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Introduction

Endeavour Foundation thanks the Productivity Commission for the opportunity to respond to the Productivity Commission's Issues Paper on the *National Disability Insurance Scheme (NDIS) Costs*.

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3. *What are the barriers to entry for new providers, how significant are they, and what can be done about them?*
4. *What are the best mechanisms for supplying thin markets, particularly rural/ remote areas and scheme participants with costly, complex, specialised or high intensity needs? Will providers also be able to deliver supports that meet the culturally and linguistically diverse needs of scheme participants, and Aboriginal and Torres Strait Islander Australians?*

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Prepared by Patrick McGee, Manager Community Advocacy and Support.

NDIS and Mental Health Services

1. How will the full rollout of the NDIS affect how mental health services are provided, both for those who qualify for support under the scheme and those who do not?

Endeavour Foundation believes the impact of the rollout will be significant for all consumers of mental health supports, whether they are eligible for the National Disability Insurance Scheme (NDIS) or not. NDIS eligible Mental Health Services / Programs scheduled to replace the transitional services Partners In Recovery (PIR), Personal Helpers and Mentors (PHaMs) and Day to Day Living (D2DL) will find it difficult to sustain financial viability under the current pricing structure, therefore creating uncertainty of what mental health services will be available in community and what will be available through the NDIS.

Added to that, the complexity of the eligibility process for access to the NDIS results in significant levels of confusion where there was once programmatic and clinically defined certainty, stability and pathways to wellness. Without some block funding to provide mental health services, there may be no services available to those with a package to access. Add to this the emerging issue already evident in the disability sector workforce which is difficulty in the recruitment and retention of suitably qualified support staff. This is particularly so in regional and remote areas of Australia.

Under the NDIS model there are serious and as yet unanswered questions around how the model will adapt the criteria of a permanent disability for eligibility. Currently, PIR, PHaMs and D2DL offer flexibility in engagement for the consumer, accommodating their individual needs depending on the current state of their mental wellness. Under the NDIS model, time will become structured and limited in providing adequate support services to consumers, particularly when they are unwell.

PIR, PHaMs and D2DL have built resilience and improved consumers' functional capacity in managing day-to-day living and social inclusion. Under the NDIS model, this would mean individuals are deemed ineligible for NDIS funding. Ability to access service programs will also be limited due to services being unable to assist with travel as currently provided by existing services. This in turn could see significant deterioration for consumers with mental health challenges impacting on the demand for Mental Health Hospital Services.

Case Study

Kym is a 36-year-old woman who has a moderate intellectual disability and lives in supported accommodation with two other women who also have intellectual disabilities. Kym suffers from anxiety.

Until three months ago, Kym was very happy with her life and spent her days working in supported employment and enjoying ten pin bowling with her friends.

Then Kym's mother, whom Kym really liked to speak with on the telephone and visit on weekends, died in a motor vehicle accident.

Initially Kym was able to accept her mother's passing, but now Kym refuses to leave the house and refuses most travel in a car.

Kym's support coordinator has tried to have her plan reviewed but have been told that that Kym must access a mental health care plan. However the support coordinator cannot find a practitioner who will visit the home and has experience in counselling people with intellectual disability. The support coordinator is also concerned that the ten allocated sessions will not be enough for Kym to process her own feelings about her mother's death, given that she has an intellectual disability.

Before NDIS, the provider which manages Kym's supported accommodation would have sent their Social Worker to assist Kym and provide some counselling, however under NDIS arrangements this is no longer funded.

2. *What, if anything, needs to be done to ensure the intersection between the NDIS and mental health services outside the scheme remains effective?*

In its Submission to the *NDIS Joint Standing Committee Inquiry into the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*, the Community Mental Health Association has cited significant concerns that the NDIS is not being implemented as it was envisaged, with particular ramifications for people with psychosocial disabilities. These concerns include:

- The impact of the NDIS pricing structure and its relationship to qualified mental health staffing, particularly in relation to psychosocial disability support versus psychosocial rehabilitation.
- Moving funds for federal mental health programs (Partners in Recovery, Day to Day Living and Personal Helpers and Mentors) to the NDIS whilst many of the people currently receiving assistance from the funding will be ineligible for the NDIS.
- The Primary Health Networks being directed not to commission psychosocial services, although their funding was taken from a program that routinely engaged in psychosocial service provision.
- Cost shifting between the state and territory and federal governments.
- The lack of transparency in the bilateral agreements with regard to funding sources for mental health programs and services.
- The National Disability Insurance Agency (NDIA) moving away from face-to-face assessment and planning, which will have a significant impact on all applicants, but particularly people with cognitive impairment or disability.
- CMHA contends that a review of the legislation is required as its interpretation is leading to implementation problems and escalating administrative costs with the scheme.

The NDIS Planning Process

1. Is the planning process valid, cost effective, reliable, clear and accessible? If not, how could it be improved?

“Australians with intellectual and cognitive disabilities, and their families will be the largest disability cohort to participate in the national Disability Insurance Scheme (NDIS).”¹

Endeavour Foundation supports the fundamental shift that allows for people with disabilities to exercise choice and control through having a tailored individual plan in which they participate in the life of the community. However Endeavour Foundation holds significant concerns regarding the current approach to the planning process for people with cognitive impairments such as intellectual disability or acquired brain injury.

There are a range of problems associated with the planning process relating to validity, cost effectiveness, reliability, clarity and accessibility.

1.a Accessibility

Feedback from Support Coordinators reveals significant issues associated with the development of plans that results from a volume versus capacity dynamic. Information provided to Endeavour Foundation indicate that in some cases plans are being developed over the phone with either the person with the cognitive impairments or their family members, while Planners remain unaware of the impact of a person’s cognitive impairment.

Endeavour Foundation staff are reporting that NDIS plans are very unclear and that people with cognitive impairments and their families are struggling to read and understand the plans. People with cognitive impairments require a skilled support worker, advocate or family member to help them read and interpret the plan. Obviously this undermines the fundamental NDIS principles of choice and control. Similar challenges will also face participants or family members with low literacy or numeracy, and people for whom English is a second language.

People with cognitive impairments are reporting that often the planning conversation is quite short and fails to understand the complexity of the person’s lived experience. Alternatively the planning conversation fails to take into account the extent and impact of the person’s cognitive impairment. Plans are not accessible in that they are not in an Easy English format or pictorially represented where people have communication impairments. The consequence of this is that people with cognitive impairments and their families often do not know the content of their plan or the implications.

Where there are face-to-face interviews for plan development, this occurs as a one-off meeting and people with cognitive impairments are being asked to provide complex information that may be difficult for them to express. It seems that at critical points of the process (such as plan development and support coordination) there is little understanding of cognitive impairment and how people live their lives and interact with the service system. In Queensland, plan budgets

¹ McDonald, D., Lakhani, A., Zeeman, H., & Remington, J. (unpublished manuscript). *Supporting NDIS Participants with Complex Communication Needs*.

are developed but are not totaled, requiring people with cognitive impairments, their families or advocates to add up the total funding – a task which itself can be complex. Endeavour Foundation staff are reporting that Core Funding is provided with the housing funds rolled together into the one amount. This means the person with the cognitive impairment; their families or advocates and provider have to work out for themselves how much funding the planner intended for the housing. Endeavour Foundation uses the price guide to determine what this amount should be and then tells the family what will be left over in Core funding for them to spend on other things, such as community access, day services, and continence aids etc. There is a fear that these budget interpretations may be based on incorrect assumptions.

While this seems to be occurring in Queensland, we understand that plans from New South Wales have core funding broken down into its requisite components. Ensuring housing is separated out of the Core budget enables people with disabilities to exercise choice and control over the selection of accommodation provider as envisaged by the architects of the NDIS.

There seems to be little available information from the NDIS about how planners assess a person's given situation and arrive at a completed plan. A number of people have approached Endeavour Foundation with plans that contain no accommodation funding, despite the person having lived in a funded housing option all their lives. At other times people receive a plan with no Support Coordination funds, despite significant known complexity in their lives. Similarly there are people subject to restrictive practices who are not being funded for behavior support.

