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Human Services Inquiry  
Productivity Commission  
Locked Bag 2, Collins Street East  
Melbourne

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### **Human Services: Identifying sectors for reform**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

### **Informed and empowered consumers**

Market-based human services are premised on the existence of informed and empowered consumers. At this stage in time, many consumers are not yet informed about the services available to them or empowered to make choices and exercise control over service delivery.

#### ***Provision of information***

FECCA's community consultations have revealed the importance of diversifying methods of information provision about services including through community organisations and service providers that work closely with CALD Australians. Information about services must reach communities through active engagement. Placing information on a website and expecting consumers to access it will not suffice to create informed consumers. Other means of communicating including community radio and ethnic print are also crucial.

The quality, level and accessibility of information must be improved and provided in formats and forums that reflect the diversity of the population. People from CALD backgrounds often look to cultural community groups for information, advice and support to connect with services, and will also need ongoing support to navigate and negotiate service changes as their needs and requirements change.

In order to choose or change between providers, consumers must understand the existing service structure. FECCA has consistently highlighted that complex terminology used in services designed by governments may result in limited or lack of understanding among people from CALD communities when navigating these systems. For example, during a community consultation organised by FECCA with older people from CALD backgrounds, the concept of consumer directed care (CDC) had to be broken down into its parts in order to communicate the concept and even then some people found it difficult to understand CDC.

... terms like 'case management' and 'package' were not well understood. This lack of knowledge concerns FECCA – choice and control can only be exercised if a person knows about, and understands how to access, the aged care service system.<sup>1</sup>

There is a general assumption that people are aware of changes in service systems, access information available on online platforms and have an understanding about constantly evolving concepts that impact on the services that they receive. For instance, existing consumers who are already in receipt of aged care related services may not have access to or understand new information about the portability of these services that will take effect in February 2017 as they do not look for such information. Limited understanding about these developments and increase in choices will ultimately result in creating a group of people who do not exercise the right to choose services, which goes against the very essence of the principle of choice and control.

Migration patterns in Australia ... can mean that not all older Australians have English as their preferred language. As a consequence they may experience difficulties such as lack of understanding about the types and availability of aged care services and with communicating their individual needs and preferences.<sup>2</sup>

In such an environment, it is manifest that people from CALD backgrounds receive additional assistance to understand the support system, new changes and would require additional time and support compared to those who are familiar with Australian support landscape, this is especially the case for people with language barriers and cognitive impairments.

Migrants in rural and regional areas are vulnerable to exploitation by Registered Training Organisations (RTOs) which are provided with financial subsidies by the government based on the number of people who are enlisted to complete courses. New and emerging communities from refugee backgrounds have told FECCA that RTOs visit areas with a high density of people from migrant and/or refugee backgrounds and enrol them to complete various courses. Such people are generally misinformed about the job market and may be promised recognised qualifications in Australia with a possibility of obtaining a job at the completion of the course. Many individuals have accrued debt, found that these qualifications do not open any career pathways and been rendered ineligible for further government funding to obtain another qualification at the same level. Many have enrolled in courses only to find that their level of English language proficiency is not adequate to successfully complete the course that they have been recruited for.

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<sup>1</sup> FECCA, 'Consultations in ageing and aged care 2015-16' (April 2016), <http://fecca.org.au/wp-content/uploads/2016/04/Consultations-in-ageing-and-aged-care-2015-16.pdf>

<sup>2</sup> Australian Institute of Health and Welfare, 'Aged Care Packages in the Community 2010-2011: A Statistical overview' (2012), 46.

The inability of individuals to identify and differentiate between those representing the government authorities and RTOs is of particular concern.

### ***Necessary cultural shifts***

A strong consumer movement that uses a range of face to face, online and other peer networks to teach one another, provide support, encourage one another and restore the imbalance of power between consumer and service provider will be a crucial element of the transition to market-based human services.

Strategies are required to shift the expectations and attitudes to the delivery and availability of various human services – among consumers, families and networks, and the broader community.

Those consumers who are generally serviced by niche providers, such as ethno-specific providers, lose out in a market-based system because those niche providers may be disadvantage in the market and would have to change and adapt. When designing systems for human services, it must be recognised that choice may be limited for those consumers.

