

Ms Patricia Scott,
Commissioner
Inquiry into Disability Care and Support
Productivity Commission
GPO Box 1428
CANBERRA CITY, ACT 2601

18 May 2011
TRIM Ref:

Dear Commissioner,

RE: Productivity Commission Inquiry into Long Term Disability Support and Care: Response to Draft Report

I write on behalf of the members of the NSW Disability Council ('the Council') who would like to thank the Productivity Commission ('the Commission') for the further opportunity to contribute in the consultative process.

The Council welcomes the findings of the Commission's Draft Report: Disability Care and Support, released in February 2011. The Council agrees with the view that the 'disability support system overall is inequitable, underfunded, fragmented, and inefficient and gives people with a disability little choice' and in need of widespread reform.

The NSW Disability Council

The Council is an advisory body comprising members who have experience, expertise and knowledge of issues affecting people with disability, their families and carers. Most of the members are people with a lived experience of disability.

Productivity Commission Draft Report

The Council previously made submissions to the Productivity Commission and Council members are pleased that many of their nine recommendations were incorporated into the draft report. The Council notes that where the Commission had taken a different approach, it was evidence based and reasonable, particularly in respect of the funding arrangements for a new long term disability support scheme. The Council accepts and supports the reasoning behind the Commission's preference for the scheme being funded

via consolidated revenue on the basis that disability care and support should be a core business of government.

The Council wishes to highlight to the Commission some additional issues that could affect the successful implementation of a National Disability Insurance Scheme (NDIS).

Level of Impairment

The Council appreciates and applauds the Commission's recommendation that supports for people with cognitive and intellectual impairment will be included in an NDIS. However, there are concerns that there is a risk for those who are currently excluded from service provision because of the individual level of impairment will continue to be so in an NDIS.

These are people who may have relatively low support needs due to their disability. Nonetheless these support needs can be as legitimate and significant to enabling a person to lead as fulfilled a life to that of someone with higher support needs. Under current prioritisation policies, funding is generally allocated to people with higher support needs. Council members ask that the Commission pay close attention to ensuring that the needs of people who require low levels of support are met in a new system.

The implication of excluding people with disability who require lower supports in the NDIS will create inequity of access. Some people with disability will have access to support on an entitlement basis, while others will continue to rely on state funding available to meet their daily needs.

Further, it is important that all levels and types of disability are considered in a federated scheme, specifically relating to the provision of support for children and young people. There are concerns that the current system as it stands, excludes some people, particularly children, on the basis of the type of disability and level of impairment whilst it favours others.

Safeguarding and Quality Control

The Council member's welcome the inclusion in the draft report of the need for safeguarding the quality of supports that individual does will receive. However there needs to be more attention directed towards the obligation of protecting the human rights of people with disability who will be self-directing their support packages or relying on service providers or brokers to manage their support needs. The right to makes choices and control funds needs to be balanced with reflective approaches to prevention of maltreatment.

The protection of people with disability from maltreatment and exploitation, the safeguarding of their supports and the systemic prevention of abuse and neglect, needs to be given consideration by the Commission in framing the final report.

This is a vitally important consideration particularly as the Commission has outlined in the draft report that the level of vulnerability for people with

disability increases the risk of harm to individuals within this group. More notably the implementation of an NDIS will see a complete shift in the way supports are provided to people with a disability. The quality of those supports as well as the rights of the individual receiving them needs to be independently regulated and protected.

Complaints, Monitoring and Compliance

The draft report recommends that the governing body of the NDIS, the National Disability Insurance Agency (NDIA), should include an internal complaints office that would coordinate the resolution of disputes relating to contested assessments conducted by the NDIA and also deal with complaints of malpractice within the service sector.

It is the opinion of the Council that this body should be an independent complaints and monitoring body that goes beyond compliance monitoring to also include evaluation and monitoring of implementation of the NDIS. This should involve frameworks in which the person with disability, their family members and/or carer are key and central contributors to the evaluation process with a focus on learning opportunities arising from such a process.

Cultural Diversity

The Council welcomes the inclusion of a specific recommendation addressing the barriers facing Indigenous people accessing disability supports (rec: 9.1). It is widely recognised that this population group experiences significant disadvantage in the disability sector.

The Council recommends that the Commission, in the process of examining the feasibility of overcoming the barriers for Indigenous people with disability accessing support and care, also includes consideration to all cultural groups. It is the opinion of the Council that there is a significant underrepresentation of people from culturally diverse backgrounds accessing disability support and care.

Governance Structure

The draft report includes significant detail on the proposed governance of an NDIS. A key recommendation relating the establishment of an independent board whose function would be to oversee the operation of the NDIA. It is noted that the board would comprise people chosen for their commercial and strategic skills and expertise in insurance, finance and management.

Council members believe that the governance structure of the NDIS should include people with disability or lived experience of disability in decision making board positions, and not just in advisory roles only.

Council is made up predominantly of people with a lived experience of disability and a critical part of its role is to ensure that the views of people with disability, their families and carers are heard in any decision making process that affects their lives. It would be prudent to include people with a lived

experience of disability on this governing board to provide opinions and input to the decision making process that will have a direct bearing on the lives of people receiving supports under an NDIS.

Rural and Regional Considerations

Geographical considerations present many challenges for any service system, and the implementation of an NDIS would prove to be no exception to those challenges. The Council has concerns about the level of unmet need within the disability sector in rural and remote communities within NSW as well as Australia in broader terms.

An NDIS presents a real opportunity to identify that where there are no services or formal supports in rural and regional Australia, any new system is creative and flexible enough to accommodate people living in these communities and to provide these people with choice and a suite of options for the provision of support.

Council's previous submission suggested that by building the capacity of individuals with disability and their families to develop sustainable networks of formal and informal support, people in smaller, more remote communities have the potential to become 'community builders'.

Crucial to realising that potential would be the presence (on a regional, peripatetic basis) of skilled brokers or co-ordinators that could advise people with disability and assist with the 'how' of building sustainable connections. The Local Area Co-ordinator (LAC) network of Western Australia is probably the best example of an approach that works in often very remote settings. Whilst the Council was pleased to note that this example was commonly referred in the draft report, the context in which it is applied needs to consider more carefully the needs of those living in rural and remote areas.

Terminology and Language

It is important that the language used in the models proposed by the Commission presents a positive image and an encouraging outcome for people living with disability and their families and carers. The Council considers historically the use of the term 'case manager/management' can be interpreted as a power differential very much weighted away from the 'client'. This would be in complete opposition to a 'person-centred and individualised' approach. The Council understands this is not the intention of the Commission. A more appropriate term which recognises the consumer control and history issues would be welcomed.

Underpinning Principles

As mentioned in the draft report, the Australian Government ratified the United Nations Convention on the Rights of People with Disability in 2008. Council understands that the Commission received many submissions in the initial consultation phase outlining the importance of any new scheme adhering to the underlying principles and obligations contained in that Convention.

The Council reinforces this view that any new long term support scheme and governing body be underpinned by the guiding principles of that Convention. This becomes particularly important as the final report is developed and an implementation structure is articulated.

The Council members congratulate the Commission on producing a comprehensive draft report that involved a thorough and transparent consultation process and thank you again for the opportunity to participate in this inquiry. Council members anticipate that the final report will provide the Australian Government with an evidence based and feasible proposal and pave the way for major reform in the disability sector, reform that has the potential to transform the lives of people living with disability, their families and carers.

Yours Sincerely

Melinda Savvides
Executive Officer, Disability Council of NSW