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National Disability Agreement Review

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To:

National Disability Agreement Review

Productivity Commission

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About Blind Citizens Australia

Blind Citizens Australia (BCA) is the peak national representative organisation of and for people who are blind or vision impaired. Founded in 1975, our mission is to achieve equity and equality by our empowerment, by promoting positive community attitudes and by striving for high quality and accessible services which meet our needs.

We provide peer support, information dissemination, advocacy support and advice to community and government on issues of importance to people who are blind or vision impaired.

Our work is directly informed by lived experience of blindness and vision impairment. Our members, our Directors and the majority of our staff are blind or vision impaired.

Introduction

We are pleased to have the opportunity to provide feedback on this topic so that together, we can strive to improve the outcomes of Australians who are blind or vision impaired now, and into the future.

BCA and its members support the review by the Productivity Commission (the Commission) of the National Disability Agreement (NDA) as it is vital that any high-level agreements or legislation relating to the provision of disability services for people with disability remain a high priority for Commonwealth, state and territory governments.

BCA's overarching view is that the NDA (and any other related agreements, policies, legislation or schemes for people with disability) should be based on the United Nations Convention on the Rights of Persons with Disabilities (the Convention)¹.

The Convention aims to enhance opportunities for people with disability to participate in all aspects of social and political life including access to employment, education, health care, information, justice, public transport and the built environment. This is the responsibility of all governments, corporations, businesses and community groups in Australia.

Australia ratified the Convention on 17th July 2008 so it is overdue that Australia renews its commitment to the Convention and puts the principles of the Convention into practice. This review of the NDA and its interaction and interface with other disability policies of the Commonwealth and state and territory governments is the ideal opportunity to promote the Convention and ensure Australia upholds its responsibilities and obligations under the Convention.

Interface with Aged Care

BCA is also concerned that the Discussion Paper has made no significant reference to the interface between disability and aged care, except for one mention of it being one of many mainstream services. This is a significant omission.

As is well documented, the introduction of the National Disability Insurance Scheme (NDIS) and its arbitrary age limit for eligibility of under 65 years old has resulted in

¹ United Nations Treaty Collection, Convention on the Rights of Persons with Disabilities, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&lang=en#EndDec

millions of Australians with disability having to navigate the aged care system in the hope of obtaining disability services and supports. This includes people with a disability, such as those who are blind or vision impaired, living in residential aged care.

Many BCA members are reporting as the NDIS is rolled out that this is becoming very confusing and difficult for them to access disability services, whether they are NDIS participants or not. Many state-based services and schemes for people with disability are being rolled into the NDIS leaving those who are not eligible – either due to functionality or age – having very few services available to them.

The Commission’s Discussion Paper states that “at the heart of this study is the aim to promote the wellbeing of people with disability, their families and carers and...the broader Australian community”². The Discussion Paper also states that “the scope of the NDA...is broad. It covers all people with disability in Australia – about 4.3 million people, of which around 2.4 million require assistance with at least one daily activity (ABS 2016).”³.

However, it is widely known that at full scheme, the NDIS is expected to cover only 475,000 people with disability⁴. This is of grave concern that there are millions of people with disability in Australia that fall outside of the NDIS.

Therefore, the scope of the review of the NDA must look very broadly at the provision of disability services – both within the traditional disability sector, including the NDIS and, even more importantly outside the traditional disability sector, particularly in the context of the aged care sector which is now required to provide disability services.

These issues are discussed further below in BCA’s response to the specific questions outlined in the Discussion Paper.

A possible framework for assessing the NDA

Does the Commission’s representation of the policy architecture supporting the NDA in figure 1 adequately capture all relevant policy areas? Is anything missing?

The policy architecture supporting the NDA in Figure 1 of the Discussion Paper does not adequately capture all policy areas. There are two significant elements missing:

- overarching reference to the United Nations Convention on the Rights of Persons with Disabilities
- inclusion of state, territory and local government disability legislation and disability action plans.

UNCRPD

As stated above, one critical element that underpins Australia’s commitment to upholding the rights of people with disability is the United Nations Convention on the Rights of Persons with Disabilities. While BCA notes that the Convention is mentioned briefly in one section of the NDA⁵, BCA urges the Productivity Commission to add an overarching element to the broad policy landscape as depicted in Figure 1 to include

²Productivity Commission, National Disability Agreement Review – Issues Paper, July 2018, p.7.

³ibid, p.9.

⁴ibid, p.5.

⁵National Disability Agreement, s.17(f).

Australia's commitment to upholding the principles of the Convention. The principles of the Convention are an excellent guide for all governments and should underpin the broader policy landscape that relates to disability in Australia. This needs to be included in policy architecture in Figure 1.

The Commission should note, however, that through our advocacy work, BCA has found that complaints lodged under the Convention with the Australian Human Rights Commission do not usually progress to resolution. In light of the fact that Australia has signed and ratified the Convention and its optional protocol, it is absolutely critical that there is an effective, no-cost dispute mechanism available to allow people with disability to lodge complaints when they feel that their rights under the Convention are not being upheld.