Case Study

James is a 29 year old man with a cognitive impairment. He has limited reading and writing skills and uses Makaton as his preferred method of communication. James lives with his mother and father, who are in their early sixties.

Previous to the plan, James attended a day support centre, and said that he was bored by this. He also attended a literacy class two days a week and the local bowling league on Saturdays, through a respite provider. In addition James attended respite for two weeks every year allowing his parents to have a break.

James has limited reading and writing skills, but with support, he had mapped out his hopes and dreams for the next twelve months. This included:

- Literacy class three day a week
- Volunteer work at the tip shop once a week
- No more bowling, but possibly attend a movie group once a week
- James wanted to communicate with more people. This would be achieved with a speech assessment and assessing the possibility of using speech devices
- To go on a cruise with a support worker
- To be supported at home whilst his parents went away.

The family eagerly awaited the NDIS planner to call and make an appointment, in the hope that James hopes and dreams would be listened to.

The planner called James' mother, when she was at work and even though she requested to be called later, she was told this was not possible. James' mother then requested a face-to-face appointment to allow James to articulate his needs as James could not speak on the phone and

was told this was not possible. In her haste she agreed to a phone interview later in the week.

James' mother knew it would be impossible for James to be present on the phone and she felt terrible doing this but felt she had no choice.

James mother felt she wasn't listened to on the phone by the planner and it was hard to articulate what was really needed.

When the plan arrived, it wasn't what she had requested. First of all because she was so flustered during the planning meeting, she did not mention that James no longer wanted to do bowling. The plan also arrived with no time allocation or budget so James' mother had no idea how much of each service James would receive.

The plan also did not include the literacy program which James was currently enrolled in, but rather a mainstream TAFE course with support hours so that James could attend. She knew this wasn't what James wanted. He really enjoyed his friends at the local literacy program run through a disability provider.

Upon ringing NDIS, James' mother was told she would have to get the plan reviewed and this would take a number of weeks. In the meantime, James would not have a community access program on Saturday or a learning program.

When James saw the plan he was angry at being ignored by the planner. He could not read the plan as it was not in easy read. His response was, "What has changed? People are still choosing what is best for me and I have no say!"

Recommendations

- 1. For Queensland, NDIS to separate out the housing dollars in the core funding**
- 2. For the criteria against which plans are developed to be publicly available**
- 3. For adequate time to be invested in face-to-face meetings enabling people with cognitive impairment to express their needs and aspirations.**

1.b Capacity to Consent

There are significant issues related to the capacity to consent. Often, people with cognitive impairments are participating in the planning process and have plans that they do not understand. Nor have they been included in a manner which facilitates understanding.

Another complication arises when, as a result of having a plan, people with cognitive impairments are being asked to sign Individualised Service Agreements (ISAs) with the agency from which they are seeking a service. Effectively this is a contract, because it involves an agreement between an NDIS participant and a service provider involving the exchange of money for services provided.

There is a further complication arising out of a planning process that does not take into account the level of a person's impairment and their capacity to consent. This occurs where such plans include access to behavior support that may also involve restrictive practices. There is a conflict of interest for the individual and the agency to consent to these requests, without independent advocacy.

Endeavour Foundation does not wish for people to be referred for guardianship on the basis that they need to sign an NDIS plan or an ISA, because substitute decision making takes away an individual's right to exercise choice and control. However there are significant concerns that a lack of independent advocacy inhibits the ability of people to participate in the planning process in a manner which enables them to exercise choice and control.

Independent advocacy is one option that is less restrictive than the imposition of guardianship, however independent advocacy is not funded under the NDIA. Independent disability advocacy agencies in Townsville and Mackay are currently being overwhelmed by requests to provide advocacy for people with cognitive impairments in order for them to participate in the NDIS planning process and consent to Plans and Individualised Service Agreements.

The ability for people with cognitive impairments to plan for the future, over the life of a plan, is important in terms of funding. However it is problematic in terms of the lived experience. Future planning for people with a cognitive impairment with such a long range forecast dynamic attached will often preclude the crises that can happen associated with the interaction of their impairment and their environment.

Case Study

Andrew is a 47 year old man with a moderate intellectual disability.

