**TRANSCRIPT**

Reasonable and Necessary with Dr George: Making Sense of the NDIS podcast

**Series 4 – Staying safe during COVID-19**

**EPISODE 6: 28 APRIL 2020**

Q: Hi listeners, and welcome to our Coronavirus series of Reasonable and Necessary.

I’m your host, Dr George Taleporos, and I am from the Summer Foundation.

We all have a role to play in getting through this pandemic - wash your hands, don’t touch your face, stay at home.

These are things that we all need to do. On top of that, we need to work out how to get the support that we need in a way that is safe.

We don’t have all the answers, but we are here to help you through it.

Please remember that we can’t provide medical advice, talk to your doctor for that, or call the National Coronavirus info line on 1800 020 080, or visit health.gov.au

On today’s episode, I’m joined by NDIS Quality and Safeguards Commissioner, Graeme Head, to talk to us about how providers have been held to account during the Coronavirus.

If you’re like me, you’re probably wondering what can we expect from providers during the pandemic. Do they still have to provide services and if so, under what conditions?

I’ll be asking your questions about personal protective equipment, staying safe in group homes, Australian Disability Enterprises and much more.

Remember that you can learn more about your rights on the Quality and Safeguards Commission website at [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au)

Q: Hi Graeme, welcome to Reasonable and Necessary.

A: Hi George, good to talk to you as always.

Q: It’s been 18 months since we last spoke, what’s been happening? What have you learned in the role?

A: Well, it’s been a big 18 months since we last spoke on a podcast. Of course, the commission’s been driving out the rollout of the new Quality and Safeguarding Framework across the country and we’re fully up and running in 7 of the 8 jurisdictions now and that means that our process of requiring providers to be audited against the new practice standards of responding to complaints from people with disability and their friends and family members sometimes on their behalf and responding to reportable incidents that are notified to us, all of that’s now happening in every state or territory in Australia except for Western Australia which comes in this year. So it’s been really busy doing all of that and making sure that we’re educating people about the commission, what it’s here for, we’ve done a lot of work to reach out to people with disability to encourage them to speak up and speak out if something they’re experiencing is worrying them, and encouraging people to talk to their providers if they’ve got a concern, or if they feel uncomfortable talking to their providers, to talk to us or to ask somebody else to talk to us on their behalf if they prefer.

So, it’s been a really busy time for us, developing lots of resources for people with disability and lots of different formats, but also developing resources for disability support workers. One of the things that I’m really proud of is the Worker Orientation Module that we released about 11 months ago which almost a quarter of a million people have completed now which trains disability support workers on the NDIS, but importantly, on the rights of people with disability and on the new Code of Conduct. What I love about that resource is that almost all of the material in it is delivered by people with disability, so a really important piece of work and I guess an example of some of the stuff we’ve been doing.

Q: I love that, too. I think that that’s a real standout in terms of training and if people haven’t seen it, they can check it out on your website.

A: That’s right and we certainly encourage people who they’re working with, to check out the resource if you think that people need some better guidance on how to understand the rights of people with disability. You asked me what I’d learned in the last 18 months and a lot. I think one of the things that’s been really important for me in the role is how open people with disability have been with me about things that they’ve been thinking about and concerned about for a long time and their hope for what the commission can do around dealing with ensuring that supports are provided in a safe way and that the supports are of a high quality. I guess I knew this, but I’ve been reminded of how important it is to engage with the widest range of people possible, to talk to people who are NDIS participants to find out directly from them what is working well from their point of view and what things they’re hoping to see from the commission.

Q: That’s really important and I think that it is a reflection on you Graeme that you have been very accessible and that’s really important that people know that you’re a real person and that they can come to you in your office about anything to do with the NDIS services that they’re not happy with.