The Productivity Commission report 'Caring for Older Australians' discusses the intersectionality between disability and aged care sectors at length and specifically states that, the Commission strongly advocates that adequate care and support should be available in both the disability care and aged care systems.<sup>3</sup> The report further recommended the establishment of an Australian Seniors Gateway Agency that caters for diversity by:

- ensuring all older people have access to appropriate information and assessment services
- facilitating access for people with language and cultural needs through the development of specific hubs for older people from diverse backgrounds that have limited English skills and require access to bi-lingual staff.<sup>4</sup>

Considering this recommendation, FECCA encourages adopting a coordinated approach whereby organisations specialising in providing advocacy services for people from non-English speaking backgrounds receive additional funding to account for the cost of language services, staff training and other associated costs. In the absence of an organisation working specifically with people from diverse backgrounds, such additional funding should be provided to organisations with a proven track record of working with this particular cohort.

### ***Language services***

Catering for the language needs of all migrants (through the provision of language services, whether through interpreting, translating or bilingual work) is imperative to ensure equitable access to services, community engagement, and health and wellbeing in general.

Under section 34 of the *National Disability Insurance Scheme Act 2013* (Cth), NDIS participants are to be provided with reasonable and necessary supports. Section 7 of the Act stipulates that any notice, approved form or information given under this Act to be provided in the *language* [emphasis added], mode of communication and terms which that person is most likely to understand and that such information is provided both orally and in writing if reasonably practicable. In addition to this, the Operational Guidelines on General

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<sup>3</sup> Productivity Commission Inquiry Report, *Caring for Older Australians*, No 52, 28 June 2011.

<sup>4</sup> Ibid, 68 (recommendation 11.2).

Conduct – communicating with participants and others states that ‘on the basis of any information provided, officers should determine whether assistive technology, an interpreter or translator may be needed and ensure that that capability is available for every interaction with that person’.<sup>5</sup> These provisions and guidelines ensure that people with disability who experience language barriers are likely to be provided with necessary language supports from the initial negotiation stages to the service delivery through individual packages.

Although the cost of the interpreting needs of aged care consumers during the negotiation stage is borne by the Department of Health under the aged care system, currently, the consumer has to pay for the cost to have the Home Care Agreement translated into their first language if required.<sup>6</sup> For example, FECCA was informed that the quotation to have the Home Care Agreement translated for one consumer was about \$3,000 when the home care package was approximately \$14, 000. This creates a precarious situation where consumers enter into agreements either without fully comprehending the contents of the contract, or unable to revisit the clauses at a later stage to decide on future steps as they are unable to understand the contents. This presents major risks for both consumers and providers.

The Refugee Council of Australia has reported on the lack of use of interpreters and translated information by jobactive providers:

Service providers have also noted that almost all Jobactive providers are not using interpreters in their communication and meeting with clients. Many seem unaware of the free interpreting service available to them and how to use it. Refugee community member have reported Jobactive providers refuse to use an interpreter. There is also very little information provided to Jobactive providers on how to use interpreters and there is no specific requirement to use this service in their contracts.

RCOA notes the lack of translated factsheets on how to report to Jobactive and how to meet other requirements. The move to using technology such as smartphones also presents a barrier to providing information in other languages. Service providers expressed frustration that Jobactive providers can suspend a person’s pay without properly informing them in their first language of the issue and the requirements of the Jobactive program.

...Previously under JSA [Job Services Australia] funding there was an additional Employment Pathway Fund credit for \$1,000 per participant provided specially for interpreting costs for non-English speaking clients. However, there is no provision for this under the new arrangements. RCOA emphasises the need for additional support to cover the cost of vital translating and interpreting services and for Jobactive providers to receive appropriate training in how to use interpreting services.<sup>7</sup>

### **Exercising control**

Consumers must be empowered to exercise control. The use of delegates should be a *choice* rather than a *necessity* due to the lack of language services or other supports.

