



# THE DEAF SOCIETY OF NEW SOUTH WALES

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2 May 2011

Ms Roberta Bausch  
Disability Care and Support Inquiry  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601

Dear Ms Bausch

Please find attached completed submission from the Deaf Society of NSW to the above Inquiry.

Our submission is supported by Vicdeaf, as well as the other members of the Australian Federation of Deaf Societies in each State, who are in agreement with the recommendations made by the Deaf Society of NSW.

Please contact me should you require any additional information in relation to our submission.

Yours sincerely

Sharon Everson  
CHIEF EXECUTIVE OFFICER.

**Response to the Productivity Commission Draft Report:**

***Disability Care and Support***

**(February 2011)**

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The Deaf Society of NSW

29 April 2011



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## EXECUTIVE SUMMARY

The Deaf Society of NSW (DSNSW) welcomes the opportunity to comment on the Productivity Commission's *Draft Report: Disability Care and Support*.

The overall scope and structure of the proposed National Disability Insurance Scheme (NDIS) is satisfactory so far as we can tell at this stage. We can, however, foresee problems with the implementation of certain aspects of the scheme in practical terms as they relate to culturally deaf people, and have made recommendations to enable the Productivity Commission to refine some of the draft recommendations in order to prevent these problems occurring.

In summary, our recommendations relate to rectifying a lack of clarity about the inclusion of deaf people under the NDIS, the place of Auslan interpreting as a disability support under the NDIS, and accessibility measures undertaken by the NDIA and the body established to resolve complaints. Our goal is to see an NDIS that is fully in line with the *United Nations Convention on the Rights of Persons with Disability* (UNCRPD).

Although it appears that a profoundly deaf person would be eligible for support under the scheme, the lack of any mention of Auslan, Auslan interpreting, or the training of Auslan interpreters (a critical skills shortage area) is concerning as it appears to indicate that the NDIS is not anticipating meeting any needs in this area.

We have not commented on recommendations for which we can foresee no problems, or those (such as some relating to financial and governance arrangements) which lie outside our scope of specialist expertise. Further, we wish to note that although we consult widely and have close ties with the Australian Deaf Community we are not primarily a consumer representative organisation. We urge the Commission to consult with Deaf Australia and its state branches as the relevant Deaf consumer representative organisation.

Finally, DSNSW would welcome the opportunity to be involved in the piloting of the NDIS in its early stages. As a community-centred organisation with a long history of excellent corporate governance, DSNSW would be able to provide controlled and cost-effective assistance to the NDIA in identifying any changes needed to the design and implementation of the scheme during the trial period.

## SUMMARY OF RECOMMENDATIONS

Our recommendations are listed against the number of the draft recommendation to which they relate.

### 3.1

*DSNSW recommends that information services be provided in collaboration with existing specialist disability service organisations, not exclusively by the NDIA.*

### 3.2

*DSNSW recommends a more explicit statement that profound deafness constitutes a “significant difficulty with communication”.*

### 3.5

*DSNSW recommends that some flexibility be allowed for clients to receive certain culturally sensitive supports, such as Auslan interpreting, under the NDIS after transferring to the aged care system.*

### 4.1

*DSNSW recommends that more information as to the likely supports that will be provided to profoundly deaf people without additional disability.*

### 4.4

*DSNSW recommends that the expression “insufficient or inconclusive evidence of clinical benefits” be improved to reflect a social model as well as a medical model of disability.*

### 5.2

*The Deaf Society recommends that the independent assessment process be culturally sensitive for CALD groups including deaf people.*

### 7.12

*DSNSW recommends that feedback and complaints mechanisms be fully accessible in Auslan.*

### 8.1

*DSNSW recommends that consumer decision-making be supported through the use of Auslan video translations and plain English, and that the NDIA employ deaf case managers and hearing case managers who are qualified in Auslan to support consumer decision-making.*

### 8.3

*DSNSW recommends that the NDIA quality framework employ accessible tools for gathering information from and sharing information with deaf and deafblind people.*

#### **10.1 and 10.4**

*DSNSW recommends that the NDIS allocate funding and support to disability service providers to cover the cost of implementing new data reporting and IT systems.*

#### **13.1**

*DSNSW recommends that in fulfilling its function to subsidise the training of disability workers, the NDIS set benchmarks for Auslan competence for those working with deaf and deafblind people, specifically NAATI accreditation for translators and interpreters, and Auslan qualifications for disability workers working with deaf and deafblind people.*

#### **17.2**

*DSNSW strongly recommends that the NDIS should be headed by a person with a wealth of experience in the disability services sector, rather than a person with insurance experience.*

Each recommendation is discussed in detail below.