State and Territory Disability Legislation and Disability Action Plans

The Discussion Paper notes that some state and territory governments as well as local governments also have their own disability legislation and disability action plans however, these are not included in the proposed policy architecture. This state-based legislation is in addition to the *Disability Discrimination Act 1992* (Cth) (DDA).

The terms of reference for this review state that the Commission should have regard to a list of priorities, including:

- The interface between the NDIS and mainstream service systems, noting that many people who are unable to directly access the NDIS may access support through alternative service providers, mainstream services and their communities.
- Responsibility for ensuring that people with disability have access to government services, provided by the Commonwealth and state and territory governments, together with development of agreed performance measures.⁶

These two priorities relate to people with disability accessing services that may come under the umbrella of state, territory and local government legislation and policies as well as state and territory disability action plans. Many of the problems BCA members are facing with the current disability reforms often stem from the interface of these aspects of the policy architecture.

While disability action plans are often well-meaning and contain appropriate actions and proposed outcomes with detailed key performance indicators (KPIs) and timeframes, there is no actual enforcement of these plans. That is, there is no accountability or any repercussions for not meeting the KPIs for each proposed outcome or strategy. This makes many of the plans meaningless and a wasted resource.

In order to ensure the responsibilities of state and territory governments are considered and clearly set out in the NDA, the policy architecture supporting the NDA needs to also include reference to state and territory government disability legislation and disability action plans.

⁶Productivity Commission, National Disability Agreement Review, p. iv.

What framework and assessment criteria should be used to review the NDA? Is there anything missing from the proposed framework and criteria (in figure 2)? What other frameworks could be used?

BCA notes the possible framework for reviewing the NDA as outlined in Figure 2 of the Discussion Paper. BCA is concerned that the context of the NDA in relation to other policies and agreements is not broad enough. Currently, the possible context includes the NDIS Bilaterals, the National Disability Strategy (NDS) and other National Agreements.

The Commission must also consider the NDA in the context of aged care policy. As stated above, the introduction of the NDIS has resulted in millions of Australians with disability who are aged 65 years and over now having to access disability services and supports through the aged care system. This means people who are aged 65 years and over will interact with various Commonwealth, state, territory and local government services and schemes that fall outside the NDIS and are becoming increasingly difficult to navigate.

BCA recommends the inclusion of aged care policy into the framework for assessing the NDA as it relates to delivery of disability services through the aged care system for people aged 65 years and over.

Should the Commission aim to apply the same framework across all reviews of national agreements? If so, could the framework proposed above be applied more generally?

No comment.

Purpose and scope of the NDA

In light of developments in the disability policy landscape and intergovernmental funding arrangements, is an NDA still required?

- *If not, by what mechanism would outcomes for people with disability not covered by the NDIS (or related continuity of support arrangements) be achieved?*
- *If so, how can the NDA remain policy relevant in an evolving policy environment?*

While the extensive reforms and developments in disability policy and funding in recent years have been positive for some people with disability, they have also created substantial confusion and uncertainty for many others.

A revised NDA is more necessary than ever. There will be substantial changes to the roles and responsibilities of the Commonwealth, state and territory governments since the introduction of the NDIS including where the delineation of responsibilities for disability services and funding lie and how current disability policy and funding interacts with other policy areas such as aged care.

Clarity around these responsibilities is important for those Australians with disability who are eligible for the NDIS as well as those who are not deemed eligible for the NDIS because many people are finding the process and supports available to them is not clear. As an example, even those who are eligible for continuity of support are finding this transition difficult as the continuity of support program has not clearly been articulated in any form.

Case study

BCA is aware of a member who had been receiving some care and support from their local council. The local council provided the BCA member's details to the NDIS Access Team who ascertained that the BCA member was deemed eligible to receive supports from the NDIS as he met the disability, age and residency requirements. The BCA member was subsequently allocated an NDIS number, given access to the NDIS portal and proceeded to have a planning meeting. Some months since then, the NDIA reversed its decision and has now stated that this man does not meet the eligibility for disability and would need to provide further evidence to be deemed eligible.

In the months spent waiting for a decision, this gentleman required an upgrade to his cane, which he uses for mobility. The blindness agency from which he has accessed services over many years, delayed providing this important mobility aid as his NDIS plan had not been approved (and they would not have been paid for this service).

This is an example of someone who has experienced great confusion as to how to access disability supports since the introduction of the NDIS. The local council passed this man onto the NDIS who, after many months reversed its decision as to his eligibility. Ultimately, there has been no continuity of support for this BCA member and a very poor outcome for him.

What should be the purpose of the NDA? Is it an effective accountability mechanism for government actions relating to disability? If not, what are the more effective mechanisms that could be used?

The Discussion Paper states that Governments agreed to the establishment of the NDA in order to "improve outcomes for people with disability and to clarify roles and responsibilities"⁷.

