

## **Response to Productivity Commission NDIS Costs Position paper**

11 July 2017

To whom it may concern,

Activ is pleased to be able to respond to the Productivity Commission's review of NDIS costs as released in the NDIS Costs Position paper, 14 June 2017.

Activ is a registered NDIS provider in Western Australia and has provided supports to people living with intellectual disability across the state since 1951. We believe in the abilities of people living with disability, their potential and supporting them to make real choices in their life.

The last twelve months have been a time of great change for the WA disability sector as it continues to manage an environment of uncertainty around the long-term future of the scheme in WA. Despite this challenging situation, our priority is – as always – the wellbeing of our customers and supporting our customers and their families through this time of change. Activ continues to advocate for a strong, transparent planning process for people living with disability to ensure that the NDIS delivers on its commitments of choice and control.

Our responses to this paper are based on our experiences with the NDIS scheme in Western Australia and our observations of the participant experience.

### **How to read this document?**

We have divided our responses into 7 sections. Every section lists PC's draft recommendation and information requests, which are italicised, and Activ's responses are listed under sub-section 'Our comments'.

Should you have any questions about the information contained in our response, please do not hesitate to contact me.

Yours sincerely

Danielle Newport  
Activ CEO

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## 1. Scheme Eligibility

### **Information Request 3.1:**

*The Commission is seeking feedback on the advantages and disadvantages of maintaining 'List D — Permanent Impairment/Early Intervention, Under 7 years — No Further Assessment Required' in the National Disability Insurance Agency's operational guidelines on access.*

*Feedback is sought on the extent to which the list:*

- *reduces the burden on families to demonstrate that their child will benefit from early intervention and/or provides certainty that support will be provided*
- *reduces the burden on the National Disability Insurance Agency of assessing whether children are eligible for early intervention support under the National Disability Insurance Scheme Act 2013 (Cwlth)*
- *may be contributing to supports being provided to children who are unlikely to benefit from such supports*
- *may be discouraging or inhibiting exit from the scheme.*

### **Our Comments**

We would agree that having the list adds some level of certainty to families that their child will be eligible, however it does not mean that further evidence won't be required to justify extent, level, expected prognosis. It also does not specifically count for children diagnosed with psychosocial conditions.

### **Information Request 3.2:**

*The Commission is seeking feedback on the benefits and risks of maintaining 'List A — Conditions which are Likely to Meet the Disability Requirements in section 24 of the NDIS Act'. In particular:*

- *to what extent does List A reduce the burden for people with permanent and significant disability of entering the National Disability Insurance Scheme under the disability requirements?*
- *is there any evidence that people who do not meet the disability requirements are entering the scheme under List A?*

### **Our Comments**

As per our response to IR 3.1, List A may be perceived to lessen the burden for those with a diagnosis on the list, but they will still be required to evidence their need, impact of disability etc.

**Draft Recommendation 3.1:**

*When determining that an individual is eligible for individualized support through the National Disability Insurance Scheme under the disability requirements, the National Disability Insurance Agency should collect data on which of the activity domains outlined in section 24 of the National Disability Insurance Scheme Act 2013 (Cwlth) are relevant for each individual when they enter the scheme*

**Our Comments**

We agree that the NDIA could collect this data, although we might question what value it would really bring, in that peoples' needs and the activity domains they fall into may very well change. If it isn't identified at the early stage, would it mean they may not be able to access activity under a different domain at a later date?

## 2. Scheme Supports

### **Information Request 4.1:**

*Is the National Disability Insurance Scheme Act 2013 (Cwlth) sufficiently clear about how or whether the 'reasonable and necessary' criterion should be applied? Is there sufficient clarity around how the section 34(1) criteria relate to the consideration of what is reasonable and necessary?*

*Is better legislative direction about what is reasonable and necessary required? If so, what improvements should be made? What would be the implications of these changes for the financial sustainability of the scheme?*

### **Our Comments**

We think this is relatively clear for those who work within the scheme regularly, but not so for families and individuals who invariably do not have the same level of familiarity due to more limited interaction in practice. Whilst the scheme encourages people to have increased choice and control, the fundamental condition that can override those requests are the determinations made around 'reasonable and necessary'. Past cases are not always suitable reference points, as some things seem to have been approved for some, whilst declined for others, which indicates that interpretation is still an issue. Improvements should focus on limiting the potential for misinterpretation, regardless of who is doing the planning.