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<sup>5</sup> See the Operation Guideline at [http://www.ndis.gov.au/sites/default/files/documents/operational\\_guideline%20\\_general\\_conduct\\_communicating\\_participants\\_others.pdf](http://www.ndis.gov.au/sites/default/files/documents/operational_guideline%20_general_conduct_communicating_participants_others.pdf)

<sup>6</sup> Translation and Interpreting Services for Home Care Packages Factsheet, [https://www.dss.gov.au/sites/default/files/documents/04\\_2015/final\\_fact\\_sheet\\_-\\_provider\\_-\\_translating\\_and\\_interpreting\\_service\\_tis\\_2\\_april\\_2015.pdf](https://www.dss.gov.au/sites/default/files/documents/04_2015/final_fact_sheet_-_provider_-_translating_and_interpreting_service_tis_2_april_2015.pdf)

<sup>7</sup> Refugee Council of Australia, ‘Jobactive: Refugee community and service provider concerns’ (April 2016).

There have been criticisms of the overly bureaucratic process of the NDIS which has impeded many consumers from self-managing their plan. Self-management of a plan involves adhering to a number of often complicated laws and regulations within the NDIS and also has implications in other areas such as taxation, employment law and insurance. These regulations, laws and reporting requirements need to be explained to CALD consumers at the very outset, and consumers should be provided with ongoing advocacy and other relevant professional assistance to support them to self-manage their plan, if they decide to do so. Additionally, when designing systems, the ability of the consumer to exercise control should be a central consideration and thus regulatory requirements for self-management should be streamlined to empower consumers.

Control is limited in employment services because of the punitive measures built into the system. Individuals are required, by Centrelink, to attend a jobactive provider as a condition of their income support payment. FECCA's consultations have revealed that while most individuals are given a choice of which jobactive provider to go to, it is often only between two or three providers, and very little information is provided to assist them to make an informed choice about which to go with. Job-seekers have reported that they must make a decision on the spot; some have received advice from friends or acquaintances about a provider that they have gone to, others must make an arbitrary decision.

The relationship between jobactive providers and job-seekers makes it extremely difficult for individuals to be informed and empowered consumers. Jobactive providers have certain powers with respect to a continuation of an individual's income support payment, for example if they do not comply with relevant requirements, which augments the power relationship.

FECCA understands that it is very difficult for job-seekers to change their jobactive provider. Job-seekers can change providers by contacting Centrelink if they move address. If there has been a relationship breakdown with the provider, job-seekers can contact the Department of Employment to change their provider.<sup>8</sup> FECCA's consultations have revealed very limited knowledge among CALD job-seekers about their ability to change providers or what the process for doing so is. Many people have reported to FECCA that they are unhappy with the service that they are getting from their jobactive provider but feel they have no option other than continuing to see them.

## **Advocacy**

An effective advocacy framework plays a key role in empowering individuals to be proactive self-advocates, assisting individuals to navigate through the services available to them and educating them of rights, entitlements and complaint mechanisms.

Systemic advocacy will play an important role in promoting system wide quality of service provision through uncovering systemic failures; petitioning for widespread change, disseminating information of best practice to service providers, promoting public awareness of disability issues, and promoting the interests of particular groups such as those from CALD backgrounds, Indigenous people and women with a disability.<sup>9</sup>

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<sup>8</sup> For further information: <http://unemployedworkersunion.com/right-change-employment-service-providers/>

<sup>9</sup> Productivity Commission, *Disability Care and Support* (2011), Vol 1 No 54, 508.

Consumers need to be supported through individual advocacy in competitive markets. This can increase a consumers' ability to exercise control. Individual advocacy is a way of driving systemic change and improving the efficiency and efficacy of systems. Achieving successful outcomes through self-advocacy is dependent upon the capacity of an individual to practice it through effectively representing themselves. However, language barriers, cultural attitudes, limited experience of using complex service models in Australia and negative experiences prior to resettlement such as trauma may limit the capacity of people from CALD backgrounds to become effective self-advocates. Hence, it is important for systems to recognise the various barriers to self-advocacy and address them accordingly.

Participants in market-based systems such as aged care and the NDIS can benefit from receiving assistance from an advocate at the planning stages, especially those from CALD backgrounds, who may experience language barriers and/or difficulties in understanding complex and new processes. Advocacy services must extend beyond the initial stage of planning and provide assistance to the consumers to identify the most suitable service providers for them, change their chosen service provider if the consumer is not satisfied with the services rendered and participate in community and cultural events to ensure that they are fully and actively engaged in the community.

## **Co-production**

Consumers should be a core consideration when designing and delivering a service rather than an after-thought. They need to be involved in the design of a system, rather than placed into a pre-designed system, to ensure that it will work. A diverse cohort of consumers, representative of the ultimate cohort of users, should be included in the co-design process.