The purpose of the NDA is to make very clear which level of government is responsible for providing which services to people with disability. As stated above, roles and responsibilities will have changed since the introduction of the NDIS so an NDA is still relevant in the current climate of disability policy and funding reform, particularly given the increased uncertainty for individuals with disability and the new roles for service providers in other sectors, such as aged care. The NDA can become an effective mechanism for government actions relating to disability as long as there are consequences for non-performance. This is discussed further below.

What should be the scope of the NDA? Should it continue to cover all people with disability? What services should it cover (such as specialist disability services and/or mainstream services, including mental health, healthcare, aged care, education, transport, housing and justice)?

In order for Australia to comply with the Convention, it is imperative that the NDA continues to cover all people with disability in Australia. Unfortunately, the introduction of the NDIS has excluded millions of people with disability so there is an even greater need to ensure all other disability-related agreements and policies extend to all people with disability, not just those 470,000 that will ultimately be covered by the NDIS. This will ensure clarity for the millions of individuals with disability in Australia and for the

⁷ *ibid*, p.9.

various levels of Governments, and service providers, who provide services and funding to people with disability.

While specialist service providers are very important, particularly for people who are blind or vision impaired, the introduction of the NDIS has changed the landscape for the provision of disability services in Australia. Since the roll out of the NDIS, people with disability who are not eligible for the NDIS sometimes need to obtain disability services from mainstream services. This is not ideal and BCA's strong preference is for all people who are blind or vision impaired to have equal access to specialised service providers in the blindness sector, wherever possible.

However, given the age limitation of the NDIS has forced people who are blind or vision impaired into mainstream services such as aged care, BCA is of the view that mainstream services will need to be covered by the NDA to ensure people with disability are protected in this sector.

Is there a coherent link between the NDA and other related agreements, strategies and policies, such as the NDS, the NDIS and State and territory disability strategies?

- *If not, what should be the relationship between each of these strategies and agreements? Is it necessary to have both an NDA and an NDS, and if so, why?*

National Disability Strategy (NDS)

While the NDS makes mention of the NDA and says it is broader than the NDA given the NDA in its current form relates only to the specialist disability support system delivered by the Commonwealth, States and Territories, there is no obvious coherent link for how the two agreements interact.

In May 2017, BCA made a submission to the Senate Inquiry into delivery of outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities. In that submission it was stated that, regrettably, BCA does not believe the NDS has been effective in bringing about real and lasting change for people who are blind or vision impaired. There are many access barriers that are still faced by people who are blind or vision impaired in many areas of public life. These include:

- **Community attitudes towards, and awareness of the access needs of, people who are blind or vision impaired** – despite the introduction of the NDS, BCA asserts that there is still much work to be done to increase disability awareness amongst service providers, businesses, community groups, governments and individuals in order to address prevailing attitudes and misconceptions towards blindness.

For example:

- the negative attitudes of employers continue to contribute to the high rate of unemployment amongst people who are blind or vision impaired, which remains at four times the national average. This has a dramatic impact on the inclusion and participation of people who are blind or vision impaired – work enables an individual to establish greater financial security, develop a sense of productivity and purpose and establish new connections with people in their community.

- accessibility is also often completely overlooked in the design phase of services and systems resulting in these services and systems not being able to be independently used by people who are blind or vision impaired. Many of the access barriers could be mitigated by increasing efforts to educate people about disability access and universal design by ensuring accessibility requirements are embedded into peoples' thinking before they even enter the workforce.
- **Access to information and communications technology, including television services** – despite the accessibility of information and communications systems being a core focus of the NDS, inaccessible technology and media continues to cause people who are blind or vision impaired to fall behind their sighted peers when it comes to accessing and being included in many areas of public life. This includes:
 - inaccessibility of web services (particularly those owned and operated by government departments and agencies)
 - inaccessible systems such as computer databases, websites and software packages that discriminate against students who are blind or vision impaired in educational settings
 - inaccessible touchscreen interfaces that continue to be used within a range of federal and state government offices that are commonly accessed by the public, including Centrelink and Medicare
 - inaccessible household appliances that require the use of LCD displays or touchscreen technology and that are rarely developed according to universal design principles and as such, are often not accessible to people who are blind or vision impaired
 - inaccessible touchscreen technology in the financial services sector that has severely compromised the ability of people who are blind or vision impaired to independently complete transactions in a range of retail environments, particularly touchscreen EFTPOS terminals
 - inaccessible television services due to an absence of audio description (AD) which is a service vital to the ability of people who are blind or vision impaired being able to watch television. AD involves the verbal narration of visual elements such as facial expressions, scenes, actions, settings and on-screen text
 - inaccessible voting - the current Australian voting system does not allow people who are blind or vision impaired to exercise their right to vote independently and privately.
- **Access to public transport** – public transport is still inaccessible to people who are blind or vision impaired in many ways. This includes:
 - access to information - insufficient audible announcements regarding stops on trains and buses
 - inaccessible ticket machines (which require applications of universal design)
 - the need for combinations of Tactile Ground Surface Indicators (TGSIs) trails in conjunction with other guidance such as tactile street signs, tactile boarding point signs, audible signs and announcements