## COMMENT ON THE DRAFT RECOMMENDATIONS

In making these recommendations, DSNSW can only speak to its area of expertise. We do not claim to represent the entire Australian Deaf Community, but we can identify problems that will arise for culturally deaf people if the recommendations are implemented in their current form. It is with a view to preventing such problems that we make the recommendations outlined below.

Page numbers refer to the Draft Report unless otherwise stated.

### RECOMMENDATION 3.1

*DSNSW recommends that information services be provided in collaboration with existing specialist disability service organisations, not exclusively by the NDIA.*

DSNSW supports the creation of the National Disability Insurance Agency as an independent, federal statutory organisation. Furthermore, DSNSW anticipates that the agency will ensure national consistency in services for deaf people, rather than state-based administration which is largely inconsistent.

While information and referral are obviously essential functions of the NDIA, the NDIA may not have the expertise to reach all community groups, including deaf and deafblind people. While the NDIA may have the funds to publicise the NDIS through mass media, including television and radio, not all media will be accessible to deaf people, and smaller disability services organisations such as DSNSW will be the “first port of call” for community members, regardless of whether we are funded to provide information or not. Experience with the TTY voucher system, Auslan for Employment (AFE), the Employment Assistance Fund (EAF), the National Auslan Interpreter Booking and Payment System (NABS) and countless other schemes demonstrate that the success of the NDIS will depend upon its ability to leverage the community knowledge and networks of specialist disability organisations.

This raises the question of funding. Already-stretched disability service organisations cannot afford the extra staff time to run workshops, produce Auslan translations, create Braille newsletters, and meet with clients individually to explain the NDIS. Only if such organisations are funded to provide this information will the NDIS comply with the United Nations *Convention on the Rights of Person with Disabilities (2006)*, specifically Article 9, 1(b) and 2(b), which concerns information and communication, and equally accessible facilities and services, respectively.

### **RECOMMENDATION 3.2**

*DSNSW recommends a more explicit statement that profound deafness constitutes a “significant difficulty with communication”.*

It is good to see eligibility based broadly on a functional rather than a purely medical or diagnostic approach. However, it is not clear what “significant difficulties with .... communication” include. It is therefore not clear whether profoundly deaf people without additional disability would be entitled to any support under the NDIS.

Profoundly deaf people without other disability do indeed have significant difficulties with communication in that they are generally unable to access spoken English without the use of supports. However, it is not clear that profound deafness qualifies a person for support under Tier 3 of the scheme and it would be good to have this clearly stated.

### **RECOMMENDATION 3.5**

*DSNSW recommends that some flexibility be allowed for clients to receive certain culturally sensitive supports, such as Auslan interpreting, under the NDIS after transferring to the aged care system.*

While it may be argued that aged and disability service systems should not combine but connect seamlessly as a person ages (*Draft Report*, p.14-15), we cannot foresee a seamless connection in the case of culturally deaf people. In our experience, aged care service providers are chronically under-equipped and under-trained to provide for culturally deaf clients. In fact, aged-care service providers frequently seek assistance from disability service organisations (such as DSNSW) in dealing with the unique needs of culturally deaf clients. The needs of culturally deaf people for social engagement and Auslan interpreting do not change overnight as they turn 65, but they may acquire additional aged care needs. Allowing no flexibility to combine supports under the NDIS and the aged care system will leave culturally deaf people in a situation where they must choose either to receive physical care, or to remain socially engaged through the use of Auslan interpreters and culturally appropriate supports under the NDIS. The model adopted by NABS, the National Auslan Interpreter Booking and Payment System, is ideal. NABS provides interpreters for private medical appointments, regardless of the deaf person’s age or status with regard to the aged care system.



## **RECOMMENDATION 4.1**

*DSNSW recommends that more information as to the likely supports that will be provided to profoundly deaf people without additional disability.*

The Deaf Community is a tightly-knit community which shares information quickly and any inconsistencies between packages for people with comparable needs will be glaringly obvious to everyone. In the interests of consistency and transparency, it would be useful to have publically available information about the supports that will likely be provided to profoundly deaf people without other disability. Needs within this group will tend to be similar and although individual assessment and individual packages should still be the norm, some information about what supports profoundly deaf people could expect to receive under the NDIS would assist with transparency and consistency across the scheme.