A: Yep, particularly for a new organisation. A lot of really good thinking went in to designing the Quality and Safeguarding Framework, people with disability and advocates and a wide range of organisations had an input, but all of this is new, and there’s always more we can learn about things that might need a bit of a tweak or what the practical experience is of people who are either dealing with us or whose providers are dealing with us. So, it’s just good for people to know that if something’s not working in the way they expected it to, that we want to hear about that.

Q: Let’s talk about Coronavirus - we’re getting to the end of April now, the numbers are looking more positive, but it’s still a risk in the community. What are the challenges that you see from a quality and safeguarding perspective?

A: Well, I think across the entire community, this is not something that people were expecting to happen right now and of course, this is a global event that’s moved very, very, very quickly and for both the wider community, but also anyone who is at a higher risk because of a situation they’re in, it’s important to get good, clear, simple information out that can help people prevent becoming infected in the first place, but also can ensure that if a person does become infected that they get the right kind of support as quickly as possible. So the commission, like many other organisations that works with a part of the community, in our case, participants in the NDIS and their service providers, the challenge for us has been to get good information out quickly that helps people to take the right actions to achieve those 2 outcomes - preventing transmission and making sure that where a transmission has occurred, that all of the right things are done to manage that properly for the people involved.

We’ve had a very comprehensive system of provider alerts, so I first issued an alert to registered providers on 7 February and between that date and today, we’ve issued a huge amount of information all presented quite simply to providers as well as releasing participant information about how to deal with particular issues associated with managing the pandemic. So, I think most people in similar roles to mine would say that the challenge has been to make sure that people are made aware very quickly of changes that are relevant to them and that they’ve got good quality information that they can act on.

Q: Do we know how many NDIS participants have contracted the virus?

A: Only a very, very small number. One of the things I did a few weeks ago was I issued a legal notice to all providers. Providers are generally under an obligation to tell me when something changes that might cause them to have a disruption in the supports they provide to people with disability, so in addition to that general obligation, I issued a specific notice to registered providers that they must also tell me whether or not there are any known cases of a person with disability having acquired Coronavirus, or a worker. At the beginning of last week, which was the last time we summarised the notifications that come in in response to that notice, both participants and workers were in single digits, so very low numbers at this stage.

Q: And do we know if any of them contracted the virus from the work involved or from receiving support?

A: So, I wouldn’t have that information at this stage. When a case is confirmed, there’s a whole lot of contact tracing stuff that health agencies do, but clearly, based on the fact that those notifications had single digit figures, there are very low numbers in the sector that we regulate at the moment. Really, the issues about contact tracing and those sorts of things are matters for the health authorities, but obviously, we’re monitoring what’s going on in disability providers very, very closely. One of the good things about having a new national regulator in this space is that we’ve been able to collect that information to understand what’s going on and to make sure that we understand whether or not there’s an emerging issue in NDIS providers and the news at this time is very good.

Q: Let’s talk about people in group homes. I’m quite concerned as a lot of us are about people in group homes - we’re concerned about infection, but we’re also concerned about restrictive practices and a lack of possibly oversight because there’s a possibly the family visits or less contact with the outside world, what are you doing about group homes? What are you doing to protect people living in group homes from abuse and what are you also doing around making sure that restrictive practices don’t go too far?

A: So, they’re really important questions, George. I think that obviously an important focus for the commission is in what circumstances people with disability might be at a particular risk because of things that are being done to respond to COVID-19. The first thing I’d say is that we have been very clear and released to participants and had the NDIA assist us to promote this material, information to participants and advocates about what they should expect from their providers during the management of the pandemic response because it is important that people know that we’re still here, we are still taking complaints, we’re following up on those complaints and we can still initiate our own examination of things, whether or not a complaint has been lodged. We’re concerned to make sure that people with disability and support workers and providers generally understand that some practices, for instance isolating people in group homes, that there are only certain circumstances which would be determined by public health authorities about when isolation is necessary to manage the response.

