



SUBMISSION

**Senate Standing Committee on Community
Affairs**

**Inquiry into the
National Disability Insurance Scheme Bill
2012**

25 January 2013

**Contact
Lin Hatfield Dodds
National Director**

1. Introduction

UnitingCare Australia is the Uniting Church's national body supporting community services and advocacy for children, young people, families, people with disabilities and older people.

UnitingCare Australia takes up community service issues within the theological framework of the Uniting Church, particularly the Church's social justice perspectives. We develop and reflect on the policies and practices of the Uniting Church in community services. We pursue appropriate issues within the Uniting Church, with Government and the community sector, with the Australian community and with other parts of the Church.

UnitingCare Australia represents the network of UnitingCare community services operating nationally across more than 1,300 sites. The UnitingCare network is one of the largest providers of community services in Australia, providing services to over 2 million people each year, with an annual turnover in excess of \$2 billion and employing 35,000 staff and 24,000 volunteers nationally.

UnitingCare agencies provide services across Australia to people living in urban, rural and remote communities. Services delivered by our agencies employ a holistic approach to supporting individuals and communities to access the resources, support and opportunities needed to live a decent life. The building blocks of which are being able to access appropriate food, clothing and healthcare; safe and secure housing; meaningful work, education, rest and enjoyment, and; the opportunity to participate in and contribute to communities. UnitingCare agencies, through their community linkages are also able to provide people of goodwill – either as individuals or as organisations – a vehicle to make their own contribution to improving the wellbeing of people and communities that are disadvantaged and vulnerable. We partner with governments, other organisations, communities and people of goodwill to ensure all people have access to the means and opportunity for a decent life.

UnitingCare Australia welcomes the opportunity to comment on the *National Disability Insurance Scheme Bill 2012*

2. Overall Assessment of the Bill

UnitingCare Australia welcomes the introduction of the National Disability Insurance Scheme pointing to a future where people with a disability will have access to the supports they need to live as valuable citizens in the Australian community. It is critical that the *National Disability Insurance Scheme Bill 2012*, provides a mechanism for all people with a disability to have access to these supports and have choice and control over how they are provided.

Overall, UnitingCare Australia commends the focus of the Bill on the person with a disability as the centre of their plan and their life whilst building in safeguards to ensure the most vulnerable people are protected and supported.

UnitingCare Australia calls for the Senate Standing Committee on Community Affairs to consider the following points in relation to the National Disability Insurance Scheme Bill 2012:

Launch, Transition and Review

It is clear that it is the intention of this Bill to cover both the implementation of the National Disability Insurance Scheme, and its ongoing functioning once implemented. UnitingCare Australia is concerned that there is risk of misinterpretation and confusion between these stages. Whilst the difference between 'National Disability Insurance Scheme' and 'National Disability Insurance Scheme launch' have been outlined in the Bill, with the key difference being the limitations of the NDIS arrangements to a prescribed area of residence, there is currently potential for confusion as to which measures relate to the implementation, and which are ongoing.

A key is the description of the Agency and its functions, being defined as the NDIS Launch Transition Agency, yet with functions which appear to be ongoing. The Bill contains no reference to a roll-over from transitional to ongoing arrangements. A clarification of these issues (or a separation of Bills into transitional and 'full scheme' bills) may benefit clarity of interpretation and thus increase community understanding, agency compliance and avoid potential conflicts.

The Bill states (section 208) that the Legislation will be reviewed two years after the first participant's plan becomes effective. There are numerous references to the *Launch* of the NDIS and to the *Transition* Agency. Given that NSW will now commence the roll out of the NDIS from 2016 possibly before the review, the terms *Launch* and *Transition* become increasingly redundant within the Bill.

There is no mention of public consultation to the review. UnitingCare Australia calls for public consultation to be a requirement of any review of the Bill.

UnitingCare Australia recommends the Bill address requirements for cost transparency. The integrity and sustainability of the NDIS depends on all parties having a shared and accurate understanding of the full cost of delivering services and supports. This means transparency to the agency, to providers, to service users and to the public. In order to plan and manage costs services, service users need access to the data on long-term care and support. This data has been previously unavailable under commonwealth/state/territory disability agreements. Under a social insurance model this will be critical.

