CMHA submission on National Disability Agreement Review – Productivity Commission Issues Paper

Introduction

Community Mental Health Australia (CMHA) would like to thank the Productivity Commission (the Commission) for the opportunity to comment on the National Disability Agreement (NDA) Review Issues Paper.

CMHA is a coalition of the eight state and territory peak community mental health organisations. CMHA, through its state and territory bodies, has a direct link and contact to mental health organisations delivering services at the community level. CMHA provides a unified voice for approximately 800 community-based, non-government organisations who work with mental health consumers and carers across the nation and who are members of, or affiliated with, the various coalition members.

CMHA promotes the recovery of people living with a mental health condition so that they are contributing citizens and included in all of the economic and social aspects of their community. The organisation presents a united and representative voice for the community managed mental health sector who work every day on mental health issues and have the expertise through a specialised workforce, including a peer workforce and lived experience.

CMHA advocates for and promotes evidence-based, good practice and capacity building for community based mental health services, and collaborates with consumers and carers through a lived experience partnership. CMHA does this at the national level, and at the state and local level.

As is noted in the Issues Paper, the NDA is:

> a key accountability mechanism for the achievement of outcomes in the disability services sector, supported by Commonwealth and state own source funding provided separate to the agreement. It contains roles and responsibilities for each level of government and joins these efforts together through nationally agreed objectives and outcomes to measure performance in the delivery of services to people with disability, their families and carers.

In an environment of significant reform and active discussions by Government at both the state, territory and federal levels on who is responsible for the ongoing funding of disability services and support, the NDA being an accountability mechanism is crucial and CMHA believes, remains crucial. The issues paper refers to the broader policy landscape including the National Disability Insurance Scheme (NDIS) and the National Disability Strategy (NDS). The interaction and coordination between disability services and mainstream services, particularly as the transition to the NDIS continues, is another critical issue The Primary Health Networks (PHNs) are also impacting the funding and provision of services in mental health through the National Psychosocial Support Measure announced in the 2017-18 Federal Budget for people who won't be eligible for the NDIS, and the Continuity of Support funding for people transitioning from Federal mental health programs who won't be eligible for the NDIS.

The NDA represents a statement of intent that does not appear in other instruments. It provides an opportunity for the protection of the rights of people living with disability and to ensure further accountability of Australia's obligations under the United Nations Convention of the Rights of People with Disabilities (UNCRPD). However, it does not reflect the necessary financial underpinning in order to

serve as a vehicle for accountability, and bilateral agreements regarding specific funding allocations should be referenced in the NDA.

The NDIS in particular has had a significant impact on the funding and delivery of disability services, and, as the Issues Paper notes, the NDIS will largely replace the current provision of speciality disability services under the NDA. However the key point to make is that not all people will be eligible for the NDIS, particularly people living with a mental health condition, and there must be clear agreements and accountability measures to ensure state, territory and federal governments maintain their funding responsibility for all people with psychosocial disability and mental health conditions. The majority of Australians with disabilities will rely on mainstream services to access support and this needs to be reflected in the NDA.

The NDS has historically focused on the needs of people with disabilities other than mental health. With the implementation of NDIS the boundaries between "traditional" disability and mental health conditions is blurred. An example is the term "psychosocial disability" which is increasingly being used to refer to all people living with severe mental illness. Boundaries for the NDS should be clearly defined as should the interface between disability services and mental health services outside the NDIS.

Overall the NDA does need updating in light of the NDIS and NDS. CMHA believes that the continuation of the NDA and NDS – which is being reviewed separate to the Commission NDA processes – is vital to provide some oversight of what state, territory and federal government's will fund as the NDIS transitions and that there is appropriate funding by both NDIS and non-NDIS services. A further key element of the current NDA that should be strengthened – along with roles and responsibility for funding – should be strong performance indicators and benchmarks that are reportable and transparent, and link to funding, which currently does not effectively occur. CMHA agrees with the proposed framework for assessment from the Commission, in particular that some parts of the agreement may require more targeted assessment criteria which may include transparent funding reporting.

