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Bedford Industries Inc ABN 27 553 554 594

13 August 2010

Commissioners Scott, Kalisch and Walsh  
Productivity Commission  
GPO Box 1428  
CANBERRA ACT 2601

Email: [disability-support@pc.gov.au](mailto:disability-support@pc.gov.au)

Dear Commissioners

Productivity Commission Inquiry into Disability Care and Support

Bedford welcomes this timely and important Inquiry by the Productivity Commission into the possible development of a long-term disability care and support scheme in Australia.

As you may know, Bedford plays an important part in the lives of over 3,000 people with disability or disadvantage in South Australia, through its diverse vocational and non vocational services and opportunities.

Our organisation supports the rights and entitlements of people with disability to fully participate in community life and enjoy citizenship in the same way as other members of Australian society.

As you will see from our submission, Bedford believes that significant, transformational change is necessary to the disability system in Australia. To that end, Bedford is supportive of the development of an approach which has generally been referred to as the National Disability Insurance Scheme (NDIS).

We trust you find our comments of use in your deliberations and look forward to an enhanced system which will better meet the needs and goals of all stakeholders.

Should you wish or need to clarify any matter in our response, please do not hesitate to contact our Chief Executive, Max Dyason or me.

Yours sincerely

**PHIL FARROW**

General Manager Government and Sector Relations

cc: M Dyason

# **PRODUCTIVITY COMMISSION INQUIRY: DISABILITY CARE AND SUPPORT**

## **BEDFORD SUBMISSION - AUGUST 2010**

### **ABOUT BEDFORD**

The Bedford Group is one of South Australia's leading and best known community service organisations, providing a diverse range of vocational and non-vocational services to over 3,000 people with disability or disadvantage.

This year Bedford celebrates its 65<sup>th</sup> anniversary of creating a brighter future for people with disability.

Bedford's ultimate goal is to provide the best options and opportunities for people with disability or disadvantage, bringing the best out of people with diverse needs.

Our underpinning values embrace inclusiveness, diversity, continuous improvement, relationships, innovation and being successful in meeting our charter.

Bedford's services for people with disability cover a spectrum of activities, including supported and community based (open) employment and job search programmes, training, housing and accommodation, as well as day options services for those not able to undertake any form of employment.

Services are provided in both metropolitan and regional South Australia, and include both centre based and community activities.

Bedford's client profile is similarly diverse, including from the perspectives of types and differing levels of disability and age profiles.

Through such activities and demographics, not only are we involved in actual service delivery and implementation of Government policy, but we have come to develop an appreciation of many issues confronted by people with disability and/or their carers and family members - relating to needs, aspects of programmes which work well and not so well, and gaps in the system.

In preparing our response, we have drawn on comments and observations from a number of resources and consultative mechanisms (including views of our Family Network group, a regular consultative and information sharing forum between family members and Bedford management; and our internal Corporate Employee Committee, a group of employee and staff representatives who meet monthly with our CEO, senior management and Board members) and projects in which we have been involved.

Bedford has also contributed to the development of the submission prepared by National Disability Services (NDS), the peak body for disability service providers in Australia, and would endorse and support the general thrust of recommendations within that submission.

## **RATIONALE FOR A NEW APPROACH**

There is general acceptance of the need for reform of the disability system in Australia, as evidenced by various commentaries about

- ~ the largely crisis driven approach;
- ~ difficulties in navigating the system;
- ~ the high demand for services, equipment, affordable housing, support and training, with various stakeholders competing for scarce resources;
- ~ the considerable “in kind” contribution by carers and families without which an even greater burden would be placed on the system;
- ~ the inadequate resources, gaps, inequities and lack of choices regarding service delivery;
- ~ uncertainty about future options; and
- ~ shortcomings in the coordination of and interaction between various disability programmes and portfolios/jurisdictions.

This is well reflected in the Issues Paper released by the Commission, which states “there is a widespread view that the current system is ..... deeply flawed and will increasingly be unable to meet people’s needs”; the Paper also refers to a number of reports which support this observation (Disability Care and Support, Productivity Commission Issues Paper, May 2010).

