



Submission to the Productivity Commission: National Disability Agreement Review

Purpose and scope of the NDA

National Disability Services (NDS) believes that a new National Disability Agreement (NDA) is required to provide the overarching framework for the substantial reforms underway to disability policies and services and the diverse and changing roles and responsibilities of governments. The Agreement should articulate how the various roles, responsibilities and activities of governments interact and cohere to assist people with disability to fulfil their aspirations. At present there is confusion about roles and responsibilities.

The largest risk facing the National Disability Insurance Scheme (NDIS), in NDS's view, is the risk of market failure (the failure of service supply to meet demand). The market stewardship required to mitigate this risk requires clarity among government agencies about their respective roles and responsibilities. In its October 2017 report on NDIS costs the Productivity Commission underlined the need for this clarity:

“The COAG Disability Reform Council should immediately clarify and make public the roles and responsibilities of the Australian, State and Territory Governments with respect to market stewardship (those actions required to define and support the effective functioning of sustainable and enduring markets for participants and providers). This should include clear and transparent reporting of the specific actions and outcomes (including costs, benefits and risks), timeframes and progress towards goals.”

This should be reflected in the National Disability Agreement.

Given the magnitude and complexity of the NDIS, a fundamental aim of a new NDA should be to outline how the NDIS relates to the broader services and supports available to people with disability. It should mirror core commitments of the NDIS bilateral agreements between governments and detail the supports governments will fund for people who are ineligible for the NDIS (but are eligible for continuity of support or, in the future, will have support needs).

Advocacy services are a critical support for people with disability. They are funded outside the NDIS in order to preserve their independence. The responsibility for funding advocacy services has been a matter of dispute in some jurisdictions. A future NDA should ensure that advocacy services are properly funded and accountable.

While COAG has endorsed principles to guide the interaction between the NDIS and other service systems, in practice (with systems under pressure to resist cost-shifting) there are demarcation disputes. It is essential that at their boundaries service systems work cooperatively in the interests of supporting people with disability. A well-crafted NDA should support this and reduce the risk that people with disability – particularly complex disability – will be disadvantaged by gaps or rigid boundaries between service systems.

A new NDA should commit governments to continuous improvement in how they assist people with disability to access mainstream services. Too many people with disability fare poorly when accessing mainstream services (such as when they go to hospital, interact with the justice system or participate in education); this should be given higher priority in the NDA.

Improving the employment rate of people with disability needs to be a shared responsibility across governments. Disability Employment Services (and jobactive) – funded by the Commonwealth – are essential programs to drive employment outcomes for people with disability, but state and territory governments should also contribute to improving Australia's performance in this area. The NDA is the vehicle for combining the efforts of governments.

The availability of support services is essential for people with disability and carers; so too is income support for those who require it. It is appropriate that a new NDA continues to recognise the Commonwealth's provision of income support.

Relationship between the NDA and the National Disability Strategy

The NDA is the appropriate mechanism for linking the National Disability Strategy, core elements of the NDIS bilateral agreements and other government commitments directed at creating an inclusive society for people with disability.

The National Disability Strategy articulates six areas of policy action: inclusive and accessible communities; rights protection, justice and legislation; economic security; personal and community support; learning and skills; and health and wellbeing. The NDIS is the principal response to the 'personal and community support' policy area. While the other areas are essential to creating inclusive and accessible communities, action on them has been limited.

Incorporating the National Disability Strategy into a new NDA would help give coherence to the broad array of initiatives required to assist people with disability and their families and carers to live as valued members of society.

Objectives, outcomes and outputs of the NDA

It is appropriate that the NDA details the agreed objectives, outcomes and outputs being pursued by the Commonwealth and States and Territories. The NDIS and the agreements governing its implementation do not diminish the need for transparency and commitment in a new NDA. While the NDIS bilateral agreements include performance measures, few give a good picture of how well NDIS participants are faring as citizens (most of the measures relate to participant numbers, costs and funding).

The outcomes in the current NDA remain relevant but the outputs need revision. For example, the vagueness of “services that assist people with disability to live in stable and sustainable living arrangements” makes the output difficult to monitor. The absence of direct links between outputs and performance measures should be remedied.

The NDIS is introducing a market approach to the supply of disability supports. To a lesser degree, reforms to the Disability Employment Services program will also drive increased provider competition and consumer choice. This market approach is largely untested in disability services. Critical to realising the vision of the NDIS is the growth of a dynamic, sustainable and values-driven disability sector. Without this, people with disability and their families will not have the choice and quality of support the NDIS promises.

The risks facing the disability sector in the new market-oriented world are also risks to the people who rely on disability services. Disappointingly, the only performance measures in the NDIS bilateral agreements relating to supply are “mix and number of provider services” and “number of registered service providers by characteristics and market profile”, neither of which is sufficient to monitor the availability of quality supports to NDIS participants across Australia. This shortcoming should be addressed in a new NDA.