When Andrew was 10 he was sent to a boarding school on the Darling Downs that specialised in teaching people with intellectual disability. Upon completion of school, he went to live in a facility along with 42 other people and worked at a nearby sheltered workshop.

Andrew now lives in a four-person shared house in Toowoomba. However, Andrew has some hoarding and stealing behaviours as a result of his time spent in an institution. He also yells and screams when his dinner is not served at 5pm and has been known to be aggressive with staff when things are not in order.

Andrew has a behaviour support plan, however because he was unable to advocate his actual needs, there were very few hours of behavior support provided. There was no complimentary counselling provided to allow Andrew the ability to process his trauma of living in institutions, and the support staff are not trained in trauma-informed care.

Andrew's NDIS goal was to feel happier in his home, however without critically looking at his past, Andrew is not able to develop the skills to move forward.

Recommendations

For independent advocacy to be funded to ensure people with cognitive impairments can participate, understand and consent to plan development and plan reviews.

1.c Barriers to plan implementation

One of the most significant barriers to plan implementation is the lack of access to, participation in, and transparency around plan development and plan reviews. Endeavour Foundation staff

have seen that where there has been family or advocate support with the person with a cognitive impairment during plan development, this will ensure a comprehensive and sound plan. Without advocacy or supports, a participant with intellectual disability will be subject to the disability-specific knowledge of the individual planner. The lack of independent publicly available criteria by which people can judge a plan makes it more difficult to argue for the inclusion of particular items such as specialist behavior support.

Similarly, it is the experience of Endeavour Foundation that where there is a need for plan reviews for people with cognitive impairments these will most likely be successful when there is the involvement of family or advocacy. In particular we note the following:

- People with disabilities and their families are overwhelmed by the complexity and sheer scale of the NDIS planning and implementation process.
- There is significant developing pressure between ensuring the centrality of the fundamental NDIS principles choice and control, the need to implement plans, the need for services to begin or continue, and the need for services to be paid for the delivery of services.

Case Study

Milly is a 49-year-old woman who has lived with her 85-year-old mother. Milly has recently been diagnosed with early onset dementia. Her mother is not coping well with the added care Milly now requires.

However, rather than receiving extra support, the GP has recommended an ACAT assessment and for Milly's mother to look into aged care accommodation. Milly's mother would prefer additional in-home support so that Milly can continue to live at home with her.

The planner feels that Milly's early onset dementia is not related to her disability but to a separate medical condition.

Milly's mother thought it would be easier with NDIS but still feels as though she is being pushed around the different systems with little choice.

Recommendations

- 1. That plans are made more accessible in Easy English**
- 2. That the NDIS fund disability advocates to assist people with cognitive impairments to participate in plan development and plan reviews**

1.d Transport

People with cognitive impairments often rely on public transport and taxis in order to participate in the community. People with cognitive impairments are reporting a number of key concerns regarding the inclusion of transport in NDIS Plans. Of particular concern is the fact that people are unable to afford travel to access key services, as a direct impact of the decision to dismantle the Taxi Subsidy Scheme.

The following example relates to an NDIS participant who is in receipt of NDIS transport funding.

Transport costs before NDIS funding

Annual taxi cost to attend a Day program 3 days/week	\$ 4,950
Less annual mobility allowance/income (approx.)	\$-2,375
Annual Personal expense	\$ 2,575

Transport costs for participant under the NDIS

Annual taxi costs to attend a Day program 3 days/week	\$ 9,900
Less Annual transport funding under the NDIS	\$-1,750
Annual Personal expense	\$ 8,150

This example demonstrates that the removal of the Taxi Subsidy Scheme is a significant block to the effectiveness of the NDIS. Its effect is being felt dramatically by many people in NDIS roll-out areas. The example above is the situation faced by an 86 year old mother, who has to find money for this significant cost increase in order to ensure access continued access for her daughter, who lives at home. Such a significant increase in costs is virtually impossible to absorb for someone on a pension.

Funded transport is needed to access other supports in NDIS plans. A number of people have decided to trade off their support hours for transport, thereby undermining the NDIS aims and the intent of their NDIS plan.

People need enough NDIS funding to cover existing transport use. With the Taxi Subsidy removed, people's transport expenses are multiplied three to four times and are unaffordable on the pension.