We’ve also been concerned to ensure that there’s not a greater use of restrictive practices as a result of people taking inappropriate actions around responding to some aspect of the pandemic, so I’ve issued a provider notification to all registered providers about the fact that the regulation of restrictive practices continues, that any unauthorised use of a restrictive practice must be notified to us. The way restrictive practices work under the new Quality and Safeguarding Framework is that we’ve got a focus on reducing the use of those practices and ultimately eliminating them. The obligations on providers to report any unauthorised use of a restrictive practice continue through COVID-19 and one of the important tools that we have is where we believe that reporting is inaccurate or where people are doing the wrong thing, I have a range of regulatory tools that I can use to improve practice.

So, we have a much better system under the new arrangements of understanding what restrictive practices are being used, whether or not there’s a proper behaviour support plan in place, whether or not providers are reporting multiple uses of an unauthorised restrictive practice that we would then take action in relation to. So just to summarise, the first thing we’ve done is remind people of their obligations and that their obligations continue, the second provider alert that we sent out in early March was very much focused on letting every registered provider know that they have particular responsibilities to us as the regulator which are about honouring their responsibilities to participants, that they must continue to report the unauthorised use of restrictive practice as a reportable incident, and we look at the data that’s coming in to see whether or not we can identify patterns of what look like unusual reporting and that can include under-reporting, so there’s a basis for taking action. We’ve let participants know that we’re still here to respond to complaints and incidents and we’ve made that information available to advocates as well, and of course, as we do always, we’ve put good quality information out to providers about what good practice looks like during the pandemic as it relates to the use of restrictive practices.

Q: That’s really important, isn’t it, that we need really good practice at the moment for everyone who needs it. What I’m thinking relates partly though to the oversight, so I’m hearing you talk about people at the moment telling you what they’re doing, that when people are no longer having visitors, it becomes a bit of a closed shop, doesn’t it, and suddenly, there are fewer people to report that there’s a problem.

A: That is true and I suppose one of the things that’s a challenge, given the nature of COVID-19 is it means that, well, the main mechanism that’s used to prevent transmission is a mechanism that distances us from each other. So, for us as a regulator, what that part of I guess the response to that is the frequency with which we interact with providers so that they understand that we are watching very closely what’s happening in the system to respond to the pandemic, but things like for instance, the legal notice I issued around people needing to report certain things differently. The fact that that’s been subject to a particular notice tells people that we’re closely monitoring the situation, I think we can tell by the traffic to our website and what not the large numbers of workers are accessing our information, often it will be a worker who might tell us that a co-worker is doing the wrong thing, so the fact that the commission and its functions are better known by people, the fact that a quarter of a million people have done the worker orientation module means that even though those problems are real about potentially fewer people visiting, we do have I think a much higher level of awareness of what the right thing looks like and people who are prepared to take action.

I think we’ve seen an increase in recent times of the reports that come in from co-workers about people doing the wrong thing, so that doesn’t completely address the issue that you’re talking about, the reality is that we’re dealing with a situation where social distancing does mean that fewer people are entering some environments and that people are much more dependent on workers doing the right thing, but the commission I think is very active in its communication with providers, both through formal legal mechanisms and also in the direct discussions I have with people running provider organisations and we try and make sure that participants are fully aware of what can be done to support them. But I acknowledge that given social distancing, that creates some particular challenges during this pandemic.

Q: I know we are using technology a lot more, but I’d like us to build a capacity of people in group homes or people who are currently socially isolating to make sure they have access to the internet, to computers or iPads or other ways of interacting. I know it’s not easy, but we need to put in the time and effort to make sure that people have access to that technology, now more than ever.

A: Yeah, I think the ease with which people are supported to be able to interact with the outside world is becoming very apparent to everybody as we deal with various aspects of this pandemic. You asked me earlier about things that I’ve learnt, one of the things that I’ve learned during the course of this is that there is a high degree of variability around the level of access that people have to some technology and managing public health events such as this can obviously be assisted by people being able to access technology that allows them to communicate easily with people who can provide them with help and support.