- the need for well-developed methods of dissemination of information for transport disruptions such as channels through relevant government agencies and disability organisations
- information dissemination that does not necessarily rely on smartphones and apps. All accessibility features in public transport must be built into the design of the services and not reliant on unreliable or inaccessible technology.
- modernisation of the Disability Standards for Accessible Public Transport 2002 as a matter of urgency where access to information for people with print disability must be viewed as being equally important as issues pertaining to physical access for people with a physical impairment.
- **Access to the built environment** – buildings and other premises as well as access to those premises are still inaccessible to people who are blind or vision impaired. BCA together with the broader blindness sector have been working hard for many years to ensure building codes, construction codes, access to premises standards and wayfinding standards are revised to ensure the needs of people with disability are incorporated into any new building and construction work in Australia. For example, features such as directional TGSIs, braille and large print signage on doorways and entrances, audible announcements, and braille and large print on lifts, all serve to enable a person who is blind or vision impaired to navigate a building internally. These measures, along with rapidly developing technology can allow a person who is blind or vision impaired to conduct their day-to-day business confidently and independently. Government must play a lead role in working with the building industry to make builders and developers understand the benefits of universally designed buildings and encourage a beyond-compliance approach to access to the built environment.
- **Rights protection, justice and legislation** – there are currently no effective complaints mechanisms in place in Australia to ensure the rights of people with disability are promoted, protected and upheld.
 - BCA understands that in April 2017, a number of amendments were made to the *Australian Human Rights Commission Act 1986* (Cth) that: raise the threshold for the Australian Human Rights Commission (AHRC) to accept complaints; provide additional powers for the Commission to terminate unmeritorious complaints; and limit access to the courts for unsuccessful complaints.
 - The introduction of these new amendments may mean that people with disability have even fewer protections available to them to ensure their rights are protected and upheld. BCA fears that these changes, coupled with the fact that the AHRC has been subject to significant funding cuts, will result in many legitimate complaints lodged under both the *Disability Discrimination Act 1992* (Cth) (DDA) and the Convention either not being accepted, being dismissed altogether, or being extensively delayed.
 - BCA urges the Commission to consider incorporating a complaints mechanism within a revised NDA for people with disability to use in the event that disability legislation or regulations are breached. Seeking recourse under the DDA or the

Convention have not been effective in the past and cannot be the only recourse for people with disability.

Given eight years have passed since the NDS was introduced and there has been little, if any, positive change for people who are blind or vision impaired, it is not clear that there is a need for both an NDA and an NDS. A revised NDA, incorporating the NDS, with a clear delineation of responsibilities for the provision of disability services (possibly both specialist and mainstream) by Commonwealth, state and territory governments and with a robust performance framework would be much more likely to bring about real change than the NDS. Given the current scope of the NDA does not extend to the general community, including corporations and business, and focuses only on Governments, any merged NDA/NDS policy would need to broaden this scope in line with the NDS.

National Disability Insurance Scheme (NDIS)

There is no coherent link between the NDA and the NDIS. The NDIS is only one part of the disability sector in Australia and the NDA needs to reflect that there are millions of people who do not fall within the NDIS but who continue to need disability services. It would be useful if the NDA could clearly articulate this link to the NDIS and the breadth of the disability sector (beyond the NDIS) and clarify that other mainstream services, such as aged care, are now required to deliver disability services.

Further the NDIS needs to reflect the general principles of the NDA - to improve outcomes for people with disability – in its implementation. This includes ensuring that people who are eligible for the NDIS have equitable access to information and services offered by the NDIS. In particular, people who are blind or vision impaired have had great difficulty obtaining information in accessible formats of their choice from the NDIS so that they can be fully informed about the options available to them and can make informed choices.

State and Territory Disability Strategies

As stated above, many states and territories have their own disability action plans or disability inclusion action plans. However, there is currently no coherent link between the NDA and these state and territory disability strategies. BCA reiterates that, while disability action plans are often well-meaning and contain appropriate actions and proposed outcomes with detailed KPIs and timeframes, there is no actual enforcement of these plans. Ensuring a coherent link between the NDA and these strategies is expressed clearly in the NDA would further confirm the responsibilities of state and territory governments and provide incentives for compliance with these disability strategies.

Objectives, outcomes and outputs of the NDA

Are the objectives, outcomes and outputs of the NDA relevant in the context of contemporary policy settings? Are they clear and consistent?

- *How do they, or should they, relate to the six outcomes articulated in the NDS and the outcomes of the NDIS?*

The objectives, outcomes and outputs of the NDA are as follows:

Objective: “People with disability and their carers have an enhanced quality of life and participate as valued members of the community.”⁸

Outcomes:

- people with disability achieve economic participation and social inclusion
- people with disability enjoy choice, wellbeing and the opportunity to live as independently as possible
- families and carers are well supported.⁹

(BCA notes the Discussion Paper states that progress against these outcomes is tracked by the performance indicators and benchmarks outlined in the agreements.)