## **RECOMMENDATION 4.4**

*DSNSW recommends that the expression “insufficient or inconclusive evidence of clinical benefits” be improved to reflect a social model as well as a medical model of disability.*

There are a variety of situations in which it would be socially or morally appropriate, rather than clinically beneficial, for culturally deaf people to have access to interpreting services, including funerals, legal advice and civil court proceedings, private financial appointments, weddings, artistic and cultural events, social and sporting events, strata scheme/body corporate meetings, and educational classes, as well as a variety of other situations in which mainstream service providers claim that “undue financial hardship” would result from providing access for deaf people as required by the *Disability Discrimination Act 1992 (Cth)*. We draw attention to a recent instance where a culturally deaf client was unable to access the services of an interpreter for their father’s funeral. Needless to say, this was extremely distressing for our client, and while there may be no proven “clinical” benefit in having an interpreter at a funeral, it is morally questionable to deny a person in such a situation access to subsidised assistance.

Additionally, home safety devices may not be strictly defined as having evidence of “clinical” benefit, and yet it should not be unreasonable to ask that strobe-light or vibrating fire alarms, flashing light doorbells and baby-cry alarms be subsidised or funded by the NDIS. The lack of these devices leads to a serious safety risk for deaf people and their families.

In practice, culturally deaf people, as part of their package, could be provided with a bank of interpreting hours for discretionary use in situations where interpreting is not otherwise covered by the obligation of mainstream service providers under the DDA. This would ideally follow the Finnish model in which each deaf person has 180 hours per annum for discretionary use (funerals, weddings, artistic and cultural events, private legal and financial appointments, etc.) and an unlimited number of hours for use in educational contexts where training providers claim “undue financial hardship”.

## **RECOMMENDATION 5.2**

*The Deaf Society recommends that the independent assessment process be culturally sensitive for CALD groups including deaf people.*

In keeping with the cultural sensitivity considerations of Recommendation 9.1, the assessment process must be accessible and culturally sensitive for all CALD groups, including deaf people. The Productivity Commission has made no recommendations about culturally sensitive assessment and case management processes for deaf people.

Culturally sensitive measures for deaf people may include involving respected members of the Deaf Community in the assessment process, conducting assessments in Auslan, using Auslan interpreters, and employing deaf assessors and case managers wherever possible.

## **RECOMMENDATION 7.12**

*DSNSW recommends that feedback and complaints mechanisms be fully accessible in Auslan.*

The agency which receives feedback and resolves complaints should provide for clients of the NDIS to give and receive information and to make complaints in Auslan. This would work to create an NDIS that is culturally sensitive and inclusive, and help to meet Australia’s obligations under Article 9 of the UNCRPD. Such provisions may include the public availability of Auslan translations of complaints procedures, the use of Auslan interpreters, provision for the agency to receive complaints in Auslan directly from clients of the NDIS, and support for service providers to ensure accessible services.

### **RECOMMENDATION 8.1**

*DSNSW recommends that consumer decision-making be supported through the use of Auslan video translations and plain English, and that the NDIA employ deaf case managers and hearing case managers who are qualified in Auslan to support consumer decision-making.*

A centralised internet database of service providers will be most effective if the information contained is presented in a way that is accessible. For deaf people, this means that webpages should employ Auslan video translations and plain English.

Similarly, effective provision of advice, information and monitoring would require case managers who are Auslan-skilled and culturally sensitive to the needs of deaf clients. Case managers relying on Auslan interpreters to engage with deaf clients would be an acceptable second-best in most cases.

### **RECOMMENDATION 8.3**

*DSNSW recommends that the NDIA quality framework employ accessible tools for gathering information from and sharing information with deaf and deafblind people.*

A sound quality framework is a key part of the scheme, but accessibility measures should be built in, not bolted on, to such a framework. Such measures should include as a minimum

- Auslan translations of surveys and tools for gathering data from clients of the NDIS.
- Auslan translations of information about the quality and performance of service providers to provide genuine choice to deaf people.
- Information about the Auslan qualifications and deaf awareness of various service providers so that deaf and deafblind clients can see whether the agency they are going to has staff who hold accredited Auslan qualifications (and if so, to which level) or have undertaken basic deaf awareness training.
- The employment of case managers qualified in Auslan.

### **RECOMMENDATIONS 10.1 AND 10.4**

*DSNSW recommends that the NDIS allocate funding and support to disability service providers to cover the cost of implementing new data reporting and IT systems.*

DSNSW supports the need for independent and accurate data, but for small organisations installing software such as client management systems can be prohibitively expensive (we were recently quoted \$50,000 for purchase and installation of a client management system, and were unable to go ahead with the purchase). It can also be expensive to build reporting systems and train staff in using them, and this will be exacerbated in the early stages of the NDIS where we will still have reporting obligations under existing funding arrangements. Such requirements are likely to divert time away from client services and jeopardise service quality.