Role of NDI Transition Agency

UnitingCare Australia has a number of concerns in regard to the complex role of the “Agency”. The “Agency” has the role of determining eligibility for people to receive funding under the NDIS, a role in contract accountability, as well as NDIS performance, monitoring, evaluation and review. This means that the Agency will be the regulator of the NDIS as well as provider/rationer of funding and manager of decision appeals.

The Agency, will in some or many circumstances, also act as a participant’s planner, fund-holder and plan manager (i.e. broker of services). Whilst the person’s funding allocation is pre-determined, UnitingCare Australia recommends that the person/participant’s planner, plan manager and fund-holder must be at arm’s length from the government regulator to avoid any possibility of confusion or conflict of priorities or loyalties.

The Bill stipulates the Agency only purchases supports from registered providers, thereby reducing the choice and control of the participant and opportunities for innovation and possible growth for those participants who elect or are compelled to use the Agency as their planner/fund holder. UnitingCare Australia is concerned about this requirement and will outline this further in 3.2.1.

The Bill does not adequately address the issue of independent appeals and access to independent advocacy. Whilst the clear commitment to individual choice and control is commendable, UnitingCare Australia calls for greater attention to safeguards at structural, policy, and frontline workforce levels to ensure the system as a whole has integrity. The administrative appeals option is positive but the Bill does not make clear what type of decisions this would be limited to (e.g. eligibility, the level of resources offered, decision on what constitutes reasonable and necessary, etc).

3. Specific Comments about the Bill

3.1 Becoming a participant

3.1.1 Age Requirements (section 22)

UnitingCare Australia would encourage an ongoing evaluation of the scheme in relation to the age requirements. With the ageing population and an extension of people's working lives to beyond the age of 65 in many instances, we believe that the scheme would be more equitable, create greater equality, and be more in line with Australia's human rights obligations if the age requirements were removed or extended significantly so as to broaden the concept of disability and enable those who are ageing with a disability (rather than experiencing age-related diminishment of capacity) to receive the sufficient support for a full life. This would apply to both those people who have a disability before the age of 65, and to those who acquire a non-aged related disability after the age of 65.

3.1.2 Disability Requirements (section 24-25)

Several organisations in the UnitingCare Australia network provide support to people with a disability using community care services. Many of these people rely on low level services such as domestic assistance, personal care, delivered meals or community transport to stay in their own homes and in their local communities. This may include someone who only needs personal care or community transport.

Whilst the NDIS eligibility criteria appears broad enough to admit low level users of community care services, UnitingCare Australia is concerned that many of these people may be screened out in a rationalised system.

Experience from the (now disaggregated) Home and Community Care Program shows that people who do not receive timely and consistent low level supports can quickly escalate to very high levels of need. This can lead to the need for intrusive, costly and premature service interventions that could have been avoided with inexpensive and occasional low level supports.

3.1.3 When a person ceases to be a participant (section 29)

UnitingCare Australia is concerned that the Bill does not allow for adequate interface between the Disability and Ageing sector ie: an individual cannot receive both an NDIS package and community/residential aged care packages.

As the NDIS is designed to provide people with disabilities with adequate support to enable them to have the same rights, certainty and opportunities that the rest of Australian society enjoys, this should also include access to aged care services as required. Ageing, while sharing some similarities with disabilities, is a different process and thus should be treated as a separate range of supports to work alongside the NDIS as a person with a disability ages. This should be the case for both residential and community based care. Members of the UnitingCare Australia network are able to share examples where cross sector collaborations and flexible use of funding packages leads to excellent outcomes for people with a disability who are ageing.

In addition, to require someone to move from a system of supports which may have been in place for their entire lives, to an aged care system which may not deliver the same quality or quantity of services, and which would undoubtedly operate within a different framework and philosophy, is an unreasonable and inequitable choice to force upon a participant at this point in their lives.

