Expanding Ideas; Creating Change

Proposed National Disability Insurance Scheme Quality and Safeguarding Framework

Submission by
Community Resource Unit
Level 2, 43 Peel Street
South Brisbane Q 4101
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"The greatest safeguard that a person with disability can have is a committed group of capable family and friends"

Introduction

The Community Resource Unit (CRU) welcomes the opportunity to respond to the proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework. CRU is a Queensland wide incorporated association. Its origins lie in a 1987 initiative of Queensland families, professionals and people with disabilities who recognised that legislative change was insufficient to support authentic change for people with disabilities and their families. CRU was developed to support grassroots change in Queensland. CRU's members include people with disabilities, families, workers from the disability field and community members.

CRU exists to support the development of leadership and authentic change which enhance the possibilities for people with disabilities to belong to and participate in community life. It aims to challenge ideas and practices which limit the lives of people with disabilities, and inspire and encourage individuals and organisations to pursue better lives for people with disabilities. CRU has statewide responsibilities and works with a national and international network. CRU's strategies include providing information and inspiration through books and publications, including *CRUcial Times*, hosting a variety of topical workshops and conversations, and engaging in intentional leadership development.

CRU is well-placed to comment on the proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework. CRU has over 25 years experience working alongside people with disability, families and services throughout Queensland. In 2014, CRU was chosen as one of nine organisations in Queensland to implement the Queensland Government's Participant Readiness initiative and is currently traveling throughout the Greater Brisbane area, South West Queensland and Central Queensland, meeting with people with disability and families and conducting workshops to assist them to prepare for the NDIS.

Impact of the ongoing development of the NDIS on a Quality and Safeguarding Framework

CRU believes that the size and complexity of the NDIS demands long-term development. The commencement of trial sites in 2013, a year earlier than recommended by the Productivity Commission, has been compared to "a plane that took off before it had been built" (Review of the Capabilities of the National Disability Insurance Agency, January 2014). The staggered introduction in different states and territories (at the time of submitting this submission Queensland has no trial sites) has meant that some people are covered by the scheme and many are not. There have been differing responses by state and territory disability agencies as to their future involvement in the provision of disability services and support. Full implementation of the scheme is not scheduled until July 2019, over four years away.

While the staggered and transitional nature of the scheme's introduction allows for ongoing change and refinement, and will allow time for the implementation of a Quality and Safeguarding Framework, it also points to the need for caution against rushing too quickly to establish fixed strategies that will be difficult to change. CRU's response to the Consultation Paper has taken this reality into account and explains, in part at least, CRU's "light touch" approach to many proposals. CRU wants to see a Quality and Safeguarding Framework that allows for flexibility and change and which can easily adapt to the changing nature of the NDIS as it is implemented

and revised. CRU hopes that reflection and revision around the NDIS will be ongoing and continue well beyond 2019.

Submission Overview

CRU supports the three broad areas outlined in the proposed Quality and Safeguarding Framework (the Framework): developmental, preventative, and corrective. However, CRU believes that priority and focus should be given to the developmental domain. Preventative and corrective measures have value but it is people who keep vulnerable people safe. It is people personally committed to people with disability, such as family members, friends and committed allies, who look out for them, who support them to take reasonable risks, and who carry out much of the advocacy needed to remedy wrongs.

CRU's submission focuses on eight issues that CRU believes are important to maximising quality services and supports and safeguarding people with disability. Those issues are:

1. The importance of grounding the Framework in clear statements of values and principles, as embodied in the UN Convention on the Rights of People with Disability and the NDIS Act.
2. The importance of giving priority to developmental strategies in the Framework:
   - information
   - building natural safeguards
   - building capacity of families generally
   - building capacity of families and friends to advocate
   - whole of life planning external to NDIA and any formal service providers
   - strategies for people with disability with no family or close friends.
3. The need to strengthen and fund independent advocacy, including citizen advocacy with its power to safeguard those people without family and close friends.
4. The importance of safe and secure housing and of housing policies that support the goals of the NDIS.
5. The importance of including responses tailored to meet the needs of people from a culturally and linguistically diverse background.
6. The importance of supporting and sustaining small organisations, which are a safeguard in themselves, including through viability funding if required.
7. The importance of independent quality evaluations with people with disability and families included on evaluation teams.
8. The need for flexibility in the Framework so that it is not reduced to "one size fits all".

Having discussed those issues, CRU's submission then responds to the questions raised in the consultation paper.

Points on Terminology

Throughout the Consultation paper, references are made to "carers" when, it appears, the reference is to family. CRU prefers not to use the term 'carer', believing it to be demeaning of the rich and complex role of families and confusing when many people refer to paid support staff also as 'carers'. In this submission, we refer to 'families', mindful that for some people (for example, indigenous and Torres Strait communities) that term extends to people beyond

immediate family. When referring to those in paid direct support roles, we refer to 'support workers'.

Eight issues essential to a Quality and Safeguarding Framework

1. The Importance of grounding the Framework in clear statements of values and principles

The Framework must be based on clear statements of values and principles, as embodied in the Convention on the Rights of People with Disability (CRPD) and the NDIS Act. All Framework strategies must be crafted to support and facilitate the achievement of the central goal of the NDIS, namely, that people with disability live good, meaningful and inclusive lives, in their own homes and contributing to their communities. CRU believes that the foundation to enhancing quality of service and safeguarding people with disability is to support them to live lives included in their communities, where they are known, welcomed and expected to contribute.

When people are separated and isolated from others in the community, congregated in segregated residential settings and group homes, their vulnerability to abuse and neglect increases. (See, for example, the extensive writing and research by Dick Sobsey, Professor Emeritus in Educational Psychology, University of Alberta, Canada, including his book *"Violence and Abuse in the Lives of People with Disabilities: The End of Silent Acceptance"*, 1994).

The segregation and congregation of people with disability is not supported by the objects and principles of the NDIS Act. (See sections 3 and 4). On the contrary, those objects and principles emphasise the importance of people with disability being supported to achieve independence, social and economic participation, choice and control in pursuit of their goals and over the planning and delivery of their supports, and *"independent lifestyles and full inclusion in the mainstream community"*. [Section 3(1)(g)].

It is important that the discussion about the quality of service provision and the safeguarding of people with disability, and all strategies developed under the Framework, honour and support these objects and principles. This is particularly important when many traditional, segregated services remain across the country, running alongside the implementation of the NDIS. New special purpose nursing homes for young people with physical disabilities are still being built. So-called 'innovative housing' for adults with elderly parents, and a range of similar group home developments, continue to be built. While the Framework needs to be flexible enough to cover these service approaches while they remain, it is also important that they are not referred to in the discussion as if they were consistent with the goals of the NDIS.

