

Chapter 9

Agency, Board and Advisory Council

The National Disability Insurance Agency

9.1 The Bill establishes the National Disability Insurance Scheme Launch Transition Agency (agency) under the *Commonwealth Authorities and Companies Act 1997*. The primary function of the agency is 'to deliver the National Disability Insurance Scheme'.¹

9.2 Clause 118 outlines the prescribed functions of the agency.² The agency will play a central role in assessments and plan management, the appointment of nominees, the registration of providers, referral services, and provision and acquittal of funding.

Employment within the agency

9.3 The committee heard that the agency could provide, where suitable, employment opportunities for people with disabilities. Australia's Disability Discrimination Commissioner Mr Innes put forward a compelling case for ensuring that the agency employs people with disabilities:

I would come from the position that an organisation that represents the whole community and the diversity of our community is a much stronger, more effective and more inclusive organisation and, from the perspective of clients of the organisation, a more representative organisation. And if we are talking about an organisation that delivers services to people with a disability, given the far lower levels of employment of people with a disability in our workforce—54 per cent, I think, as against 83 per cent of the general population participating in employment—then the situation cries out for some fairly drastic measures.

I was not, until several years ago, a supporter of targets or quotas in this sense. But I have come to the view, supported by situations in the Public Service, where I see that the level of employment of people with a disability has in the last six months dropped below two per cent and is now 1.9 per cent, that the only way to give people with a disability a fair go and to balance the major disadvantage they face in the workforce—in the same way that women have in the past and still do in some areas—is to set targets or quotas. And if you are going to have a quota or a target anywhere, why wouldn't you have it in the agency delivering services to people with disability?

I would assert that a quota or target like that would not cause a significant problem with respect to the merit principle. I think the merit principle is in fact often relied upon to disadvantage diverse groups within our

1 NDIS Bill, Paragraph 118(1)(a).

2 NDIS Bill, Subclause 118(1).

community—because of the narrow way it is interpreted. If you interpret merit as including lived experience of disability, you would have to think the NDIS would be the first place you should start with such a quota or target.³

9.4 The committee heard that recruiting people with disabilities was one of the ways in which the agency could model supporting people with disabilities through employment opportunities.⁴

9.5 The committee was assured by the CEO of the National Disability Insurance Scheme Launch Transition Agency that the agency is striving to be a model employer and is encouraging people with a lived experience of disability to apply:

As the Agency builds its workforce, people with disabilities are being specifically encouraged to apply for employment. As positions are advertised, the job vacancy information packs contain relevant information encouraging people who have an understanding or lived experience with disability to apply and noting that the Agency is being established as a model employer.⁵

Chief Executive Officer

9.6 The bill outlines in some detail the role and powers of the agency CEO. Many of the powers of the CEO, such as those in relation to plans, registration of providers, nominees, litigation, review and advocacy are discussed elsewhere in the report. This section provides a general discussion of the scope and use of power vested in the CEO. The department provided the committee with some guidance on why the role of the CEO has been articulated as it is in the bill:

The Bill reflects the judgement that it is more transparent, and ultimately protects the rights of people with disability to a greater extent, to have the powers of the Agency CEO clearly specified. This ensures that where appropriate the CEO's exercise of these powers can be scrutinised by external review bodies. In simple terms, specifying what the CEO is able to do also allows the law to be clear as to what the CEO is not able to do and therefore provides important protections to people with disability who are, or want to be, participants in the scheme.⁶

Powers of the Chief Executive Officer

9.7 The committee heard concerns that the expansive powers of the CEO perpetuated the top-down approach that has previously characterised disability services, with Mr Owen from DANA noting:

3 Mr Innes, Australian Disability Discrimination Commissioner, *Proof Committee Hansard*, 1 February 2013, p. 31.

4 Mr Tulley, Office of the Health and Community Services Complaints Commissioner, *Proof Committee Hansard*, 19 February 2013, p. 2.