Planners need to understand people's real transport needs. For example, if people want to stay living with family members in a rural or regional area, adequate transport costs must be provided. Sustaining family care in this way will cost less over the long term.

People also report that they need support going to new places (eg job hunting, health care and social clubs). Funding door-to-door community bus transport services would help meet this need.

Recommendations

- 1. Ensure planners ask about and understand the transport needs of participants, both for current supports and new ones which will be funded.**
- 2. Establish funding streams which can provide low-cost, tailored transport solutions.**

Perceptions of Disability Support Workers

- 1. To what extent is the supply of disability care and support services lessened by the perception that caring jobs are poorly valued? If such a perception does exist, how might it best be overcome?**

Disability Support Workers are central to the capacity and effectiveness of the disability support sector in responding to people with cognitive impairments. To a certain degree the opportunity of people with cognitive impairments to exercise choice and control will be dependent upon their interaction with disability support workers. Disability support workers are involved in a range of different tasks with differing levels of responsibility including health management, social and community inclusion, effective communication, supporting personal choices, meeting with family and friends, and supporting people as they shop, bank, travel, work and play. “Staff costs constitute the largest slice of revenue expenditure in services.... [and yet there is] increasing evidence that certain forms of staff activity (eg: direct assistance to users) are very closely related to the quality of life of service users.... [there is also] increasing evidence that community based supports vary widely in the quality of service they provide to service users.”²

Disability Support Workers make up the bulk of the disability workforce (76%), supporting the notion that Disability Support Workers are the public face of the disability service sector in Australia.³ In addition:

- The majority of Disability Support Workers are *mature aged females*, with 62% of the workforce aged over 40 years. In addition, the majority are employed in *part-time* or *casual positions*.
- In terms of wages, the majority of Disability Support Workers (DSW) earn less than \$800 a week (before tax), with 25% earning less than \$400. As most Disability Support Workers are employed on part-time or casual basis, and 76% report having only one employment position, *lower earnings* are likely.
- Also, it is not surprising that 24% seek multiple employment positions, with 13% seeking other work in the disability service sector, and 11% within other employment sectors.

Given that women are still generally paid less than men⁴, and that the rates of pay for care and support, shouldered mostly by women, are at the lower end of the wage continuum, it seems apparent that a low value is placed on care and support, by the Australian community. When combined with a lack of understanding in the community about people with a cognitive impairment, this poor perception clearly has an impact upon the opportunities to be included in the life of the community that people with a cognitive impairment are afforded, and the quality of the workforce experience for people, mostly women, who support them.⁵

Some of the following reasons have been identified as reasons for ‘role ambiguity’ within the Disability Support Worker role, which may be a contributing factor to the perception that care and support is poorly valued⁶:

² Hatton, C., Rivers, M., Mason, H., Mason, L., Kiernan, C., Emerson, E., Reeves, D. (1997). *Staff in services for people with learning disabilities*. Manchester, United Kingdom: University of Manchester.

³ Martin, B., & Healy, J. (2010). Who works in community services? A profile of Australian workforces in child protection, juvenile justice, disability services, and general community services. Retrieved from <http://www.flinders.edu.au/sabs/nils-files/reports/2010%20CDSMAC%20Final%20Report.pdf>

⁴ ABC News (2016, November 16). *Australian Women Earn 23% less than men, according to workplace equality scorecard*. Retrieved from www.abc.net.au

⁵ National People with Disabilities and Carer Council (2009). *Shut Out: The Experience of people with disabilities and their families in Australia*. Retrieved from www.pwd.org.au

⁶ Vassos, M., Nankervis, K., & Chan, J. (2016, August). *How do Australian disability support organisations describe the disability support worker position?* Presentation to the IASSID World Congress, Melbourne, Australia.

- The physical nature of the work is neglected in many role descriptions.
- A significant level of administrative responsibility despite this not being referred to in role descriptions.
- A discrepancy between expectations that the role is person centred whilst the role descriptions do not specifically highlight this.
- A discrepancy between being asked to implement client plans whilst not playing a part on developing or reviewing client plans.
- The requirement that Disability Support Workers participate in ongoing training and professional development whilst there is often little opportunity to actually participate in ongoing training and professional development.
- The discrepancy between the expectation that Disability Support Workers will be part of a team and the actual experience of working independently.
- Role descriptions that do not provide measures of adequate performance.