Wherever possible, outcomes listed in the NDA should be achievable rather than aspirational. Judging the adequacy of performance and progress is difficult if the outcome is merely an aspiration. Measurable indicators of progress toward achievable outcomes should be developed.

Roles and responsibilities of Governments

The roles and responsibilities of Governments in relation to disability services have substantially changed since the NDA was updated in 2012. We are now in the midst of unprecedented reforms to the provision of disability support, with large implications for the role of government and the relationship of government with service providers. For example, under the NDIS, although the public funding of disability services across Australia will double, governments will no longer have contracts with service providers.

The Issues Paper (p.12) lists a number of areas where there is a lack of clarity in the roles and responsibilities of governments. A new NDA is the place to resolve these.

Performance framework—benchmarks and indicators

Government and non-government stakeholders with an interest in disability policy recognise the value of data, but a coherent sector-wide plan for data and research is lacking. The plans of government agencies (NDIA, DSS, ABS, AIHW) in relation to disability data are unclear. Some key existing data collections have an uncertain future (eg ABS’s three-yearly Survey of Ageing Disability and Carers and AIHW’s annual National Minimum Dataset of disability services).

In its October 2017 report on NDIS costs, the Productivity Commission emphasised the importance of data in market stewardship of the NDIS: “release of timely, market-relevant data is needed urgently ... A better evidence base would enable a deeper understanding of the market and in turn, inform risk-based market stewardship responses.”

The Commission recommended: “The NDIA should make public the details of the data it holds, and consult with stakeholders on how best to provide access to this data.” This has not happened.

NDS concurs with the Productivity Commission’s recommendation and with the other observations on data in the report:

- data collected on services provided outside the NDIS is being scaled back at a time when it is most needed
- linking NDIS data with other datasets would provide a more complete picture on people with disability
- it is imperative that wider access to the NDIA’s longitudinal database is permitted to allow research to be undertaken (with appropriate safeguards and policies to protect privacy)

Data that provides early warning signals of market failure is critical to market stewardship. The NDIS Independent Pricing Review, commissioned by the National Disability Insurance Agency, made several references to the need for improved data, particularly in relation to the Agency’s under-developed market stewardship function:

“The NDIA should collect and analyse a broader set of indicators of market development and participant outcomes to both better monitor the risk of supply gaps and build institutional capacity to avert supply challenges through market intervention.” (page 6)

“The NDIA should construct a representative sample of new and mature providers to gauge their financial sustainability, intent for growth, self-assessment of ability to cater to demand, and knowledge of any current or emerging supply gaps” (page 36)

A future NDA should set out the respective roles and responsibilities of government agencies in market stewardship: in the collection and analysis of data that provides early warning signals of market failure and in the interventions required to prevent or respond to market failure.

Progress on many of the policy actions in the National Disability Strategy cannot be tracked because they are not underpinned by indicators. Currently, there are only three performance benchmarks in the NDA. Some other indicators, such as the workforce participation and employment rates of people with disability and carers are tracked too infrequently (every three years).

Public awareness of the dashboard reporting is low, even though the latest report shows that two of three benchmark indicators are ‘not on track’ and the other is trending in the wrong direction.

Under a new NDA each jurisdiction should be required to table a performance report annually, with the information compiled into an Australian Disability Report (thereby allowing easy comparison across jurisdictions and sectors). New performance indicators should be developed for reporting on progress across sectors: from public transport to

housing design; from education to employment; from justice to health. The NDA should give coherence and focus to the collection and use of disability data.

Examples of possible indicators

- employment of people with disability in public sector agencies
- proportion of public transport that is accessible
- setting and monitoring of targets for the implementation of the Disability Education Standards
- proportion of new housing built to a various levels of accessibility
- proportion of people with disability satisfied with their hospital stay compared with the general population
- proportion of people with severe or profound disability reporting poor or fair health outcomes compared with the general population
- proportion of the prison population with intellectual disability or cognitive impairment

The NDA should entail a commitment by all jurisdictions to fund relevant research and data collection about people with disability, their families and carers and the disability services sector, with the Commonwealth funding important national longitudinal data collections undertaken by the ABS and AIHW. Data (and data linkages which are currently lacking) are needed to track the well-being and the social and economic participation of people with disability beyond the NDIS, including through the NDIS-funded Information, Linkages and Capacity Building services.

The National Disability Insurance Authority publishes data on the NDIS in its quarterly COAG reports. Other data which it collects about participants, their support needs and their purchasing decisions is not published. This data would be useful in informing both policy decisions and the growth plans of service providers. The supply of services must grow substantially if the NDIS is to meet the escalating demand. A new NDA could require this data to be published. An Australian Disability Report should incorporate data on the performance of the NDIS.

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National Disability Services is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-quality supports and life opportunities for people with disability. Its Australia-wide membership includes 1100 non-government organisations which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.