

Perth Home Care Services (PHCS) is pleased to have the opportunity to make comment on the Productivity Commission's Draft Report into Disability Care and Support. A secular community benefit organisation, Perth Home Care and Regional Home Care Services specialise in delivering person centred solutions to support people to live at home with dignity in the disability, aged care and mental health sectors.

Reform in Disability Care and Support is critical. Lack of reform and continuation of 'business as usual' is not an option for people with disability, or those who support them. Perth Home Care Services applauds the Commission's efforts to date and recognises the magnitude of the task outlined in the terms of reference. We support broadly and in principle the direction of the proposed reforms, and are particularly pleased about a number of aspects of the draft report. As well, we have some specific comments around areas of the report which should be strengthened, clarified and reconsidered.

In this response, PHCS highlights areas of support as well as areas of concern in the draft report. Specifically our areas of support include:

- Fundamental reform of the disability 'system' across the country
- Availability and certainty of support for all Australians in the event of a significant disability and;
- The strong focus on person centred, self directed support, including consumer directed funding options.

Fundamental reform of the disability 'system' across the country

As expressed in the draft report, there is no doubt that "The disability support 'system' overall is inequitable, underfunded, fragmented, and inefficient and gives people with a disability little choice." PHCS supports fundamental reform of the disability 'system'. PHCS believes that a system is needed which is built not only upon addressing these existing deficiencies in an equitable, efficient, cost-effective and accountable way, but also underpinned by values and principles and the rights of people with disabilities. The three tiers of the proposed reformed system recognise not only issues around funding and access, but implicitly, the notion that disability is not the property or issue for a single individual, but has societal impact. This notion is most particularly evident in the first tier of the proposed reform, recognising the importance of creating awareness by the general community of the issues that affect people with a disability but also increasing the potential benefits of a more inclusive society extending to the wider community. Ultimately, this shift in power, recognising the reciprocity of relationship between all members of the community is a significant change, and should not be underestimated. The social benefits are not exclusively around employment, although this is highlighted in the report. Rather, the benefit to the community is around perception and contribution, regardless of whether or not that contribution equates to employment. The implementation of this change will be a significant challenge and PHCS recommends that this is expanded in the final report.

Availability and Certainty of support for all Australians in the event of a significant disability

PHCS supports equitable access and allocation of support to people with a significant disability. PHCS also supports the preferred funding mechanism of direct payments from consolidated revenue going into a National Disability Insurance Premium Fund, using an agreed formula entrenched in legislation that:

- provides stable revenue to meet the independent actuarially-assessed reasonable needs of the NDIS and;
- includes funding for adequate reserves

Strong focus on person centred, self directed support, including consumer directed funding options.

PHCS strongly endorses all recommendations in Chapter 6, “Who has the decision making power” and applauds the Commission for recognising the need and ability of people with disabilities to make decisions around their funding and support arrangements.

We are pleased that the option of self directed funding is a key component of the structure of the proposed reforms as PHCS has been using this model for a number of years. The discussion in Chapter 6 is thoughtful and the issues are well presented overall. 6.24 and 6.25 discuss the *Set up a plan and a funding proposal* step. PHCS sees that the planning component for people who use self directed support models is very important. This importance is reflected in the draft, however, in the model development itself, the activity of planning with a person and/or their family will require more development. There are many factors which impact upon planning and its successful implementation and these should be fully recognised. We agree that specialist planning teams could be used, but that these may or may not be a part of the DSO.

PHCS is moving towards the implementation of a specialist planning team for the organisation over the next several months. We have learnt that it takes a high level of skill to facilitate planning and considerable effort and resources needs to be invested to develop these skills in the sector. Currently much of the value base and mind set in the disability sector supports the control of disability providers rather than the person and the families themselves. Consultation with people we support has given us a better idea of what people’s needs are in this regard, and they are wide ranging. Some individuals like to plan in group settings with others, whilst some people prefer to do this individually with their own networks. Some people we support have said that they might like to plan, but first need to be prepared for planning because it seems sometimes daunting in the face of priorities that demand their attention on a daily basis. Various types of planning methods exist and there are more to be developed.

Our experience in planning and developing individualised services with individuals and families is that the work can be extremely complex requiring time, considerable thoughtfulness and resources to achieve the lifestyle desired. Plans can be made with the best of intentions but as actions are taken much is learnt, things change,

people realise they want different things and new strategies and actions are required. It is very important that any new system ensures that planning and development is undertaken in a way that is respectful and at a pace that suitable to the individual and their family and friends. We are also learning about the value and importance of mentoring and support from other individuals and families to really develop the natural as well as the formal supports that are required for someone to live well.

In order for consumer directed models to be successful, a real change in the sector is required in order to be able to provide people and families with real choice and control.

Specifically, our areas of concern include:

- Mental Health
- The role of state based disability systems in the NDIA
- Assessments
- Implementation of the scheme

Mental Health- As discussed in PHCS' original submission, Mental Health should be 'in' and not 'out' of scope of the NDIS. People with mental illness have a disability as such and this disability should be recognised along with physical or intellectual disability. Like people who are challenged by other disabilities, people with mental illness can contribute and have right of citizenship. Putting mental health into the Disability Care and Support discussion will potentially allow funding to be allocated to assist people with mental illness on their recovery journey and can promote inclusion into communities and decrease of stigma.

The Commission seeks feedback on where the boundaries between the mental health sector and the NDIS might lie. Whether or not people with Mental Illness are supported under the NDIS should not be about their diagnosis, but rather their situation. Do they need the kind of support that is offered under the NDIS e.g. regular ongoing support which will enable them to have a home and participate in the community? They are people who need support regardless of what led to their disability. PHCS supports the principle that people with mental illness who need assistance should be eligible for assessment by the NDIS if they need ongoing support to live in the community. An appropriate assessment from the toolbox would determine what type of support is needed. If there is a need for ongoing support, people should be under the NDIS. For acute or clinical intervention provided in hospital or the community, support should fall under the state mental health jurisdiction, just as a person with MS still sees their doctor or specialist in the health system (not part of the NDIS). We see that the danger of cost shifting is low because all people will continue to have needs that will be served outside of the scheme.

