyes therefore the concept of vulnerability needs to be assessed on a case by case basis. This assessment must occur in person so that nuances can be identified. There is too much conflict of interest. This was identified in the 2019 review of the *National Disability Insurance Scheme Act 2013* – Removing Red Tape and Implementing the NDIS Participant Service Guarantee, David Tune OA PSM.

"*The NDIS Rules are amended to:*

*a) set out the factors the NDIA will consider in funding support coordination in an NDIS participant's plan*

*b) outline circumstances in which it is not appropriate for the provider of support coordination to be the provider of any other funded supports in a participant's plan, to protect providers from a conflict of interest."*

*Tune Recommendation 16*

> *Coordination and Core Supports must be separated, they must almost never be provided by the same provider. I am not saying that they should not do support coordination but they should not do it for the same client with few exceptions.*
>
> *Sam Paior*

Looking at the NDIS from the perspective of the participant, they not only look for administrative efficiency (i.e. returned phone calls, answered emails) but also who to go to for help. There is too much navigation through a complex web expected of the individual participant. To get this right is not disempowering the participant – quite the reverse – it gives them the information and contact to exercise choice and control and take possession of their own lives.

The NDIA is the agency with oversight of funding and system design. It is the agency that partners with Local Area Coordination (LAC), which helps participants to better connect with their community. The NDIA has redirected LAC to expedite the transition of people into the scheme to meet their key performance indicators. It also funds support coordination which connects an individual to the services they need. The NDIA needs to define the alerts for when a vulnerable participant is in difficulty. Comments have been made about the perceived lack of understanding of disability within LAC and further disability awareness training delivered by people with disability is required.

The NDIS, built on choice and control and insurance principles, has not seen itself as the case manager ultimately responsible for safeguarding vulnerable participants. This has to change and COVID 19 has started this process. The NDIA has identified 5,500 NDIS participants in SA who are vulnerable and these people have effectively had welfare checks conducted by the NDIA during the pandemic.

***Safeguarding Gap 1***

***Vulnerable participants are not routinely identified and assigned ongoing support coordination in their NDIS plan.***

***Safeguarding Gap 2***

***The support coordinator can be from the same agency that provides other core services for the individual, creating a conflict of interest.***

**Safeguarding Gap 3**

***Participants need to be able to link to community so that they can participate in community activity. This has been the designated role of Local Area Coordination.***

***Safeguarding Gap 4***

***Participants who are identified as vulnerable by the NDIA need to be prioritised when carrying out the community connection role.***

***Safeguarding Gap 5***

***NDIS plans need to be inclusive of strategies to minimise participant risk e.g. coordination of health care (including dental, sexual and mental health), technology to aid independence and safety. Plans need to be developed with participants being involved (with support if needed) and plans need to be fully implemented.***

# 4 NDIS Quality and Safeguards Commission

The NDIS Quality and Safeguards Commission is responsible for registering service providers, handling complaints, recording adverse incidents and monitoring the use of restrictive practices.

For a provider to be registered with the NDIA they have to go through a lengthy and somewhat costly process. This may not be viable for some smaller businesses or sole operators. It does not mean however that these unregistered providers do not have all the necessary skills to provide a quality service.

Unregistered providers do not have to adhere to the quality and safeguards requirements of the Commission, including worker screening and audits. It is up to the participant to determine whether an unregistered provider offers a safe and quality service. Only self-managed and plan managed participants are able to use unregistered providers.

The Commission needs to be a responsive and welcoming place for anyone to go to if they have concerns about the circumstances of an NDIS participant. Just as a participant, their nominee or their guardian needs a clear place to go to, so too do members of the public, relatives or any interested person. The Commission needs to have a mechanism to welcome and respond to notifications of adverse events that affect the welfare of participants.

