



August 2017

## **Submission to the Joint Standing Committee on the National Disability Insurance Scheme Inquiry into the transitional arrangements for the National Disability Insurance Scheme**

### **Introduction**

The Northern Territory Office of the Public Guardian (OPG) welcomes the opportunity to provide a submission to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) inquiry into the transitional arrangements for the NDIS.

The OPG has focused on providing information relating to the NDIS plans and delivery of NDIS and other services for people with disabilities throughout the Northern Territory and the rollout of the Information, Linkages and Capacity Building Program.

The OPG was established under the *Guardianship of Adults Act*, which came into effect on 28 July 2016. The new legislation also provided for the statutory appointment of an independent Public Guardian, aligning the Northern Territory with other Australian jurisdictions.

The OPG teams are located in Alice Springs and Darwin and are responsible for providing guardianship services to approximately 536 represented adults under the authority of the Public Guardian. The Northern Territory Civil and Administrative Tribunal (NTCAT) considers 20 to 30 new guardianship applications per month. The Northern Territory is the only jurisdiction in Australia in which the Public Guardian can be appointed with financial management authority. The OPG currently manages the finances of approximately 397 represented adults.

### **The Northern Territory context**

The Northern Territory and the Australian Government signed the *Bilateral Agreement between the Commonwealth and the Northern Territory: Transition to a NDIS* in May 2016. This agreement outlines the roles and responsibilities required to transition to full coverage in the Northern Territory. Furthermore, this agreement recognises the challenges the health and community service sectors encounter in the Territory's unique geographic and demographic context. This agreement includes a monitoring arrangement that takes into account the circumstances encountered with rural and remote service delivery, and identifies risk-based strategies to address capacity issues at the outset.

In a geographic context, the NT is the third largest of the states and territories, covering approximately 18% (12.3 million square kilometres) of the Australian land mass, however with an estimated population of 244,000 residents which forms only 1% of the national population. While most Territorians live in regional centers, a significant number live in remote and very remote areas. Due to the sparse population, harsh climate and rough terrain, infrastructure in most of the Territory is limited. The NT's small population also impacts on the retention of the skilled workforce as capable individuals have many alternate options.

The high cost of living in the NT is an additional challenge for those in the low socio-economic circumstances. The NT has the highest percentage of residents living in public housing, and overcrowded housing is an ongoing problem in most NT communities. Compared to other jurisdictions, the NT has the lowest number of adults under guardianship orders, however has the highest percentage of the population under guardianship. Of those presently under guardianship to the Public Guardian, approximately 85 per cent are Aboriginal or Torres Strait Islander, many of whom speak English as a second or third language with a significant number living in remote communities.

Given these factors, delivering services in the NT, including in Darwin and other regional centres, is costly, and in many cases requires additional specialised expertise. The Public Guardian has recommended the NDIA consider redesignating the Greater Darwin Region as a 'remote' location, and all other centres in the NT as 'very remote' to more accurately reflect the realities of the costs and challenges of the NDIS transition.

Transition to the NDIS for supported accommodation services in Darwin and the entire East Arnhem region commenced on 1 January 2017. An OPG officer has participated in all the planning meetings representing clients who are under adult guardianship. Following are observations made by the OPG officers that provide valuable insights and further highlight additional client needs that must be considered during this inquiry into the transitional arrangements for the NDIS.

**a) Boundaries and interface of NDIS service provision, and other non-NDIS service provision, with particular reference to health, education and transport services**

**Health**

Delivering health services to remote areas of the NT presents challenges not faced in urban areas. The impact of climate, distance and lack of infrastructure combined with the sparsity of population creates financial hurdles which necessitate creative methodology to maximise service options. Ensuring existing community health services provide timely access to health care and effective health care management services is a priority. It is noted the Territory health system requires substantial development if it is to match the services provided to those under adult guardianship residing in urban localities.

The interface between mainstream Health Services and Disability Services is an area the Office wishes to ensure is not overlooked during the transition to the NDIS. In a recent experience in Alice Springs, our office was advised that a fully ambulant, socially active young woman would need to consider a nursing home placement as the NDIS was not designed to fund the insulin injection support she required.