In certain cultures, decisions affecting one family member are made by the family as a group instead of the individual. This could be due to cultural practices and norms such as expectations that the family will bear the care responsibilities of older family members and family members with disability. Policy makers, service providers and other relevant bodies must be sensitive to these broad cultural norms in designing service delivery models.

Co-production is an emerging concept which has been applied heavily in the areas of mental health and youth education. Co-production provides a framework that helps to understand whether relevant stakeholders are being meaningfully heard and included in the decision making process. Under this principle, stakeholders are not defined by their needs, but are considered as contributors to service effectiveness through sharing knowledge, experience, skills and capabilities.

Co-production means delivering public services in an equal and reciprocal relationship between professionals, people using services, their families and their neighbours. Where activities are co-produced in this way, both services and neighbourhoods become far more effective agents of change.<sup>10</sup>

The concept requires involvement of people with lived experience in the decision making process, implementation and review of policies and practices. Engaging all relevant stakeholders, including people from CALD backgrounds, carers and their family members, community and faith-based organisations, service providers, and community leaders at the initial designing stage of the framework will result in increased cost-effectiveness and improved outcomes for stakeholders including, the government.

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<sup>10</sup> D. Boyle and M. Harris, 'The challenge of co-production', NESTA discussion paper, 11.

## Equity of access and experience

Equity of access is not enough, particularly for ‘vulnerable’ groups where a tailored approach is important for social and economic participation. Equity of experience leads to equitable outcomes.

The mainstreaming of employment services, and removal of specialist services, has had a significant impact on the equity of experience with respect to employment services for refugee and other CALD job-seekers. FECCA and the Refugee Council of Australia have found that job-seekers, particularly refugees, are often inappropriately assessed as ‘job-ready’ and thus receive limited assistance from their *jobactive* provider. It is noted that people seeking asylum are only eligible for Stream A (the lowest level of support) despite their often high needs. The Refugee Council has received widespread negative feedback about how providers are responding to the needs of refugee job-seekers, including that services are ineffective in helping refugee and humanitarian entrants to find employment.<sup>11</sup>

There appear to be limited incentives for *jobactive* providers to invest the time and resources required to assist vulnerable CALD job-seekers to find and secure employment.

In the quasi-market created through the privatisation of public employment services, contracted organisations are required to demonstrate their competitiveness by achieving the outcomes demanded by the purchaser. Failure to achieve the desired outcomes creates financial instability for these organisations and can ultimately result in a loss of business. That is a powerful incentive for providers to focus their efforts on activity most likely to help them meet or surpass their key performance indicators, and to minimise the cost of servicing jobseekers least likely to generate income, regardless of flow-on effects....

In the employment services system, there is ample evidence that preparing some jobseekers for work comes at a cost the market is unwilling to bear, and equally ample evidence that the fallout ripples across government and impacts on the economy and society.<sup>12</sup>

## Quality

When designing services and systems, consideration should be given to what quality of the service looks like and who sets the minimum standards. Government must have a role in regulation of services; otherwise this role falls to the consumer. For example, in the aged care system, minimum standards are set by the federal government. Similarly, there is a National Quality Framework for early childhood education and care providers.

Quality care is dependent on staff knowledge and their ability to be sensitive to culture-specific norms and to communicate effectively with CALD consumers. Thus, workforce issues should be considered central to quality including recruitment, pay rates, training and professional development.

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<sup>11</sup> Refugee Council of Australia, ‘Jobactive: Refugee community and service provider concerns’ (April, 2016).

<sup>12</sup> Sue Onley and Wilma Gallet, ‘Social service future dialogue – Issues in market-based reform of human services: Lessons from employment services’ (4 July 2016), <http://www.powertopersuade.org.au/blog/social-service-futures-dialogue-issues-in-market-based-reform-of-human-services-lessons-from-employment-services/4/7/2016>

A significant number of concerns held by people from CALD backgrounds can be addressed by increasing the bilingual or multilingual workforce in service delivery. It is vital that service providers view multicultural and bi-cultural workers as a conduit to engage and retain consumers from CALD backgrounds in a competitive market driven system. This should also entail appropriate mechanisms to capture data on cultural and linguistic diversity of the workforce in relevant sectors.