There is also a consensus that without significant change, the situation will become even more acute, with projections of greater need, less informal support from ageing families and carers and increasing competition from other sectors for resources.

It is against such a background, that Bedford believes a fundamental shift in policy and system design is needed.

## **THE GOALS OF A NEW SYSTEM**

A new disability care and support system should be underpinned by the guiding principles enunciated in the United Nations Convention on the Rights of Persons with disability (which Australia has duly ratified), namely:

- ~ respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons
- ~ non-discrimination
- ~ full and effective participation and inclusion in society
- ~ respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- ~ equality of opportunity
- ~ accessibility
- ~ equality between men and women
- ~ respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The issues and implications of adopting such a framework are elaborated upon throughout this submission. The system should also be aligned with the framework and key outcomes reflected in Government's recently released National Disability Strategy.

There are a number of key goals which a new system should strive to realise, based on the principles contained within the National Disability Strategy and UN Convention, namely:

- ~ social inclusion, participation and citizenship enjoyed by the population at large
- ~ empowering people with disability to exercise greater choice and reach their potential
- ~ facilitating a greater community acceptance of disability and respect for difference
- ~ an increased focus on the abilities of people in lieu their deficits
- ~ interventions at appropriate stages of one's life cycle and transitions to services based on one's changing needs
- ~ equity and access to community facilities and services
- ~ a greater national consistency in service delivery
- ~ clarity and transparency in eligibility and entitlement
- ~ the availability and appropriate allocation of resources, to enable the provision of a range of services for people with disability; and
- ~ sustainability.

Bedford believes that the mechanism best suited to address the transformational change needed in the disability system is what has been generally referred to as the National Disability Insurance Scheme (NDIS). Our comments to questions and points raised in the Commission's Issues Paper revolve largely around the adoption of an NDIS.

Bedford, along with many of our colleagues in the disability sector, endorsed the adoption of an NDIS in a submission to the Australian Government's consultations regarding a National Disability Strategy (National Disability Insurance Scheme, A national disability strategy for all Australians, November 2008). We commend that Paper to the Commission as part of its Inquiry.

## **KEY COMPONENTS TO A NATIONAL DISABILITY INSURANCE SCHEME (NDIS)**

Adoption of an NDIS approach will represent a fundamental shift in the way that the Disability system will operate and be managed in Australia.

The focus will change from a system which is predominantly based on welfare and charity, of being reactive, and with a short term costs and regulatory approach .... to one with a longer term focus on investment and infrastructure to meet the needs, desired outcomes and rights of people with disability, a system that is proactive and responsive.

### **A Social Insurance Model**

Underpinning the development of an NDIS would be the use of a Medicare style levy to generate revenue to meet the needs of people with disability who would be covered by the new approach. We believe that such a social insurance style levy is justified, as disability poses a risk to the population at large, in a number of ways, and at any time.

Through Medicare, the health system allows for and provides comfort that necessary levels of medical need will be met; an NDIS would provide a similar means and assurance that fundamental needs associated with a condition or onset of disability will be met.

In its report into a new Disability Policy framework, “The Way Forward”, the Disability Investment Group addressed the financial implications associated with an NDIS. We believe the content and findings of that Report lend weight to the adoption of an initiative like NDIS.

We endorse the view that the scheme should be underpinned by a “no fault” philosophy, along similar lines to various motor accident insurance schemes in Australia.

#### A unified approach to system delivery

As part of an enhanced, harmonised national approach, we believe there would also be merit in consolidating all Government Department disability programmes (both Federal and State) under one agency, a national authority ultimately reporting to the Federal Minister for Disability.

Such an authority would include appropriate community and sector representation as part of its governance arrangements.

This authority would be responsible for such matters as:

- ~ the development, application and coordination of a nationally consistent framework of services and programmes,
- ~ managing the scheme’s assets and liabilities,
- ~ monitoring performance and standards compliance,
- ~ research, data collection and dissemination, and
- ~ facilitating necessary complaints/review mechanisms.

Under the present system, a number of Federal and State Departments carry disability portfolio responsibilities. Some service providers, people with disability and their carers need to deal with a myriad of Departments, programmes and Departmental staff.