The case study on page 47 of the Consultation Paper (*Case study: Amy*) offers a pertinent example. It outlines problems Amy had when a new "house leader" of the group home where Amy lives stopped Amy from having guests overnight. That issue would not have arisen if Amy lived in her own home and was able to make her own decisions about who came and went. The real issue for Amy is not what to do about a doctrinaire "house leader" but, rather, to question why Amy is living in a group home with a staff 'house leader' who can exercise control over something as basic and ordinary as having a friend stay overnight. People like Amy do not freely choose to live in group homes with others that are not of their choosing and with staff "house leaders". If the aspirations of the NDIS are realised, Amy will be living in her own home,

experiencing an independent lifestyle of social and economic participation and fully included in the mainstream community.

The discussion about quality and safeguarding in the NDIS needs to rise above assumptions that people freely choose segregated schools, group homes and larger residential settings, segregated employment and adult day services. The discussion needs to be grounded in the objects and principles of the NDIS.

2. The importance of the Framework giving priority to developmental strategies

CRU believes that the most important element of a National Disability Insurance Scheme Quality and Safeguarding Framework lies in the developmental domain. CRU commends those responsible for the Consultation Paper for including discussion about this domain. CRU supports the development of quality information options, strategies to build natural safeguards, and the building of capacity through local area coordinators. CRU has some misgivings as to whether the NDIA plan development process, as we understand it, will play any significant role in capacity building. That appears to expect too much of NDIA planners and place them in a significant conflict of interest, given that their actual functions are to assess eligibility for support under the NDIS and to determine the level of that support. CRU also accepts that the NDIA has a role in community development but we wonder whether the resources will be available to NDIA staff to carry out this function in depth.

Information

The discussion on the importance of good quality information in the Consultation Paper focuses on information about service providers and how NDIS participants might best choose from a range of options. It also talks of the need for participants to have information which assists them to know what to expect from service providers. The Consultation Paper raises the pros and cons of using the internet and social media to facilitate information exchange.

CRU accepts the importance of people knowing as much as possible about the different options available to them. As these options open up, and as people with disability seek to share their experiences, Facebook pages, information websites and blogs will spring up, regardless of the NDIA, just as they have already done around the broader experiences of the people in the NDIS trial sites.

Whatever the format, information for participants needs to extend beyond what others determine is the range of options on offer. CRU believes that quality information provision should be open and transparent and extend beyond ratings of providers. Information is not value free. The information that people with disability and families benefit from most is information about ideas. CRU has been providing such information for years, through its regular publication *CRUcial Times*, its nine publications by CRU Publications (conference papers and collections of articles), through its collection of resources from around Australia and overseas, and through the availability of its staff to suggest and discuss issues and ideas, sharing examples from across the State, nationally and internationally, linking people and families to each other.

When CRU conducts workshops, a selection of resources is available for workshop participants to peruse and borrow. CRU resources range from practical guides, academic texts, stories, evaluations and reports and progressive frameworks for considering disability within its societal

context. CRU has a particular interest in capturing local stories that offer inspiration, information and insights into what needs to change in our communities so that people with disabilities have better lives.

The question is: what is the role of the NDIA in information provision? Beyond providing simple, accessible information about all aspects of the NDIS and the functions of the NDIA, CRU believes that a role of the NDIA is to fund, under Tier 2 (Information, Linkages and Capacity Building), information services that allow people with disability and families and close friends access to ideas, stories and practical guides to assist them to clarify what individuals want from life and how the NDIS can contribute to that. Internet sites about ratings of services and providers should not be operated by the NDIA.

Recommendation: That the NDIA funds information services that allow people with disability and families and close friends access to ideas, stories and practical guides to assist them to clarify what individuals want from the NDIS.

Building natural safeguards through informal networks

CRU believes that it is people who keep people safe, people who are committed to particular individuals with disability such as family members, close friends and allies. Preventative and corrective measures have a role, but if there are no people in the lives of people with disability, other than those who are paid to be there, those measures will have limited effect.

Many people with disability need people in their lives to stand with them, to know their history, to look out for examples of poor service, to assist them to choose and supervise support workers, to assist them to make decisions and to manage their financial affairs, to assist them to change their support arrangements if desired, and to support them in their advocacy. Historical and current examples of abuse and neglect in the disability sector, in child care, in aged services and in our asylum seeker detention regime, highlight the limitations of preventative and corrective measures across all areas of society in all States and Territories.

CRU believes that strategies aimed at the building of natural safeguards around people with disability must be at the core of the Framework, robust strategies which encourage, support and embolden people in their safeguarding role. CRU suggests strategies such as assisting people to build intentional networks, like support circles, and assisting families and support workers to develop skills in community connecting.

A powerful strategy aimed at building natural safeguards is found in the idea of support circles. Support circles are groups of committed people – family, friends and allies – who come together regularly to support vulnerable people to ensure that they are safe and supported to have a good life. Support circles are set up intentionally, they meet regularly and their membership is easily identifiable. While family and friends are included, not every member of someone's family, nor all of their friends, is automatically part of their support circle. If established with thought and discernment, support circles include only those people that are asked, either by the person with disability or, if young children or adults who lack decision-making capacity, the family member who is initiating the circle establishment.

Support circles are organic and flexible. Members of support circles are present because they choose to make the personal commitment, not because they are paid. Indeed, paid support workers will rarely be part of an individual's support circle.

In Queensland, families have been developing circles of support around their family members for 25 years, with a recent growth in the implementation of this idea over the last 10 to 15 years. Some have been set up at the initiative of parents, others at the initiative of siblings or other family members, and yet others by close friends. Some people with disability have initiated their own support circles, realising their vulnerabilities, especially as they age. Many have been assisted by projects that offer specific assistance in the establishment of support circles. Some have done so by asking other families to share their experiences and help them to get started, while others have gone ahead without any assistance other than the idea and belief in the power of support circles to contribute to keeping their family member safe.

CRU is reluctant to suggest that the NDIA has a role in supporting people to establish support circles. This is not a strategy for services to implement and CRU would not want to see support circles become the latest disability service provider trend, seen as part of the suite of options a service provider may have to offer. This is a strategy that needs to remain grassroots and implemented outside the service system by people with disability and families, sometimes with the assistance of experienced project staff. Nevertheless, there could be a role for the NDIA in funding stand-alone projects that assist individuals and families to establish support circles where the purpose of the support circle is to safeguard a vulnerable person with disability.

While support circles are organic in nature and vary from family to family and individual to individual, there is nevertheless a degree of formality to them that some people find off-putting. Developing a support circle also takes time and focus. Less formal approaches to building informal networks have been used by many individuals and families, though all require a degree of intentionality. One strategy is for an individual or the family that supports them to organise regular gatherings which allow regular natural opportunities for the building and sustaining of relationships. Examples include children's playgroups; regular monthly BBQs; dinner rosters; home based book clubs; and encouraging and supporting regular, individual get-togethers.