The nature of the aged care workforce is that it is predominantly female, and increasingly multicultural.<sup>13</sup> It is estimated that 23 per cent of direct care workers in residential aged care and 16 per cent of direct care workers working in the community speak a language other than English.<sup>14</sup> The number of multicultural workers in the aged care workforce is under-reported as workers in positions other than registered nurses, enrolled nurses, and personal care attendants are not counted. Aged care service provision is a highly diverse industry with a range of staff groups, many of which are not captured in relevant data.

Geographical barriers have always created challenges in regional areas and cultural needs are often not identified as a priority. Providers in regional areas are often leaders in innovation in the way they deliver services. Employers located in rural and regional areas may need to offer incentives to attract CALD workers, as the CALD workforce tends to migrate to metropolitan areas, where they are more likely to find the support that they need.

FECCA's research with communities in regional and rural areas has stressed the importance of consumers receiving information and services in their own language, to ensure equitable access to services and information.<sup>15</sup> A lack of CALD workers in regional and rural areas of Australia makes meeting these needs more challenging.

In a consumer driven system with choice and control at the heart of the scheme, there is little clarity as to whether an individual can employ a family member, especially in rural and regional areas where people from CALD backgrounds will have little or in certain instances no support. The National Disability Insurance Agency's Operational Guideline *Planning and Assessment – Supports in the Plan – Personal Care Supports* clearly stipulates that the NDIS will not fund family members of participants to provide personal care supports except in certain exceptional circumstances.<sup>16</sup>

FECCA appreciates that these guidelines are designed to safeguard vulnerable individuals. However, in many instances, for people from CALD backgrounds, family members are the most appropriate personal care providers as they understand the individuals religious and cultural background, speak the same language and experienced in providing care supports to the participant. The guideline further states that, 'the assistance provided by the paid family member is a short term measure only and is reviewed regularly.'<sup>17</sup> These blanket exclusions will result in participants from CALD backgrounds relying on family members to provide services that are otherwise funded by the NDIS.

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<sup>13</sup> Aged and Community Services Australia, *The Aged Care Workforce in Australia, Position Paper*, February 2015

<sup>14</sup> King, D, Mavromaras, K, He B, Healy, J, Macaitis, K, Moskos, M, Wei, Z, *The aged care workforce 2012 final report*, 2012

<sup>15</sup> FECCA, *FECCA Aged Care Consultations 2014-15*, May 2015

<sup>16</sup> The NDIA's Operational Guideline *Planning and Assessment – Supports in the Plan – Personal Care Supports*,

[https://myplace.ndis.gov.au/ndisstorefront/html/sites/default/files/documents/og\\_plan\\_assess\\_support\\_s\\_personal\\_care.pdf](https://myplace.ndis.gov.au/ndisstorefront/html/sites/default/files/documents/og_plan_assess_support_s_personal_care.pdf)

<sup>17</sup> Ibid



## **Safeguards**

It is important that safeguards are in place for those consumers who may be vulnerable to market failure. Safeguards and protections should be strengthened and modernised to protect the vulnerable, monitor sharp practice and provide accountability. Many of the safeguards currently in place are built for different circumstances and can sometimes stifle creativity, impose zero risk levels, curtail choice, assume ineptitude and entrench dependence.

## **Feedback and complaints mechanisms**

Feedback and complaints mechanisms drive quality and improvements to systems. For example, the Aged Care Complaints Commissioner has a mandate to identify systemic issues from individual complaints, which can drive improvements for all consumers.

All consumers must be aware of their right to complain and how to access complaints mechanisms. It must not be assumed that all consumers are already aware of their right to complain about a service. In certain countries making complaints against services rendered by other agencies, especially government agencies, is not a cultural norm. This is particularly important for migrants as laws and procedures in their country of origin are likely to be different to those in Australia. Details of complaints mechanisms should be provided to all participants. There should also be multiple ways of lodging a complaint, including online, over the phone, in writing and in person.

An effective advocacy framework plays a key role in empowering individuals to be proactive self-advocates to assert their rights, and to efficiently use the existing complaint mechanisms. To assist with individuals who may have limited English language proficiency, information should also be provided about how to access the government's Translating and Interpreting Service (TIS National). This information should be easy to find and understand. Peer support and professional advocacy services are also vital in enabling and encouraging people to use the feedback and complaint mechanisms.