It is likely that there will be new and different stakeholders and arrangements through any change to the system. Unless there are structural changes as suggested, there will still be a need to navigate one’s way through the maze of policies, assessments, procedures, programmes, staff contacts and similar, in order to access required services and resources.

This may lead to an outcome contrary to what was intended.

We are not proposing another layer of bureaucracy through the national agency but rather, a consolidation of all existing disability related services. Further, we would not envisage any job losses through this initiative, but rather administrative efficiencies, savings and better utilisation of Government staff resources.

### Appropriate and early intervention

As indicated earlier, the present system is seen to be largely reactive in nature and crisis driven.

There is a compelling argument to suggest that by more appropriate and earlier interventions, there will be less intensive long term support needed for a number of people with disability, as well as reduced reliance on carer support and the development of desired behaviours and capacity that will lead to improved outcomes.

### **ELIGIBILITY**

There is a need to ensure that the processes of eligibility and entitlement are clearly differentiated in any new system and that eligibility criteria are clear, fair, transparent and equitable.

The system should also be predicated on eligibility from a whole of life or lifelong perspective, and with strategies to encourage as early intervention as possible.

There is a further need to ensure discussions on eligibility and entitlement do not become clouded with the issue of income support, which is directed at a source of income to meet an individual's ordinary living expenses.

### Coverage under the system

Eligibility needs to focus on those with long term needs. In this regard, people with a severe or profound disability should clearly form part of the cohort covered by a new scheme; but it is equally important that the definition of profound and severe is clear, to minimise differing perceptions as to what might be included within such a category.

The boundaries relating to core activities such as mobility, communication and self care need to be well articulated.

There are other people however, who should not be excluded from coverage because they do not fall within the umbrella of the "severe or profound" definition.

People with a mild to moderate intellectual disability may face barriers in fully participating in the community/society due to factors additional to any core limitation.

There are also other forms of impairment/disability that have tended to be excluded from certain programmes and services which should form part of the cohort covered by the system.

We also note the age criterion of 65yo in the recent National Health and Hospitals Network Agreement, which sets that threshold to delineate responsibility under the aged care system.

Consequently, we would maintain that eligibility under a new disability approach should be broadly considered in terms of:

People who have a permanent disability that is acquired in whatever form before the age of 65yo that is either:

- a) of a severe or profound nature (as defined and diagnosed/assessed), or
- b) involves a disability which requires ongoing support in order for the person to be able to live independently and/or participate in community life, employment or non-vocational day activities.

### Assessment

The above differentiation would allow people who have a patent right to long term care and support through the severity of their disability (group a) to receive services with minimal intrusion and requirement for ongoing assessment. In a sense, their entitlement will be largely pre-determined as a result of diagnosis.

People with what may be arguably considered a lesser level of disability but with necessary ongoing needs and supports would have a more regular assessment regime, as needs are likely to change more frequently over time.

Assessments need to be objective and would embrace functional impairment testing covering intellectual, physical and behavioural domains.

### The need for a legislative framework

We would also suggest that the determination of eligibility and entitlement needs to be enshrined in an explicit legislative framework, with supporting policies, to ensure that the various roles, scope of services and activities, commitments and similar are clearly understood by and are binding on all parties, and operate in the public interest.

### Effective and efficient interaction across portfolios

We believe that when considering eligibility, it is important that particular attention is afforded the interface (including eligibility criteria) between any new disability system and other programmes and portfolios which may have a disability connection, in particular, mental health and ageing.

It is important that people are not precluded from required support nor “fall through the cracks” due to programme design which does not take into account “whole of life” circumstances.

## **ENTITLEMENTS**

### Pricing and assessment mechanism

In terms of entitlement, it is imperative that there is an adequate and appropriate pricing mechanism so that there is equity in funding for individuals and across service types.

There must be a genuine rigour applied in the development of pricing to ensure that all relevant factors impacting on an individual's situation and capacity are taken into account.

Entitlements under the scheme would be determined through a functional assessment focussing on an individual's specific needs.

### Use of funding

Services that a person might access would include personal care, therapy, aids, equipment, accommodation, support and services to facilitate employment and community participation.