5 Mr Bowen, National Disability Insurance Scheme Launch Transition Agency, *Proof Committee Hansard*, 5 March 2013, p. 40.

6 Ms Wilson, FaHCSIA, *Proof Committee Hansard*, 5 March 2013, p. 34.

My experience is largely with state based programs; in the disability area most people's experience is—where the role of the secretary or the director-general has a similar sort of presence as this legislation does. At that level it is not surprising but it is worryingly business as usual. I would have hoped that across party lines and across jurisdictions if there was one thing the NDIS was not going to be it was business as usual yet this is straight out of central casting in the kinds of provisions that run top-down programs determining what will happen to and for people.⁷

9.8 DANA concluded in this regard that 'we do not agree that the way to safeguard a person with disability is to make the CEO responsible for all decisions.'⁸

9.9 A key point of contention was the discretion the bill grants the CEO in a number of circumstances to make decisions that will significantly impact on the lives of people with disabilities and their families. The department argued that it was necessary in such a scheme as the NDIS that the CEO have the right to make decisions, rather than the use of formulaic hurdle requirements:

The allocation of funding to individuals is ultimately the responsibility of the Agency CEO. This is a responsibility that the Agency CEO should exercise in close partnership with people with disability and their families, carers and on occasion their advocates, but it is inevitably a decision making power that the Agency CEO has to exercise.⁹

9.10 Furthermore:

As we said in our opening comments, there is still an element where the CEO is going to have to be able to make rigorous decisions. We will be looking at providing funding packages of \$200,000 or \$300,000 to a significant number of people, and that is a very big decision that needs to have some rigour around it. It is really a matter of getting the balance right. It is not possible to run an insurance-based scheme where there is, effectively, an entitlement to everybody who meets eligibility criteria without having some rigour in being able to make some judgements.¹⁰

9.11 Activ Foundation questioned this assumption and suggested that the bill should be amended to place the onus on the CEO to provide reasons why someone is ineligible based on stated requirements, rather than leave such decisions up to the discretion of the CEO:

Having a bill whereby, if you apply for access—and you may request access and the CEO may disallow it, or the CEO has to be satisfied that you are actually entitled to access—does not, to me, provide an entitlement scheme at all, and I would encourage you to look at the bill and look at that

7 Mr Owen, Disability Advocacy Network Australia, *Proof Committee Hansard*, 4 March 2013, pp 4–5.

8 Ms Simmons, Disability Advocacy Network Australia, *Proof Committee Hansard*, 4 March 2013, p. 7.

9 Ms Wilson, FaHCSIA, *Proof Committee Hansard*, 5 March 2013, p. 33.

10 Dr Hartland, FaHCSIA, *Proof Committee Hansard*, 5 March 2013, p. 69.

in terms of changing the tenor of the legislation. Surely we can actually get some certainty, be it via the rules or via the bill, whereby we state certain requirements that are necessary in order to be entitled and individuals can actually meet those requirements—and they are entitled per se. Let the CEO, if the CEO has a view, have the onus of actually saying, 'You are not entitled, for these reasons', rather than the person having to apply, wait, and then have to respond, if you like...To actually have the bill include the myriad discretions that the CEO has does not give a sense of entitlement at all.¹¹

9.12 At the heart of the issue appears to be the conflict between the necessity of governments ensuring the proper expenditure of public funds, and the concerns of many that people with disabilities will be disadvantaged through granting large discretionary powers to the CEO who must ensure the fiscal viability of the NDIS. As was noted by the Association for Children with a Disability:

It is all about the balance of what is essentially public funding and the importance of making sure that that is used effectively, but people definitely have some control and choice within that.¹²

Committee view

9.13 The committee has in chapter 4 outlined its view that there is in fact an entitlement-based framework in place in the bill. It also however accepts that there needs to be a transparent and rigorous approach to the funding package decisions, and that the bill sets out to achieve that. The committee would definitely expect that reasons would be given for funding decisions; indeed, in the event that anyone were to seek review or appeal of any of the decisions covered by clauses 100 and 103, the reasons would be essential.