CMHA's submission to the Issues Paper will provide context with regards to the funding environment in which the community mental health sector is operating in, and address the majority of the questions from the Commission in the Issues Paper.

The community mental health funding environment

As CMHA has noted in several submissions and papers, a range of highly successful community managed mental health services will no longer be funded in various jurisdictions as the NDIS moves to full implementation. These services are primarily focused on community-based rehabilitation and their disappearance means that people will no longer have access to these services that support them to reduce the disabling impacts of their mental condition. Even those jurisdictions that have maintained state and territory funded mental health supports are vastly underfunded and unable to meet demand. The gap in funding of these services provides an opportunity cost to prevent psychosocial disability for people with mental health issues, and to reduce its impact.

The further significant issue is the gap in service provision that will be created with the transferring of funds for federally funded mental health programs from the Department of Health (DoH) and Department of Social Services (DSS) for Partners in recovery (PIR), Day to Day Living (D2DL), Personal

Helpers and Mentors (PhaMs) and Mental Health Respite: Carer Support service to the NDIS whilst many of the people currently receiving assistance from the funding will be ineligible for the NDIS.

The Federal Budget 2017-18 announced $80 million funding over four years for community-based mental health, with the requirement that it be matched by each state and territory, to address the gap in services for people with a psychosocial disability created by the NDIS. However, there has been no sector-wide evaluation or calculation of the estimated number of people with psychosocial disability currently in federally funded programs who won't be eligible for the NDIS, nor consideration of the impact of defunding short term mental health support places to fund lifelong packages of disability support. While this funding is welcomed, it is unlikely to make a significant impact on demand. In some jurisdictions (e.g. WA) the matched support is a list of existing services already overstretched and under-resourced, with many of these services and the majority of funding allocated more in keeping with community based clinical treatment rather than psychosocial or community support.

The transfer of state/territory and federal funding and the resulting gap in community support raises the fundamental question of how people (NDIS recipients or not) with serious mental health conditions will have their psychosocial rehabilitation needs met in the future. The loss of psychosocial rehabilitation from the mental health support system will eventually impact on the wider system, including the NDIS to sustain quality services.

For example, Victoria at full NDIS implementation will have removed all community mental health funding. Combined with the transfer of federally funded mental health programs to the NDIS, this will result in significant gaps across the spectrum of community mental health services for people both eligible and not eligible for the NDIS. The dual impacts of the loss of programs and funding with the potential withdrawal of services for people with psychosocial disability in the NDIS, is an issue that must be confronted along who will be the provider of services when previous services no longer exist. Additionally consumers are raising concerns about the lower quality of psychosocial services received under NDIS due to pricing impacts than the services they have received through either state or federally funded mental health programs. The impacts on carers is also a significant concern.

CMHA supports the point made by the Productivity Commission in the NDIS Costs inquiry that the NDIS was not expected to fill all service gaps. There should also not be a situation where some people receive a high level of support and others do not. People living with a mental health condition must have their psychosocial needs met regardless of whether they are eligible for the NDIS or not.

The interface between the NDIS and mainstream services and the gaps that will be created for mental health in the transition to the NDIS are some of the most significant and concerning issues for the community-managed mental health sector. The fact is the majority of people with a disability, and the majority of people with mental health conditions, will sit outside of the NDIS. The majority of people with disability will still need to access mainstream services to get access to supports, which is why the consideration of linkages and coordination in mainstream services is such a vital part of a future NDA.

CMHA also supports the recommendation of the Productivity Commission NDIS Costs inquiry that the NDIA should report on boundary issues and that there should also be mandatory reporting by all governments on the number of people covered by disability support programs (including mental health) pre- and post-NDIS. These are all elements that could be incorporated into a new NDA.