### **Information Request 4.2:**

*Should the National Disability Insurance Agency have the ability to delegate plan approval functions to Local Coordinators? What are the costs, benefits and risks of doing so? How can these be managed?*

### **Our Comments**

Delegation of plan approval functions could work for local level approval up to certain funding levels (e.g. lower level simple funding) but there is the risk that Local Coordinators (LCs) do not have the expertise or experience to do this in a way that provides the best outcomes for participants. We suggest that LCs are embedded locally and working with participants for a minimum of 6 months before this would be applicable. We would also suggest that for all complex funding needs (e.g. interaction with health, education, etc.) that funding decisions are not delegated to LCs, as this would require specialist planning input from the NDIA.

### **Draft Recommendation 4.1:**

*The National Disability Insurance Agency should:*

- *implement a process for allowing minor amendments or adjustments to plans without triggering a full plan review*
- *review its protocols relating to how phone planning is used*

- *provide clear, comprehensive and up-to-date information about how the planning process operates, what to expect during the planning process, and participants' rights and options*
- *ensure that Local Area Coordinators are on the ground six months before the scheme is rolled out in an area and are engaging in pre-planning with participants.*

### **Our Comments**

We agree, and this aligns with our comment in IR 4.2 regarding LC decision-making delegation options. Our experience in the use of over the phone plan reviews has been that they are inconsistent and have resulted in some participants receiving significantly reduced funding without justification due to language/comprehension issues and that family member/participant not realising that they were committing to reduced funding or that the discussion was even a plan review. This then leads to the need for a plan decision review to correct this, which creates more stress for participants and greater workload for service providers and NDIA. We would certainly support the implementation of a process that enables minor amendments or adjustments to plans without triggering a full plan review, particularly taking into account Information Request 4.1, relating to clarity around what is reasonable and necessary. Until greater clarity is achieved, it is reasonable to expect that amendments will be necessary and that the process for enabling this should be as effective and efficient as possible.

### **Draft Recommendation 4.2:**

*The National Disability Insurance Agency should ensure that planners have a general understanding about different types of disability. For types of disability that require specialist knowledge (such as psychosocial disability), there should be specialized planning teams and/or more use of industry knowledge and expertise.*

### **Our Comments**

We agree, and this aligns with our comment in IR 4.2 regarding LC decision-making delegation options. Both participants and LCs will benefit from the inclusion of relevant experts in the planning process (e.g. industry knowledge from existing service providers who know the participant and their needs). The current system does not adequately support psychosocial needs and the ad-hoc and often crisis-based circumstances around this. On a related note, considerations around specialised planning teams would likely need to be factored into workforce planning agendas.

### 3. Boundaries and Interface with NDIS

#### **Draft Recommendation 5.1:**

*Funding for Information, Linkages and Capacity Building (ILC) should be increased to the full scheme amount (of \$131 million) for each year during the transition. The funds that are required beyond the amounts already allocated to ILC to reach \$131 million should be made available from the National Disability Insurance Agency's program delivery budget.*

*The effectiveness of the ILC program in improving outcomes for people with disability and its impact on the sustainability of the National Disability Insurance Scheme should be reviewed as part of the next COAG agreed five-yearly review of scheme costs. The ILC budget should be maintained at a minimum of \$131 million per annum until results from this review are available.*

#### **Our Comments**

We support this initiative and feel that the increase in funding would be a positive step however, it would need to include a high level of flexibility in what the ILC funding pool will support. Potentially, this could also reduce the need for community focussed NDIA funding for some participants however this may not be an ongoing benefit if this is not sustainable for the participants.

#### **Draft Recommendation 5.2:**

*The Australian, State and Territory Governments should make public their approach to providing continuity of support and the services they intend to provide to people (including the value of supports and number of people covered), beyond supports provided through the National Disability Insurance Scheme. These arrangements for services should be reflected in the upcoming bilateral agreements for the full scheme.*

*The National Disability Insurance Agency should report, in its quarterly COAG Disability Reform Council report, on boundary issues as they are playing out on the ground, including identifying service gaps and actions to address barriers to accessing disability and mainstream services for people with disability.*

#### **Our Comments**

In the spirit of open, transparent approaches, we agree this information should be made public with feedback sought on how to address any gaps or barriers. This would enable participants and providers to be proactive and support the process of breaking down barriers and meeting gaps in service delivery. It would also assist participants to understand support structures available across the country should they wish to relocate.

## 4. Provider readiness

### Information Request 6.2:

*What changes would be necessary to encourage a greater supply of disability supports over the transition period? Are there any approaches from other consumer-directed care sectors — such as aged care — that could be adopted to make supplying services more attractive?*

### Our Comments

More effective engagement between the NDIA and the sector, as well as greater focus on building relationships with sector members (in addition to participants) would assist with supply. In addition, the current pricing is often unrealistic and not viable for service providers to deliver so would be more effective if set by the market or an independent pricing process rather than one size fits all. For example, many regional and remote service providers, and smaller service providers are struggling or have closed as a result of viability issues which then further disadvantages participants who are trying to access services.