> *The Commission only want to hear about providers not family members.*
>
> *Sam Paior*

> *What does get reported to the NDIS Commission is outrageous instances of neglect and abuse, what does not get reported is people sitting around all day in day options with nothing to do.*
>
> *Richard Bruggemann*

Participants can self-manage (i.e. take the funding in their NDIS plan and organise their services themselves or through a nominee) or plan-manage (i.e. use a registered Plan Management agency to pay bills etc.). Then the risk when adverse events occur is treated as residing with the participant. Reports of matters of concern by members of the general public are treated as complaints and the Commission looks to the participant or their nominee to make the complaint. If the participant is a vulnerable person then they are not likely to formalise a complaint and therefore the matter goes unreported. When a neighbour or family member is concerned about the welfare of a person with a disability they need to know where that can be reported without having to immerse themselves in bureaucracy. There also needs to be a clear process around what actions will be taken once a complaint is lodged, and how people can follow up their complaint.

The Commission needs a clear, accessible process for anyone to register a matter of concern. The general public would look to a Commonwealth agency called “Quality and Safeguards Commission” as the natural place to approach with a concern about the health or welfare of a participant in the scheme. However the general population is unlikely to know of the existence of the Commission or how to approach it. The title “Quality and Safeguards Commission” is not easily associated with where the general population would report abuse or neglect. For people with a cognitive impairment, understanding who and where to report is problematic. The Commission needs to reach out to these vulnerable participants and not assume that the participant will know how to find the Commission when needed.

### *Safeguarding Gap 6*

***The NDIS Quality and Safeguards Commission is unclear about the handling of reports of matters of concern. There is a gap in undertaking proactive visits to vet the performance of service providers.***

### *Safeguarding Gap 7*

***The NDIS Quality and Safeguards Commission needs to consider the risk factors associated with the use of unregistered providers of personal support, particularly for vulnerable participants.***

***Safeguarding Gap 8***

***The Commission should explicitly require of all providers of personal support that there be at least two support workers for that individual (not necessarily at the same time) and that workers in the participant's home have regular supervision.***

# 5 State Government

The State Government has transferred responsibility for the funding and regulation of disability services to the Commonwealth and the NDIS. It is, however, responsible for those specific tasks left to it under the NDIS agreement such as the screening of workers, the authorisation of restrictive practices and Community Visitor Scheme arrangements. Full transition has now occurred, although the State is still a limited service provider under the NDIS, especially in group home accommodation. Since 1 July 2018 quality and safeguarding has been the responsibility of the NDIS Quality and Safeguards Commission with the exception of the Department of Human Services (DHS) accommodation services which are in-kind and are not covered by the NDIS Quality and Safeguarding Commission. However, DHS accommodation services have a number of state-based safeguarding mechanisms including the DHS Incident Management Unit, the DHS Integrated Incident Management reporting system and DHS Internal Audit.

## 5.1 Health Checks

Having timely access to health care is crucial to preventing, treating and managing health conditions. Vulnerable individuals need to have an annual health review. Currently all people who have an intellectual disability are eligible for a prolonged health assessment under the Commonwealth Department of Health, Medicare Benefits Schedule (MBS)-Item 707. Undertaking an annual health review with a general practitioner who is trusted and known to the person will lead to the best possible outcomes. Using the MBS prolonged health assessment will provide sufficient time (60 minutes) to collect a comprehensive patient history and undertake a thorough examination of the person's medical condition, physical, psychological and social function. Providing a comprehensive health care management plan including necessary interventions and referrals (e.g. visiting nursing services) will lead to positive outcomes. The annual health check will also include regular checks for people depending on their vulnerability and health needs.

Accessing health care is the responsibility of the individual but where a vulnerable person does not wish to take up the offer of a check that should be a further alert to vulnerability and followed up with the individual by the support coordinator.

Many people with a disability do not get supported to go to medical appointments in the first place, and, if they do, they are treated for their behaviour, not the underlying cause.

Where a person is vulnerable because of health issues, their NDIS plan should include coordination (not provision) of their health care. There is a need for our health system, both medical services, funded by the Commonwealth and hospital services, provided by state governments, to improve their access for people with disabilities. This has recently been the focus of work undertaken by the Department of Health and Wellbeing and the Health Performance Council.