A further difficulty encountered in a similar situations is the reluctance of some service providers to assist with medical care of people with Type 1 diabetes due to the legislative framework around the administration of medication. A solution which facilitates the placement of people who require nursing care to assist with routine matters such as insulin administration, into supported independent living services is an area where I would encourage further development.

Sending Allied Health professionals to remote communities on a regular basis is expensive however, is the preferred option for many clients and their families over travelling into a regional centre. Despite the cost of this approach, there is a risk of perceived underspending in some communities due to the thin market rather than lack of the participants needs. Provisions are needed to acknowledge that underspending is not a reflection of the management of the package, but rather a system issue due to the lack of service providers in remote communities.

### **Housing**

The absence of affordable housing in Darwin, regional centres and remote communities presents an additional challenge to planning. Funding for housing modifications is complex in cases of public housing, and overcrowding adds further complexities. Many of the Supported Independent Living services in regional areas are offered in privately rented accommodation which creates limitations for building modifications to meet the needs of clients. In addition lack of suitable housing in the private rental sector limits the capacity of agencies to find properties which allows them to establish viable living options. For example there are few five bedroom houses on the private rental market in Alice Springs and other remote settings. Further investment is required to develop housing options which will meet the needs of people with disabilities and service providers.

I highlight the need for a review into the uptake of the Exploring Housing Options Packages and encourage the provision of explanations when applications for the packages are not approved. As there are no services to support people to find such housing, considered responses are required to assist participants in ascertaining the best outcome. Further dialogue is needed to determine how the housing situation of many participants in the NT, particularly remote communities can be addressed under the NDIS scheme.

### **Transport**

While the transport system in the NT continues to mature, there remains much room for market development. In the urban context there is limited transport choice when compared to other jurisdictions and there is very limited to no options in remote communities.

The restriction of transport funding to attendance at day programs or employment, minimises the importance of transport for recreational purposes and the benefits of such activities. The current NDIS funding structure for transport is potentially limiting to clients living in remote areas. If funding is not provided to cover the cost of transportation to and from, and accommodation in, regional centres to facilitate access to appropriate services not available in their own communities participants may be at risk of being disadvantaged.

**b) Consistency of NDIS plans and delivery of NDIS and other services for people with disabilities across Australia;**

The OPG has been in negotiations with the NDIS to address concerns about the adequacy of resources within the plans. Many clients in the NT require more time and tailored processes to develop plans due to their remoteness and requirement for translation support. Phone interviews have not been effective, and many participants were not given advance notice about the participant access forms, causing confusion among participants, families and health care professionals.

OPG officers have observed inconsistencies and discrepancies in the co-ordination of support through the plans which needs to be addressed. During the implementation in East Arnhem there appeared to be no clear rationale behind the different levels of the packages. The lack of consistency has also been noted by service providers.

**Structure of the planning interviews**

OPG officers have found the interview tools to be designed for high functioning individuals and professionals, and less accessible for people with cognitive impairment. The complexity of the matters under discussion in planning meetings creates significant challenges for interpreters. NDIS staff have suggested interpretation is going well, however interpreters and clients are expressing concerns about the process. I recommend training be offered to interpreters in order to prepare them for the kind of language used during planning discussions and specific cultural competence training to NDIA staff.

Inadequate emphasis has been placed on the value of having participants and their families or interpreters attend the planning meetings. As a result of their non-participation, key information has not been captured, negatively affecting the resulting support packages.

**Design of the questions**

The design of the interview questions sometimes serves as a barrier to reaching understanding, rather than encouraging participants to clearly communicate their needs and goals. Questions like, "can you walk 1km independently", or "is there someone outside your home that you can call in case of emergency", are not eliciting the desired information and when clarification was sought, NDIS staff were often unable to provide an explanation as to the purpose of the question (eg. is the purpose of the question to understand the individual's physical mobility or degree of independence etc).

This has been further complicated by issues such as thin or non-existent markets and non-traditional family structures, which change the context of the discussion. While the interview approaches are suitable for participants in the urban context, more consideration needs to be given for Aboriginal people living in remote communities. Greater emphasis needs to be placed on cultural competence and training for NDIS staff.