Outputs:

- services that provide skills and supports to people with disability to enable them to live as independently as possible
- services that assist people with disability to live in stable and sustainable living arrangements
- income support for people with disability and their carers
- services that assist families and carers in their caring role.¹⁰

(BCA notes that the outputs are not directly linked to any performance measures).

These elements of the NDA are sound and are still relevant in the context of contemporary policy settings. However, they are broad and general statements and further detail may be more useful. The six outcomes articulated in the NDS (see Appendix 1) are more specific and would provide more detail upon which to measure if the objectives of the agreement are being achieved.

Therefore, it would be useful if the outcomes in the NDA provided more detail and reflected the six outcomes set out in the NDS. This would also update the NDA outcomes and reflect the work and consultation that was put into the development of the NDS outcomes.

The NDIS Outcomes are very specific to that scheme and do not relate to all people with disability, particularly those who are not eligible for the NDIS. Therefore, while the NDA may need to have regard to incorporating those outcomes, the NDA needs to ensure the outcomes are relevant in the broader context of disability in Australia.

To what extent should the outcomes be aspirational (worked towards but not necessarily achieved within a specified time period), versus achievable within a defined period?

Should there be specific performance measures linked to the outputs and if so, what should they be?

⁸ Council of Australian Governments, National Disability Agreement, section 9.

⁹ *ibid*, section 10.

¹⁰*ibid*, section 11.

It is very important for outcomes to be achieved in a specified time period but this does not mean they cannot be aspirational. People with disability, especially those who are blind or vision impaired, have been waiting a long time for improved outcomes so it is important to ensure there is more rigour around the objective of trying to improve the lives of people with disability.

It is important to have specific performance measures linked to outputs that have a defined time period. As previously stated, BCA and the broader blindness sector have been advocating for the rights of people who are blind or vision impaired for decades with very little improved outcomes. Specific performance measures within defined time periods are crucial to improving the lives of people with disability in a timely manner.

Roles and responsibilities of Governments

How have the roles and responsibilities of Governments changed since the NDA was updated in 2012? Are roles and responsibilities clear?

Roles and responsibilities of governments have changed substantially since the NDA was updated in 2012. Obviously, the main development has been the roll out of the NDS and the NDIS. This has changed the delineation of responsibilities of governments considerably and needs to be updated.

Currently the roles and responsibilities of governments are not clear. This is very confusing for people with disability who are trying to access disability funding and supports in various states and territories.

What criteria should be used to assess roles and responsibilities of Governments under the NDA?

In light of the changing policy landscape (particularly with respect to the NDIS), do the roles and responsibilities of Governments in the NDA need to change? How?

The roles and responsibilities of Governments in the NDA do need to change. In particular in relation to which governments and sectors are responsible for providing funding and disability services to people who are not eligible for the NDIS including the provision of continuity of support as well as support for those who do not qualify for continuity of support. Also, it is important for people who are eligible for the NDIS to understand how their current services and funding will change.

What role should the NDA play in assigning responsibilities for all disability services between governments? How should this relate to the responsibilities set out in the NDIS bilateral agreements?

Should the roles and responsibilities of mainstream services to people with a disability be more clearly outlined in a national agreement?

The NDA should clarify and articulate which government is responsible for which ongoing services to people with disability to ensure that there is continuity of support for both NDIS participants and non-NDIS participants. This would greatly assist people with disability and service providers in the disability and mainstream sectors.

The roles and responsibilities of mainstream services to people with a disability do need to be more clearly defined in a national agreement, in particular in relation to:

- Aged care – all people 65 years and older with a disability now have to access disability funding and services from the aged care sector.
- all the state and territory-based schemes that have disappeared or been rolled into the NDIS, for example, transport subsidy schemes. The NDIS was intended to be a nationally consistent scheme and was established based on an understanding that all states would contribute to the costs of transport for people with disability through the continuation of existing state-based subsidies. However, there are many state-based disability schemes that have been either terminated or changed to the detriment of the people with disability that relied on them. One example of this is the Taxi Subsidy Scheme.

Taxi subsidy scheme

Originally it was understood that state governments would meet half the cost of taxi transport for NDIS participants residing in their jurisdiction and the NDIS would fund the remaining half of the fare. Unfortunately, however, the issue of transport for NDIS participants has become increasingly politicised. State Governments are now claiming that they no longer have a need to provide subsidies to NDIS participants for transport costs. Each state is taking a different position on this matter, making it difficult for organisations such as BCA to provide people who are blind or vision impaired with accurate information about how they will be affected. We would ultimately like to see a nationally consistent approach to the funding of taxi transport for NDIS participants, as well as people with disability who fall outside the NDIS. The NDA should clearly set out the responsibilities of all governments in relation to schemes such as the Taxi Subsidy Scheme and it would bring clarity to all parties including governments, the disability sector and the mainstream sector.