At present, the lack of coordinated health supports means that some health interventions for people with disabilities occur as crises undertaken by the South Australian Ambulance Service. Its CEO, David Place, is reported to have said (Advertiser 3rd June 2020) that “one-third of calls involved chronic complex cases responsible for two-thirds of ramping time.” This is not only a highly inefficient way to provide health care; it is demeaning and life-threatening for the individual. A highly qualified retired health professional, reports that, in the absence of coordinated health care, her niece has to regularly attend hospital by ambulance to receive even basic health services.

***Safeguarding Gap 9***

***Regular health checks need to be available to all vulnerable NDIS participants. Where an NDIS participant is vulnerable, their NDIS plan should include coordination of their health care.***

## 5.2 Adult Safeguarding

The Adult Safeguarding Unit, located in the Office for Ageing Well (OFAW), has a strong focus on safeguarding the rights of adults at risk of abuse. This is established under the *Ageing and Adult Safeguarding Act 1995* and, for the first three years of operation, has a remit of adults aged 65 years and over, and 50 years and over for Torres Strait Islander people.

The key functions include:

- responding to reports of suspected or actual abuse of adults who may be vulnerable
- providing support to safeguard the rights of adults experiencing abuse, tailored to their needs, wishes and circumstances
- raising community awareness of strategies to safeguard the rights of adults who may be at risk of abuse.

Reporting to the Adult Safeguarding Unit is voluntary, however, once a report of actual or suspected abuse is received, the Unit has a statutory responsibility to respond. The Unit has a range of information gathering powers to enable them to investigate reports of serious abuse effectively, however, in most cases the consent of the person is sought before any safeguarding action is taken. The role of the Unit is not as a regulatory agency nor to punish perpetrators, but to work positively with and for the adult at risk of abuse to facilitate safeguarding support whilst preserving the relationships that are important to them. The remit of the Adult Safeguarding Unit is slated to extend to all vulnerable adults in 2022 but, in view of current concerns, this needs to be brought forward.

***Safeguarding Gap 10***

***The State Government needs to extend the scope of the Adult Safeguarding Unit to include all vulnerable adults earlier than 2022, as planned.***

## 5.3 Screening

Like so many safeguarding measures there is no silver bullet – no single measure that will completely solve the problem. There needs to be multiple approaches to ensure all matters are covered. All registered providers of disability services under the NDIS are required to ensure all staff working with people with disabilities are appropriately screened. Failure to abide by this renders a service provider in breach of their registration requirements. However, where a participant chooses to self-manage or plan-manage, they can use non-registered providers and there is no obligation for these providers to have screening checks on their workers. This is clearly a situation where the NDIS considers the individual is making their choices and taking responsibility if things go wrong.

> *We don’t want to throw choice and control and dignity out in the name of safeguarding.*
>
> *Sam Paior*

Under agreement with the Commonwealth, the State is responsible for screening of people working with vulnerable people – the screening uses information available from police records, court appearances and personnel records of agencies, but so long as a person can pass these requirement they are cleared to work in the industry, but that does not *guarantee* that they are safe to be allowed to work with vulnerable people. It merely screens out people whose track record makes them un-safe for working with vulnerable people. The screening system is only as good as the information supplied and acted on. There is a particular problem when it comes to a Commonwealth agency e.g. the NDIS Quality and Safeguards Commission, sharing information with the State so that the screening unit can be appraised of all relevant information when making a screening determination.

***Safeguarding Gap 11***

**DHS needs to revisit agreements with the Commission and the NDIA to ensure that relevant information on an individual worker that might affect their suitability to work with people with disabilities is shared with the screening unit in DHS quickly and fully.**

## 5.4 Community Visitor Scheme

There has been much debate recently about the value of the Community Visitor Scheme (CVS). As constructed under Regulations under the *Disability Services Act 1993*, the disability CVS has never had statutory power to enter the private home of a person with a disability.

Under current arrangements, the South Australian CVS has the power to visit DHS Accommodation Services. It also has the ability to visit people who are NDIS participants and under the guardianship of the Public Advocate.