9.14 The committee recognises the concerns raised regarding granting the CEO or the CEO's delegate discretionary powers, especially as it relates to access to the NDIS. However, the committee believes that the flexible approach taken by the bill will provide better individual outcomes than a prescriptive approach. The committee believes that there is a greater risk with a prescriptive approach that some people would be disallowed on technicalities and variances between experts' opinions of ability.

Delegation

9.15 The department expressed concern that some stakeholders may have misinterpreted the bill, and particularly the role of the CEO, as meaning that all decisions will come back to one individual who is far removed from the daily reality of the participant. The department assured the committee that this was not the case and the references to the CEO throughout the bill refer to the office of the CEO, and that most functions will be delegated to the appropriate level:

11 Mr Vis, Activ Foundation, *Proof Committee Hansard*, 18 February 2013, p. 9.

12 Mrs McGarry, Association for Children with a Disability, *Proof Committee Hansard*, 20 February 2013, p. 19.

The Bill and the rules speak of the CEO making all decisions and requesting information. Some commentators are concerned that this suggests all decisions may be made in Canberra and may even be made personally by the Agency CEO. This is not the intention, indeed far from it. Clause 202 of the Bill permits the CEO to delegate powers and functions under the legislation. There will be delegation of the CEO powers to Agency employees at all launch sites. The policy is to have all decisions made by employees situated as close to NDIS participants, prospective participants, carers, nominees, support providers and other stakeholders as possible.¹³

9.16 Recognising this, some stakeholders took the next step to ask how the powers are going to be delegated in practice, and with what effect. For example, PWDA queried:

The reality will be that these powers are delegated – it [does] not actually mean the CEO, it means a delegate – so how is decision making at the local level going to happen? How is that delegation going to be exercised?¹⁴

9.17 Similarly, the Carers Alliance queried how complex or contested decisions would be escalated internally within the agency:

For all intents and purposes it will be bureaucrats who will be making decisions. Accordingly, additional safeguards must be in place to ensure that prohibitive decisions can be escalated up the chain so that the CEO can give a fair hearing.¹⁵

9.18 The evidence received by this committee did not explicitly answer these queries, however the committee is hopeful that the lessons learnt from the launch sites will provide evidence of any emerging governance problems that need to be addressed in a national implementation.

Board of the agency

9.19 Chapter 6 Part 2 of the bill would establish a board that has oversight of the agency. Clause 124 outlines the functions of the board, namely to ensure the 'proper, efficient and effective performance of the Agency's functions', and to provide strategic direction in line with strategic guidance from the minister.¹⁶ The board will also be responsible for appointing the second and subsequent CEOs of the Agency.¹⁷

13 Ms Wilson, FaHCSIA, *Proof Committee Hansard*, 5 March 2013, p. 39.

14 Mr Wallace, People with Disabilities Australia, *Proof Committee Hansard*, 4 March 2013, p. 59.

15 Carers Alliance, *Submission 976*, p. 10.

16 NDIS Bill, Clauses 124–125.

17 NDIS Bill, Subclause 160(1). Note that the first CEO of the Agency will be pointed by the Minister according to subclause 161(6).

Board membership and structure

9.20 The board comprises a chair and eight other members. Subclause 127(2) outlines the eligibility criteria for appointments to the board:

A person is eligible for appointment as a Board member only if the Minister is satisfied that the person has the skills, experience or knowledge in at least one of the following fields: (a) the provision or use of disability services; (b) the operation of insurance schemes, compensation schemes and schemes with long-term liabilities; (c) financial management; (d) corporate governance.