Entitlements would not embrace what might best be described as “discretionary” expenditure ie for items generally considered in excess of ordinary living or functioning requirements and/or community expectations eg while purchasing a car for personal use would likely be excluded, necessary vehicle adaptations to address a functional limitation might be covered.

Notwithstanding same, a degree of flexibility needs to be incorporated into the scheme design to allow for extraordinary circumstances which would otherwise not fit within set guidelines.

This may be of particular significance in regional or remote settings. However, such situations must not compromise the integrity of the system in its charter to deliver a more consistent and sustainable national framework.

The entitlement component also needs to be differentiated from income support which would continue to be met through the social security/pension system.

### Enhancing understanding of entitlements

One way that might promote understanding, transparency and minimise tensions regarding the scope and nature of entitlements would be to publish their value in the form of a schedule, along similar lines to the Medicare system. Such a document would reflect how various factors might impact on the determination of the quantum of entitlement.

Already, a not dissimilar approach is utilised by the Federal Government in the calculation of support levels/funding for disability employment programmes, whereby a range of assessed factors contribute to the calculation of the level and consequential amount of funding associated with an individual's' circumstances. Funding amounts and source data used to inform the calculation are available, enhancing understanding of the system.

## **ACCESS TO ENTITLEMENTS/SERVICES**

### The importance of choice and self managed funding

We believe it is important that the individual is able to exercise choice, a level of self determination, as to how funding should be used to direct and purchase individually tailored support to meet the person's needs.



In this context, in recent years, increasing attention has been afforded to the concept of “self managed” or “individualised” funding as a means to achieve such outcomes. We believe there is merit in the principles underpinning such an approach that affords greater control to the individual but that various factors need to be considered to ensure its integrity and value/relevance to the person with disability.

We are led to believe that obligations could be imposed on some people with disability (and/or their carers) through the use of such arrangements, with regard to potential Occupational Health and Safety and Industrial Relations responsibilities. This likelihood should be considered as part of the Inquiry’s deliberations into this form of funding model.

#### Governance and safeguarding quality standards

We are mindful of the need to ensure a necessary level of accountability and adequate governance in the proper use of public moneys - including with regard to any decision to adopt a self managed funding model; there may be some parties with problematic levels of financial capability and maturity required to administer and manage funding and associated service delivery performance.

Consequently, we believe that a suitable mechanism needs to be set in place to safeguard the quality of service and well being of service recipients. In this regard, we would advocate that any form of service provision should satisfy a predetermined accreditation standard.

We appreciate that quality systems already exist across various programmes and jurisdictions, while a joint Federal/State review of such frameworks is being undertaken to enhance their value and interaction, as well as reducing excessive administration and any duplication. The findings of that review should help inform the Commission in the development of the national disability system.

We would urge the Commission to ensure a robust approach is employed for any and every form of service delivery contemplated in a new system.

#### Distribution of funding

We commend the Federal Government’s “user choice” approach to funding, in that individuals may move between like employment services according to their preference and satisfaction with the service provided, with funding directed to the designated/preferred provider.

Such a model would seem worthy of consideration as it provides a level of self determination and choice, but with minimal legal and administrative imposts on the individual.

One must appreciate that the introduction of a different funding model has the potential to lead to a significant change in the configuration of the market, with not only existing providers continuing to operate but arguably with new services from both not for profit and for profit backgrounds, as well as carers and family members, becoming part of a new service delivery environment.

It is imperative that an appropriate balance is found between choice; compliance, accountability and governance; quality and administration.

The above “user choice” model appears well placed to achieve such a balance and allow the person to exercise control and choice over services, but not be burdened with excessive administrative and financial responsibility.

Should the preceding approach not be possible or preferred, it would be prudent to ensure there is a mechanism to allow the appointment of an agency who would assume responsibility for the holding and distribution of a person’s funding allocation, viz a form of intermediary, in particular for situations where an individual has a marginal capacity to perform same.

To reinforce accountability, such an agent would not be able to concurrently be the provider of contracted services. The problem with this approach is that it tends to add complexity to the system.

#### Funding Acquittals/Administration

It is important that the system is robust, efficient and effective, but not unduly onerous from an administrative perspective. This has been a failing in the way that various well intentioned policies, programmes and initiatives have been translated in practice.