Q: Indeed. Let’s talk about personal protective equipment and there’s been real concern out there that support workers and people with disabilities have had difficulty in accessing the necessary masks and gloves and other equipment to keep themselves safe and maybe you’ve been doing some work to address this. Can you just tell people what they can expect?

A: So, the commission’s been working with the Department of Social Services and the Department of Health on this issue. Everyone is generally aware that not just here, but globally, there have been challenges with personal protective equipment. In Australia, we have a national stock of PPE, which is managed by the Department of Health. The situation with PPE is that the Department of Health really determines the guidelines around the circumstances in which PPE is recommended or required. What we’ve been able to do is to ensure that obviously, people who routinely use PPE in some aspect of their supports are encouraged to try and access it through the normal means, but we understand of course that that’s been quite a challenge, so there is now a dedicated email address for NDIS providers and participants whose normal arrangements have been unable to provide them with PPE so that they can be considered for access to the national stockpile. So that’s an important development and of course, people will have seen and heard in the news recently about some of the increases in availability of some types of PPE generally, so I think it’s quite an important development that the unique needs of people with disability are recognised and there is now a dedicated email address for providers and self managing participants who need consideration for accessing the national stockpile.

Q: That’s important for people to know and I have access to the online form and there are lots of questions in there that really outline that certain people will be prioritised, so if you need assistance with close personal contact, obviously, if there’s an infection, there’s a higher level of need, so it means now there is a process in place which is quite positive.

A; Yeah, and if people want to know more about any of this, we’ve got on our website, [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au), there’s a COVID-19 page, that’s all organised in a fairly intuitive way so that there’s information for participants and information for providers. I think it’s often really a good thing for participants, people with disability, to know what we’re saying to providers, so all of that information, what we’re saying to providers about what they should be doing is available for people with disability to look at, it’s all presented quite simply, a number of the resources are available in Easy read format and of course, our website is fully accessible. So, lots of good but simply presented information so that people can get up to speed reasonably easily about what we recommend you do if you’re experiencing a problem, but equally, you can see what we’re saying to providers about what we expect of them.

Q: On what you’re saying to providers, we’re hearing about Australian Disability Enterprises that they’re still operating and that this is putting people at risk, what’s your directive around that?

A: Well, we don’t directly determine whether or not particular types of businesses are allowed to operate generally across the Australian community, you’ve got a Chief Medical Officer, a Chief Health Officer in each state and the Commonwealth and you’ve got a structure that they meet in called the Australian Health Protection Principles Committee which of course has had a very prominent role in managing the pandemic. But individual public health authorities in each state determine what applies and ADE is subject to the same sorts of obligations that any workplace would be in respect to public health measures, so being able to appropriately social distance, etc, so the commission of course, we regulate NDIS support providers and it may be that some ADE’s are registered for the provision of some types of supports and we can take action if those supports are not provided properly, but that’s a limited role in respect of the general question you’re asking. But of course, these sorts of work environments are subject to the same kind of public health obligations that other workplaces are, so some types of workplaces of course are completely closed for some types of activity during COVID-19 in response to public health orders like gyms etc, and some businesses have had what they’re able to do changed and some businesses are operating in a relatively more normal way, although with a higher proportion of their staff working from home. So, there’s a range of factors that influence whether or not particular types of business activities can continue in their normal way or in a modified way.

Q: The last thing I want to talk to you about and it’s probably the most concerning one for a lot of us, is what happens if we do become infected? A lot of us are concerned that services will be withdrawn, can you talk to us about what you would be expecting of providers in the circumstance where an NDIS participant does contract Coronavirus.