Case study

People who are blind or vision impaired cannot and never will be able to drive a car. This means that their transport options are limited to public transport, which does not go everywhere and can be unsafe at night or unusable at night for people with certain eye conditions. Further, some regional areas have very limited public transport. There has been no indication or guarantee that the NDIS will cover the transport costs that the Taxi Subsidy Scheme has historically covered. As an example, for one BCA member to get to her local gym for hydrotherapy, which is 7.6 kilometres away, the full fare would be \$25 each way. This equates to \$50 per day, and for the required three times per week, \$150 per week. This is for transport to one necessary appointment, 3 times a week. For a person with disability, transport is required daily for outings including work or volunteering, shopping, appointments, family events and school pick up and drop off. This ensures that person stays connected to the community and engaged in work and other activities.

Should the agreement set out responsibility for reforms to broader regulation that affect people with disability (such as building standards)?

A comprehensive overview of responsibility for reforms such as building standards would greatly assist in clarifying and prioritising the important changes that need to occur across Australia. As stated above, the disability sector has been working for many

years to affect change in broader legislation and regulations in Australia that can improve the lives of people with disability. This includes: transport standards, access to premises standards, wayfinding standards, ICT and procurement standards, building codes and construction codes. Support from the NDA for these reforms would greatly improve outcomes for people with disability.

How has the introduction of the NDIS impacted on access to services for people not eligible for the NDIS?

- *Where are the main gaps in services outside the NDIS? What are the problem areas?*
- *To what extent does the NDIS (for example, through the provision of ILC activities and Local Area Coordinators) cater to people outside the NDIS?*
- *What role could the NDA play in assigning responsibilities for addressing service gaps identified in the current arrangements?*

The introduction of the NDIS has had a large and negative impact on access to services for people not eligible for the NDIS. This has resulted in huge gaps in services and funding for many people with disability in Australia.

Aged Care

The main gap is the people with disability who are aged 65 years and older – they have lost all their disability services and these have not been replaced by the aged care sector. People who are blind or vision impaired in the aged care sector who need specialist blindness equipment and training are now competing for funding with all other aged care consumers who require other types of support services such as home care, personal care, meals on wheels and transport support. People who are blind or vision impaired and who need urgent early intervention for their loss of sight will need to go on a waiting list for a home care package like all other aged care sector participants. Any waiting times for a package for a consumer who has recent vision loss could greatly jeopardise their rehabilitation and subsequent independence.¹¹

In addition to specialist disability equipment and supports, people who are blind or vision impaired also require access to other services such as capacity building, opportunities to connect with the local community and interest groups, access to volunteering etc. These opportunities should be met for those within the NDIS, but those not eligible for the NDIS will have very limited opportunities to access these services through a Home Care Package within the aged care system, due to the competing need for supports via a Home Care Package and the limited access to these services through a Home Care Package within the aged care system.

Case study

A 72 year old BCA member who is blind and living in residential aged care contacted BCA in February this year seeking some support and assistance. She has many concerns particularly regarding her blindness and the social isolation and environment that she lives in. The lady is confined to her home and without visitors or family so she is vulnerable to social isolation and is at risk of harm and abuse. Her biggest concern is

¹¹Australian Blindness Forum, Aged Care Roadmap, February 2017, <http://www.australianblindnessforum.org.au/policy/>, accessed on 23 August 2018.

that the aged care staff have no understanding of blindness and the individual needs she has in relation to the impact of her blindness.

One example she gave was that a cleaner will come to clean the bathroom but the cleaner does not put things back in the place that they were found in, for example placement of hair brush and other personal items. This is very disruptive for a person who is blind as they generally understand and memorise the precise area where something is kept and then found.

BCA has provided support and engaged a specialist blindness services provider (Vision Australia) to provide specialist services to this lady including conducting and Occupational Therapy assessment to determine why she is not being supported to use a white cane for mobility in the home. BCA also recommended to the residential aged care facility that its staff needs to undertake disability awareness training however the Manager of the facility said this would not be possible as the training calendar was full for 2018.

This case study highlights that the residential aged care system does not understand disabilities such as blindness and vision impairment which have a negative impact on staff awareness, responses and practice in relation to clients with a disability.

Information, Linkages and Capacity Building (ILC)

The NDIS does not cater to people outside the NDIS in any substantial way. The ILC, including the Local Area Coordinators (LACs), is very limited in its scope to assist people with disability. The ILC is just a conduit for information, it does not provide disability services. LACs have very limited funding and outreach and it is apparent that, within the scope of their current role, they would not have the capacity to assist people who fall outside the NDIS. The ILC is in no way a replacement for the services people in the disability sector were getting prior to the NDIS being introduced.

The NDA needs to make very clear who is responsible for providing disability services to the millions of people who are not eligible for the NDIS and can play a major role in articulating the substantial service gaps in the current arrangements.

Should the agreement have regard to the way States and Territories are delivering services to people with a disability outside the NDIS (for example, through mainstream services or through specialist disability services)? If so, why?

The NDA should have regard to the way the states and territories are delivering services to people with a disability outside the NDIS because the introduction of the NDIS has created a very complicated and discriminatory system where only a small group of eligible people are covered by specific disability funding and services. Those outside the NDIS desperately need to know who is going to be delivering their services in the future.

