

FINAL SUBMISSION
TO THE PRODUCTIVITY COMMISSION

On

Disability Care and Support
An Overview and Further Recommendations

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INTRODUCTION:

The Productivity Commission Report begins with an acknowledgement that “the disability support ‘system’ overall is inequitable, underfunded, fragmented and inefficient.” d4d agrees. Although a few politicians from major parties have raised these issues from time to time, governments of all persuasions, both state and federal, have been unwilling to make significant changes and improvements to disability legislation for almost 20 years.

d4d, therefore, congratulates the Productivity Commission on its Draft Report, *Disability Care and Support*, handed down on February 28th 2011. For the first time, the Commission has presented a proposal which outlines a realistic and achievable method to provide all people with disabilities across Australia with a fair and equitable support system.

d4d is particularly pleased that the Commission has recommended key issues which highlight the dignity and basic human rights of people with disability and their families, and provide these people with some real choices. These issues include:

- The Australian Government taking full responsibility for funding the entire needs of the NDIS;
- The Australian Government suggesting an amendment to the Income Tax Assessment Act 1936 and the Social security Act 1991 to ensure that self directed funding is not treated as income for assessment of taxes or eligibility for income support or other welfare benefits;
- The NDIS being a federal authority with strong governance arrangements and an independent Board with legislation protecting the scheme from outside political influences;
- The reliable provision of services to ALL people with disabilities on a no-fault basis;
- Fair and independent assessment procedures based on the person’s support needs;
- Focusing on a real ‘person-centred’ approach;
- An assessment and support package which is portable;
- The ability for people to choose their service providers and, if appropriate, to employ friends, neighbours and family members to provide some aspects of their support;
- Encouraging service providers to develop and be rewarded for new and innovative initiatives in support services, thus allowing people with disabilities opportunities to choose supports

that meet their needs, interests and wishes rather than simply trying to fit into existing well-established programs; and

- A set of standards for service providers that will be evaluated by “directly observed consumer outcomes” rather than the current methods which often rely on the auditing of paper files.
- The Australian Government funding the NDIS out of General Revenue rather than another Levy based tax

SOME POSSIBLE CONCERNS:

As is always the case, there are several areas where d4d holds possible concerns about aspects of the Report or the proposed implementation of the Scheme.

The Transitional Period:

Although d4d appreciates the complexities of implementing the scheme, we are concerned about the length of the transition period from its initial introduction in 2014 to progressively cover “all relevant people with a disability” in 2018 (page 44).

In South Australia in the past two years, we have seen increases of 28% and, over the 12 months to June 2010, an increase of 54% in the number of people with disabilities in urgent need of supported accommodation on the Category 1, Critical Unmet Needs List. This list is for those people who are in urgent need of support and who are described as an ‘immediate and high risk of harm to self or others’.

Given the current dysfunctional disability support ‘system’ in South Australia, d4d can only see the numbers on this list continuing to increase before the introduction of the NDIS and over the initial years of the Scheme. Although the Commission’s Report lists some priorities for service provision during that initial period (page 44), many of the individuals on the Category 1, Critical Unmet Needs List do not fall into any of those priority categories.

d4d therefore suggests that the Productivity Commission add a high priority category, to operate from the initial introduction of the Scheme in 2014, which will allow urgent funding interventions when required in situations of dire emergency.

The Productivity Commission also recommends that States and Territories with funding levels below the National Average will be raised to levels commensurate with those states that otherwise enjoy funding levels above that of the National Average.

Assessments:

d4d agrees that assessments must be “as objective as possible” and made finally by people “independent from the client” (page 17). d4d also believes that it is essential that all stakeholders including families, treating GPs, specialists and any other person with knowledge of the person, their disabilities and needs, must have the opportunity to present their views during the assessment process (Recommendation 5.2).

The Commission should not use a similar assessment process to the current Job Capacity Assessment Tests made through CentreLink when assessing people for a Disability Support Pension. This type of assessment really only allows inputs from so called ‘experts’.