3.2 Participants Plans

3.2.1 CEO must facilitate preparation of a participant's plan (section 33)

UnitingCare Australia supports the Bill's indication that plans can be described specifically or generally, whether by reference to a specified purpose or otherwise. We believe this general approach is ideal and should be supported in the implementation in allowing the flexibility and creativity in addressing participant need which would ensure positive outcomes for participants. While there will be, in some cases, the need for specific supports to be provided to participants, we would encourage a general approach which is focused more on the goals, objectives and aspirations of the participant, in the context of their living arrangements.

In section 33(2) we have observed a use of language which is contrary to the person-centred philosophies behind this legislation, where reference is given to the CEO approving a participant's plan, where a participant is indicated to have only been participated with. Given that the participant, as part of the planning process, is to prepare a statement outlining their goals, objectives, aspirations and personal context, we would also seek that the participant's plan be not only prepared with the participant and approved by the CEO, but also seeks the approval of the participant to ensure that it is a person-centred and person-directed plan. We would further encourage a review of the language used in the legislation to ensure it respects and upholds person-centred approaches.

In section 33(6) it states that, when funding is managed by the Agency, supports will only be able to be provided by "registered providers of supports". This creates a potential disadvantage in both choice and price for those having their funding managed by the Agency. UnitingCare Australia is concerned that this requirement may be of particular relevance to those people with a disability who may have limited informal supports and or/advocates to assist them. This could include

vulnerable cohorts who experience additional disadvantage due to factors such as homelessness, mental illness, drug and alcohol use and or ageing with disability, further compounding their existing disadvantage.

We appreciate that the Regulatory Impact Statement provides the option for low-risk services to be obtained from informal, non-registered services. We would therefore encourage a higher degree of equity by ensuring that all participants can access low-risk informal services from non-registered providers, regardless of how their funds are managed.

3.2.2 Reasonable and necessary supports (section 34)

UnitingCare Australia recommends that the wording in 34(e) is general in nature and could serve to disadvantage people whose family and community supports are limited. Rather the point should include explicit reference to individual circumstance including:

- what the participant wants from family, carers, networks, community
- what the family, carers, networks, community are willing to provide
- what the family, carers, networks, community are able to provide

3.3 Reviewing and changing participants' plans

3.3.1 Review of participants plans (section 48)

UnitingCare Australia recognises the capacity within the Bill for the participant to request a change to their plan. It is recommended however that a more explicit statement regarding the capacity for immediate review in the event of a crisis be included eg: the sudden loss of a parent or significant means of informal support.

4. Summary of Recommendations

UnitingCare Australia calls for the Senate Standing Committee on Community Affairs to consider the following recommendations:

- Further clarify sections within the Bill regarding the distinction between the NDIS Launch and the NDIS as an ongoing Scheme
- Stipulate within the Bill the requirement for public consultations when Bill is reviewed
- Further consider the conflict of interest arising for the “Agency” playing the role of funder, monitor, fund hold holder and decision reviewer
- Strengthen the role of systemic advocacy and independent review, particularly in regard to the review of decision appeals
- Include in the Bill a requirement for cost transparency to the agency, to providers, to service users and to the public
- Allow for ongoing evaluation of the scheme in relation to age requirements to reflect community standards

Articulate more strongly the requirement to ensure access for people with lower support needs

- Allow interface between Ageing and Disability sectors (including fund sharing) to avoid either/or for people who need both
- Allow people whose funds are managed by the Agency to access a flexible range of supports and not just those from Registered Providers
- Amend the wording in section 34 (e) to reflect individual circumstances
- Allow for immediate review of a plan in the event of a crisis.

5. Conclusion

UnitingCare Australia welcomes the opportunity to provide feedback to the Senate Standing Committee on Community Affairs regarding the draft *National Disability Insurance Scheme Bill 2012*. The Bill goes a long way toward the promise of a single, nationally consistent platform from which to build a new system. The advent of the National Disability Insurance Scheme promises to enable people with disability to step outside the traditional service system and live the life they want and deserve. The right policy decisions now will support the realisation of people's dreams tomorrow.

©UnitingCare Australia 2013

UnitingCare Australia
PO Box 518
Dicson ACT, 2602 Australia
Email: info@nat.unitingcare.org.au
Web: www.unitingcare.org.au