It is likely that the number of people with mental illness as their primary cause of requiring high level support eligible for the NDIS would be relatively low compared to the total number of people experiencing mental illness at some time in their life. An alternative to diagnosis of schizophrenia and psychosis for determining the quantum

would be to look at the data for provision of accommodation support and ongoing psychosocial support as part of the National Mental Health data base.

The Role of State based Disability Systems

In our original submission, PHCS suggested that there were worthwhile 'things to keep' from the existing system. Western Australia is fortunate in many ways to be on the forefront of support to people with a disability, with a functional Disability Services Commission and local support through Local Area Coordination (LAC).

Disability Services Commission has done significant work to strategically influence state and local government, which is reflected in a blueprint moving forward called "Count Me In-Disability Future Directions" (See Attached). We strongly recommend that these functions remain at the state level.

PHCS sees that the role of the LAC should be maintained as part of the structure of a new system. Many of the LAC functions sit within the Disability Support Organisation structure of the proposed framework. LAC works together with families as a guide and facilitator of both the system and the resources available in the local community and facilitates planning and design. The LAC should not be responsible for determining the funding level or burdened with administrative tasks.. The assessment element may well be a separate function, but the LAC should be an active participant in assessment.

The importance of supporting people with disability in Western Australia is bipartisan, sitting firmly on the agenda of government, whatever their political philosophy. We see that there are parts of the existing system which should be retained when considering reform. These include:

- ✚ Retaining existing services and structures which meet the values and principles of a reformed system of the provision of Disability Care and Support.
- ✚ Liaison and collaboration with health, education, housing , public transport (all state based services) to promote access for people with disability
- ✚ Supporting broader social interventions ongoing such as access improvement and universal design.

PHCS supports the features outlined in 7.18, namely:

- (a) genuine implementation of self-directed funding
- (b) a common national assessment toolbox, with individual plans and funding budgets being no less than the amount determined through the assessment process
- (c) a protocol for monitoring the performance of assessors
- (d) the competitively neutral provision of services
- (e) data sharing.

We recognise and support the virtue of a national system, and the structure in principle. We would request that more work be done in jurisdictions where features

and practice of a good system currently exist, to see what parts could be retained in the national structure.

Further depth, clarity and understanding of all roles and associated costs are needed.

Assessments

PHCS agrees that good assessment practice is complex, and that it likely takes the form of a suite or a 'toolbox' rather than a single assessment tool. As the draft report describes, there are many tools currently available both in Australia and internationally. Every person is different and should be at the centre of any kind of assessment suite is used.

PHCS does not agree with the recommendation that assessors should be drawn from an approved pool of allied health professionals. Not only does this perpetuate the idea of disability as a health/medical issue but there will not be the workforce of suitable people available from these professional groups. Over a period of 20 years the experience of WA in recruiting Local Area Coordinators has shown that a social science or related qualification AND a strong values base is desirable and appropriate. There should also be further consideration of the requirement for "independence" by the assessor as total lack of knowledge of the person must limit their capacity to recognise a person's dynamic support needs and be well placed to understand their unique strengths and challenges.

Implementation of the scheme

With reform as sweeping and comprehensive as Disability Care and support, it is true to say 'the devil is in the detail'. With reform in funding as well as moving to a national model, the aim should be to get the funding/expenditure right and have well thought out and executed implementation.

PHCS questions the rationale of initial implementation/pilot in a single jurisdiction. The draft recognises the significant differences across all nine jurisdictions in current provision of disability care and support. Implementation is so important that it should not be prescribed in such detail as in this report where there has been limited opportunity to seek advice and input and conduct research on similar changes. This is evidenced by the 12 pages that make up chapter 17. We agree with implementing gradually and building up over time. PHCS suggests there is a need for pilots in every jurisdiction with say 2000-3000 people involved. The NDIA would then be able to learn implementation lessons that involve for each state (jurisdiction). Pilots in all the jurisdictions are a benefit because each jurisdiction has a different context and current areas of strength and deficit. Each will have different things that are known already and be able to see what needs to change at the jurisdiction level. There can then be informed decisions and discussion about what should be separate from a national scheme and what should be left the same. For example, the Local Area Coordination model could, in part, form the WA version of a Disability Services Organisation.

The scale of the change in both technical and cultural terms cannot be overestimated (Chapter 17- Implementation). From the legislative component to jurisdictional pilots and everything in between, the task is large, and therefore deserves much careful thought and planning. Considerations in 17.5 and 17.6 are all valid, but change in culture is missing. Great consideration needs to be given to structural adjustment across the community and the sector. In our experience of 15 years with Individualised funding and 5 years of Shared Management (consumer directed) models, we know that, there is a great deal to learn by both the system and individuals and families to develop the confidence and skills necessary to be successful. PHCS has had this opportunity through capacity building funding (DSC & FAHCSIA) to assist our learning and transform our organisation. If the NDIA wishes to fulfil its goals in relation to truly recognising the power and the rights of people with disability, it must put concentrated effort and significant investment into structural adjustment. This will include cultural change around how people with disability are viewed and welcomed into community and treated by the disability system. The change management involved is very significant. Further consideration needs to be given to how this is achieved within a structure that must also have the commercial imperative to ensure the financial sustainability of the scheme.

Given the significant work that has already been done in Western Australia that is consistent with the direction proposed by the interim report is suggested that the National Disability Insurance Scheme is based in Perth.

PHCS is very happy to be contacted by the Commission for further information or specific examples.