To overcome role ambiguity, disability support organisations need to ensure their role descriptions accurately reflect the nature of the work.

“...disability services and organisations could potentially remodel various disability support worker related practices in order to prevent the development of burnout (eg: clearer job descriptions and boundaries, training in positive behaviour support to appropriately deal with challenging behaviours and increased avenues for support such as supervision).”⁷

It is also recommended that the generalist and specialist role descriptions are conceptualised to provide clear distinction between more experienced and specialised Disability Support Workers and those who are less experienced.⁷

Recommendations

Endeavour Foundation recommends the creation of more accurate role descriptions, opportunities for support workers to be involved in the development of client plans, the provision of time and opportunities for professional development and training, and role distinctions between new support workers and more senior, experienced staff.

Are NDIS Prices Set at an Efficient Level?

- 1. Are prices set by the NDIA at an efficient level? How ready is the disability sector for market prices?***

Prior to de-regulation, it is vitally important that the prices set by the NDIA reflect the actual cost of service provision.

⁷ Vassos, M., & Nankervis, K. (2012). *Investigating the importance of various individual, interpersonal, organisational and demographic variables when predicting job burnout in disability support workers. Research in Developmental Disabilities, 33, 1780 – 1791.*

The Final Report of the Pricing Joint Working Group contains a Transitional Cost Model, and factors taken into consideration.⁸ The paper identifies that “expert consultants” were included in the review. It also identified that sector consultation was not included in this review. However, without sector consultation, it is impossible to determine if the prices set by the NDIA are at an efficient level. This has an additional impact in determining the disability sector readiness for market pricing and market transition.

2. What is the capacity of providers to move to the full scheme? Does provider readiness and the quality of services vary across disabilities, jurisdictions, areas, participant age and types/range of supports? / How ready are providers for the shift from block-funding to fee-for-service?

The need for external consultation with the sector was also identified in the Australian National Audit Office report, National Disability Insurance Scheme – Management of the Transition of the Disability Services Market. The report states:

“The approach to the NDIS market transition, including the *Integrated Market, Sector and Workforce Strategy*, was informed by learnings from the trial sites and other market transitions. There was no formal consultation with external stakeholders. There is benefit to be gained from consulting key non-government stakeholders in the context of any future iteration of the Strategy.”⁹

3. What are the barriers to entry for new providers, how significant are they, and what can be done about them?

Service providers of all sizes and complexities struggle to respond to the frequent changes and updates to the prices listed in the NDIS Price Guide. Changing prices make it difficult to establish operational budgets and forecast funding streams accurately. This leads to uncertainty both for organisations and for their customers, as service providers try to determine which services they can afford to provide, and the actual price that customers will need to pay to receive a given service.

This need was identified during the National Audit Office process. The Report states, “A number of the service providers interviewed by the Australian National Audit Office (ANAO) advised that they were reluctant to invest in revised systems and processes, or make decisions regarding service delivery offerings, because the future was too opaque. They further advised that they were eager for more information about a range of issues, including: NDIS pricing policy and when pricing would be deregulated; and timeframes for state and territory withdrawal from direct service delivery.”⁹

⁸ National Disability Insurance Scheme & National Disability Services. (2016). *Final report of the Pricing Joint Working Group*. Retrieved from www.ndis.gov.au

⁹ Australian National Audit Office. (2016). *National Disability Insurance Scheme – Management of transition of the disability services market*. Retrieved from www.anao.gov.au

NDIS service pricing has potentially similar implications for both existing providers transitioning from block-funded service provision, and for service providers that are new to the sector. Evidence indicates that pricing reviews tend to elicit the establishment of additional measures to fill gaps in existing processes. The National Audit Office Report discusses one such pricing review conducted by NDIA and NDS in partnership, which led to the establishment of a range of such additional measures as a 10% increase in the hourly rate for self-care and community support, cancellation fee provision, and provision for an Establishment fee to offset administrative costs for organisations to establish service provision with their customers. The need for such measures may have been identified earlier, if consultation with the sector was consistently sought.