Purpose and Scope of the NDA

As noted earlier in this submission, CMHA believes the NDA is still required as a key mechanism for governments to agree and clearly state who is responsible for funding particular services. As state and territory governments are withdrawing funding, there must be agreement on continuing to fund not just the NDIS, but providing ongoing funding for the mental health and disability system outside of the NDIS.

The purpose of the NDIA should be providing clear, unambiguous accountability for funding and what type of services. With the introduction of the NDIS there needs to be an articulation about how the states and territories now fit in the picture, and not just a reference to the NDIS Act about what is 'reasonable and necessary' – as is currently in the agreement - but a clear articulation of who is responsible for what. As noted above CMHA agrees with comments in the Productivity Commission NDIS Costs inquiry that there should also be mandatory reporting by all governments on the number of people covered by disability support programs pre- and post-NDIS, and this could be part of the NDA.

The NDA should cover all people with disability regardless of the funding and services they access as it should relate to the overall picture of what services are available for people and what governments are responsible. It should clearly define the services context as a whole, and describe designated responsibility across systems and jurisdictions. Due to the boundary and cross-sectoral issues – particularly in relation to health services - that are occurring through the introduction of the NDIS, having an NDA that recognises the broader social service context and the ongoing need for broader services, such as health, housing, education and justice, is vitally important. This should also be reflected in in the NDS.

In relation to links between the NDA and other related agreements, strategies and policies, the NDIS and state and territory disability strategies, mental health should be identified through interfaces rather than subsuming mental health into general disability. There should be clearly articulated interfaces identified in the NDA and other agreements and plans. For example South Australia is embarking on a new Mental Health Services Plan and also has a Mental Health Strategic Plan through the SA Mental Health Commission. There is a need for agreements and accountability measures regarding the interface between the NDIS and other service systems, as the NDIS model is predicated on effective provision of supports for other aspects of people's lives. This can particularly affect people with complex needs, such as those experiencing mental health issues and homeless and justice system involvement. There needs to be stronger safeguards and strategies for people with complex needs and those at most at risk of either not engaging with the NDIS, not having a smooth interface, or not being eligible, e.g. people with mental illness in prison.

If the states and territories are not meeting their obligations and responsibilities to meet the needs of people with psychosocial disability who are not eligible for the NDIS and providing supports through the state and territory interfaces, there is a significant and ongoing risk to the sustainability of the NDIS. It is therefore critical that there should be some coherent link between state strategies and the NDS.

The NDA should reflect both the NDIS – covering 460,000 Australians – and those people who require assistance that aren't covered by the NDIS - there is uncertainty around what services will be available to these people. The NDA should establish responsibilities, funding arrangements, indicators, benchmarks and policy directions. The NDS would provide more detail about priority areas and areas for future action, as a document to further map progress towards achieving stated goals. State policies

should reflect this as well. The NDA could potentially clarify some of the gaps in disability services emerging through NDIS, which could then form the basis of disability policy for all governments, with the cohesion or interaction between mainstream services is important part of this.

The NDA's purpose should be to encompass all of disability wellbeing issues, state its intent around protecting the rights of people with disability, and convey its 'approach', i.e. person directed, trauma-informed recovery oriented etc. It should also state the different roles and responsibilities of the various workforces, and where shared responsibility may be required.

In some way the NDA will represent a market stewardship approach whereby it sets out the manage the complex challenges associated with managing public service and related markets, by taking a broader perspective but noting the implications of market competition, and the need for providers to work together effectively. The NDA to some extent is also an instrument of advocacy particularly in relation to matters that sit outside of the NDIS or may occur as a consequence of the NDIS.

In terms of objectives, outcomes and outputs the following points are needed:

- There must be a stronger reflection of 'choice and control' and supported decision-making given these are the central tenets of the major reforms such as the NDIS and the PHNs.
- The outputs need to include safety and quality, which the NDA doesn't currently, and reflect the structures and processes established through the NDIS Quality and Safeguards Commission, but also recognise that oversight mechanisms and safety and quality must be a part of NDIS and non-NDIS services.
- The outcomes should describe what the intent is – such as citizenship, social inclusion, choice and families and carers supported – but also that people have access to the services they need to achieve this.
- Outcomes need to have timelines and targets applied to them otherwise there is no incentive to achieve them and they don't have force behind them.