The Report also highlights the need for a coherent package of tools – a “toolbox” (Recommendation 5.7) - which d4d acknowledges will form an efficient template for assessment of the needs of people with disabilities and in turn offer consumer choice and favourable outcomes for people with disabilities. The assessment “Toolbox” is an essential vehicle to represent the needs of people with disabilities.

For people with a disability, d4d believes we MUST assess ALL people with disabilities from the viewpoint of the ‘whole person’. We MUST start to address the needs of the person, NOT JUST THE DISABILITY!

Mental Health Sector:

d4d is also concerned about the assessment and support of people with mental health issues (page 22-23). d4d agrees that for many people with long-term mental health issues (eg schizophrenia, bipolar depression), it is essential that they be eligible to access the same range of support options as people with other forms of disability.

d4d also realises that mental health illnesses may often be episodic with periods of disability interrupted by long periods of ability to cope with and live effectively in normal community situations.

It is also becoming clear that many people with a disability, as they age, are at a high risk of developing a range of mental health problems which may significantly impact on their on-going support needs (dual disability). Co-morbidity of mental health in people with disabilities is very high. This may require NDIS to develop assessment tools and procedures to identify these individuals and appropriately change their support packages to meet their new needs.

For many years, governments have saved money by simply moving these people back and forth between the Mental Health Services and Disability Services. Unfortunately, most of these people 'fall between the cracks' and receive little or no support at all.

Complaints system:

The Report raises the need for a complaints system and suggests the appointment of an independent person to act as a 'Complaints Officer' as part of the National Disability Insurance Agency (NDIA) (page 32). d4d stresses the need for this position to be seen as completely independent of other NDIA procedures. Perhaps the Commission could also entertain the notion of appointing a Disability Commissioner or Ombudsman who can exercise immediate powers in the event that a report of abuse is made to a 'Complaints Officer'.

d4d feels that the complaints process must be very simple, easily accessible and transparent. Many people with disabilities, after years of unfair treatment, are reluctant to complain about an issue they clearly see as an error or oversight because of the fear that a complaint will simply make their situation worse. For many others, years of failure to receive even a basic hearing of the issue have left them and their families feeling that to complain would be 'simply a waste of time'.

There must also be a mechanism in place to ensure a rapid and efficient resolution of complaints. Unlike many other government promoted schemes, the NDIA must develop a reputation for dealing with complaints fairly and expeditiously. Failure to do so can only increase community scepticism and further harm the reputation of the disability sector.

In mid-March 2011, the Commonwealth Ombudsman handed down a scathing report on the complaints resolution procedures employed by CentreLink which he described as 'broken' and 'unfair'. His report also pointed out that service users were commonly not even made aware of their rights and that more than 50% of complaints which went to Appeal were found in the service users favour. We also saw this happen in 2000 when residents in a Melbourne aged care facility were given kerosene baths. The then Federal Minister, Bronwyn Bishop, pointed out that her Department had instituted a new 'spot check' procedure to minimise such incidents. It was later found that,

although more than 4000 complaints had been lodged, not a single 'spot check' had been carried out.

d4d also believes that both systemic and individual Advocacy rights and services must be preserved, strengthened and remain independent of the disability service system (the success overseas of the Scottish Model should be investigated). Furthermore funding to Advocacy services should be increased to meet the immediate demand of the Disability Community. We suggest the Commission include the right or even a requirement for, Case-managers, service providers and/or support workers to report issues on behalf of the people they support which they feel are unfair or of concern. Abuse by families, service providers or support staff, in its many forms, has always been a major issue across the disability sector and especially for those people with more severe disabilities. Mandatory reporting of all forms of abuse of people with disabilities of all ages should be a feasible option and over time, should become a legislative requirement. There is increasing evidence that abuse and lack of involvement of people with severe disabilities in their support may be a major cause of 'challenging behaviours'.

A National Disability Insurance Scheme (NDIS) & National Injury Insurance Scheme (NIIS):

Although the Commission Report argues strongly for the need to have two separate arrangements to deal with disabilities and catastrophic accident induced disabilities (pages 34 – 38), d4d feels that this may present significant difficulties.

d4d recognises that the NIIS is an efficient system for people who sustain injuries as a result of motor vehicle and workplace accidents and draws on the best arrangement already in place around Australia.

