

30 January 2013

Committee Secretary  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Secretary

**RE: Supplementary submission and notes from attending the Inquiry into the National Disability Insurance Scheme Bill 2012. Information in red does not appear in previous submission.**

AMPARO Advocacy would like to thank the Senate Committee for the opportunity to attend this hearing and to give evidence regarding the Draft National Disability Insurance Scheme Bill 2012.

### **Background Information**

AMPARO Advocacy is a small non-profit community organisation which provides independent, individual and systemic advocacy, on behalf of vulnerable people from a non-English speaking background (NESB) with disability. AMPARO is governed by a voluntary management committee, the majority of whom are people from a NESB with disability and we are funded by the state government Department of Communities, Disability Services.

We advocate for vulnerable individuals, for whom language and/or cultural differences make it difficult to understand and negotiate systems and services and whose fundamental needs are not being met. Through our systemic advocacy we aim to influence positive sustainable change to attitudes, policies, practices and resources within governments and communities.

**We assist individuals with disability from a broad range of cultural and linguistic backgrounds and over the past year, 66 % of those have required the assistance of an interpreter for themselves or a family member.**

### **Introduction**

AMPARO's experience is that people with disability who have limited or no English language skills frequently encounter significant additional barriers to having their needs met and do not have equitable access to services and supports in line with other Queenslanders with disability.

Both the Productivity Commission Inquiry Report into ***Disability Care and Support*** and the Australian Government '***Shut Out***' report raised concerns regarding the significant additional barriers experienced by people from a non-English speaking background with disability.

Many reports have drawn attention to serious issues of discrimination among this population, including "***On the Sidelines: Disability and People from Non-English Speaking Background Communities***", released in 2000 by the then Human Right and Equal Opportunity Commission.

The Productivity Commission Report identified that Indigenous Australians also experience significant systemic barriers to accessing services and supports and identified the need for additional measures within the NDIS.

***Similarly long-term systemic barriers have caused serious disadvantage to people from a NESB with disability.***

AMPARO Advocacy does not speak on behalf of Indigenous Australians, however many strategies that will promote and support equitable access to the NDIS for people from a NESB, will also potentially benefit Indigenous Australians.

We are pleased that the draft legislation recognises the need to take into account '***the cultural and linguistic circumstances of people with disability***' as a General Principle guiding actions, in Section 5, however the legislation needs to be strengthened in other areas to ensure this principle is implemented.

**Language barriers and isolation often means that individuals with disability from a NESB and their families do not have access to important information and are unaware of supports and programs that are available.**

\*\*\*According to the **Census of 2011**, 9.8% of Queenslanders speak a language other than English at home. However preliminary figures from Queensland Disability Services NMDS Data for 2011-2012 show that only 2.75% of those receiving assistance from a disability service, come from a home where a language other than English is spoken a home. In 2007 this figure was 2.5%, showing little change in the past 4 years.

**Queenslanders with disability from a NESB do not have equitable access to services and supports due to a lack of cultural competency of the services system, and the limitations of a separate interpreting service, that is limited in hours of operation, difficult to access and inefficient in its response due to funding restrictions.**

Yet we know access to professional interpreters is critical to ensuring that people who are not proficient in English are able to:

- understand information,
- make informed decisions,
- communicate their needs, and
- can take advantage of opportunities to fully participate in Australian society.

***However structural systemic barriers exist across Federal and State Governments programs, including barriers that restrict access to professional interpreters for people from a NESB.***

Access to free professional interpreting services will be necessary for people from an NESB with disability and their families to participate at all levels of the NDIS. AMPARO Advocacy is concerned that the costs of accessing interpreters are not shifted to individuals under the NDIS, and supports this obligation remaining outside the NDIS, and the responsibility of Federal and State governments,.

### **Additional Measures to Overcome Systemic Barriers**

However it is crucial that the Act articulates a strong commitment to ensuring equitable access for all people with disability and acknowledges that some groups will require additional measures to overcome systemic barriers and to ensure substantive equality.