The *National Disability Insurance Scheme Act 2013* gave compliance and enforcement powers for disability services to the NDIS Quality and Safeguards Commission, including strong monitoring and investigative functions. The Quality and Safeguards Commission can, and does when alerted to a relevant notification, make unannounced and short-notice visits to disability services to inspect and assess quality and safety issues and respond to complaints or information of concern. In addition, NDIS providers may contract an independent auditor (registered with the Commission for that purpose) to conduct an independent visit and audit of their premises.

The State no longer has a funding relationship with non-government agencies and the State needs to work within its responsibilities rather than in the domain of the Commonwealth. The future role of the CVS has to accommodate the roles and functions of the NDIA and of the Commission under the Commonwealth's NDIS Act 2013.

Following the commencement of the NDIS Quality and Safeguards Commission on 1 July 2018, there are issues with State legislation creating a Community Visitors Scheme with powers to enter properties operated by registered NDIS providers. The Community Visitors Scheme does not currently have the power to visit anyone who is receiving NDIS services from a non-government provider, including on their request.

> *Once you have the power to go into people's homes you don't know where that could go*
>
> *Trevor Harrison*

There is general acceptance that the Community Visitor Scheme has great merit in that it provides more eyes to observe what is happening in a vulnerable person's life. The disability CVS has been in existence since 2013 and uses screened and trained volunteers to undertake the visits.

The State Opposition's bill for the Community Visitor Scheme has been referred to the Task Force for consideration. A revised scheme needs to be well designed and would need to consider legal responsibilities between the State and Commonwealth as well as the scope and capacity of the scheme. Advice received indicates that significant parts of the private members bill would likely be inoperable and therefore the Task Force will work on the best approach to expand the CVS for the final report.

This is a complex matter that should not be rushed. The issue of the role and scope of the CVS is still being investigated by the Task Force and will be the subject of more detailed analysis and recommendations in the final report.

***Safeguarding Gap 12***

***The commencement of the NDIS Quality and Safeguards Commissions on 1 July 2018 in South Australia has created issues with the scope of the Community Visitor Scheme.***

# 6 Conclusion

We acknowledge that this is the interim report and the Task Force is yet to meet with a number of people to explore a range of important issues for example developmental safeguards, the unique needs and experience of Aboriginal people with disability, children and young people, and people from culturally and linguistically diverse groups. We aim to address these further in the final report.

The best safeguard for any vulnerable individual is to have many people in their lives, preferably people who love and look out for them, who make sure the person is not left to their own devices when things go wrong. At least one of the extra pair of eyes seeing what is going on should come from proper supervision of support workers by the service provider agency, and ensuring that more than one support worker is involved, even if the participant only wants a single person whom they trust and respect.

> *We need to look for triggers. We have a person with severe physical disabilities, why were there not more questions asked about them? Where were they, what are they doing and why did they never get in a taxi?*
>
> *Trevor Harrison*

There are three significant flaws in the current system of safeguarding and the following fixes:

First, The NDIA needs to ensure that that they are aware of participants who are vulnerable and that, for them, there is ongoing independent support coordination in their plans and that plans cover health and equipment needs and are fully implemented.

Second, the Commission needs to accept complaints/concerns/warnings from the general public or other agencies in whatever form they come as alerts requiring investigation and must require regular supervision of in-home workers as a condition of registration. The person with disability may prefer to rely on some electronic forms of monitoring rather than other people coming into the home regularly.

Third, the State needs to ensure that regular medical checks are available for vulnerable people, that the Adult Safeguarding Unit is available for all vulnerable adults and that a visiting scheme is in place to be additional eyes and ears to safeguard participants.

The State has transferred responsibility for the funding and regulation of disability services to the Commonwealth and the NDIS. It is, however, responsible for those specific tasks that are left to it under the NDIS agreement viz. screening of workers, the authorisation of restrictive practices and community visitor arrangements.

The NDIS has an admirable philosophy that the individual with a disability is to be empowered with:

(a) choice of lifestyle and service providers, and

(b) control over the way that funding in their plan is used.

In a nutshell, the NDIS is an insurance based arrangement whereby the NDIS is responsible for funding and broad system parameters but does not take responsibility when things go wrong for the individual. The risk and the responsibility is deemed to lie with the individual participant. To its credit the NDIA is gradually bringing in more and more measures to aid safeguarding and risk mitigation.