The power of many of these arrangements lies in the predictability of people coming together and the opportunities that they offer for people such as extended family, former support workers and neighbours to keep in contact with the person with disability without their having to take sole responsibility for maintaining contact. Support workers who leave their paid role will know about these arrangements and can ask if the person with disability would like them to come to the regular BBQ, or be part of a dinner roster, in order to keep in touch. Without such organised, intentional gatherings, the vagaries and busyness of many peoples lives often results in relationships fading away. To support these ideas, a role for the NDIA could be to fund information initiatives that include the dissemination of stories, ideas and strategies about community connecting.

The highly nuanced task of connecting people with disability with members of their local community requires particular skills. Many support workers lack the attributes for this work and most have no relevant training. The common sight of people with disability in the community supported by agency staff wearing uniforms, lanyards and nametags attests to a lack of insight

on the part of service providers, many of whom seem unaware of the importance of this work or even that it should be part of the support worker role. Opportunities for connection with others that arise naturally as they accompany people with disability in the community often go unseen or are lost in the language, attitudes and service paraphernalia that many workers bring with them. While this training can be introduced in general disability support worker vocational training, it is best done with support workers of some experience who come to the training with specific individuals in mind.

Many family members also struggle to take advantage of opportunities as they arise, their lack of skill and the dominance of the familial relationship often cutting across opportunities to support their family member to connect with people they meet. They too would benefit from training in community connecting. The NDIA could address this lack of skills by funding services and specialist training agencies to carry out the training of support workers and families in community connecting.

Recommendation: **That the NDIA fund stand-alone projects that assist individuals and families to establish support circles aimed at safeguarding vulnerable people with disability.**

Recommendation: **That the NDIA fund information initiatives that disseminate stories, ideas and strategies about the building of natural supports and community connecting.**

Recommendation: That the NDIA funds the training of support workers and families in community connecting.

Building capacity of families generally

While the Consultation Paper recognises the importance of strengthening natural supports, including the support from people that people with disability most trust "such as families and carers" (page 15), throughout much of the Consultation Paper there is little reference to families other than when spoken of in their role as 'carers'. CRU has noted above its concern about the term 'carer' because it reduces the role of parents and other family members to that aspect of their relationship alone. Family members are also parents, brothers and sisters, spouses and lovers, in some cases children, with all the richness and complexity that those roles and relationships bring. A very important role of many family members is their role in keeping people with disability safe.

People with disability can live independent and rich lives while still being 'looked out for' by those who love them and are committed to them. Few of us lead completely independent lives. Most of us rely on others to support us at different times in our lives or with specific issues and challenges. People with disability are no different. Some simply need more support and assistance by virtue of their disability and circumstances.

For many people with disability, it is family and close friends who provide this support. It is family and close friends who remain committed to people with disability throughout their lives. Service providers, both in the disability sphere and in the wider community, come and go, no matter how committed their individual staff. Paid support staff, allied health professionals, government employees, paid advocates, all come and go, though in some situations paid

support workers do take on important safeguarding roles, where their commitment to the individuals they serve transcends their paid role. Whether paid or unpaid, it is the people who are committed personally to individual people with disability who will stand beside them in the long term.

It is important to recognise, acknowledge and support this reality. CRU believes that strategies aimed at the building of natural safeguards around people with disability must include strategies aimed at supporting and building the capacity of families, close friends and committed allies. The greatest safeguard that any vulnerable person with disability can have is a committed group of capable family and friends.

For many years families have been among the leaders in developing strategies focused on safeguarding their family members. Families have sought inspiration from international speakers and been supported by organisations like CRU to build their capacity and develop leadership skills.

There are a number of ways to build and sustain the capacity of family and friends in their safeguarding role. The NDIA could fund:

- Initiatives to support families and close friends in their advocacy, leadership development and capacity building.
- Initiatives aimed at bringing networks of families and close friends together to share knowledge and provide information to other families around specific issues (eg, pre-school and early childhood, inclusive education, independent living, open employment, self-managing support funds).

Recommendation: ***That the NDIA fund initiatives to support families, close friends and allies in their leadership development and capacity building.***

Recommendation: ***That the NDIA fund initiatives to support families to join with other families to share their knowledge and experience.***

Building capacity of families and friends to advocate

As CRU notes below in the discussion about the importance of strengthening and funding independent advocacy, the need for advocacy is likely to increase under the NDIS rather than decrease. Much of this advocacy will be carried out informally by those close to the individual with disability, such as family, friends and committed allies, rather than by independent paid advocates. As important and necessary as paid independent advocacy is, funded advocacy agencies simply cannot meet the demand, nor do they need to do so. Much of the advocacy carried out by families and friends is 'on the spot', as they respond to an immediate issue.

Like all of us required to undertake something unfamiliar for which we are not trained or prepared, families and others are often unprepared and unskilled in their advocacy. They learn on the job. Clearly, the advocacy of families and friends will be more effective, and the safeguarding of their family members and friends with disability stronger, if they have opportunities to develop and hone their advocacy skills. CRU believes that an important aspect of the Framework lies in the NDIA funding initiatives that support families, friends and allies in their advocacy development.

Recommendation: ***That the NDIA fund initiatives to support families and friends in their advocacy development.***

Whole of life planning external to the NDIS and any formal service providers

Much is made in information and discussions about the NDIS of the role of the NDIA planner and the planning process. The Consultation Paper raises the notion of "building capacity through plan development". (Page 16). CRU struggles to understand how the planner's role can extend to capacity building when the role of the planner is to assess eligibility as a participant and determine what level of supports are necessary and reasonable. CRU does not doubt that planners will listen to the dreams and goals of potential participants and carry out their role with sensitivity and respect. Yet theirs is fundamentally a decision-making role and the planning meetings, so far as CRU is aware, are envisaged to run for one to two hours.

In the workshops and meetings that CRU has held with people with disability and families in its NDIS Participant Readiness work, many people have noted the importance of the NDIA planning meeting for those seeking funding under Tier 3 and that preparing for that planning meeting will be critical to a successful outcome. The negotiation of reasonable and necessary supports is a very different process to whole of life planning. While both are necessary, CRU believes that successful preparation for the NDIA planning meeting would benefit from and be expedited by thoughtful and considered whole of life planning on the part of people with disability and their families.

Whole of life planning is also a safeguard in itself. Not only does such planning provide an opportunity for the development of particular safeguarding strategies by or for the person with disability, their family and friends, but the planning process is a wonderful opportunity for important information to be shared. It allows all the important people in the individual's life to develop clarity about the person's vision for their life, their strengths and the challenges they face. Sharing information is a safeguard in itself. Further, the planning process builds the commitment of all involved to the person concerned, by allowing them to take greater ownership of the goals and strategies developed and, in some cases, personal responsibility for their implementation.