4. *What are the best mechanisms for supplying thin markets, particularly rural/ remote areas and scheme participants with costly, complex, specialised or high intensity needs? Will providers also be able to deliver supports that meet the culturally and linguistically diverse needs of scheme participants, and Aboriginal and Torres Strait Islander Australians?*

Customers in markets regarded as “thin” are at high risk of receiving potentially inconsistent, or inadequate service delivery as service providers struggle to feasibly provide service to these customers. Many service providers would be unlikely to place their organisations at significant financial risk by providing service for highly complex customers or in areas where there is limited demand. These services will therefore need to be well funded in order to attract stable, high quality service provision.

With regard to supports that meet the culturally and linguistically diverse needs of customers, and Aboriginal and Torres Strait Islander Australians, there is great potential for organisations to partner with relevant peak bodies, and also to utilise the skills of informal supports, to inform and improve practice. This however should not replace an appropriately-skilled workforce that meets the needs of NDIS participants.

5. *How will the changed market design affect the degree of collaboration or co-operation between providers? How will the full scheme rollout affect their fundraising and volunteering activities? How might this affect the costs of the scheme?*

Under a changed market design, it is crucial for collaboration and cooperation between service providers as customers exercise their capacity for choice and control of their service provision. As service pricing moves towards deregulation, there is opportunity for service providers to offset potential unfeasibly high service provision costs, with increased fundraising opportunities, and utilisation of a volunteer workforce to complete a range of appropriate organisational tasks, which might otherwise add increased operational overhead cost for organisations.

However fundraising and the attraction of volunteers may both become extremely difficult if the introduction of the NDIS negatively affects the public perception of disability support providers. The public are unlikely to donate and support organisations they perceive as commercial and profit driven, as opposed to charitable organisations that exist for altruistic reasons.

Safeguards and Quality Control

1. To what extent do the existing regulations provide the appropriate safeguards and quality controls? Can these arrangements be improved?

Like many non-government disability service providers, Endeavour Foundation has adopted the National Disability Services Zero Tolerance approach to abuse, neglect and exploitation of people with disability. The NDIS Quality and Safeguarding Framework relies on regulatory functions (such as the Complaints Commissioner, Registrar and Senior Practitioner), and is relatively silent on development and prevention strategies.

Endeavour Foundation agrees that all disability service providers should comply with a code of conduct based on the National Disability Standards. It is important that disability service providers register with the NDIA and that continued registration is made contingent upon independent assessment against the National Standards.

Endeavour Foundation also supports a mandatory national human services employment screening system for staff and volunteers. In addition, Endeavour Foundation supports the maintenance of a national register of barred employees.

Endeavour Foundation also supports a formal process overseen by a civil administrative tribunal to monitor and authorise the use of restrictive practices. The *Queensland Disability Services Act 2006* also requires that any and all people with a disability who are subject to restrictive practices have a positive behavior support plan which is authorised by the tribunal.

2. Are there appropriate and effective mechanisms for dealing with disputes with the NDIA?

The NDIA has chosen to deal with disputes by utilising a strong regulatory system and reliance on 'Australian Consumer Guarantees'. For this to be a success, further investment is required to educate participants on their rights and obligations under Australian Consumer Law.

Endeavour Foundation supports access by participants to a complaints commissioner, registrar and senior practitioner for both complaints and for serious incidents. For this system to be a success, it is imperative that investment be made in building the capacity of participants to effectively utilise the new regulatory framework.

Where a person is not satisfied with a decision made by the NDIA, Endeavour Foundation supports the internal review of the matter by the Agency. Where the person is still dissatisfied with a decision, Endeavour Foundation supports referral of the matter to the Administrative Appeals Tribunal. It is pleasing to note that the Administrative Appeals Tribunal has established a new NDIS Division, made up of members who have expertise and experience in interacting with people with disability. It is also pleasing to note that the Administrative Appeals Tribunal will settle matters through a range of methods including case conferences, mediation, conciliation or another form of alternative dispute resolution.