Responses to Specific Questions: Disability Care and Support- Productivity Commission Draft Report

As a result of consultation and PHCS' involvement with WAIS (WA Individual Support), we are in general agreement with 58 of the recommendations (see attached), partially agree with another seven recommendations (5.2, 5.7, 6.3, 6.5, 6.7, 7.5, 8.3), neither agree nor disagree with two (12.1, 12.2) and do not agree with four (4.5, 5.4, 7.12, 12.3). Reasons for disagreeing or only partially agreeing appear against the relevant Draft Recommendations below.

Chapter 3 Who is the NDIS for?

DRAFT RECOMMENDATION 3.1

The National Disability Insurance Scheme (NDIS) should have three main functions:

- to cost-effectively minimise the impacts of disability, maximise the social and economic participation of people with a disability, and create community awareness of the issues that affect people with disabilities. These measures should be targeted at all Australians
- to provide information and referral services, which should be targeted at people with, or affected by, a disability
- to provide individually tailored, taxpayer-funded support, which should be targeted at the subset of people with disabilities who are assessed as needing such support.

AGREE

DRAFT RECOMMENDATION 3.2

Individuals receiving individually tailored, funded supports should be Australian residents, have a permanent disability, (or if not a permanent disability, be expected to require very costly disability supports) and would meet one of the following conditions:

- have significant difficulties with mobility, self-care and/or communication
- have an intellectual disability
- be in an early intervention group, comprising:
 - those for whom there was a reasonable potential for cost-effective early therapeutic interventions (as in autism and acquired brain injury)
 - those with newly diagnosed degenerative diseases for whom early preparation would enhance their lives (as in multiple sclerosis)
- have large identifiable benefits from support that would otherwise not be realised, and that are not covered by the groups above. Guidelines should be developed to inform the scope of this criterion.

AGREE

DRAFT RECOMMENDATION 3.3

The NDIS should provide advice to people about those instances where support would be more appropriately provided through non-NDIS services. Support should be provided outside the NDIS for people whose:

- disability arose from a workplace accident or catastrophic injury covered by insurance premiums
- support needs would be more appropriately met by the health and/or palliative care systems, comprising:
 - those who would benefit from largely medically oriented interventions (including less restrictive musculoskeletal and affective disorders, and many chronic conditions)
 - many people with terminal illnesses
- support needs would be more appropriately met by the aged care system
- needs were only in relation to mainstream employment, public housing or educational assistance.

AGREE

DRAFT RECOMMENDATION 3.4

The NDIS should put in place memoranda of understanding with the health, mental health, aged and palliative care sectors to ensure that individuals do not fall between the cracks of the respective schemes and have effective protocols for timely and smooth referrals.

AGREE

DRAFT RECOMMENDATION 3.5

Whatever the actual funding divisions between the NDIS and aged care that are put in place, people should have the option of migrating to the support system that best meets their needs, carrying with them their funding entitlement.

Upon reaching the pension age (and at any time thereafter), the person with the disability should be given the option of continuing to use NDIS-provided and managed supports or moving to the aged care system. If a person chose to:

- move to the aged care system, then they should be governed by all of the support arrangements of that system, including its processes (such as assessment and case management approaches)
- stay with NDIS care arrangements, their support arrangements should continue as before, including any arrangements with disability support organisations, their group accommodation, their case manager or their use of self-directed funding.

Either way, after the pension age, the person with a disability should be subject to the co-contribution arrangements set out by the Commission in its parallel inquiry

into aged care. If a person over the pension age required long-term aged residential care then they should move into the aged care system to receive that support.

In implementing this recommendation, a younger age threshold than the pension age should apply to Indigenous people given their lower life expectancy, as is recognised under existing aged care arrangements.

AGREE

DRAFT RECOMMENDATION 3.6

Following the transition spelt out in draft recommendation 17.1, the NDIS should fund all people who meet the criteria for individually tailored supports, and not just people who acquire a disability after the introduction of the scheme.

AGREE

DRAFT RECOMMENDATION 3.7

The supports to which an individual would be entitled should be determined by an independent, forward-looking assessment process, rather than people's current service use.

AGREE

Chapter 4 What individualised supports will the NDIS fund?

DRAFT RECOMMENDATION 4.1

The NDIS should cover the current full range of disability supports. The supports would need to be 'reasonable and necessary'. The NDIS should also support the development by the market of innovative support measures (using the approaches set out in draft recommendation 8.3).

AGREE

DRAFT RECOMMENDATION 4.2

There should be no income or asset tests for obtaining funded NDIS services.

AGREE

DRAFT RECOMMENDATION 4.3

There should sometimes be a requirement to pay a modest fixed upfront contribution to the NDIS, with free access to services after that point. The NDIS should waive the amount where families have already contributed significantly towards the costs of support through unpaid care.

AGREE

DRAFT RECOMMENDATION 4.4

People should pay the full costs of services (primarily therapies) for which clinical evidence of benefits are insufficient or inconclusive if they wish to consume those services.

AGREE

DRAFT RECOMMENDATION 4.5

Services that meet the needs of much wider populations, including people with disabilities not covered by the NDIS, should lie outside the scheme:

- health, public housing, public transport and mainstream education and employment services, should remain outside the NDIS, with the NDIS providing referrals to them
 - but specialised employment services, disability-specific school to work programs, taxi subsidies, and specialised accommodation services should be funded and overseen by the NDIS.

DISAGREE – with the second part of the recommendation, which states that all existing State and federally funded disability services would be overseen by the NDIA and administered centrally.

DRAFT RECOMMENDATION 4.6

The Disability Support Pension (DSP) should not be funded or overseen by the NDIS. The Australian Government should reform the DSP to ensure that it does not undermine the NDIS goals of better economic, employment and independence outcomes for people with disabilities. Reforms should aim to:

- encourage the view that the norm should not be lifelong use of the DSP, among:
 - people with non-permanent conditions
 - people with permanent conditions who could have much higher hopes for employment participation
- provide incentives for people to work (even if only for a few hours per week) and for targeted rehabilitation for those with reasonable prospects of employment.

