



LA TROBE
UNIVERSITY

LIVING WITH DISABILITY
RESEARCH CENTRE

2020 RESEARCH

SEMINAR SERIES

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The NDIS Quality & Safeguarding Scheme in context

Alan Hough, PhD
Purpose at Work

International scandals

- Australia
 - Ann Marie Smith (2020)
- Britain
 - Winterbourne View (2011)
 - Whorlton Hall (2019)

“How do we hold dodgy disability services to account?”

“Overwhelmed disability watchdog dismisses abuse and neglect”

What I will cover

1. The NDIS quality & safeguarding system
2. Regulating human services
3. Towards a research agenda

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The NDIS Quality & Safeguarding System

Non-NDIS systems

- Criminal law
- Other regulatory systems can be powerful, e.g. WH&S
- Victoria's Disability Worker Regulation Scheme

Competing institutional logics

(Ocasio, Thornton, & Lounsbury, 2017)

Human rights

Markets

Bureaucratic State

Protective State

The NDIS Quality & Safeguarding Framework

	Developmental	Preventative	Corrective
Participant	Development of self-advocacy	Market choice	Requirement to involve the participant and other people with disability
Worker	Worker Orientation Module Worker capability	Worker screening	Compliance powers
Provider	Research reports	Standards External audits	Reportable incidents Complaints Compliance powers

The statutory and non-statutory regime

- Act
- Rules: Code of Conduct; complaints; incident management and reportable incidents; behaviour support
- Practice Standards (outcome-based) and Quality Indicators
 - Modules
- Guidelines
- Guidance
- State-based Acts and policies for authorisation of restrictive practices and worker checks

Compliance powers



Common challenges in quality auditing and how addressed

Challenge	How addressed
Correct procedures	Outcomes emphasis*
Focus on documentation	Triangulation, incl. participant interviews*
'Tame' clients	Random selection
Not informed by other evidence	Intelligence gathering*
Inexperienced auditors	Audit team should be experienced

Limitations of the NDIS Q&SS

1. The NDIA and the NDIS Commission appear not to talk to each other about key policy changes in the NDIS
2. Does not extend to NDIA
3. Does not fully apply to non-registered providers
4. Only applies to NDIS service provision
5. Audit method limitations
6. Official Community Visitor schemes
7. Alignment with other regulatory systems, esp. OHS/WHS

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**Regulating
human services**

Choices



Rules-based
regulation

Behaviour support
Complaints
Incidents

Black 2011

Principles-
based
regulation

Code of Conduct
Practice Standards

Key issues in regulation theory, research and practice

- Information asymmetry
- Industry capture
- Regulatory pragmatism
- Regulatory creep
- Responsive regulation (Ayres & Braithwaite 1992)
 - ‘Benign big stick’
 - ‘Tit for tat’ regulation
- Risk-based regulation: “Pick important problems, fix them and tell everyone about it” (Sparrow 2000)
- Meta-regulation: Two different concepts
 - Impact of external expectation on internal management
 - Supporting network
- Learning loops
 - Closing the loop
 - Double loop learning
 - Triple loop learning
- Quality audits and audit quality

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**Towards a
research agenda
on regulation of
disability service
provision**

Regulation: structures, systems and impacts

- When regulation improves quality and safeguarding, what are the levers of change? When it doesn't, why?
- How do we understand the development of the policy of disability service regulation?
- When do 'due diligence' approaches for Directors and Executives work and not work?
- To what degree do organisational attributes matter?
 - For-profit and non-profit providers? 'Pretend' non-profits? (see summary in Anheier 2005)
 - Organisational size? (Needham, Allen & Hall 2017)
- What are the alternatives to regulation, and how effective are they?
- How does the concept of meta-regulation (the network of regulatory actors) apply in disability)?

Regulation: Actors

- How do regulatory staff manage rival institutional logics?
- How do people with disability as prospective customers assess organisational quality and safeguarding? (Turnpenny & Beadle-Brown 2014)
- How do workers understand the regulatory system and how do they enact requirements day-to-day?
- What are the impacts of actors – quality staff, boards, CEOs, middle managers, etc. – in ‘internal regulation’?
- What will be the long-term impact of the Royal Commission?

Auditing

- How do we understand auditing of human service provision? (Power 1997)
- Standards and auditor practice (Braithwaite; Makkai; Braithwaite 2007; Castka & Corbett 2015)
 - How can audit quality (consistency, reliability) be promoted?
 - How do auditors manage the rival logics in practice?
 - How do they exercise judgment (triangulation, etc.)?
 - How does auditor background affect audit results?
 - What are the limitations in auditing?
 - How do the soft skills of auditors affect outcomes?
- How people with disability experience the audit process? What do they do with audit/registration results?

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