Roles and Responsibilities of Government

As the Issues Paper notes, the NDA currently focuses on services specifically for the needs of people with disability and notes complimentary mainstream services such as education, primary care and justice. As noted above, these need to be included and given a stronger reference in the NDA, as the reform processes are impacting access to these services for people living with a psychosocial disability and a mental health condition, including those in the criminal justice system and experiencing homelessness, for people both with and without NDIS packages. CMHA agrees with the Commission's comment in the Issues Paper that the sharing of responsibilities is creating confusion about who is responsible for which services and user cohorts. This could be addressed through agreed definitions and clearly articulated interfaces and linkages. CMHA also agrees that the lack of clarity contributing to gaps and possible duplication of services and is an impediment to accountability, the long term sustainability of the NDIS, and the effectiveness of ILC funding.

There is also limited understanding of the benefits of the NDIS to the sustainability of state systems, e.g. in mental health there will be a benefit to the costs of hospital systems by supporting people with psychosocial disability to live well in the community.The introduction of the NDIS has caused further confusion on roles and responsibilities or created the situation where some governments are

withdrawing services based on the rationale that the NDIS will take responsibility. This has created a considerable lack of clarity with issues related to co-occurring conditions and the disability and chronic illness interface for people with NDIS packages and in general for funding services that sit outside of the NDIS. There needs to be a breakdown of service areas and with responsibility clearly assigned and defined. This includes roles and responsibility for mainstream services.

The NDA could make reference to the 2015 Principles to Determine the Responsibilities of the NDIS and Other Service Systems including a requirement for these to be reviewed at least every three years with a view to greater operationalisation and various levels of government learn more about roles and boundaries.

As noted in the section on *The community mental health funding environment* a range of community managed mental health services will no longer be funded in various jurisdictions as the NDIS moves to full implementation. These services are primarily focused on community-based rehabilitation. The other issue is the gap in service provision that will be created with the transferring of funds for federally funded mental health programs and many people currently receiving assistance from the funding will be ineligible for the NDIS. This creates a gap in mental health programs that are designed to offer a range of flexible supports over short or longer time periods as required, and to engage intermittently in response to variations in acuity of mental health conditions that are episodic in nature. Those services that are available to provide support early in a person's recovery journey have the potential to prevent psychosocial disability from arising. Therefore the withdrawal of funding from these services appears inconsistent with the intention and sustainability of the NDIS.

As the Commission has noted in the Issues Paper, the insufficient resourcing of the Information, Linkages and Capacity Building (ILC) funding activities is also an issue, particularly for people found ineligible for the NDIS. ILC funding has also tended to focus on short-term projects or funding, where the type of support many people require is longer term. ILC funding will play a vital role in capacity building and substantial further investment is required to deliver on the intent of ILC, which is to boost personal capacity and make communities more inclusive of people with disabilities. The NDA must have regard to the way states and territories are delivering services to people outside of the NDIS as this is fundamental to who takes responsibility and to whether the mainstream supports ILC refers people to are available and responsive. Governments removing funding for other essential services has to be accounted for and who then is responsible to provide these services.

The NDA's performance framework

The current mapping between measures and the NDA performance indicators doesn't provide an indication of actual service quality and quantity, and neither does it reflect people's wellbeing. For example, the NDA performance indicator relating to people's satisfaction with the quality and range of services is limited to the percentage satisfied, with the outcome being people enjoy choice, wellbeing and independence. Designing indicators and outcomes with consumers and carers is crucial to ensuring this is done properly. Further, having a job isn't an indicator that someone is receiving support – the actual quality and level of support that a person and their family and carer is receiving is an indicator of support.