9.21 In making appointments, the bill requires the minister to ensure that 'the board members collectively possess an appropriate balance of skills, experience or knowledge in the fields mentioned in subclause two (see above).¹⁸

9.22 It was put to the committee by the NPWDCC that the board should also play a role in reflecting the NDIS's mission to advance the rights of people with disabilities and include adding 'demonstrated knowledge of and commitment to disability rights' to the areas of knowledge, skills and experience listed in subclause 127(2).¹⁹

9.23 A common concern regarding the future composition of the board was the lack of a requirement in the bill that the board include people with disabilities. It was argued to the committee that:

The board recruitment process should actively seek to identify people with disability who possess the skills, knowledge and lived experience required to be members of the to be members of the NDIS Board.²⁰

9.24 Similarly, the Council of Social Service New South Wales (COSSNSW) argued, 'we believe that people with disabilities could sit on the board and do have the skills, expertise and knowledge to sit on the board.'²¹ Noting the importance of people with disabilities having a voice on the board, Blind Citizens Australia argued that:

People with a disability should not have those positions simply because they have a disability but because they have developed the skills and knowledge as well as the first-hand experience necessary to comprehend the nature and consequences of decisions made for people who have disabilities, and the long-term sustainability of an NDIS.²²

9.25 While emphasizing the importance of having disabled people represented on the board, Mr Abrahams of Ai-Media informed the committee of the risk of creating a two-tiered board if its constituency was regulated by quotas:

18 NDIS Bill, Subclause 127(6).

19 National People with Disabilities and Carer Council, *Submission 612*, p. 31.

20 National People with Disabilities and Carer Council, *Submission 612*, p. 32.

21 Ms Regan, Council of Social Services NSW, *Proof Committee Hansard*, 1 February 2013, p. 13.

22 Mrs Pascual, Blind Citizens Australia, *Proof Committee Hansard*, 21 February 2013, p. 5.

I do share the concerns about putting a quota in place simply on the basis that, once you have a quota in place, there can be an appearance of two classes of directors appointed to a board and therefore someone with a disability who is perfectly qualified to be on the board in and of their own right will then perhaps be questioned as to whether they are only there in order to fill a particular quota.²³

9.26 Mr Bowen of the National Disability Insurance Scheme Launch Transition Agency emphasized to the committee that although it is not mandatory to have board members with disabilities, it is a factor that the minister would take into account:

For both the board and the advisory council the selection criteria specifically include knowledge of and lived experience of disability. That does not go to the extent of mandating that, but it does make it clear that it is an important factor to take into account.²⁴

9.27 The committee noted that even if a requirement was include to include a number of members with disabilities, they would still have to meet the quality criteria laid out in subclause 127(2) requiring a board member to have the 'necessary skills, experience and knowledge'. No-one could be on the board simply because they had a disability.

9.28 MS Society Western Australia expressed concerns that there are no guarantees of state representation on the board in the bill.²⁵ Although subclause 127(4) requires the minister 'seek the support of all the host jurisdictions for the appointment' to the board, the minister is only required to be satisfied that the appointment is supported by 'a majority of the group consisting of the Commonwealth and the host jurisdictions.'²⁶ The importance of proper geographic representation was further emphasized by National Disability Services' Western Australia branch:

In relation to the governance provisions of the bill as it currently stands, there are no provisions to ensure that the composition of either the board or the advisory council includes experience and knowledge of the diverse conditions across Australia; for example, state and territory differences, Indigenous issues, rural and remote service delivery et cetera. The current provisions, as they stand, could allow membership of both the board and the advisory council to be drawn from a fairly homogenous pool in which those sorts of issues are not properly understood. We believe that there is need to ensure that the criteria for appointments to those bodies properly reflect the diversity of communities around Australia. Clearly, this is a particular issue for WA, with its remoteness from Canberra and its diverse and dispersed population.²⁷

23 Mr Abrahams, Ai-Media, *Proof Committee Hansard*, 1 February 2013, p. 39.

24 Mr Bowen, National Disability Insurance Scheme Launch Transition Agency, *Proof Committee Hansard*, 5 March 2013, p. 76.