A basic yet adequate acquittal process needs to be constructed with a statement of benefit acquitted against the nature and cost of services provided.

3<sup>rd</sup> party audits would provide further comfort to ensuring that moneys were appropriately spent and services were meeting a defined quality standard.

### **COMMUNITY DEVELOPMENT, AWARENESS and SYSTEM INTERACTION**

There will be a need for the new system to develop and promote strategies to ensure greater access by people with disability to general community facilities, transport, buildings, housing and the like; concurrently, effort needs to be directed towards better informing the community of the issues confronted by many people with disability in participating in community life.

While the development of an NDIS should provide a better system and strategy to meet the needs of people with disability, it is equally important that the approach does not work in isolation of other sectors.

A community awareness campaign needs to be incorporated into the new system.

Earlier, reference was made to the need for appropriate interactions with aged care and mental health portfolios. In a similar context, the system needs to be complementary with and interface with education, transport, health and like general community facilities and services.

While some progress has been made in refining interfaces in recent years, further work to improve access must form part of the overarching strategy for reform. Indeed, such a standard should become the norm.

## Restrictive Employment Policies for People with Disability

We would maintain that any policy framework which inhibits the right of people with disability to participate in employment needs to be addressed as part of a new system

As a case in point, people with disability are not able to enjoy and move between employment options in the same way as other Australian workers.

Currently, people with disability who are in a supported employment service (Australian Disability Enterprise, ADE) are significantly constrained in their ability to pursue open employment due to the policy construct which arguably means the person may need to leave that service and register to seek open employment.

This is a barrier to those who may wish to progress into an open employment option or career of their choice, and arguably, denies the right to be able to occupy two part-time roles – one in an ADE (where they are engaged in meaningful work and training, and may have a range of social and personal networks), the other in open employment where they can enjoy the opportunity to fully partake in the mainstream Australian workforce. This restriction needs to be resolved.

ADEs are also constrained by a Government policy which “caps” the numbers who are able to access supported employment programmes.

A number of supported employment providers have people on wait lists who are keen to be employed yet cannot do so due to the prevailing policy; there are also ADEs who operate above their funded capacity in order to provide opportunities for people with disability seeking work, as well as to meet workload demands.

We would hope that a new system might address such inequities, thereby allowing people with disability the potential to choose between service providers and transition between service types.

## **SERVICE PROVIDERS AND SECTOR CAPACITY**

We are conscious of the important role that service providers will continue to play in any new disability support system, along with informal and formal carers.

Community service [disability] providers are confronted with a range of occupational health and safety, quality, industrial relations and compliance regimes, which may not necessarily be the case with “new entrants” to service provision under a different care and support system.

Whilst recognising the need for accountability in the use of public moneys, current levels of compliance and administration have created what many describe as an excessive impost on providers, with attention and resources being diverted away from service delivery.

In this regard, the Productivity Commission noted in its report, “Contribution of the not-for-profit sector”, that there appeared to be scope to enhance funding arrangements and the extent of administration confronted by the sector.

We are also mindful and wary of the motivations and overly competitive nature of some parties and organisations who may enter the market, seeing it from more of a profit motive eg engaging in initial price gouging to secure market share, with lesser concern for those in need and their desired outcomes.

We would strongly encourage a focus on not for profit providers as eligible services under a new NDIS approach.

It is important that such factors, and associated imposts, are taken into account in system design, to ensure the standard of service, safeguards and the well being of people with disability and the sector at large, are preserved.

All “providers” of care and support should be required to observe such requirements.

## **INFORMATION /RESOURCES**

### **Easily understood and available information**

It is important that sufficient and easily understood information is available to assist people with disability, carers/families and other parties, when making decisions about what support services might best meet one’s needs, alternative options and the like.

We believe that the present system does not lend itself to address such a need and must be taken into account in scheme design.

### **Research and Analysis**

There is a need to ensure that relevant research and analysis of data and service delivery performance is undertaken, to inform the strategic direction of the system and provide the community and system users with information about the state of affairs.

This will not only drive continuous performance and standards but also assist users in decision making about preferred service options.