

Comments in respect of the Productivity Commission draft report on disability care and support.

General comments

The proposal to develop a comprehensive scheme (no fault scheme) to provide certainty that a person with disability has a right to service is strongly welcomed.

It should be recognised however that large scale disability programs are fraught with difficulty in administration. The more localised the arrangements the better. The further away the bureaucracy becomes from service delivery generally the outcomes tend to be worse.

It should also be noted that apart from the former Commonwealth Rehabilitation Service, the Commonwealth has no experience in running disability support services. Whilst in the past it has been a funder its capacity to monitor service delivery has been fraught.

In my opinion there is a need for minimum bureaucracy sufficient to ensure accountability. I strongly agree that the funding should be for individuals to buy their services.

The report recommends that State and Territory governments should offset the Australia wide tax implications of the NDIS by either reducing state and territory taxes or by transferring that revenue to the Australian government in respect of the funding they currently provide. As a general comment the States can not be trusted to cut their taxes. Whilst recognising that it is not the preferred option there is more transparency if the funds provided by the States and Territories for disability services were transferred to the Australian government.

In respect of the national injury insurance scheme I have been aware of situations where under previous insurance arrangements an injured person may be paid a lump sum. Lump sum payments are fraught for a number of reasons. Firstly there are occasions when the person has been what I would describe as over assessed and where they are subsequently in a position to return to the workforce notwithstanding a substantial payout. In these circumstances it is far better for a person to receive an annual amount through any insurance scheme. Furthermore lump sum payments have been associated with the non eligibility periods for Centrelink payments understandably. In some instances I have been aware of cases where the recipient of a lump sum has spent their money on gambling addiction or given money away to family members and others such that many years prior to the exclusion date, the person has run out of money.

My comments which follow relate to the draft report overview and recommendations

Specific Comments

One of the problems identified in Table one: overcoming the problems of the present system is that there is an under funding with long waiting lists. The

proposed arrangements to address this are doubling of the funding and tied to the Australian Government's revenue raising capacity. It is unclear as to how this would be tied if it is to the tax raising capacity of the government. This should be spelt out in more detail.

Figure one on page 14 gives an illustration of the three tiers of the National Disability Insurance Scheme. It is then described. There appears to be little provision for the role of advocacy groups which now support individuals in a range of advocacy. This could be in respect of helping them through the health system or advocating in relation to discrimination. The role of advocacy groups funded through the Commonwealth State and Territory disability agreement is not discussed in the report. This needs to be clarified.

The Commission proposes that upon reaching the pension age a person with a disability could elect to stay with NDIS or move to the aged care system. There seems to be some contradiction with the statement at the bottom of page 15 that if a person over pension age required long term residential care then they would move into the aged care system to receive that support. There are many persons over pension age who require the disability prior to pension age and who would have been in long term residential care prior to them reaching pension age. This needs clarification.

I have a few comments to address to the assessment funding and planning processes. Tier three contracts would involve working with a person with a disability to develop a personal plan about what the person wants to achieve including their employment and social participation needs. This must include working also with the person's family in the case of someone with an intellectual disability for example. There needs to be a recognition in the assessment funding and planning process of the role of the informal supports in a person's life. Further consideration should be given to who contributes the information to develop the plans.

It is stated that the assessment and planning process would be a layered approach and for tier three contracts would translate the assessment process's identified reasonable needs into a person's individual support package to be funded by NDIS. It further states that most people would get an entitlement to particular supports, for example hours of support, rather than a budget. However people could elect to get an individualised budget under self directed funding if they wanted to manage their budget directly. Unless the family or individual had some idea of the hours of support for which they were assessed and could translate this into a budget it would make decision making difficult.

Further to my earlier comment in respect of what disability supports can people get and on what terms, box 2 on page 21 does not contain any reference to advocacy support for assistance, and support for short term hospital stays.

How income support measures are dealt with on pages 23 and 24 of the overview. The last paragraph makes reference to the person with a disability or their guardian managing funds. Guardianship is a specific term which in respect of adults, relates to appointments made by State Tribunals usually Guardianship Tribunals. The person referred to as a guardian appointed by the Tribunal would

made non financial decisions whereas the term administrator is used to describe persons appointed by State Tribunals to manage a persons finances if they are unable to manage them themselves. The correct term to use in this regard is administrator, not guardian.