25 Mr Stafford, MS Society Western Australia, *Proof Committee Hansard*, 18 February 2013, p. 8.

26 NDIS Bill, Subclause 127(4).

27 Mr Simpson, National Disability Services, *Proof Committee Hansard*, 18 February 2013, p. 18.

9.29 The Centre for Cerebral Palsy posited that the lack of guaranteed representation of states and territories was an oversight 'since the success of the NDIS will depend on the financial contribution of State/Territories and also their knowledge, networks and goodwill'.²⁸

9.30 The LCA also queried board appointments being limited by the provisions of subclause 127(2), arguing that:

[C]apable and responsible Board Members could be appointed from a range of other fields, including disability and health advocates, medical experts and administrators, legal and regulatory experts, consumer representatives, business leaders, etc.²⁹

9.31 The bill also specifies some procedures for the minister to follow when appointing board members, and lists a range of people who are ineligible to be appointed: these include members of any parliament, legislature or local council, and any employee of any government, including any local council. Initial appointments are for a period of no more than three years.

Committee view

9.32 The committee is of the view that it is important that the minister recruit talented people with disability to the board. Although aware that concerns raised regarding mandating board membership and the assurances that the minister would take into account the desirability of including people with lived experience of disability on the board, the committee considers it prudent to remove all doubt about the importance of having people with disabilities on the board. The general underrepresentation of people with disabilities on governance boards nationally compared with the number of people with disabilities in the community points towards the benefit, at least for the time being, that legislation assures their inclusion.

Recommendation 28

9.33 The committee recommends that at least three members of the Board are people with disability.

Conflict of interest provisions

9.34 Disability Directory queried why the bill contains no provisions relating to conflict of interest of a board member, even though it contains such provisions relating to advisory council members.³⁰ The committee understands that the Commonwealth Authorities and Companies Act (the CAC Act) places relevant responsibilities and constraints on board members.³¹ In contrast, the advisory council is not governed by the CAC Act and as a consequence needs governance provisions to be in the NDIS bill.

28 The Centre for Cerebral Palsy, *Submission 598*, pp. 4–5.

29 Law Council of Australia, *Submission 575*, p. 16.

30 Disability Directory, *Submission 601*, p. 12.

31 See in particular Division 4 of that Act.

9.35 However, NPWDCC was concerned that the CAC Act protections were not sufficient in the circumstances. In particular, they argued that:

While Government organisations generally rely on the provisions of the CAC Act to deal with potential conflicts, the Council believes that given the scale of the NDIS, the fact that it is creating a more commercially driven market for providers in the transition to full implementation and that it will be the subject of significant political scrutiny over time, it is better to deal with the issue of governance conflict of interest in the NDIS legislation.³²

9.36 It was further argued by NPWDCC that:

[The] Council believes that there is an endemic conflict of interest for any person who is already a Board member or executive with a service provider organisation likely to receive funding from the scheme (via participants), or who is a participant of the scheme, to be a NDIS Board member. This is because of the commercially and politically sensitive nature of documents that board members would see and the perceived advantage that would accrue to board members.³³

9.37 The LCA similarly expressed concern that:

Board members must not be conflicted and/or hold any other position which could result in a financial advantage for them or their employer from the operation of the NDIS.³⁴

9.38 While the committee recognises the importance of avoidance of conflict of interest, it has concerns that some proposals – such as that by NPWDCC – may inadvertently act to exclude people with disabilities from board roles. The committee heard from a number of witnesses that it was important to ensure that there is adequate representation of people with disabilities on the board, and excluding all participants is likely to directly contradict this objective.

Advisory council

9.39 The bill would also create an Independent Advisory Council (council) to provide advice to the Board (Chapter 6 Part 3 of the bill).

Role of the council

9.40 Clause 144 outlines the functions of the council to provide advice to the board about the way in which the agency:

Performs its functions relating to the National Disability Insurance Scheme; and (b) supports the independence and social and economic participation of people with disability; and (c) provides reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme launch; and (d) enables people with disability

32 National People with Disabilities and Carer Council, *Submission 612*, p. 32.

33 National People with Disabilities and Carer Council, *Submission 612*, p. 32.

34 Law Council of Australia, *Submission 575*, p. 16.

to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports; and (e) facilitates the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability; and (f) promotes the provision of high quality and innovative supports to people with disability; and (g) raises community awareness of the issues that affect the social and economic participation of people with disability, and facilitates greater community inclusion of people with disability.³⁵

9.41 The bill also ensures that the advice provided by the council takes into consideration significant persons in the lives of people with disabilities such as carers and families.