These reforms should not be limited to new entrants into the DSP.

AGREE

Chapter 5 Assessing care and support needs

DRAFT RECOMMENDATION 5.1

Working within the International Classification of Functioning, Disability and Health (ICF), the assessment process should identify the supports required to address an individual's reasonable and necessary care and support needs across a broad range of life activities, and should take account of an individual's aspirations and the outcomes they want to achieve.

The assessment process should be a valuable intervention in its own right, rather than just an entry point to supports. The process should:

- draw on multiple sources of information, including:
 - information provided by the individual with a disability, including their aspirations and requirements for supports
 - information provided by unpaid carers
 - current medical information on the person with a disability
- assess the nature, frequency and intensity of an individual's support needs.

AGREE

DRAFT RECOMMENDATION 5.2

The process should be person-centred and forward looking and consider the supports that would allow a person to achieve their potential in social and economic participation, rather than only respond to what an individual cannot do

- determine what supports outside the NDIS people should be referred to, including referrals to Job Network providers and mental health services
- consider what reasonably and willingly could be provided by unpaid family carers and the community ('natural supports')
- translate the reasonable needs determined by the assessment process into a person's individualised support package funded by the NDIS, after taking account of natural supports
- provide efficiently collected data for program planning, high level reporting, monitoring and judging the efficacy of interventions.

PARTIALLY AGREE – the Disability Employment Services system should be the primary referral target as they are far best equipped and experienced to support people with significant disabilities into sustainable employment.

DRAFT RECOMMENDATION 5.3

Any tools employed by the scheme should exhibit validity and reliability when used for assessing the support needs of potential NDIS users. The preferred assessment tools should be relatively easy to administer and exhibit low susceptibility to gaming. The toolbox should be employed nationally to ensure equitable access to nationally funded support services (and allow portability of funding across state and territory borders when people move).

AGREE

DRAFT RECOMMENDATION 5.4

Trained assessors should undertake assessments. To promote independent outcomes, assessors should not have a longstanding connection to the person. Assessors' performance should be continually monitored and assessed to ensure comparability of outcomes and to avoid 'sympathetic bracket creep'.

DISAGREE – This implies that the NDIA will establish a new nationwide network of assessors who will take over all assessment responsibilities from states and territories (such as Local Area Co-ordination in WA). Previous federal government efforts to establish such systems have largely unsuccessful. For example, the Job Capacity Assessor system in DEEWR is fundamentally flawed and universally criticised by disability employment services. The various 'disability officer' programs rolled out within Centrelink over the years have all failed to deliver valid or reliable assessment (by way of example, there are legion examples of 'disability officers' contacting disability providers to ask questions like 'has so-and-so recovered from her Down syndrome yet?'). Further, the restriction on any assessor with a longstanding connection to the person just serves to increase the likelihood of invalid or unreliable assessments. Similarly, an assessor with limited local knowledge would not be equipped to assess the person's needs.

DRAFT RECOMMENDATION 5.5

The NDIS should periodically reassess people's need for funded support, with a focus on key transition points in their lives.

AGREE

DRAFT RECOMMENDATION 5.6

Where an informal carer provides a substantial share of the care package, they should receive their own assessment. This should seek to identify their views on the sustainability of arrangements and the ways in which they could be supported in their role, including through the initiatives recommended in draft recommendation 13.3.

AGREE

DRAFT RECOMMENDATION 5.7

The NDIS should establish a coherent package of tools (a ‘toolbox’), which assessors would employ across a range of disabilities and support needs (attendant care, aids and equipment, home modifications).

PARTIALLY AGREE – caution against the development of a ‘tick-a-box’ assessment (like the highly-criticised and untrusted Job Seeker Classification Instrument used by DEEWR to assess support levels in generic and disability specialist employment services). There is no substitute for a competent and properly resourced assessor taking sufficient time to get to know a person, their support systems and their life situation.

DRAFT RECOMMENDATION 5.8

The assessment tools should be subject to ongoing monitoring, as well as a regular cycle of evaluation against best practices, including the ICF framework, and, if necessary, recalibration. The scheme should have systematic internal mechanisms to ensure that anomalies can be analysed and addressed.

AGREE

DRAFT RECOMMENDATION 5.9

The NDIS should use the best available tools in its initial implementation phase, with the on-going development of best-practice tools.

AGREE

Chapter 6 Who has the decision-making power?

DRAFT RECOMMENDATION 6.1

Governments should give people with disabilities eligible for benefits under the NDIS, or their nominated proxies, various options for exercising choice, including the power to:

- choose directly the service provider/s that best meet their needs
- choose disability support organisations that would act as intermediaries on their behalf when obtaining services from service providers, and/or
- ‘cash out’ all or some of their individual budgets if they wish, with the NDIA making direct payments to their bank accounts, and allowing people to purchase directly the detailed package of supports that best meets their preferences (‘self-directed funding’), subject to the constraints set out in draft recommendations 6.2, 6.7 and 6.8.
 - The specific arrangements for self-directed funding should be underpinned by the principle that, subject to the assessed individual budget and appropriate accountability requirements, the arrangements should maximise the capacity for a person to choose the services that meet their needs best and that promote their participation in the community and in employment.

AGREE

DRAFT RECOMMENDATION 6.2

Self-directed funding should include the following key stages.

- It would be informed by any prior planning and aspirations expressed by the person during the assessment phase (draft recommendation 5.2).
- The individual budget for self-directed funding would be based on the formal individual assessment of the person’s needs and would include the cashed out value of all goods and services covered by the NDIS, except those where specialist knowledge is required for informed choices.
 - The person with a disability — and/or their support network or chosen disability support organisation — would create a personal plan and a concrete funding proposal to the NDIA that outlines the person’s goals and the type of support that is necessary and reasonable to achieve these within the allocated budget.
- The resulting funding proposal would require approval by the National Disability Insurance Agency (NDIA).