While it is certainly not the case that the NDIS is merely another funding scheme, it is the funding capacity through Tier 3 on which most people with disability and families are focused. As with any funding program, funding does not make a life. CRU is firmly of the view that for people with disability and families to gain most from the NDIS and for the NDIS to operate effectively and sustainably, preparation for the NDIA planning process is essential. People need to be clear about what they want from life (their vision and dreams), how they might achieve what they want (their planning to implement their vision) and where funded support (the NDIS) fits in with their plans. The more people think about these issues before they meet with the NDIA planner, the easier will be the planner's job and the more effective the outcome.

Below is a simple table which assists people to think about what resources are required for a good life and where NDIS funding might assist someone and where it is not relevant or appropriate. The column headed "Informal network" refers to all informal, unpaid support. The column "Funded $$" refers to government funding (NDIS). The column "Unfunded $$" refers to

other financial contributions to someone meeting their particular goals, such as personal income.

Whole of Life Planning Template			
Informal network	*Aspect of life*	*Funded $$ (NDIS)*	*Unfunded $$ (eg, personal income)*
	Home; place of one's own		
	Work; contributions		
	Relationships and friends		
	Recreation, play, holidays		
	Passions		
	Education		
	Spirituality		
	Health; healthcare		
	Financial security		
	Choice; decision–making		
	Safety and security		

Taking the case study of Amy who lives with three other women in a group home as an example (Consultation Paper, page 47), a planning process that includes people that Amy trusts, such as family and friends, could use a simple process like this to think about what Amy requires. Some of those aspects may require no funding (eg, following her passion for AFL football which she loves to watch with her father). Others are simply unrelated to funded support, such as her family establishing goals for her financial security. A whole of life planning process focuses on Amy's life, not only those aspects that might be supported through NDIS funding, and helps put into perspective where such funding will assist Amy and the level of support she needs.

Additional financial support might be offered from her family, such financial support would be no different from that offered by many Australian families to their young adult children to help them establish themselves financially, whether to buy cars, pay university fees or provide interest free loans. The process will also clarify for Amy and her family and friends, the nature and extent of informal supports available to her and may even help them arrive at a different option for her. A thoughtful planning process will clarify where Amy needs assistance and bring to light for those participating in the planning where they might offer help.

Whole of life planning can also cover issues of succession planning. The question that parents and other family members in direct support roles worry about most is: what will happen when I'm gone? Who will make sure my family member is safe when I can no longer do what I now

do? A comprehensive planning process can include planning goals and strategies to address this question. Safeguarding strategies that no longer depend on the key family member being present can be devised and gradually tested while that person is still in their direct support role.

Whole of life and succession planning processes take time and thought and are most successful when people with disability and families have dedicated time and access to information and experienced independent planning facilitators. In the context of the NDIS, the benefits will be two-fold. First, the person with the disability and their family will benefit from enhanced clarity about what the individual wants from life and from having goals and strategies in place which aim to achieve that vision. Second, the aim of the NDIS to ensure that supports provided to participants are reasonable and necessary will be more easily achieved. This will make the job of NDIA planners easier and the implementation of the NDIS more efficient, reducing the time needed by the NDIA to make its determinations and by reducing complaints arising from those determinations.

To return to Amy, if such whole of life planning is undertaken long before Amy seeks funding under the NDIS, she will be in a strong position to attend the NDIA planning meeting with her vision for life clear, her support needs mapped out, and her understanding of the role of the NDIS in her life sound.

CRU therefore believes that an important part of a Quality and Safeguarding Framework for the NDIS will be that people with disability and families have access to whole of life and succession planning initiatives external to the NDIA but funded by the NDIA. The Queensland State Government funded a number of such whole of life and succession planning initiatives for eight years until that funding was terminated in 2014. Those organisations have much to offer to our learning about the nuances and differences between this planning and the NDIA planning process.

Recommendation: ***That the NDIA funds stand-alone projects to support people with disability and families in whole of life and succession planning.***

Strategies for people with disability with no family or close friends

CRU acknowledges the challenges in developing networks of support around people with disability with few or no family members or close friends. It is not impossible to overcome these challenges and CRU can suggest three strategies: citizen advocacy, family reconnecting, and support circles.

The concept of citizen advocacy was developed by the late Professor Wolf Wolfensberger in the USA in answer to the question posed to him by many parents: *What will happen to my son/daughter with a disability when I die?* Citizen advocacy reaches beyond the dictionary definition of advocacy and into the hearts of decent citizens who are willing to make a personal commitment to stand beside someone made vulnerable through disability. It is a particular form of social advocacy, highly nuanced in its application, but simple in concept. There are a number of citizen advocacy programs throughout Australia with many fine examples of citizens being recruited from the community and matched with a person with disability, who often have no close family in their lives. CRU's recommendation below relating to the need for independent advocacy to be funded appropriately includes the need to fund citizen advocacy. Citizen

advocacy provides a low cost strategy for addressing the safeguarding of vulnerable people with disability who lack natural supports.

Projects which connect people with disability isolated in institutional settings with their long estranged families have had some success, at least in Queensland. Often that estrangement has been encouraged or facilitated by a service system neglectful of the need for family connection and at times fearful of the power of families in peoples' lives. Intentional strategies to locate and support families to reconnect with their family members with disability would contribute to lessening the numbers of those without natural supports. The NDIA could fund specific projects aimed at reconnecting people with disability with their estranged families as well as preventing family estrangement.

The concept of support circles discussed above can be extended to those without family or friends in their lives. The approach here requires a level of community development not typically needed when people have family and friends. A dedicated paid facilitator can seek out people in an individual's local community, sometimes talking to people who have a slight connection already (for example, through a church community) and slowly build a group of people around the person with disability. This strategy requires funding and the NDIA could fund specific projects aimed at building support circles around people who have no family or close friends.

Recommendation: ***That the NDIA funds initiatives that reconnect people with disability with their estranged families, and which aim to prevent family estrangement.***

Recommendation: ***That the NDIA fund stand-alone projects aimed at building support circles around people who have no family and friends.***

3. The need to strengthen and fund independent advocacy, including citizen advocacy

The Consultation Paper rightly refers to the importance of independent advocacy in safeguarding people with disability. In a separate consultation paper dealing with Tier 2 that was circulated some time ago, a *Framework for Information, Linkages and Capacity Building*, advocacy is included as one of a number of "enablers" underpinning Information, Linkages and Capacity Building. (See ILC Consultation Paper, page 2).

CRU assumes from this reference, and from feedback at the Brisbane public meeting concerning the NDIS Quality and Safeguarding framework on 8 April, that the funding of independent advocacy is not intended to be a responsibility of the NDIA. We understand that there are ongoing discussions about the place and funding of independent advocacy in relation to the NDIS. The NDIS Act [section 4(13)] acknowledges that the "role of advocacy in representing the interests of people with disability is to be acknowledged and respected".