### Draft Recommendation 6.1:

*The Australian Government should:*

- *immediately introduce an independent price monitor to review the transitional and efficient maximum prices for scheme supports set by the National Disability Insurance Agency (NDIA)*
- *transfer the NDIA's power to set price caps for scheme supports to an independent price regulator by no later than 1 July 2019.*

*The body tasked with price regulation for scheme supports should:*

- *collect data on providers' characteristics and costs. This should include appropriate funding to continue the business characteristics and benchmarking study currently undertaken by National Disability Services and Curtin University*
- *determine transitional and efficient prices for supports at a state and territory level*
- *comprehensively review and publish its price model on an annual basis. This review should be transparent, have public consultation, be evidence-based and evaluate the effectiveness of prices in meeting clearly-defined objectives*
- *assess and recommend when to deregulate prices for supports, with particular regard to the type of support and region, on the basis that prices should only be regulated as narrowly, and for as short a time, as possible.*

### Our Comments

We are supportive of the introduction of a price monitor due to the potential long-term sustainability of services to participants, however we would like to question and raise the following:

- How are efficient prices going to be defined and how is that going to be calculated across different businesses of nature and size?
- The value of prices should be linked to the value of the outcome in a choice and control environment.
- There should be an appeals process of some form when prices are seen to be contrary to expectations or where they will significantly impact the service to the participant.



## 5. Workforce readiness

### **Information Request 7.1:**

*What is the best way for governments and the National Disability Insurance Agency to work together to develop a holistic workforce strategy to meet the workforce needs of the National Disability Insurance Scheme?*

#### **Our Comments**

We believe this is best achieved through collaborative, co-planning workshops where the true principles of co-design are applied. This collaboration would ideally include participants, agencies and the DSOs to ensure coverage of all perspectives and issues. Ownership should also be attributed to ensure accountability for delivery of plan elements (i.e. state or federal governments).

### **Information Request 7.2:**

*How has the introduction of the National Disability Insurance Scheme affected the supply and demand for respite services? Are there policy changes that should be made to allow for more effective provision of respite services, and how would these affect the net costs of the scheme and net costs to the community?*

#### **Our Comments**

The current NDIA position where respite is seen as a service for the unpaid carer/family has had a negative effect on the ability of participants to access respite or 'short term accommodation'. We have observed a tendency among planners to discourage this service and there is a cap on 28 days permitted per year, which is another example of 'one size fits all', however families cannot 'plan' for the number of crisis situations they may have in a year.

This supports a false economy where many family members often reach us when they are already in crisis, so the impact on the participant is more significant and costly than if this had been managed effectively over time.

In addition, there is the need for emergency accommodation funding that can be used at short notice and can be allocated by the funded organisation as needed (e.g. block funding that can be allocated as crisis need occurs, often on weekends and after hours). To date, we have had to turn away customers in need of emergency respite because they are not funded for this service and/or we cannot get approval from NDIS.

### **Draft Recommendation 7.2:**

*The National Disability Insurance Agency should publish more detailed market position statements on an annual basis. These should include information on the number of participants, committed supports, existing providers and previous actual expenditure by local government area.*

*The Australian Government should provide funding to the Australian Bureau of Statistics to regularly collect and publish information on the qualifications, age, hours of work and incomes of those working in disability care roles, including allied health professionals.*

### **Our Comments**

We support this initiative as there are currently significant gaps in data required for service and workforce planning due to inconsistencies and high level data that does not break down to specific groups.

### **Draft Recommendation 7.3:**

*The National Disability Insurance Agency's (NDIA) guidelines on paying informal carers who live at the same residence as a participant should be relaxed for core supports for the period of the National Disability Insurance Scheme (NDIS) transition.*

*Such payments should be:*

- *accessible under clearly defined and public guidelines, which make reference to worker shortages in the relevant market using the NDIA's information about providers and supports in the participant's region*
- *set at a single rate determined by the NDIS price regulator in a transparent manner*
- *reviewed by the NDIA as part of plan reviews.*

### **Our Comments**

We support the concept of payment for informal carers, however would question the validity of a single rate. The rate should be dependent upon the complexity of the care recipient's needs, location (e.g. remote vs metro) and this should be time-limited so that the priority is still a paid support worker. The carer payment should not be used as a long-term solution and should ultimately be moving towards use of a paid support worker (unless there are no other options).

## 6. Participant readiness

### **Information Request 8.1:**

Is support coordination being appropriately targeted to meet the aims for which it was designed?