There should be a capacity for a person to:

 - obtain quick approvals for changes to a funding proposal
 - add their own private funds to a funding proposal
 - allocate the individual budget to any mix of preferred specialist and mainstream goods and services, subject to the requirements that:
 - the person spend the budget in areas related to his or her disability needs and consistent with the funding proposal
 - the scope to cash out funds set aside for large non-recurrent spending items should be limited to the (rare) circumstances where the NDIA has approved this as an appropriate decision.

AGREE

DRAFT RECOMMENDATION 6.3

The NDIA should pay annual allocations of self-directed funding in monthly instalments paid in advance, with the capacity for the person to 'bank' up to 10 per cent of the annual allocation to the subsequent year.

PARTIALLY AGREE – have reservations about what happens to any remaining unspent funds. The recommendation implies that other unspent funds would have to be returned to the NDIA each year – or that an adjusted amount is provided in the following year. This implies that funds would need to be accounted for and formally acquitted. How might this be done? How will it be audited? Will the cost of administering such an arrangement outweigh the moneys saved? Further, if it were implemented, a roll-over amount of somewhat more than 10% may provide better protection against unforeseen events and rapidly changing needs.

DRAFT RECOMMENDATION 6.4

There should be a capacity for people to recruit and employ their own support workers, subject to the proviso that these should not be close family members, other than when:

- care is intermittent and provided by a non-resident family member
- exceptional circumstances are present and after approval by the NDIA
- the person is in the family employment trial spelt out in draft recommendation 6.5.

AGREE

DRAFT RECOMMENDATION 6.5

There should be a trial of the employment of family members under self-directed funding to assess its risks, advantages, disadvantages and optimal design, with its wider adoption if the evaluation proves positive. The trial should use an appropriately rigorous scientific approach, drawing on the evaluations used in the United States 'Cash and Counseling' programs. For the trial:

- the NDIA should determine that there are few risks from hiring relatives for each family in the trial
- the individual budget should be discounted by 20 per cent
- support should be initially limited in duration to six months, with continuation of any arrangement for a given family based on the benefits and costs to that family
- risks should be carefully managed to ensure appropriate use of funds and to safeguard people with disabilities and carers (draft recommendation 6.8).

PARTIALLY AGREE – unsure where a concept of a 20% discount to the individual budget comes from.

DRAFT RECOMMENDATION 6.6

The NDIA should:

- inform people with disabilities and their proxies of the various options for self-directed funding
- provide support for people using self-directed funding, including easy-to-understand guidance about the practical use of self-directed funding, including standard simple-to-follow forms for funding proposals, hiring employees and for acquittal of funds
- promote the use of self-directed funding, with examples of innovative arrangements
- provide training to local case managers and front-line staff about self-directed funding
- encourage the formation of disability support organisations to support people in the practical use of self-directed funding.

AGREE

DRAFT RECOMMENDATION 6.7

Before offering self-directed funding to a person, the NDIA should:

- meet with the person with a disability and their carers, and take account of their experience and skill sets
- use that and any information provided during the assessment phase to determine whether the person and/or their support network are likely to be able to:
 - make reasonably informed choices of services
 - manage the administrative and financial aspects of funding if they wish to oversee these aspects by themselves.

PARTIALLY AGREE – concerned whether independent assessors could legitimately make that assessment. Perhaps all people should be given the chance from the outset and, where doubts exist, be more closely monitored in the early days.

DRAFT RECOMMENDATION 6.8

In offering self-directed funding, the NDIA should ensure that:

- it reduces the risks of neglect or mistreatment of people with a disability by support workers or other service providers hired by users in the informal sector, by:
 - ensuring easy and cheap access to police checks
 - giving users the capacity to complain to the NDIA about inappropriate behaviour of providers, and to have these investigated
 - monitoring by local case managers
- it reduces the risks to support workers employed under self-directed funding by requiring that they are covered by workers' compensation arrangements and have an avenue for lodging complaints

- it adopts a risk-management approach for receipting and other accountability requirements, which:
 - requires less accountability for people with low risks or who have demonstrated a capacity to manage their funds well
 - takes into account the compliance costs of excessive accountability measures
 - allows a small component of the individual budget to be free of any receipting requirements.

AGREE

DRAFT RECOMMENDATION 6.9

The NDIA should undertake ongoing monitoring of self-directed funding arrangements, with a quarterly report to the board of the NDIA on issues arising from self-directed funding. There should be a full evaluation three years after their commencement to assess any desired changes in their design.

AGREE

DRAFT RECOMMENDATION 6.10

The Australian Government should amend the Income Tax Assessment Act 1936 and the Social Security Act 1991 so that the following are not treated as income for assessment of taxes or eligibility for income support or other welfare benefits:

- self-directed funding paid by the NDIA and, in the interim, by state and territory governments
- early compassionate release of eligible superannuation amounts for disability expenditures which meet the criteria set down by the Superannuation Industry (Supervision) Act 1993.

AGREE

Chapter 7 Governance of the NDIS

DRAFT RECOMMENDATION 7.1

The Australian Government should establish a new independent Commonwealth statutory authority, the National Disability Insurance Agency (NDIA), to administer the National Disability Insurance Scheme.

The NDIA should be subject to the requirements of the Commonwealth Authorities and Companies Act 1997 (CAC Act), not the Financial Management and Accountability Act 1997.

AGREE

DRAFT RECOMMENDATION 7.2

An independent board should oversee the NDIA. The board should comprise people chosen for their commercial and strategic skills and expertise in insurance, finance and management.