CRU believes that independent advocacy will play an extremely important role in the success of the NDIS. There are many circumstances where sound, independent advocacy will be critical to good outcomes for people with disability. These include assisting families to have their children with disability included in local schools, assisting people with disability with housing issues, lodging discrimination complaints, helping people engage with NDIA planning staff, initiating complaints against providers, lodging reviews of NDIA decisions, and negotiating with service

providers. Strong systems advocacy will be required to provide independent moral oversight if the NDIS is to remain true to its goals. Independent advocacy agencies also offer the best option for training and skilling people with disability in self-advocacy, an issue referred to a number of times in the Consultation Paper.

CRU's concern about the role of independent advocacy under the NDIS is two-fold.

First, the number of independent advocacy agencies throughout Australia falls behind the current need, irrespective of the introduction of the NDIS. A number of agencies have been defunded in recent years and those remaining struggle to meet demands. In Queensland, there has been a falling away of valuable work on advocacy development that was a feature of advocacy in Queensland in the 1990s and early 2000s. Projects to support advocacy development were defunded years ago with no sign of their being replaced.

Second, the need for advocacy that the NDIS will stimulate is considerable. If we look only at the likely numbers of people who will become participants under Tier 3, we can see the potential increase. In Queensland, we are told that those numbers of people receiving funding will double. While we hope that the new paradigm of choice and control will alleviate many issues giving rise to a need for advocacy, we would be naive to believe that there will not be a considerable increase in demand for advocacy support.

CRU does not believe that the NDIA should fund independent advocacy. However, the development of this Framework offers an opportunity to impress on policy makers that the funding of, and support for, independent advocacy across Australia must increase significantly.

Included in this call for increased funding and support for advocacy is a call for widespread funding of citizen advocacy. As CRU has stated above, citizen advocacy offers a most cost effective way of addressing the need to safeguard people with disability, especially those without family and friends in the lives. For more information about citizen advocacy, we refer to the Citizen Advocacy Trust of Australia. (See www.citizenadvocacytrust.com.au).

Recommendation: ***That the NDIA advocate to national policy makers the importance of sustainable and appropriate funding (beyond current allocations) for independent advocacy, including citizen advocacy, and advocacy development.***

4. The importance of safe and secure housing and housing policies that support the goals of the NDIS

One way to safeguard people with disability in their daily lives is to ensure that their housing is secure and sustainable. With many people with disability on low incomes this means that governments need to plan ahead to ensure that people with disability who become participants under the NDIS do not have the dreams and goals in life curtailed by a lack of appropriate housing.

As we have noted above, the issues raised in the case study of Amy would be less likely to arise if she was supported to live in her own home, supported by family, friends and support workers she has chosen and in whom she trusts. If issues did arise they could be dealt with quickly. Amy will be more likely to be safe and secure in her life if she has safe and secure

housing of her choice, a home of her own where she exercises control of who comes and goes and how her supports are arranged and managed.

The role of the NDIS is to provide a framework through which Amy can have the supports she needs but it is not a role of the NDIS to provide Amy with housing, any more than it is the role of Centrelink to provide aged pensioners with housing. Social security policy can assist those on low incomes to meet their housing needs but not provide the actual housing.

Central to good housing policy is the requirement that the provision of housing and support must be separate. It is not clear whether this separation applies in Amy's case study, but for many people who live in group homes, the same provider owns the house and provides the support. This means that standard tenancy rights are usually ignored. How could a staff member dictate who came and went from Amy's house if Amy was the signatory to a standard Real Estate Institute lease? A similar situation arises when separate government agencies work together so that the government in effect controls both housing and support. This can occur when a government housing authority refuses to grant someone like Amy public/social housing until she has funded support, or to limit funding so that Amy is forced into a shared co-tenancy arrangement in public/social housing against her wishes.

Nevertheless, there are ways that the NDIA could influence housing policy and the provision of adequate and appropriate housing for people like Amy. Roles for the NDIA could include:

- ensuring that information providers funded by the NDIA have relevant information which encourages participants to include in their vision for a good life the expectation that they can live in their own homes;
- ensuring that information providers funded by the NDIA have relevant information about tenancy rights and obligations (and where specialist tenancy advice can be obtained) and the importance of separating housing and support;
- taking the role of lead agency by advocating to all levels of government in Australia:
  - the importance of separating housing and support
  - the importance of an supply of, and equity in the provision of, public/social housing so that NDIA participants have equal and ready access to appropriate housing where they need it, wherever they live and whatever their circumstances
  - the importance of all levels of government being open to shared equity and similar schemes which would allow NDIS participants the opportunity of home ownership
  - the importance of state and territory governments removing restrictive means tests and other disincentives to people with disability applying for public/social housing.

Recommendation: ***That the NDIA ensures that information providers funded by the NDIA include information that encourages participants to expect that they can live in their own homes, information on the importance of separating housing and support, and information on tenancy rights.***

Recommendation: ***That the NDIA takes the role of lead agency in advocating to all levels of government the importance of separating housing and support; the need for an adequate supply of, and equity in the provision of, public/social housing; the value in shared equity schemes and related policies that give participants opportunities for***

home ownership; and the importance of state and territory governments removing restrictive means tests and other disincentives to people with disability applying for public/social housing.

5. The importance of including responses tailored to meet the needs of people from a culturally and linguistically diverse background

The Consultation Paper makes no reference to the proposed Framework taking particular account of people with disability from a culturally and linguistically diverse background. CRU does not claim any special expertise in this area and assumes that people and organisations with such expertise will make submissions.

However, as one of the organisations contracted by the Queensland Government to carry out participant readiness activities in Queensland, CRU has become aware at the lack of attention given to the needs of this group of people in strategies aimed at preparing people for the NDIS. In an attempt to address this gap, CRU has joined with AMPARO Advocacy Inc, Queenslander with Disability Inc, and Mamre Association Inc to undertake a small project aimed at informing people with disability and their families from a culturally and linguistically diverse background on the NDIS and strategies they can take to prepare for the implementation of the NDIS in Queensland. This project will be evaluated by Griffith University. At the conclusion of the project, the group involved in the project will be in a better position to comment on how best the Framework might meet the needs of this group. In the meantime, CRU makes the following observations:

- 1 in 4 people in Australia are born overseas, or 25% of the population
- 10% of people using disability services identify as coming from a culturally and linguistically diverse background
- Only 2% of people who have become participants under NDIS trial sites indentify from as culturally and linguistically diverse background
- These figures show that the majority of people with disability from culturally and linguistically diverse background are currently missing out on disability services
- The experience of people who come to Australia as refugees and asylum seekers leads some of them to be fearful and untrusting of police and other security related government agencies, and therefore potentially fearful and skeptical of measures such as police checks and 'barred persons' lists
- In some communities, such as those with large populations of aboriginals and Torres Strait Islanders, many people, particularly young men, have police records and deem the acquiring of those records as a necessary rite of passage, rendering many otherwise appropriate candidates for local support worker positions potentially ineligible.