However, there is a strong community perception, especially among people across the disability sector (people with disabilities, families, workers in the sector), that the current two-way system is unfair and unjust. Many people resent the fact that a person involved in a car or work accident, which may have been partly their own fault, can receive large payouts to cover their on-going care and support needs from Court decisions.

d4d feels that the proposed first review in 2020 should be moved forward to be held within two years of the commencement of the NIIS to help reinforce public acceptance of this structure.

The NDIS and NIS systems must ensure that the community realises the fairness of and the reasons for the two schemes.

INFORMATION REQUESTS:

Chapter 3:

Mental Health

d4d has some concerns about Recommendation 3.4. d4d feels strongly that it is essential for many people with long-term mental health issues, to be eligible to access the same range of support options as people with other forms of disability. On-going mental health illnesses are simply another form of disability.

d4d also realises that mental health illnesses may often be episodic with periods of disability interrupted by long periods of ability to cope with and live effectively in normal community situations or the illness may develop later in life.

d4d feels that people with long-term, on-going and permanent mental health problems should be able to apply for assessment by NDIA, and if found eligible, to receive the same type of support package as any other person with a disability.

For those people with episodic mental illnesses, a broadening of the current Medicare system to include a wider range funding options for mental health treatments and supports may be a better alternative.

Chapter 4:

Inclusion of costs

d4d strongly believes that any costs or expenses that are necessary to meet the needs of a person with a disability MUST be included in the funding provided by NDIS.

A person with an artificial limb has huge advantages over a person forced to remain in a wheelchair in terms of general mobility, ability to access activities, work options and community integration and

acceptance. Who can possibly decide on a manual versus an electric wheelchair except the person who is going to have to use it?

Therefore, any item which increases the person's quality of life and helps the person to better interact with their community must be included in NDIA support packages.

In South Australia, we regularly read of older people and pensioners who are afraid to turn on their air-conditioners in summer because of the increased, and often unaffordable, electricity costs. And we regularly hear of these people ONLY when they have been taken to hospital with heat exhaustion. For many disabilities including Multiple Sclerosis, hypersensitivity to heat is a major problem and access to air-conditioning is considered essential for some people. Which is more expensive – electricity or hospital care?

ALL costs that directly impact on the needs and quality of life of the person with a disability MUST be met by NDIS.

Transport & Taxis

Transport is a major problem, particularly for people with physical disabilities. In South Australia, the Public Transport services fail to meet even the basic needs of people with disabilities. The Access Taxi service, because of the small number available, also fails to meet those needs. And yet, as the Commission itself reports, being able to attend community venues and to go to one's workplace greatly improves a person's quality of life.

NDIS accepts the difficulties of the NDIS attempting to fund all necessary transport needs. However, just as for household items and modifications, NDIS should fund, or assist in funding, the purchase of a car or the modification of a car to enable a person with a disability to transport themselves.

Currently, public transport and taxi services are state government responsibilities. State governments are aware of the need to expand and improve these services to meet the demand. They are also aware that an increase in the subsidies paid to people with disabilities would greatly assist people with disabilities to be more mobile.

The final funding of the NDIS should reduce the financial responsibilities on states to provide funds for disability services. Perhaps, as part of those federal – state negotiations, an increase in mobility allowances and subsidies available could be negotiated to assist with this problem.

Carer Payments

A range of entitlements are currently available to people with disabilities and their carers from various government services.

d4d feels strongly that ALL entitlements paid to the person with a disability (eg Disability Support Pension, Mobility Allowance) MUST be retained and continue to be paid to the person after they have been assessed and supplied with a support package by NDIA.

Issues regarding the amount of care and support provided by family members and informal carers will be part of the assessment process (page 17). Depending on this assessment, it may in fact be better for all parties that entitlements such as Carer Payments be removed. This may be particularly the case where a self-directed budget option is in place.

d4d suggests that, as long as all entitlements to the person with a disability are retained, other government entitlements to other stakeholders should be removed unless a case can be made to retain them during the assessment process.