Vulnerability is increased:

(a) by social isolation from family, friends and neighbours,

(b) by lack of proper care from a service provider,

(c) by the NDIA not having external systems of checks through support coordination or local area coordination,

(d) by the Quality and Safeguards Commission not having an adequate system in place to vet the quality of the services, and

(e) by the State government not ensuring access to regular health checks, access to the Adult Safeguarding Unit or access to any arrangement for Community Visitors to check up on a participant’s welfare.

# 7 Safeguarding Gaps

## 7.1 *Safeguarding Gap 1*

***Vulnerable participants are not routinely identified and assigned ongoing support coordination in their NDIS Plan.***

## 7.2 Safeguarding Gap 2

***The support coordinator can be from the same agency that provides other core services for the individual, creating a conflict of interest.***

## 7.3 Safeguarding Gap 3

***Participants need to be able to link to community so that they can participate in community activity. This has been the designated role of Local Area Coordination.***

## 7.4 Safeguarding Gap 4

***Participants who are identified as vulnerable by the NDIA need to be prioritised when carrying out the community connection role.***

## 7.5 Safeguarding Gap 5

***NDIS plans need to be inclusive of strategies to minimise participant risk e.g. coordination of health care (including dental, sexual and mental health), technology to aid independence and safety. Plans need to be developed with participants being involved (with support if needed) and plans need to be fully implemented.***

## 7.6 Safeguarding Gap 6

***The NDIS Quality and Safeguards Commission is unclear about the handling of reports of matters of concern. There is a gap in undertaking proactive visits to vet the performance of service providers.***

## 7.7 Safeguarding Gap 7

***The NDIS Quality and Safeguards Commission needs to consider the risk factors associated with the use of unregistered providers of personal support, particularly for vulnerable participants.***

## 7.8 Safeguarding Gap 8

***The Commission should explicitly require of all providers of personal support that there be at least two support workers for that individual (not necessarily at the same time) and that workers in the participant's home have regular supervision.***

## 7.9 Safeguarding Gap 9

***Regular health checks need to be available to all vulnerable NDIS participants. Where an NDIS participant is vulnerable, their NDIS plan should include coordination of their health care.***

## 7.10 Safeguarding Gap 10

***The State Government needs to extend the scope of the Adult Safeguarding Unit to include all vulnerable adults earlier than 2022 as planned.***

## 7.11 Safeguarding Gap 11

***DHS needs to revisit agreements with the Commission and the NDIA to ensure that relevant information on an individual worker that might affect their suitability to work with people with disabilities is shared with the screening unit in DHS quickly and fully.***

## 7.12 Safeguarding Gap 12

***The commencement of the NDIS Quality and Safeguards Commissions on 1 July 2018 in South Australia has created issues with the scope of the Community Visitor Scheme.***

# 8 Recommendations

## 8.1 Recommendation 1

***That the State Government communicate the matters raised in this report to the Commonwealth Government with special reference to Safeguarding Gaps 1 to 9, seeking a response on how these gaps can be addressed as soon as possible.***

## 8.2 Recommendation 2

***That the State Government address the need for vulnerable NDIS participants to have regular health checks (Safeguarding Gap 9).***

## 8.3 Recommendation 3

***That the State Government take measures to expand the role of the Adult Safeguarding Unit so that its scope includes vulnerable adults of any age (Safeguarding Gap 10).***

## 8.4 Recommendation 4

***That DHS revisits the information sharing guidelines as they impact on screening of workers and, in particular, the availability of relevant information from the Commonwealth (Safeguarding Gap 11).***

## 8.5 Recommendation 5

***That the State Government reaffirms the value of a Community Visitor Scheme as an additional safeguard for vulnerable participants, acting in conjunction with relevant Commonwealth legislation (Safeguarding Gap 12).***