CRU recommends that the NDIA ensures that its selection of, and training and support given to, local area coordinators take into account the needs of people from a culturally and linguistically diverse background. CRU makes the strong recommendation that, before the proposed Framework is finalised, focused efforts are made to reach out to leaders and organisations who represent and work with people from a culturally and linguistically diverse background to gain their input into the final design of the Framework. Our recommendations elsewhere regarding

the role of NDIA in funding external organisations are to be taken to include the funding of initiatives aimed specifically at people with disability from a culturally and linguistically diverse background.

Recommendation: ***That that the NDIA ensures that its selection of, and training and support given to, local area coordinators take into account the needs of people from a culturally and linguistically diverse background.***

Recommendation: ***That all recommendations in this submission, where relevant, be taken to include the funding of initiatives aimed specifically at people with disability from a culturally and linguistically diverse background.***

6. The importance of supporting and sustaining small organisations, which are a safeguard in themselves, including through viability funding

For over 25 years, CRU has worked with and observed many small to medium sized organisations throughout Queensland who work with and support people with disability and their families. Many of these organisations have been established by people with disability and families, often as a result of their finding that larger more traditional services do not meet their needs or the needs of their family members. For over 20 years, individuals and families have been self-directing their supports through such small organisations. A number of these organisations have been leading the way and working collaboratively for many years in showing what can be achieved if people with disability and families are in control and allowed to exercise real choices over their lives. Some place strong emphasis on the benefits of people supported by the agency having robust informal networks of support in place, in the belief that it will be such networks of support that will keep people safe, rather than through the efforts of the support agency alone. In 2013, CRU produced a DVD, *Together in Partnership: Stories of individual and family governed organisations in Queensland*, which tells the story of four such organisations in Queensland. CRU notes that small agencies are more likely to adapt to the new paradigm of the NDIS and therefore warrant support and protection.

While CRU supports the move to self-management of supports by people with disability and families, one consequence of self-management is that, by 'going it alone', those self-managing will have fewer natural links with others with similar experiences. Independence does not have to mean isolation and CRU has taken a keen interest in people being supported to work collaboratively, share resources and provide mutual support.

For those who do not wish to self-manage their supports but who do want to self-direct how those supports are delivered, small organisations with experience of supporting people to self-direct will play an increasingly vital role. As the paradigm shifts from the traditional mode of delivering services to people with disability to that of choice and control envisaged under the NDIS, these small organisations can be expected to play a vital role in showing others how real choice and control works within an agency setting.

CRU's concern, however, is that the nationalisation of disability service delivery under the NDIS will lead to organisations getting larger and larger, seeking to benefit from economies of scale and the nationalisation of funding arrangements. We don't want to lose smaller, more personal

and individually or family governed organizations simply because funders requirements are too burdensome to continue. Already meeting governance obligations and quality systems auditing requirements stretch the capacity of small voluntary committees. This will get worse if strategies under the Safeguarding Framework place additional burdens on small organisations, without appreciating that many of these have their own internal strategies that are working well.

CRU therefore recommends that the Framework include strategies aimed at supporting and sustaining small individual and family governed organisations. Strategies could include reduced NDIA governance requirements for organisations below a certain size; monitoring accounting mechanisms to ensure they do not put undue pressure on small organisations (eg, through paying funding in arrears rather than in advance, thus causing cash flow problems); and the option of providing viability funding to small organisations.

Recommendation: *That the Quality and Safeguarding Framework includes particular viability strategies aimed at supporting and sustaining small organisations particularly those that are governed by people with disabilities and their families.*

The importance of independent quality evaluations of services and related organisations

CRU is a strong believer in independent quality evaluations of services and related organisations (including advocacy programs and information services). CRU believes that well planned and conducted quality evaluations constitute a more effective safeguard for people with disability supported by direct services providers, advocacy programs and information services than do quality systems audits, which assess compliance with standards rather than the quality of services and supports.

Independent quality evaluations can, and should, include experienced people with disability and family members. The process ensures that the views of people with disability, families, service providers and funding agencies are represented equally. In the best examples, the evaluation process also focuses on the development of the service or agency, with the evaluation team offering recommendations for improvement and innovation, as well as pointing out areas of concern and in need of improvement. CRU knows of many examples where independent quality evaluations have helped struggling organisations to clarify their purpose, improve their response to people with disability, and renew their energies.

SAMS, a New Zealand not for profit trust governed by people with disability and families (www.sams.org.nz), is an example of an organisation established to carry out independent quality developmental evaluations. In 1995 international consultant in the disability field, Dr Michael Kendrick, described SAMS as a *"uniquely New Zealand innovation which is of considerable relevance internationally" (Michael Kendrick, 1995)*. In 2009 Dr Kendrick observed that *"For thirty years, SAMS has promoted and practiced an individual outcome focus to evaluation, the full inclusion of disabled people and families as evaluators, partnership approaches and the use of evaluation as a primary strategy for service and sector development.... ".* (Michael Kendrick Report, October 2009).

Recommendation: *That the NDIA fund and support agencies like SAMS to carry out independent quality evaluations of providers under the NDIS.*

7. The need for flexibility in the Framework so that it is not reduced to 'one size fits all'

A major strength in the National Disability Insurance Scheme (NDIS) is its national application. The same rules and entitlements will apply to all people with disability, no matter where they live nor the history of disability support in their region. However, a large, national scheme runs the risk of swamping individuality and bringing those showing leadership 'back to the pack' of mediocrity. As the proposed Framework is about quality and safeguarding, it must be mindful that it does not impinge on the quality of the lives of people with disability and their families in an attempt to apply a national response to keeping people safe.

CRU knows of many examples throughout Queensland where people with disability and families have worked hard to achieve rich and meaningful lives of quality and value, often against, or in spite of, the efforts of traditional disability service providers. Many people with disability and families have left large disability service providers to establish their own small locally governed agencies where individuals can self direct their supports. As noted above, many people with disability and families have been self-directing their supports for over 20 years in Queensland, often in association with a variety of small, local, family and individual governed services. In more recent times, many have been given the freedom to manage their own funds, with the current number of people in Queensland self-directing or self-managing their supports being over 1000.

The proposed Framework must not overlook these people, many of whom have led the way in showing how people with disability can live good and meaningful lives, the central goal of the NDIS. It will be critical to the success of the NDIS that the Framework does not implement strategies that cut across the variety of approaches and the competency, creativity and passion of people with disability and families who have been doing for years what many more traditional disability services still struggle to achieve. The Framework will need the flexibly to respond to this rich mix of approaches.