- As specified in the CAC Act, the board should not be constituted to be representative of particular interest groups, including governments, disability client or service provider groups.

The Australian Government and the state and territory governments should together establish an appointment panel comprising people with skills and experience in these areas, including people with a clear interest in disability policy issues.

- The panel should nominate candidates for each board vacancy against tightly specified selection criteria set down in the Act governing the NDIA. Appointments should be based on the majority decision of governments.

The Australian Government, with the agreement of the majority of state and territory governments, should have the power to remove the chair or dissolve the board as a whole. The board would have the sole power to appoint the CEO and to sack him or her if necessary, without authorisation from governments.

AGREE

DRAFT RECOMMENDATION 7.3

The Australian Government, together with state and territory governments, should establish an advisory council. The council should provide the board of the NDIA with ongoing advice on its activities and effectiveness in meeting its objectives, from the perspectives of people with disabilities, carers, suppliers of equipment and services and state and territory service providers and administrators.

- The council should comprise representatives of each of these groups.

AGREE

DRAFT RECOMMENDATION 7.4

The arrangements between the NDIA and governments should be at arm's length, and subject to strict transparency arrangements. The federal Treasurer should have responsibility for the NDIA.

AGREE

DRAFT RECOMMENDATION 7.5

The Australian Government, with the agreement of state and territory governments, should provide the NDIA with its own legislation that specifies its objectives and functions, and its governance arrangements.

- Financial sustainability should be a specific obligation of the board, the management and the minister, and this obligation should be enshrined in legislation. It should specifically guide any external review body (draft recommendation 7.8).
- An entitlement to reasonable support should be enshrined in legislation, together with details about people's eligibility for services and the range of services to be offered.

Future changes to the legislative framework should be undertaken only by explicit changes to the Act itself, made transparently, and subject to the usual processes of community and Parliamentary scrutiny, and in consultation with all state and territory governments.

- Such proposed legislative changes should be accompanied by an independent assessment of the impact of the changes on the sustainability of the scheme.

PARTIALLY AGREE – with the proviso that changes to the legislation should require the prior agreement of the majority of state and territory governments (not just consultation with them)

DRAFT RECOMMENDATION 7.6

An independent actuarial report on the NDIA's management of the NDIS should be prepared quarterly and annually, and provided to the board, the regulator, the federal Treasurer, and to all state and territory governments. It should assess risks, particularly in regards to the capacity of the expected funding stream to meet expected liabilities within its funding framework, the source of the risks and the adequacy of strategies to address those risks.

AGREE

DRAFT RECOMMENDATION 7.7

A specialist unit should be established within the federal Treasury to monitor the performance of the NDIA against a range of cost and performance indicators, and report its findings annually to its minister, state and territory governments and the public.

AGREE

DRAFT RECOMMENDATION 7.8

The NDIA should be independently reviewed, initially after its first three years of operation, and every five years thereafter, with the outcomes publicly and promptly released.

AGREE

DRAFT RECOMMENDATION 7.9

The NDIA should be subject to benchmarking with other comparable corporate entities to assess its relative efficiency in its various functions, with the federal Treasury initiating benchmarking studies.

AGREE

DRAFT RECOMMENDATION 7.10

The NDIA should establish two service charters that specify respectively the appropriate conduct of the (i) NDIA and (ii) specialist service providers and disability support organisations.

AGREE

DRAFT RECOMMENDATION 7.11

The wording of the NDIA Act should limit the capacity of merits review processes to widen eligibility or entitlement. It should require that any claims by NDIA clients would need to:

- meet a 'reasonable person' test
- balance the benefits to the person with a disability against the costs to the scheme, including any adverse implications for the long run sustainability of the scheme from the review outcome
- take into account the obligation of people with disabilities or their families to avoid decisions that unreasonably impose costs on the scheme.

AGREE

DRAFT RECOMMENDATION 7.12

The NDIA should include an internal complaints office that would:

- be separate from the other parts of the NDIA dealing with clients and service providers
- hear complaints about breaches of the service charters (draft recommendation 7.10)
- reassess contested NDIA decisions on a merit basis.

The office would be headed by an independent statutory officer who would review appeals made by people with disabilities and support providers against the decisions of the NDIA.

- The NDIA legislation should create this role and specify that the officer would be independent, would act fairly and impartially, basing their decisions on the available evidence, and could not be directed in their decision-making.
- A person or support provider should only be able to appeal the decisions of the office on matters of law, rather than on merit, to the courts.

The NDIA should publish the number, types and outcomes of complaints and appeals (subject to privacy protections).

DISAGREE – the complaints office should be external to the NDIA. It should have the status of an Ombudsman and it should be attached to HREOC.

DRAFT RECOMMENDATION 7.13

If the proposal in draft recommendation 7.12 for appeal processes supported by an independent statutory officer are not adopted, then the Australian Government should create a specialist arm of the Administrative Appeals Tribunal to hear appeals on merit about the NDIA's decisions subject to the constraints of draft recommendation 7.11. The Australian Government should set aside significant additional resources to fund this specialist arm and should include a larger reserve for the NDIS, calculated to take account of the higher risks of this approach.

AGREE

Chapter 8 Delivering disability services

DRAFT RECOMMENDATION 8.1

The NDIA should support consumer decision-making by providing:

- a centralised internet database of service providers that indicates the ranges of products and services, price, availability and links to measures of performance and quality
- well resourced and effective provision of advice and information to clients, as well as monitoring of their wellbeing. These services should be graduated in terms of the needs of the client and concentrated at key points, such as when entering the disability system or important transition periods.

AGREE

DRAFT RECOMMENDATION 8.2

The Australian Government should fund and develop a national system for a shared electronic record of the relevant details of NDIA clients, including assessed need, service entitlements, use and cost of specialist disability services, outcomes and other key data items with privacy safeguards.