### **Consistency and capacity of NDIS planners**

The capacity and approach of the NDIS planners has varied from one meeting to the next. The criteria and process have not been well understood by participants and their supports, and as such, inconsistency amongst the planners has been a challenge. The lack of appropriate cultural competence has also resulted in some Aboriginal and Torres Strait Islander participants being disadvantaged due to being poorly understood and unable to access information. OPG officers have also identified an inconsistency in the messaging in the planning meetings and dialogue at the NT and national levels. This has affected the ability of the OPG and other service providers to support participants and their families.

### **c) Rollout of the Information, Linkages and Capacity Building Program**

The lack of information and knowledge about the rollout of the Information, Linkages and Capacity Building Program has been a concern of the OPG. The delay in getting this underway places people identified ineligible for the scheme at risk.

### **Meaningful participation by families and carers**

Generally, the OPG has found that participants, their families and service providers are not well prepared to understand and interact with the new scheme. Many participants in both remote areas and in Darwin do not know how the proposed system will differ from the previous. This is in part due to the participant-led training not taking place in the NT and existing networks not being effectively linked into to facilitate communication of relevant information.

The Territory community forums held in 2014 provided broad information to communities about the NDIS, however were inadequate in meeting the specific information needs of the community in preparation for the transition. It is recommended resources be allocated for culturally-appropriate pre-transition preparation initiatives to ensure families and carers are able to provide the necessary support to participants throughout the planning process.

### **Sector capacity - Provider of last resort**

Whilst the NT does have some very high quality and dedicated service providers, their capacity has been hampered by the limited block funding model previously utilised in the NT. The NT does not have the comprehensive and competitive market as other jurisdictions have and, in many cases, lacks the capacity to provide the required services within the NDIS environment.

Even in a mature NDIS marketplace, insufficient local demand, limited service delivery, workforce shortages and lack of infrastructure will produce 'weak' or 'thin' markets; primarily in rural, regional and remote areas. This may result in poorer outcomes for participants including less choice, higher prices and/or lower quality supports and services.

As previously discussed, the NT has significant workforce issues. We have been advised the workforce will need to triple, however it is unclear where the capacity to fill the necessary positions will come from, and how the workforce will be retained in such a transient setting. It will take a significant amount of time for existing service providers to adapt to the new scheme and for new service providers to enter the market. We understand that there is funding available for sector development, however these plans will need to be unpacked and clearly communicated to service providers and participants to ensure they meet real needs.

As mentioned earlier, within the bilateral agreement there are monitoring arrangements that take into account the challenges associated with the rural and remote service delivery with identified risk-based strategies to address capacity issues at the outset. These strategies may include the Provider of Last Resort Framework. The OPG advocated for the Provider of Last Resort to be enacted for Coordination of Support in Tennant Creek, however this provision was not enacted. The OPG notes that while there may appear to be services in an area, the capacity and the ability of the service to meet requirements of a client needs to be considered. The mere presence of a provider that has registered to provide a service does not necessarily mean that a viable service can be delivered as the provider may not have capacity. We recommend the development of a clear framework for the Provider of Last Resort is prioritised to ensure participants in remote and thin markets are protected.

### **Capacity building program**

The Capacity Building element of the scheme has seriously underestimated the needs of the sector in developing its capacity to offer services under the NDIS. Equally the delays in getting the Quality and Safeguarding Framework in place have led to concerns about service delivery and lack of avenues to pursue service quality issues for consumers. The ongoing development of the service sector will need to continue for many years to improve the actual capacity of the sector.

### **Conclusion**

Many of the issues with the NDIS transition in the NT are shared across all jurisdictions. Application of the scheme to diverse populations, sector capacity and ensuring adequate resourcing are issues being grappled with across the country. Rather than echo these common concerns, the points raised above are aimed at highlighting the unique considerations of the process in the NT. I appreciate the openness of the NDIA to continue this dialogue, and commitment to ongoing improvement of the implementation process.

Yours sincerely,

Office of the Public Guardian

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