**The draft legislation does not provide adequate assurance that, through additional measures, people from a NESB with disability will have equitable access to the NDIS. Given that disadvantage to this group is entrenched in current systems, greater emphasis within the NDIS legislation is needed to address this.**

### **AMPARO Advocacy recommends a number of changes to the legislation to address our concerns:**

1. The Australian Government has ratified the United Nations Convention on the *Rights of Persons with Disabilities (CRPD)*, as such, there is an expectation that the NDIS legislation will comply with and support the implementation of the relevant rights afforded by the CRPD.

We also believe that the legislation can made a greater contribution to implementing the full range of human rights instruments, by replacing Object 3 (h) with 3 (1) (b) from the Human Rights and Anti-discrimination Commission Qld-Discrimination Bill 2012 Exposure Draft.

2. **The Act must have as a clear objective, to:** *ensure equitable access to the NDIS by people with disability who may experience additional barriers, including Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds.*

3. **To implement this objective it will be necessary to expand the functions of the Agency to include the following :**

(i) **To promote the National Disability Insurance Scheme to Culturally and Linguistically Diverse Communities through culturally appropriate targeted strategies to ensure awareness of the scheme and its benefits.**

(j) **To undertake research and evaluation of the scheme and monitor the participation rates of people from a NESB with disability.**

And to amend 118 (c) to read:

**To develop and enhance the disability sector, by facilitating innovation, research, and the development of cultural competence and contemporary best practice, in the sector.**

4. **AMPARO Advocacy would also recommend that the Objects of the Act can be achieved by adding to (2) These objects are to be achieved by:**

**(c) providing the opportunity for governments to work together to identify structural systemic barriers external to the NDIS that impact on the participation of people with disability who may experience additional barriers, including Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds.**

5. **In terms of becoming a participant,** though our work with individuals we are aware of New Zealand citizens with disability who are from a non-English speaking backgrounds, who have settled permanently in Australia since early 2001 are who are not eligible to receive support from the Department of Communities, Disability Services.

Under the current draft legislation these individuals would also not meet the residency requirements; however we believe that the NDIS should be available to all persons with disability legally able to reside in Australia.

Many of these individuals and families are working and contributing to Australian society in varied and meaningful ways, including working and paying taxes. It is unfair, inhumane and discriminatory to restrict their access to fundamental supports through the NDIS.

6. The legislation refers to disability as being *'permanent'* and *'likely to continue for the person's lifetime'*. This is contrary to the CRPD which refers to person with disabilities as those with 'long-term' impairments. Given there is an obligation on the Australian Government to ensure all new legislation complies with and implements their obligations under the convention we recommend the following:

- To **24 Disability requirements**, change:
  - (1) (b) should be likely to be 'long-term' and
  - (1) (e) likely to continue 'long-term'.

## **7. Access to Independent Advocacy**

The Productivity Commission's Report recognised the critical need for independent advocacy and that even with an NDIS, vulnerable people with disability would continue to need advocates to represent their interests, to raise concerns and to assist them, or make complaints on their behalf.

**In Recommendation 10.4, the Productivity Commission advised that the Australian Government, State and Territories that fund independent advocacy groups, should continue to do so and that advocacy should be independent from the NDIA.**

**AMPARO Advocacy fully supports this recommendation and the proposal by the Disability Advocacy Network Australia (DANA) to add to the General Principles guiding the Act:**

- *A strong commitment to ensuring people with disability are entitled to independent advocacy.*

**And to support this commitment the legislation should:**

- *Allocate an appropriate proportion of the NDIS funding to the provision of strong independent advocacy for people with disability.*

## **8. Revocation of participant status**

AMPARO Advocacy supports the rules of natural justice being applied to all decisions made in relation to potential or active participants of the NDIS.

Where decisions are made that are unfavourable to the person, the principles of procedural fairness must be applied by decision makers. This would include the Agency's decision to revoke a person's status as a participant in the National Disability Insurance Scheme Launch.

## **Conclusion**

We recognise there is great potential for a National Disability Insurance Scheme to make a historic difference to the way in which Australians with disability choose to live their lives. To ensure that people with people from an NESB with disability are able to participate in all aspects of the NDIS, including the fundamental design of the scheme, the legislation must be amended to address the additional systemic barriers that will prevent equitable access to the scheme.

Yours sincerely