9.42 The Consumers Health Forum of Australia welcomed the addition of the council:

The involvement of people with disabilities and their carers, providers and other stakeholders will be crucial to the success of the system, particularly in ensuring a smooth implementation process, providing advice on technical, security and privacy issues and in expressing the consumer experience and consumer needs.³⁶

9.43 It was suggested by COSSNSW that the chair of the advisory council should also be a member of the board to ensure a proper connection between the two bodies.³⁷

Council membership

9.44 The council would comprise a Principal Member and no more than 12 other members.

9.45 Under clause 147, members would be required to include at least four 'people with disability who have skills, experience or knowledge relating to disability services', at least two who are 'carers of people with disability and have skills, experience or knowledge relating to disability services' and at least one person 'who has skills, experience or knowledge in the supply of equipment, or the provision of services, to people with disability'.

9.46 The committee heard divergent view regarding the ideal makeup of the council.

9.47 It was emphasized to the committee that it was important that the people with disabilities on the council represented a number of different disability groups:

I think it is important for the advisory committee to have good representation from a number of disabilities...For instance, with spinal cord injuries the physical disability needs for someone who is ventilator

35 NDIS Bill, Subclause 144(1).

36 Consumers Health Forum of Australia, *Submission 520*, p. 1.

37 Ms Regan, Council of Social Services NSW, *Proof Committee Hansard*, 1 February 2013, p. 13.

dependent are very different from somebody who is a paraplegic, as it is different for somebody who has a sight problem or is deaf or has an intellectual disability. So it is really the context and the understanding within the advisory committee around the range of needs. I think that is critical.³⁸

9.48 AFDO indicated that 'at a bare minimum, people with disability should make up a clear majority on both bodies', but that there should be a sufficient pool of experienced people with disability to provide all members of both board and advisory council.³⁹ Similarly, Physical Disability Australia thought that at least half of both board and advisory council members should be people with disability.⁴⁰ Blind Citizens Australia and the SACOSS both argued that there should be a majority of council members with disabilities.⁴¹ Children with Disabilities Australia argued that the majority of people on the council should have lived experience of disability (including family).⁴² It was also suggested by Disability Justice Advocacy for the entire board and council to be made up of people with disabilities.⁴³

9.49 While there was uniform support for strong representation of people with disability on the council, other suggestions about Council membership were highly fragmented. ARATA recommended that the advisory council include both a person with 'experience or knowledge in the supply of equipment' and one with experience in 'the provision of services' to people with a disability, rather than a single person from either area, on the grounds that assistive technology 'will constitute a substantial part of the NDIS budget'.⁴⁴ The Australian Lawyers Alliance made a similar recommendation.⁴⁵ However, VICSERV argued the opposite, considering that reference to 'experience or knowledge in the supply of equipment' should be removed, as this 'seems to be a rather tenuous qualification'.⁴⁶ The RIDBC similarly queried the inclusion of equipment suppliers, noting that:

We would indicate that a person who supplies equipment would not necessarily have a broad understanding of a person with disability and disability services and may not therefore be suitable for advisory council membership.⁴⁷

38 ParaQuad New South Wales, *Proof Committee Hansard*, 31 January 2013, p. 22.

39 Australian Federation of Disability Organisations, *Submission 514*, p. 28.

40 Physical Disability Australia, *Submission 613*, p. 14.

41 Blind Citizens Australia, *Submission 594*, p. 15; South Australian Council of Social Services, *Submission 646*, p. 6.