AGREE

DRAFT RECOMMENDATION 8.3

The NDIA should develop and implement a quality framework for disability providers, which would include:

- the development of complete, nationally consistent standards that would apply to all funded specialist service providers and disability support organisations. The NDIA should monitor compliance with these standards and other regulations through a range of instruments, including graduated and rolling audits of service providers, community visitors, senior practitioners, independent consumer surveys, complaints, surveillance by case managers and interrogation of the electronic disability record
- arrangements that encourage the diffusion of best practice throughout the disability sector
- providing consumers with information about the quality and performance of service providers on the national internet database of service providers
- establishing an innovation fund that providers would use for developing and/or trialling novel approaches to disability services.

PARTIALLYAGREE – quality audits should focus on quality outcomes for people with disability rather than providers' compliance with standards that will primarily take the form of an inspection of their policies and procedures. NDIA should be seeking to implement contemporary and robust quality assurance systems.

Chapter 9 Disability within the Indigenous community

DRAFT RECOMMENDATION 9.1

The Australian Government and state and territory governments should consider the feasibility of overcoming the barriers to service delivery in the NDIS for Indigenous people with a disability by:

- fostering smaller community-based operations that consult with local communities and engage local staff, with support from larger experienced service providers
- employing Indigenous staff
- developing the cultural competency of non-Indigenous staff.

In its initiatives for delivering disability supports to Indigenous people, the NDIS should be mindful of the wider positive measures addressing Indigenous disadvantage being adopted throughout Australia.

AGREE

Chapter 10 Collecting and using data under the NDIS

DRAFT RECOMMENDATION 10.1

Prior to the implementation of the NDIS, the NDIA should design and establish extensive and robust data systems, underpinned by the associated information technology and administrative systems. The systems should be used to develop a central database that would:

- guide financial management of the scheme, and in particular, to continuously manage risks to scheme sustainability and to pinpoint areas of inefficiency
- inform decisions about disability services and interventions
- enable performance monitoring of service providers
- monitor and evaluate outcomes

Disability support organisations and service providers would be required to provide timely relevant data to the NDIA.

AGREE

DRAFT RECOMMENDATION 10.2

The NDIA should establish an independent research capacity under the NDIS. It should determine how research is undertaken and the research agenda, following public consultation.

AGREE

DRAFT RECOMMENDATION 10.3

The NDIA should make relevant data, research and analysis publicly available, subject to confidentiality, privacy and ethical safeguards.

AGREE

DRAFT RECOMMENDATION 10.4

In implementing draft recommendation 10.1, the NDIA should determine after consultation with relevant stakeholders, including the Australian Privacy Commissioner:

- the key actuarial information needed to underpin sound scheme management
- data standards, definitions, terminology and collection processes
- data reporting standards, taking into account the Australian Government's initiatives for standard business reporting
- arrangements for achieving inter-connectedness of information technology systems among the NDIA, other relevant government agencies and service providers
- rules for accessing data, including confidentiality and privacy safeguards
- arrangements for integrating data and associated information technology and administrative systems with eHealth initiatives.

The NDIA should then establish data collection and associated IT and

administrative systems that link all agencies and service providers within the disability system.

AGREE

Chapter 11 Early intervention

DRAFT RECOMMENDATION 11.1

Early intervention approaches used by the NDIA should draw on evidence of their impacts and be based on an assessment of the likelihood of cost-effectiveness. NDIS funding for early intervention should be additional to that allocated to clients for their ongoing care and support and should not be able to be cashed out under self-directed care packages.

AGREE

DRAFT RECOMMENDATION 11.2

The NDIA should build an evidence base on early intervention. It should commence this task by identifying, in consultation with stakeholders, existing or potentially promising approaches for further research.

AGREE

Chapter 12 Where should the money come from? Financing the NDIS

DRAFT RECOMMENDATION 12.1

The costs of supporting people with a disability from year to year should be met from claims on general government revenue (a 'pay as you go' scheme):

- but would be subject to the strong disciplines for certainty of funding specified in draft recommendation 12.2
- supplemented by payments to create reserve funds.

However, the scheme should be managed and reported as if it were a 'fully-funded' scheme in which each year's funding is considered in the context of the scheme's expected future liabilities.

NO COMMENT

DRAFT RECOMMENDATION 12.2

The Australian Government should direct payments from consolidated revenue into a National Disability Insurance Premium Fund, using an agreed formula entrenched in legislation that:

- provides stable revenue to meet the independent actuarially-assessed reasonable needs of the NDIS
- includes funding for adequate reserves.

If that preferred option is not adopted, the Australian Government should:

- legislate for a levy on personal income (the National Disability Insurance Premium), with an increment added to the existing marginal income tax rates, and hypothecated to the full revenue needs of the NDIS

- set a tax rate for the premium that takes sufficient account of the pressures of demographic change on the tax base and that creates a sufficient reserve for prudential reasons.

NO COMMENT

DRAFT RECOMMENDATION 12.3

The Australian Government and state and territory governments should sign an intergovernmental agreement specifying that:

- the Australian Government should:
 - collect all of the revenue required to fund the NDIS through the National Disability Insurance Premium Fund
 - make no further special purpose payments to state and territory governments for disability supports.
- state and territory governments should offset the Australia-wide fiscal implications of the transfer of responsibility by either:
 - (a) reducing state and territory taxes by the amount of own-state revenue they used to provide to disability services or
 - (b) transferring that revenue to the Australian Government.
 The Commission sees particular merit in option (a).

Any NDIS funding arrangements should ensure that state and territory governments that provide less own-state funding for disability supports than the average should not be rewarded for doing so.

DISAGREE – There is much that is good in current state and territory disability service systems – and much that is bad. A mechanism should be developed to enable States and territories to preserve services (such as local area co-ordination) that they deem valuable or perhaps integrate them into the new assessment and case management systems that will be introduced by the NDIA.