NDA's performance framework

To what extent has the performance framework of the NDA supported improved outcomes for people with disability, their families and carers? Has it influenced government policy?

Does public reporting against the indicators serve to ensure that governments are held accountable for their policies and actions relating to disability? If not, why not, and how could this be improved?

Are the criteria for good performance indicators listed in box 2 suitable? If not, what should be added/changed? How do the existing indicators perform against those criteria?

Are there other measures relating to people with disability and/or their carers that should be added as indicators in the NDA?

How should the significance of changes in indicators be judged? For example, what magnitude of change in the indicators should be targeted?

What level of disaggregation should the indicators provide? For example, should they be articulated at the national or jurisdictional level? Should they be disaggregated by type of support, nature of disability (such as those covered by the NDIS and/or those outside the NDIS)?

Despite the introduction of the NDS in 2010, including the subsequent roll out of the NDIS, and the development of the NDA in 2012, outcomes for people with disability, their families and carers have not improved in any significant way over this period. BCA and its members have been advocating for change and significant improvements for people who are blind or vision impaired for decades with only incremental improvements.

Therefore, even though the nine performance indicators and three performance benchmarks in the performance framework of the NDA may be sound, it is clear from the constructed graph in Figure 5 of the Discussion Paper – “Progress against performance benchmarks of the NDA” - that there is no significant improvements so far and the Commission even states that ‘the most recent...data... suggest that the first two benchmarks are not on track to be achieved by 2018’¹².

Therefore, it is clear that public reporting against the indicators does not seem to hold governments accountable for their policies and actions relating to disability. Any further time and resources spent on determining whether any further additions or changes need to be made to the existing performance indicators, what criteria to use for the performance indicators, or whether any further performance indicators need to be added would be wasted.

What is needed now is action and enforcement of performance indicators and real repercussions for those governments that do not meet the KPIs. The current magnitude of change in the indicators is modest and should not be decreased. The Commission reports that it is unlikely that the proposed 5 percentage point national increase in the proportion of people with disability participating in the labour force between 2009-2018 will not be met. This is very disappointing for the disability sector that after 9 years this modest improvement will not be achieved.

This demonstrates that the implementation of the policies and actions as set out in the NDA and its performance framework are currently not effective and while the framework looks relatively sound, there are no consequences for governments that do not meet the

¹² Productivity Commission, National Disability Agreement Review, p.17.

benchmarks. Therefore, the performance indicators should be as specific as possible, disaggregated at a jurisdictional level and identifying type of support and nature of disability (NDIS and non-NDIS) so to provide as much information as possible as to where the gaps in disability outcomes lie.

Performance Benchmarks

Are the current benchmarks of the NDA still relevant? What should they be beyond 2018? For example, what magnitude of change should be targeted and over what time period?

How should the benchmark of ensuring that families and carers are well supported be measured?

As stated in the previous section, it is very disappointing that the current benchmarks of the NDA are unlikely to be met for the period 2009-2018. This means that governments:

- will not achieve a five percentage point national increase in the proportion of people with disability participating in the labour force
- will not achieve a five percentage point decrease in the proportion of people with disability who report a need for more formal assistance. This means that people with disability are not enjoying an improved outcome of more choice, wellbeing and the opportunity to live as independently as possible.

Further, it is incomprehensible that no target was set for the third performance indicator – that families and carers are well supported – despite COAG suggesting in 2009 that further work was to be undertaken to develop a quantifiable target for this benchmark¹³. This demonstrates clearly that the governments have not taken this benchmark seriously and do not prioritise this benchmark in any way.

While none of these benchmarks have been achieved, they are still relevant and are important to people who are blind or vision impaired. As an example, research undertaken by Vision Australia indicates that 58% of people who are blind or vision impaired of workforce age are unemployed compared with 14% of the wider population¹⁴. This is an alarming statistic and so it is a priority that governments continue to strive to achieve an increase in the proportion of people with disability participating in the labour force.

The key to achieving these benchmarks is to enforce repercussions for governments who do not meet the performance benchmarks. Currently, there appears to be no incentive to comply with the NDA performance framework which is to the detriment of people with disability in Australia.

National Performance Reporting System

To what extent has a coherent national performance reporting system been achieved?

- *What needs to be improved? For example, are there duplications, overlaps, inconsistencies and data gaps? Are data provided in a timely manner?*

¹³ibid, p.16.

¹⁴Vision Australia, 'Why you should hire somebody who is blind or has low vision', <https://www.visionaustralia.org/community/news/28-09-2017/why-you-should-hire-somebody-who-is-blind-or-has-low-vision>, 28 September 2017, accessed on 23 August 2018.

- *How are improvements best achieved?*

How relevant is the current performance reporting framework of the NDA in light of the implementation of the NDIS? How can outcomes for people outside the NDIS be adequately monitored?

Is it possible to effectively separate out performance against NDA objectives and outcomes from those of the NDS and NDIS?