Public reporting against indicators is important but it must be transparent in terms of the amount of funding, the services that are being funded and if these services themselves are achieving appropriate

outcomes. There should be a breakdown of indicators by state, territory and federal levels and include supports provided in and outside of the NDIS.

The performance reporting framework needs to reflect that a significant amount of funding is going into the NDIS for a certain proportion of the population, but that there is a significant number of people that sit outside of this funding stream, particularly for people living with mental health conditions, and those who experience barriers to accessing the NDIS such as people with complex needs, people in rural and remote areas, people experiencing homelessness, Aboriginal and Torres Strait Islander people, and people from culturally and linguistically diverse backgrounds. Service provision is also impacted for carers and the NDA and the NDS will be central to monitoring carer funding support. The NDA can provide an overall picture of the funding and service environment so that there is some level of oversight for services for people with a psychosocial disability and a mental health conditions regardless of what service system they are in.

With regards to measures and indicators, the importance of properly capturing data across the different services government provide at the state, territory and federal level is vital. In order to properly map progress against stated outcomes, having data to properly measure and demonstrate progress is central and has been an ongoing gap in Australia. The transferring of all specialist disability service responsibility to the NDIS may have an impact on states and territories continuing to capture statistics on disability services.

Reform and policy directions

As noted above, CMHA believes that the NDA can be an effective mechanism for articulating reform and policy directions as it is about overall responsibility from both levels of government for funding services. Both the NDA and NDS should be continued. The NDA can clearly articulate who is responsible for ongoing funding, and the NDS can articulate continuing improvement in the delivery of not just services but also the range of factors that impacts on people's lives. The NDA can also be important in linking to other national agreements on health and housing, for example, which is relevant to the intersection and integration with mainstream services.

Conclusion and recommendations

In an environment of significant reform and active discussions by Government at both the state, territory and federal levels on who is responsible for the ongoing funding of disability services and support, the NDA being an accountability mechanism is crucial and CMHA believes, remains crucial. The NDIS in particular has had a significant impact on the funding of disability services, and, as the Issues Paper notes, the NDIS will largely replace the current provision of speciality disability services under the NDA.

However the key point to make is that not all people will be eligible for the NDIS, particularly people living with a mental health condition, and there must be clear agreements and accountability measures to ensure state, territory and federal governments maintain their funding and service delivery responsibility for all people with psychosocial disability and mental health conditions. There should also be clear delineations between specialist disability services and mental health services other than treatment services.

Overall the NDS does need updating in light of the NDIS and NDS. CMHA believes that the continuation of the NDA and NDS is vital to provide some oversight of what state, territory and federal governments will fund as the NDIS transitions and that there is appropriate funding by both NDIS and non-NDIS services and to support effective interfaces between the NDIS and mainstream (state and territory) services.

The key points for CMHA are:

- The purpose of the NDA should be providing clear, unambiguous accountability for funding and what type of services.
- The NDA should cover all people with disability regardless of the funding and services they access as it should relate to the overall picture of what services are available for people and what governments are responsible.
- The NDA must have regard to the way states and territories are delivering services to people outside of the NDIS as this is fundamental to who takes responsibility.
- The current mapping between measures and the NDA performance indicators doesn't provide an indication of actual service quality and quantity, and neither does it reflect people's wellbeing. Designing indicators and outcomes with consumers and carers is crucial to ensuring this is done properly.
- Public reporting against indicators is important but it must be transparent in terms of the amount of funding, the services that are being funded and if these services themselves are achieving appropriate outcomes. There should be a breakdown of indicators by state, territory and federal levels and include supports provided in and outside of the NDIS.
- The NDA can provide an overall picture of the funding and service environment so that there is some level of oversight for services for people with a psychosocial disability and a mental health conditions regardless of what service system they are in.
- Bilateral agreements regarding specific funding allocations should be referenced in the NDA.
- The NDA should provide a clear statement of intent to protect the rights of people living with disability and link to Australia's obligations as a signatory to the UNCRPD.