Chapter 13 Workforce issues

DRAFT RECOMMENDATION 13.1

The Australian Government should attract further support workers into the disability sector:

- by marketing the role and value of disability workers as part of the media campaign launching the creation of the NDIS
- by providing subsidies to training of disability workers
- through immigration of support workers, but only in the event that acute and persistent shortages occur, and drawing on the lessons from the Canadian Live-In Caregiver program and other similar programs.

AGREE

DRAFT RECOMMENDATION 13.2

Australian governments should ensure that, across all jurisdictions, police check arrangements for paid workers providing services to people with a disability:

- apply only in cases where both the person with a disability is vulnerable AND the risks associated with delivery of services are sufficiently high
- not include disclosure of crimes covered by spent convictions legislation
- cover people for a given period, rather than for a particular job.

AGREE

DRAFT RECOMMENDATION 13.3

In order to promote training and counselling for carers, the NDIS should:

- assess carer needs as well as those of people with disabilities (draft recommendation 5.6) and, where needed, use the assessment results to:
 - refer people to the ‘Carer Support Centres’ recommended in the Commission’s parallel inquiry into aged care and to the National Carers Counselling Program
 - include the capacity for accessing counselling and support services for carers as part of the individual support packages provided to people with a disability
- assess the best training and counselling options for carers of people with disabilities as part of the NDIS research and data collection function.

AGREE

DRAFT RECOMMENDATION 13.4

The Australian Government should amend s. 65(1) of the Fair Work Act 2009 to permit parents to request flexible leave from their employer if their child is over 18 years old, but subject to an NDIS assessment indicating that parents are providing a sufficiently high level of care.

After monitoring the impacts of this legislative change, the Australian

Government should assess whether it should make further changes to the Act to include employees caring for people other than children.

AGREE

Chapter 16 A national injury insurance scheme (NIIS)

DRAFT RECOMMENDATION 16.1

State and territory governments should establish a national framework in which state and territory schemes would operate — the National Injury Insurance Scheme. The NIIS would provide fully-funded care and support for all catastrophic injuries on a no-fault basis. The scheme would cover catastrophic injuries from motor vehicle, medical, criminal and general accidents. Common law rights to sue for long-term care and support should be removed.

AGREE

DRAFT RECOMMENDATION 16.2

State and territory governments should fund catastrophic injury schemes from a variety of sources:

- compulsory third party premiums for transport accidents
- municipal rates and land tax for catastrophic injuries arising for victims of crime and from other accidents (excluding catastrophic medical accidents)

Once the NIIS is fully established, the Australian Government should examine the scope to finance catastrophic medical accidents from re-weighting government subsidies and doctors' premium contributions.

AGREE

DRAFT RECOMMENDATION 16.3

The NIIS should be structured as a federation of separate state catastrophic injury schemes, which would include:

- consistent eligibility criteria and assessment tools, and a minimum benchmarked level of support
- consistent scheme reporting, including actuarial valuations and other benchmarks of scheme performance
- shared data, cooperative trials and research studies
- elimination of any unwarranted variations in existing no-fault schemes.

State and territory governments should agree to a small full-time secretariat to further the objectives outlined above. The NIIS and the NDIA should work closely together.

AGREE

DRAFT RECOMMENDATION 16.4

State and territory governments should consider transferring the care and support of catastrophic workplace claims to the NIIS through a contractual arrangement with their respective workers' compensation schemes, drawing on the successful

experiences of Victoria's Worksafe arrangements with the Transport Accident Commission.

AGREE

DRAFT RECOMMENDATION 16.5

The initial priority for the NIIS should be the creation of no-fault accident insurance schemes covering catastrophic injuries arising from motor vehicle and medical accidents in all jurisdictions, with schemes in place by 2013. Other forms of catastrophic injury should be covered by at least 2015.

An independent review in 2020 should examine the advantages and disadvantages of:

- widening coverage to replace other heads of damage for personal injury compensation, including for pecuniary and economic loss, and general damages
- widening coverage to the care and support needs of non-catastrophic, but still significant, accidental injuries, except where:
 - the only care needed can be provided by the health sector
 - the injuries arose in workplaces covered by existing workplace insurance arrangements
- merging the NIIS and the NDIS.

AGREE

Chapter 17 Implementation

DRAFT RECOMMENDATION 17.1

In the second half of 2011 or early 2012, the Australian Government and the state and territory governments should, under the auspices of COAG, agree to a memorandum of understanding that sets out an in-principle agreement:

- that the NDIS should commence in stages from January 2014, be rolled out nationally in 2015 and be fully operational by 2018
- to follow the reform timetable for the NIIS specified in draft recommendation 16.5.

AGREE

DRAFT RECOMMENDATION 17.2

The Australian Government and the state and territory governments, under the auspices of COAG, should create:

- a full-time high level taskforce from all jurisdictions to commence work on the detailed implementation of the NDIS
 - to be headed by a person with insurance or disability experience who has driven change successfully in a large organisation, appointed with the agreement of all jurisdictions
 - with a draft intergovernmental agreement to be prepared for final consideration and agreement by COAG in February 2013
- a full-time high level taskforce from all jurisdictions to commence work on the implementation of the NIIS by the states and territories.

AGREE

DRAFT RECOMMENDATION 17.3

In the period leading up until the full introduction of the NDIS, the Australian Government should supplement funding under the National Disability Agreement to reduce some of the worst rationing of support services.

AGREE

DRAFT RECOMMENDATION 17.4

In 2020, there should be an independent public inquiry into the operation of the NDIS and its effectiveness in meeting the needs of people with disabilities. The review should also encompass the review of the NIIS as set out in draft recommendation 16.5.

AGREE

Conclusion

Perth Home Care Services appreciates the opportunity to make comment on the draft report and commends the Productivity Commission on its work and consultation to date. We look forward to the final report in late July 2011.