#### **Our Comments**

When provided, support coordination can be used very effectively. The challenge is actually accessing this funding. We have experienced a number of situations where the LC and manager-level advice from NDIS has been that support coordination is not appropriate (despite complex needs) and will not be funded, but once escalated, has resulted in support funding. Unfortunately this often occurs once crisis point has been reached rather than beforehand. Again, there seems to be a theme of cost saving for the 'sustainability of the program' but at the expense of the participant.

### **Information Request 8.2:**

Is there scope for Disability Support Organizations and private intermediaries to play a greater role in supporting participants? If so, how? How would their role compare to Local Area Coordinators and other support coordinators?

Are there any barriers to entry for intermediaries? Should intermediaries be able to provide supports when they also manage a participant's plan? Are there sufficient safeguards for the operation of intermediaries to protect participants?

#### **Our Comments**

This option could be work quite effectively if implemented with robust guidelines and boundaries. For example, support organisations and service providers can play a valuable part of supporting families in the pre-planning and planning process, which is quite intimidating and complex for many families. However, there is still an important role to play for an independent party in some form to oversee potential conflict of interest situations where the service provider is also the planning organisation. A robust review and safeguarding process would ensure intermediaries are acting in the best interests of participants.

## 7. Governance

### **Information Request 9.1:**

*The Commission is seeking feedback on the most effective way to operationalize slowing down the rollout of the National Disability Insurance Scheme in the event it is required. Possible options include:*

- *prioritising potential participants with more urgent and complex needs*
- *delaying the transition in some areas*
- *an across-the-board slowdown in the rate that participants are added to the scheme.*

*The Commission is also seeking feedback on the implications of slowing down the rollout.*

### **Our Comments**

There are implications for both options and also the same planning process is applied regardless of the level of need and potential funding. For example, there could be two streams of planning occurring, the more complex needs participants who go through the full process and the fast-track version for simple plans with low care needs. Similarly, if participants had funded pre-planning support from the sector the planning process could potentially be much more efficient and less time intensive as participants would arrive 'ready' to plan with most of the information and goals already developed.

1. Slow down roll-out: We would support the prioritisation of participants being rolled in by level of need. Families and participants are already frustrated with the area-based roll-out and to slow the process down even further would cause additional distress.

2. Continue with current timeframe: This could still work effectively however it relies on highly capable and experienced planners. In addition, the approach of reviewing only the plans that require review in the initial period and extending non-urgent plans for 12 months could reallocate the roll-out workload more effectively. Similarly, the standard plan period could become 2 years with review of plans of less than 12 months by exception.

### **Draft Recommendation 9.2:**

*The Western Australian Government and Australian Government should put in place arrangements for Western Australia to transition to the National Disability Insurance Scheme. Any decision to join the national scheme should be made public as soon as possible.*

### **Our Comments**

Our priority is – as always – the wellbeing of our customers and we support the consultation of people living with disability as to their preferred scheme. As an organisation, we continue to advocate for a strong, transparent planning process for people living with disability to ensure that the NDIS delivers on its commitments of choice and control. We agree that any decision on the future scheme to be embedded in Western Australia should be made public as soon as possible.

**Draft Recommendation 9.3:**

*The National Disability Insurance Agency should publicly report on the number of unexpected plan reviews and reviews of decisions, review timeframes and the outcomes of reviews.*

**Our Comments**

We believe this would be very useful information to share for learning purposes. It would allow others to be aware of what may have changed, challenges they may have previously lost that they may use when they do their own replanning. It also evidences (we would assume) the impact on participants of getting a plan wrong in planning including possibly missing items that are required, or only allocating minimal hours and realising shortly after plan commencement that it is insufficient to meet need. The change requests may indicate a more true reflection of peoples' true support needs.

**Draft Recommendation 9.5:**

*In undertaking its role in delivering the National Disability Insurance Scheme, the National Disability Insurance Agency needs to find a better balance between participant intake, the quality of plans, participant outcomes and financial sustainability.*

**Our Comments**

There is a common communication from NDIA staff that the focus is on the 'sustainability of the scheme' and this is often used as a rationale as to why funding is not provided or reduced. This is usually to the detriment of the participant and the focus shifts from what the participant actually needs, to how much the scheme can afford to provide.

There also seems to be an unrealistic expectation in the disability setting that capacity building supports will always result in a participant leaving the scheme, whereas the more realistic approach would be to factor in capacity maintenance as each individual has a different maximum capacity level.

From our observations the quality of some plans have also decreased, so we would support the introduction of a quality assessment criteria for plans where minimum quality requirements must be met before the plan is approved.