Is the relationship between outcomes, outputs, benchmarks and indicators clear? If not, what changes to the structure of the agreement should be made?

Is the collection and publishing of data, and funding of this, adequately dealt with in the NDA?

- *Are existing datasets adequately resourced to provide the necessary evidence base for performance reporting under the NDA, NDS and NDIS?*
- *Are there gaps in what data are collected (for example, in relation to the disability workforce)? How could data collection and publication be improved?*

A coherent national performance reporting system does not seem to have been achieved. It is always difficult to find adequate and specific data on disability in Australia and this does have the flow on effect of not being able to effectively influence government policy on key disability issues

There are data gaps, inconsistencies and there is a lack of granularity in most data about disability in Australia – for example, it is difficult to find specific data about specific disabilities such as blindness and vision impairment. Further, data is not provided in a timely or consistent manner. Therefore, a national performance reporting system as described by the Commission in the Discussion Paper – a single integrated national reporting system that will reduce collection costs and confusion in interpreting performance¹⁵ - would be welcome. The ABS Survey of Disability, Ageing and Carers (SDAC) is a key data set that is relied upon in the disability sector. BCA shares the Commission’s concerns that SDAC is at risk without an ongoing funding commitment from jurisdictions¹⁶ and urges governments to retain this very important survey. Further, BCA would encourage governments to commit to improved and more frequent data collection which assists in determining outcomes for people with disability in a more timely manner.

Given the NDIS only covers 470,000 people with disability in Australia and the NDA covers all 4.3 million people with disability in Australia, it is imperative to effectively separate out performance against NDA objectives and outcomes from those of the NDIS. There are many more people not covered by the NDIS than actually covered by the NDIS so the progress and outcomes for all people with disability must be accounted for. Coordination between the NDA and the NDS needs to ensure that there is no overlap or duplication. As stated above, BCA has not found the NDS has improved outcomes for people who are blind or vision impaired so we would be concerned if resources were wasted on any further duplication.

¹⁵Productivity Commission, National Disability Agreement Review p.17.

¹⁶ibid.

Reform and policy directions

Is the NDA an effective vehicle for articulating reform and policy directions? If so:

- *How should they relate to or interact with the policy directions and future actions articulated in the NDS and NDIS?*
- *How should these be determined and what should they be?*
- *How should progress be assessed?*

How relevant are the existing reform and policy directions of the NDA and should they be clearly linked to measurable outcomes in the NDA?

Does it make sense to separate them, or should the NDA and NDS be merged into a single agreement?

Has the NDA been effective in shaping and driving policy directions and reform for disability? What are the examples of success?

After many decades advocating for the rights of people with disability, particularly people who are blind or vision impaired, BCA, the consumers it represents and the wider blindness sector are fatigued with so many reviews, consultations and development of new disability policies. It is time for action and enforcement after many years of developing policies, directions, performance outcomes, performance outputs, performance indicators and performance benchmarks.

The NDA could be an effective vehicle for articulating and enforcing reform and policy directions. In order to avoid duplication and overlap the NDA should be merged into a single agreement with the NDS. The NDIS is only one element of the overall policy directions and reform for disability and this needs to be reflected in the NDA so that the millions of people not covered by the NDIS are not forgotten.

The existing reform and policy directions of the NDA (and the NDS) must be clearly linked to measurable outcomes in the NDA. The NDA must also clearly state the performance benchmarks and enforce those benchmarks with repercussions for governments that do not meet the benchmarks. This is the only way to achieve true reform in the disability sector.

Conclusion

BCA appreciates the opportunity to make this submission to the Commission's review of the National Disability Agreement. BCA encourages the Commission to ensure the NDA becomes an overarching agreement reflecting all aspects of disability regulation and legislation and that stipulates the roles and responsibilities of governments in Australia.

More importantly, BCA encourages the establishment of a robust and rigorous performance framework with repercussions for non-compliance with the key performance indicators and benchmarks.

This is the only way to achieve improved outcomes in the disability services sector and to ensure the wellbeing of people with disability, their families and carers.

Appendix 1 – National Disability Strategy – six outcomes¹⁷

1. **Inclusive and accessible communities**—the physical environment including public transport; parks, buildings and housing; digital information and communications technologies; civic life including social, sporting, recreational and cultural life.
2. **Rights protection, justice and legislation**—statutory protections such as anti-discrimination measures, complaints mechanisms, advocacy, the electoral and justice systems.
3. **Economic security**—jobs, business opportunities, financial independence, adequate income support for those not able to work, and housing.
4. **Personal and community support**—inclusion and participation in the community, person-centred care and support provided by specialist disability services and mainstream services; informal care and support.
5. **Learning and skills**—early childhood education and care, schools, further education, vocational education; transitions from education to employment; life-long learning.
6. **Health and wellbeing**—health services, health promotion and the interaction between health and disability systems; wellbeing and enjoyment of life.

¹⁷Commonwealth of Australia, National Disability Strategy: 2010-2020, p.10.