Recommendation: *That the Quality and Safeguarding Framework strategies are flexible enough to support and encourage creativity and individuality in a variety of approaches to supporting people with disability.*

CRU's response to the questions raised in the Consultation Paper

Information

Q. What are the most important features of an NDIS information system for participants?

As noted above, CRU believes the most important feature of an information system is that it is open and transparent as to the values and principles upon which it is based and the assumptions it makes, and that it extends beyond ratings of providers. Information should include practical guides, academic texts, stories that offer inspiration, information and insights into what needs to change in our communities, evaluations, reports and progressive frameworks for considering disability within its societal context. The provision of information is only effective when prepared and delivered by experienced information agency staff with whom people with disability, families, disability workers and professionals can discuss and debate issues.

Q. How can the information system be designed to ensure accessibility?

An accessible information system would use a range of formats and media. The funding of information services by the NDIA would be contingent on the information service provider satisfying the NDIA of its disability accessibility, as well as its capacity to meet the needs of people from a culturally and linguistically diverse background. The NDIA would need to be prepared to cover the costs of translation of resources, often considerable, into a range of languages. Interpreters for the deaf and those from a culturally and linguistically diverse background need to be centrally coordinated and funded rather than through individual plans. If funded through individual plans, unnecessary expense and confusion can result when a number of people can attend a conference or workshop each with their own interpreter.

Q. What would be the benefits and risks of enabling participants to share information, for example, through online forums, consumer ratings of providers and other means?

CRU's experience is that most worthwhile information about providers of services is spread through word of mouth. The benefits of enabling participants to share this information through online forums and similar means would be to allow a greater spread of this information. The risks are that people with disability and families could be liable for providing inaccurate or defamatory information, unless they are indemnified.

CRU believes that online forums and ratings sites will spring up in the public domain regardless of any initiatives of the NDIA. The more connected people become, the more empowered they will be. If the NDIA is to fund projects, they need to be protected by legislation which indemnifies people who provide information about providers in good faith. (As an example, see protections given to medical practitioners in Queensland who report people they believe are unfit to drive). The NDIA could warn people against identifying themselves on non-protected forums and ratings sites.

Building Natural Safeguards

Q. Are there additional ways of building natural safeguards that the NDIS should be considering?

CRU has outlined above a number of ways to build natural safeguards, such as the NDIA funding projects to support people with disability and families to establish support circles and other intentional networks, including in information strategies the dissemination of stories and strategies about the development of natural supports, and funding training for families and support workers in community connecting.

Q. What can be done to support people with a limited number of family and friends?

CRU has outlined above a powerful strategy to safeguard and support people with disability who have no family or close friends, namely, citizen advocacy, and recommended that the funding of independent advocacy, external to the NDIA, include increased funding for citizen advocacy.

Another strategy outlined above is for the NDIA to fund specific projects aimed at reconnecting people with disability with their estranged families, as many people who have no family in their lives do still have family, albeit estranged from them for a range of complex reasons.

Finally, CRU has suggested above that the NDIA could fund specific projects aimed at building support circles around people who have no family or close friends.

Support for providers to provide high quality supports

Q. What kind of support would providers need to deliver high-quality supports?

There is a wealth of information, and many training opportunities, available to providers wishing to provide high-quality supports. As the NDIS is implemented across Australia, and as people with disability and families are supported to choose and control the supports they receive, the market place will, to a certain extent, weed out poor quality.

However, for all providers, particularly small agencies, the costs of paying staff to attend in-service training and regular staff meetings, and to attend external conferences and workshops, mitigate against their taking advantage of available opportunities. The additional costs of suitable replacement staff while others are at training or conferences, are rarely covered in funding arrangements. The same issues will be faced by those managing their own supports. One way of supporting providers and individuals who are self-managing would be to ensure that these costs are covered as necessary expenses in individuals' plans and through block funding to providers or training agencies.

CRU has outlined above the importance of external developmental evaluations as a safeguard against poor quality service provision. These evaluations come at a cost. Providers will need to be given financial support to carry out these evaluations regularly if they are to be an effective safeguard.

An independent oversight body for the NDIS

Q. Should there be an independent oversight body for the NDIS?

CRU believes that their does need to be an independent oversight body for the NDIS. The implementation of the NDIS is a once in a generation change to Australia's social service system and will require rigorous, independent oversight. The NDIA oversight provisions – NDIA Board, NDIA Advisory Council, Disability Reform Council, the Commonwealth Ombudsman and other Commonwealth agencies such as the Administrative Appeals Tribunal – have a range of specific functions. Some are responsible for the administration of the NDIA, others for general public service accountability. CRU believes that the scheme as a whole, as distinct from the agency responsible for the scheme's implementation, the NDIA, requires additional external oversight.

Q. What functions and powers should an oversight body have?

An independent oversight body should have extensive functions allowing it to take leadership in the Australian community on safeguarding the future of the NDIS and on educating the Australian public on the importance of valuing and including all people with disability. The oversight body could also administer an independent complaints body and hold inquiries on issues of importance to the ongoing implementation, market sustainability and viability of the NDIS. Such an oversight body could have specific powers to oversee the implementation of the NDIS in regional Australia, and in relation to particular groups such as those from a culturally and linguistically diverse background and those from aboriginal and Torres Strait Islander

communities, where particular issues of availability of supports make the goal of giving people choice and control challenging to implement

NDIA provider registration

Q. Considering the options described above, which option would provide the best assurance for providers?

CRU supports the 'light touch' approach to provider registration outlined in Option 1, which would require providers merely to confirm that they comply with all relevant Commonwealth, State or Territory legislation. This approach is consistent with CRU's view that it is other people who play the major role in keeping people safe, not registration provisions of service providers. All providers could benefit, if they choose, from regular independent quality evaluations, with support from the NDIA to do so. It would be up to individual providers to publicly disclose the results of those evaluations to current and prospective participants. Money saved through a light touch Option 1 approach could be invested in capacity building of people with disability and families and value based training for providers.

Q. Considering the options described above, which option would provide the best assurance for participants?

While some participants might feel more assured of better service if the more intrusive mandatory options for provider registration were invoked (such as the mandating of special conditions, independent evaluations and quality assurance audits), CRU believes that negative consequences of mandating would outweigh the benefits. The mandating of special conditions, independent evaluations and quality assurance audits could lead people to a false sense of security, placing over reliance on the provider having been 'passed' or 'accredited' by the NDIA and less on their own diligence in selecting a provider that best suits their needs. CRU's recommendation above concerning independent quality evaluations does not extend to mandating such evaluations. Providers must want to submit to independent evaluation, and feel involved in the evaluation process, for quality evaluations to be productive.

Q. Should the approach to registration depend on the nature of the service?

CRU does not believe that registration requirements should change according to the nature of the service. For the reasons outlined above, we prefer to see investment in capacity building and training, rather than a complex, expensive multi-layered registration process.