**Kelly Vincent**
**Disability Rights Advocate**

**David Caudrey**
**Disability Advocate**

**Co-chairs of the Safeguarding Task Force**

# 9 Attachments

## 9.1 Attachment 1 – Safeguarding Task Force Members

| NAME | POSITION/TITLE |
|---|---|
| David Caudrey | Disability Advocate<br>Co-chair |
| Kelly Vincent | Disability Rights Advocate<br>Co-chair |
| Trevor Harrison | Disability Advocate |
| Jacky Chant | Disability Advocate |
| Sam Paior | Founder and Director<br>The Growing Space |
| Karen Rogers | Project Lead<br>Our Voice |
| Marj Ellis | Chief Executive Officer Lighthouse Disability |
| Richard Bruggemann | Authorising Officer<br>Attorney General's Department |
| Anne Gale | Public Advocate<br>Office of the Public Advocate |
| Adam Kilvert | Executive Director Attorney General's Department |
| Cassie Mason | Director, Office for Ageing Well, SA Health |
| Lois Boswell | Act/ Chief Executive Department of Human Services |

## 9.2 Attachment 2 – Terms of Reference

# Safeguarding Task Force Terms of Reference

### Purpose

The Safeguarding Task Force, is a Task Force to examine the current gaps in oversight and safeguarding for people living with disability in South Australia.

The Task Force is co-chaired by Disability Advocate Dr David Caudrey and Disability Rights Advocate Kelly Vincent. Membership will include people with lived experience of disability, family members, a service provider as well as relevant government agencies, including the acting Principal Community Visitor Anne Gale.

The Task Force will consider gaps in safeguarding arrangement for people with disabilities in South Australia arising from the policies and practices of:

- the National Disability Insurance Agency
- the NDIS Quality and Safeguards Commission
- State Government instrumentalities.

The Task Force seeks to consider the gaps from a developmental, preventative and corrective perspective.

The Task Force will provide written reports including recommendations to the State Government regarding areas that need to be addressed urgently in order to safeguard South Australian citizens with disability.

### Methodology

- Brief Task Force members prior to the first scheduled meeting.
- Seek information and advice from Task Force members, their networks and from other people who contribute to the Task Force deliberations
- Collate all information received and identify themes for rectifying policy and procedures for safeguarding
- Prepare and submit an interim report with urgent recommendations by 15 June 2020
- Prepare and submit a final report with full recommendations by 31 July 2020.

### Membership

The Safeguarding Task Force is comprised of:

- David Caudrey, Disability Advocate (Co-chair)
- Kelly Vincent, Disability Rights Advocate (Co-chair)
- Sam Paior, Founder and Director, The Growing Space
- Trevor Harrison, Disability Advocate
- Jacky Chant, Disability Advocate
- Karen Rogers, Project Lead, Our Voice
- Marj Ellis, Chief Executive Officer, Lighthouse Disability
- Richard Bruggemann, Authorising Officer, Attorney-General's Department
- Anne Gale, Public Advocate and Acting Principal Community Visitor
- Adam Kilvert, Executive Director, Attorney-General's Department
- Cassie Mason, Director, Office for Ageing Well, SA Health
- Lois Boswell, Acting Chief Executive Department of Human Services.

## Meeting Frequency

The meetings will be held via Microsoft Teams on:

- Wednesday 27 May 2020 at 4:30 pm
- Wednesday 10 June 2020 at 4:30pm
- Wednesday 15 July 2020 at 4:30pm.

## Agenda and Papers

The Safeguarding Task Force agenda, with attached meeting papers, will be distributed at least 5 days prior to each scheduled meeting.

## Minutes and Actions

The minutes of each Safeguarding Task Force meeting will be prepared by the Secretariat which will comprise Diane Holty and Sandra Wallis from the Office of the Public Advocate.

Minutes will be circulated in draft to each member of the Task Force prior to the next meeting and approved at that meeting subject to any modifications deemed necessary.

## Reporting

The Co-chairs are required to provide a preliminary report to Cabinet by 15 June 2020 and a final report to Cabinet by 31 July 2020. A draft of the preliminary report will be prepared for the Task Force meeting on 10 June 2020 and a draft of the final report on 15 July 2020.

## Approval

**David Caudrey**
Disability Advocate

**Kelly Vincent**
Disability Rights Advocat