42 Children with Disabilities Australia, *Submission 607*, p. 11.

43 Disability Justice Advocacy, *Submission 431*, p. 6.

44 Australian Rehabilitation and Assistive Technology Association, *Submission 596*, p. 2.

45 Australian Lawyers Alliance, *Submission 618*, p. 22.

46 Psychiatric Disability Services of Victoria, *Submission 611*, p. 4.

47 Mr Rehn, Royal Institute for Deaf and Blind Children, *Proof Committee Hansard*, 1 February 2013, p. 4.

9.50 NDS argued for subparagraph 147(b)(iii) to be amended so as to account for two Council seats, noting that:

A person skilled *only* in the supply of equipment would not have the broad understanding of disability services to make them suitable for Advisory Council membership. The essential knowledge base is disability service provision. The very broad range of supports used by people with disability (including early intervention therapies, equipment or assistive technology, accommodation support and supported employment) indicate that having only *one* person on the Advisory Council who has skills, experience or knowledge in the provision of services is inadequate.⁴⁸

9.51 The South Australian government recommended that the advisory committee be required to have at least one person with experience or knowledge 'with regard to people with disability in rural or remote communities' and another with regard to 'the needs and service support for children and young people with disability'.⁴⁹ The Physical Disability Council called for the advisory council to have 'representation from a range of host jurisdictions, aboriginal communities, aged services, regional and rural communities'.⁵⁰

9.52 Other groups who argued for specific representation on the council or board included: United Voice, who argued to the committee that the Council should include trade union representation⁵¹; the National Ethnic Disability Alliance who called for someone from a non-English speaking background with a disability and experience in the multicultural disability advocacy field⁵²; Muscular Dystrophy Australia suggested the inclusion of a paediatric early intervention and care expert, and a geriatric care specialist⁵³; and the Australian Services Union noted that 'the Advisory Committee will need at least one representative of disability care workers'.⁵⁴

Committee view

9.53 The evidence to the committee has clearly shown that there are a multitude of views on the appropriate mix of skills, experiences, and qualifications that should be on the council. Like all such bodies, it is necessary to balance completeness and manageability. After considering the evidence, the committee has concluded that first and foremost the council should have a majority of members with a disability. The council composition recommended below takes into account this consideration, as well as the importance of including the expertise of carers and specialist knowledge of the needs of disabled people in non-metropolitan areas. This last criterion is supported

48 National Disability Services, *Submission 590*, p. 10.

49 South Australian Government, *Submission 647*, p. 7.

50 Physical Disability Council of NSW, *Submission 597*, p. 8.

51 Mr Milroy, United Voice, *Committee Hansard*, 4 March 2013, p. 19.

52 National Ethnic Disability Alliance, *Submission 614*, p. 11.

53 Muscular Dystrophy Australia, *Submission 643*, p. 7.

54 Australian Services Union, *Submission 822*, p. 7.

by the committee because of committee members' extensive experience of the issues in health care and service provision in regional and remote Australia, reflected in numerous Community Affairs Reference Committee reports. In the case of the NDIS, there are likely to be particular issues for non-metropolitan areas in meeting the NDIS objective of ensuring the development of genuine choice for participants, a fact reflected in numerous accounts contained in the committee's many personal submissions to this current inquiry.

Recommendation 29

9.54 The committee recommends that subclause 147(5) be amended so as to read:

(5) In appointing the members of the Advisory Council, the Minister must:

- (a) have regard to the desirability of the membership of the Advisory Council reflecting the diversity of people with disability; and**
- (b) ensure that all members are persons with skills, experience or knowledge that will help the Advisory Council perform its functions; and**
- (c) ensure that:**
 - (i) a majority of the members are people with disability; and**
 - (ii) at least two of the members are carers of people with disability; and**
 - (iii) one or more of the members is a person who has skills, experience or knowledge of disability in rural or regional areas.**

Note: Any member may fulfil one or more criteria in 147(5)(c)

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Senator Dean Smith
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Senator Bridget McKenzie
Vic, National Party of Australia

Senator Sue Boyce
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Senator Mitch Fifield
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