Q. How can the right balance be reached between providing assurance and letting people make their own choices?

As noted above, CRU believes that reliance on service agreements that acknowledge adherence to existing legislative requirements, and a strong investment in capacity building and training for people with disability, families and providers, offers the best balance.

Systems for handling complaints

Q. How important is it to have an NDIS complaints system that is independent from providers of supports?

CRU believes that an NDIS complaints system that is independent of providers is an important safeguard. Just as there is an internal complaints system within the NDIA, with a decision review process involving the Administrative Appeals Tribunal, there needs to be a robust complaints system that applies to providers external to the NDIA. Such a system would enhance a minimalist provider registration system as all providers would be aware that participants had access to an external complaints body.

Q. Should an NDIS complaints system apply only to disability-related supports funded by the NDIS, to all funded supports, or to all disability services regardless of whether they are funded by the NDIS?

CRU believes that an NDIS complaints system should apply to all disability services regardless of whether they are funded by the NDIS. The alternative, an NDIS complaints system that applied only to NDIS funded supports, would leave people with disability who buy their own supports (perhaps through a compensation payout or from a special disability trust) with no avenue of complaint. Further, confusion could arise where a person with disability bought supports from the same provider using funds received from different sources. For example, an individual might buy a motorised wheelchair where the cost of the chair has been approved under the person's NDIS plan but the cost of extras that are not considered necessary have not been approved. Those extra costs might be paid by the individual's family, perhaps from a special disability trust established for just this contingency. If the individual has a complaint about the chair, they could take it to the complaints body, but if their complaint was about the extras, they could not do so.

Q. What powers should a complaints body have?

An independent NDIS complaints body should have the same sort of powers as the Human Rights and Equal Opportunity Commission in responding discrimination complaints – mediation, a tribunal dispute resolution process, the power to order remedies including compensation, and a broad educative role.

Q. Should there be community visitor schemes in the NDIS and, if so, what should their role be?

Community visitors schemes have played an important role in institutional environments such as prisons, psychiatric hospitals, aged persons facilities and institutions for people with disability. Given the focus on a new paradigm of choice and control, where no-one is likely freely to choose such a living situation, CRU wonders what role a community visitors scheme would have under the NDIS, at least in the long term. While people with disability continue to reside in institutional settings, state and territory based community visitors schemes will apply.

CRU strongly objects to the suggestion, voiced in some quarters, that a community visitors scheme should extend to peoples' private homes. Given the principles under the NDIS Act, such an intrusion into peoples' homes and lives should be unthinkable.

Ensuring staff are safe to work with participants

Q. Who should make the decision about whether employees are safe to work with people with disability?

People with disability, with support and assistance in their decision-making where necessary, should make the decision about whether employees are safe to work with them.

Q. How much information about a person's history is required to ensure they are safe to work with people with disability?

CRU takes the view that the information required of a prospective employee will be particular to the circumstances. If a young woman chooses never to have a male support worker providing her direct personal care, then no male will ever be suitable for that role, irrespective of experience, police checks etc. However, if the job of the employee is to mow the young woman's lawn, a male employee might be suitable, though standard checks such as contacting referees would be desirable.

When people with disability employ or choose an employee to work with them, with or without support in their decision-making, they should be encouraged and supported to engage in all the due diligence recommended for any us when employing people to work for us.

Q. Of the (recruitment practice) options described above, which option, or combination of options, do you prefer?

CRU favours Option 1, under which providers would be encouraged but not required to have certain recruitment practices in place, including insisting on referee checks and police checks. As outlined above in relation to registration of providers, CRU believes that imposing mandatory requirements on providers will tend to leave some people with a false sense of security. There is nothing to stop participants insisting on certain requirements before engaging a certain provider or employing a support person, such as referee checks and police checks, but mandating these requirements could put off good people from applying for jobs and undermine the potential for people with disability to choose freely. As argued above, it will be the natural safeguards that will be of greater value than mandated risk minimisation requirements.

Safeguards for participants who manage their own plans

Q. Should people who manage their own plans be able to choose unregistered providers of supports on an 'at your own risk' basis (Option 1) or does the NDIS have a duty of care to ensure that all providers are safe and competent?

For similar reasons as outlined above, CRU believes that people who manage their own plans should be able to choose unregistered providers of supports as outlined in Option 1. People with disability and families in Queensland who self-direct and self-manage their supports have been doing this for years under existing funding arrangements. The NDIS will never be able to "ensure that all providers are safe and competent" and to suggest that it could is to leave people with a sense of false security. As CRU has outlined a number of times, it will be investment in developmental strategies and peoples' natural supports that keep people safe.

Q. What kind of assistance would be most valuable for people wanting to manage their own supports?

Under the discussion above concerning the importance of developmental strategies, CRU has highlighted the importance of value based information and strategies aimed at building natural supports, the need to build the capacity of families, the importance of whole of life planning, the

need to link people with each other, and the need for strategies for people without family and close friends. All these strategies have application when people choose to manage their own supports. CRU recommends that all these strategies give particular focus to those who are self-managing.

Reducing and eliminating restrictive practices in NDIS funded supports

Q. Who should decide when restrictive practices can be used?

Q. What processes or systems might be needed to ensure decisions to use restrictive practices in a behaviour support plan are right for the person concerned?

Q. Are there safeguards that we should consider that have not been proposed in these options?

Q. For providers, what kinds of support are you receiving now from state and territory departments that you think would be helpful if it was available under the NDIS?

Q. Would you support mandatory reporting on the use of restrictive practices? Why/Why not?

Q. If you support mandatory reporting on the use of restrictive practices, what level of reporting do you believe should occur (based on one, or a combination of, the options above)?

In attempting to respond to these questions, CRU has grappled with the question of whether strategies relating to the reduction and elimination of restrictive practices have any place in this Framework. As the Consultation Paper notes, current practice does not support the use of restrictive practices as a way of responding to challenging behavior and all Australian governments have committed to reducing and eliminating the use of restrictive practices.

CRU's concern with the recent implementation of regulation around the use of restrictive practices is that this regulation has legitimised those practices where they would otherwise be illegal. CRU is concerned that any attempt to include similar provisions under the NDIS will exacerbate that situation and run counter to the goal of the NDIS to support people in the choice and control of supports.

Above, CRU has opted for Option 1 relating to the registration of providers. That option states that all providers who want to provide supports under the NDIS will be required to state that they comply with all existing Commonwealth, State and Territory legislation. Therefore, it will not be an option for registered providers to used restrictive practices, both physical and chemical, that break the law. On the question of where provisions concerning restrictive practices should sit in an NDIS quality and safeguarding framework, CRU opts to rely on Option 1 under provider registration. In other words, CRU does not see any role for the NDIA concerning restrictive practices beyond ensuring that registered providers comply with existing Commonwealth, State and Territory legislation.