A: So obviously, one of the key drivers for us in modifying the general obligation to notify us of whether or not a provider is experiencing challenges in providing supports is that we want to ensure that all people with disability who are participants in the NDIS are able to access those supports that are critical to them. One of the things that might arise is a situation where either workers or people with disability in a support setting are infected, so there’s an absolute obligation on providers to notify us and then we work with the NDIA to ensure that support, well, we ensure that supports are not inappropriately withdrawn and where something’s happened that means that a provider is unable to continue providing supports, we work with the NDIA to ensure that substitute support arrangements are put in place. There’s also a lot of work we’re doing that you would be a little bit aware of, George, around providing better guidance to providers about managing things related to the health of people with disability that they’re providing supports to. So, that goes beyond the question you’re asking, so as a priority, in this situation, providers must tell us if they have a participant who’s known to be infected, they must also tell us about any changes that they’re making to the provision of supports. We might intervene if we believe that that’s warranted and we do also work directly with the NDIA to make sure that there’s continuity for people, and I would strongly encourage people who feel that the wrong approach has been taken to let us know or to ask somebody to let us know on your behalf if that’s what you prefer.

Q: Just so I can understand this, if a provider says to me, George, now that you’re COVID-19 positive, we’re withdrawing services, and they’ll say lots of reasons why they'll do that, how would you, if I then rang you and said, hello commission, my service has been withdrawn, what would I expect would happen and I know that everything depends on the situation?

A: If you were using registered providers, the first thing we would do is check to see if we had received any kind of notification about problems that that provider is having for one reason or another associated with the pandemic around providing supports, and we would look at whether or not in making whatever decision they’d made, they were meeting their obligations around the provision of your supports. We might take action if that was not the case or in circumstances where there may be a range of issues that are not directly related to whether or not a person has acquired COVID-19, but if there are providers who are experiencing a particular set of challenges around workforce or other arrangements, our focus obviously is initially ensuring there is the continuity of support is there, but equally, our focus if we believe that it’s warranted, might be to work with the provider around why they’re doing that and to take action if we believe that that’s warranted. So, the most important thing is for people to let us know if that’s happening.

Q: That people should expect that their providers to continue providing support.

A: Yeah, there are some types of supports that are obviously more affected by the social distancing rules, so we’re certainly seeing examples of where people with disability are withdrawing from certain activities because of their need to socially distance, but there are also types of supports that are difficult to provide and observe those arrangements, so obviously, one of the things we’re concerned to understand is what is behind the situation that somebody is reporting to us, whether or not the provider is behaving reasonably and appropriately, and with a fundamental commitment to ensure continuity of supports.

Q: Thank you, Graeme. It’s been very, very helpful listening to what you’ve had to say. Is there anything then that you’d like to say to people listening as the Commissioner to participants and providers about some thoughts on what you’d like to see in terms of moving forward and making our way through the pandemic?

A: Well, I think what we always want to see at a very basic human level is that people understand that we are all in this together. This is happening across our entire community, and while it’s been enormously disruptive to everyday life, that plays out differently for some people, depending on their unique circumstances, so all of us need to think about how we not only look after ourselves, but how we properly support other people in whatever their unique circumstances are to feel safe and so that those people feel reassured that their needs are understood and that means all of us understanding the guidance that’s coming out from public health bodies, staying calm and following that guidance and when you see something that is an indication that people aren’t behaving the right way, it’s important to let people know about that because the consequences of not doing the right thing in a situation like this are very serious consequences. I want people to feel that their unique needs are understood and where those needs are not being met that people feel ok about saying so.

Q: It’s a very important message, Graeme, thanks for joining us today.

A: Always a pleasure, George and I look forward to seeing you in person when it’s safe for us to do that.

Q: Absolutely, thanks Graeme.

A: Thanks, take care.

Q: That’s all we have time for on today’s episode of Reasonable and Necessary, brought to you by the Summer Foundation.

Check out our Facebook page for all previous podcasts and transcripts.

We also love hearing from you, so please leave your comments and suggestions for future episodes.

Remember for the most up to date info on the Coronavirus, call the Coronavirus help line on 1800 020 080 or visit health.gov.au

Stay tuned for our next episode and please stay safe and remember to wash your hands.

END OF TRANSCRIPT