My view would be that income support payments should be kept separate from funds to provide disability support packages and I think it would be an error to add the value of relevant payments to the support packages. Whilst it might offer some flexibility it would not enable a transparent evaluation of whether a person's disability support package is adequate meet their needs when this is subsequently reviewed.

The section giving people power and choice discusses how the NDIS would provide people with a package of support not a budget amount and people would be able to choose their service providers. It is my experience that service providers would want to know what funds are available for the individual. A service provider may be able to establish, based on the package of support, how much this would cost, but if the person being supported does not know what funding is available for their package support, their capacity to negotiate with service providers is severely hampered. The distinction between people who are receiving self directed funding who would be told of their individual budget and those who are seeking to have their support managed by a service provider not knowing what their funding is seems to be totally artificial.

The funding of disability support organisations is not well articulated in the overview document. On page 31 reference is made to the services provided initially being subsidised by NDIS but ultimately will be reflected in service charges to people with disability who choose to use them. The question is would the funding package contain a component to use a disability support organisation or would they need to fund this from other resources?

Page 32 outlines how someone who disagrees from a decision of the agency could complain. A reference is made to an independent statutory officer being responsible for reviewing complaints and appeals. It is suggested appeals be made to the courts on matters of law. I suggest an alternative which would not be as costly. The various State jurisdiction all have either Guardianship Tribunals or State Administrative Tribunals. The suggestion I make is that the appeal on matters of law be made to these bodies on the basis that these bodies usually operate on the basis of self representation and low application fees. There would be a need to provide some funding to the State jurisdictions for them to conduct hearings of this type but it is a less costly option I suggest than court. It is also more accessible, quicker and informal.

In the section on workforce issues it is stated that the Commissioner is sceptical of imposing any additional requirements for credentials of training of the disability services workforce. In particular there should be no minimal training requirement to work as a personal support worker. As someone who has worked in the disability sector for over 30 years I have a fundamental disagreement with this statement. People with disabilities are highly vulnerable. Even with minimal training which most jurisdictions provide the people for whom they are caring remain vulnerable. I consider it an outrageous suggestion that there be no

minimal requirement. This totally ignores best practice issues and is at odds with current practices within the disability sector. It should receive no support what so ever. Good intentions such as empathy and a capacity for listening and social skills are simply not enough. If one trawls the disability literature one will find many references to levels of abuse. Whilst training will not obviate this, to have no training is opening up the sector to considerable criticism.

The final paragraph on workforce issues commences with “Overall the creation of the NDIS (and the NIIS) would have a significant positive impact on the disability workforce.” It goes on to consider that the new system will translate to greater pay, more jobs, better working conditions, increased innovation etc. These statements contain very large assumptions and they are not backed up by any evidence in the document.

Sustainability for service providers is a significant issue, there are a number of costs which service providers have to meet which are hidden. These include staff supervision, staff training, accounting, auditing, reporting, planning and quality assurance mechanisms. These administrative costs need to be built in to any funding model.

In respect of draft recommendation 10-2 I agree with the suggestion of an independent research capacity however I do not consider it should be under the NDIS. A better option in my view would be to establish a centre of excellence within a university.

The term early intervention which is referred to in chapter 11 is not well defined, early intervention traditionally refers to intervention at an early age for children with a disability. This does not seem to be the case in respect of the recommendations in the report and it is suggested that the term be defined in a more comprehensive way.

As this is large scale reform there needs to be considerable thinking around the unintended consequences. Safeguards need to be put in place so that individuals are not disadvantaged during the transition period. There does not seem to be any attention given to the transition apart from running a one year pilot.

One of the recommendations in the workforce issues, chapter, recommendation 13.2, suggests that police check does not include disclosures of crime covered by spent convictions legislation. This is not explained and it is suggested that there may be crimes covered by the spent conviction period which an employer and client may wish to know about, particularly in dealing with this vulnerable population.

It is suggested in recommendation 3.5 in the second last paragraph should have an addition of the words ‘becomes disabled’ after the words ‘the pension age’ for greater clarity.

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