Another concern is access to any centralised training for staff. If a system similar to the Employment Services System Learning Centre operated by DEEWR is envisaged, training must be accessible in Auslan so that deaf staff are able to access training on the same basis as hearing colleagues.

New costs incurred as a result of the NDIS should, within reason, be funded by the NDIS.

### **RECOMMENDATION 13.1**

*DSNSW recommends that in fulfilling its function to subsidise the training of disability workers, the NDIS set benchmarks for Auslan competence for those working with deaf and deafblind people, specifically NAATI accreditation for translators and interpreters, and Auslan qualifications for disability workers working with deaf and deafblind people.*

DSNSW acknowledges that the NDIS would increase demand for disability support staff and welcomes the role of the NDIS in subsidising the training of disability workers.

However, not all people who are qualified to deliver support services are able to interact appropriately or communicate effectively with deaf people. We foresee difficulties where disability support workers are trained only in generic disability services, but are required to work with deaf and deafblind people who have specialised communication needs.

Those working in accommodation support, respite, community transport as well as community participation and day programs simply must to be trained in Auslan where working with clients who are deaf, and tactile finger spelling, hand-over-hand signing and visual-frame signing to

communicate with clients who are deafblind. This would equip workers to provide high-quality, culturally sensitive support services. The Certificates in Auslan and Diploma of Auslan qualifications provide suitable benchmarks for disability support workers, with different levels of accreditation being appropriate for different roles, depending on the communication demands of the role.

For those fulfilling roles as Auslan interpreters and translators, accreditation by the National Accreditation Authority for Translators and Interpreters (NAATI) must be required. This is the case for Auslan Interpreters employed under NABS and by DSNSW and other Deaf Societies. No compromise on this point should be countenanced by the NDIA.

## **RECOMMENDATION 17.2**

*DSNSW strongly recommends that the NDIS should be headed by a person with a wealth of experience in the disability services sector, rather than a person with insurance experience.*

A person with experience in the disability sector would be reasonably expected to avoid stereotypes about the diversity of the sector. A person with such a background would most certainly have a better understanding of the range of disabilities that affect Australians, the needs of different people who have disability, and the service providers and community organisations that seek to improve the quality of life for people who have disability.

Such a person would work to preserve and uphold the dignity of Australians with disability.

Our concern is that a person with insurance industry experience may inadvertently reinforce stereotypes about disability and make decisions that are driven largely by cost-benefit analyses that do not uphold or preserve the dignity of Australians with disability. DSNSW is not confident that a person with insurance industry experience only will grasp the different needs of people who are deaf, deafblind and hard-of-hearing.

Furthermore, we recommend that at least one (but preferably two) culturally deaf people are invited to participate in the NDIS implementation task-force to ensure that it is culturally sensitive and relevant to deaf and deafblind Australians.

## ADDITIONAL COMMENTS

In addition to the comments on the draft recommendations outlined above, we take this opportunity to comment on other areas of the report. In particular, the attempt to standardise pricing in the early stages of the NDIS.

DSNSW foresees serious problems if the pricing of Auslan interpreting and translation services are standardised (p.30). Auslan interpreting, unlike many areas of disability support, is a highly skilled profession requiring NAATI accreditation, and many Auslan interpreters have university qualifications in translation and interpreting as well as other specialised fields. Auslan interpreters are increasingly required to work for deaf professionals in legal, business and academic fields and are becoming specialised professionals in their own right, with qualifications to match. It would not be appropriate to set prices for Auslan interpreting within the framework of disability support which typically requires no such accreditation or education. As supply of interpreters is already very limited, DSNSW is concerned that an attempt to set prices by the NDIA would simply lead more interpreters to leave the profession (this is already a problem). As competition is already strong between various interpreting providers, we suggest that the market be left to set prices for interpreting services rather than the NDIA. Instead, the NDIA should concentrate efforts in the training of Auslan interpreters to increase the supply of interpreters relative to demand and thus drive market efficiency.

To a lesser extent, there will also be problems if the pricing of services for general disability support workers are standardised without regard to specialist needs. DSNSW pays above the award wage for community services staff because in addition to community services qualifications and/or experience we require all staff to be fluent in Auslan and tactile deafblind communication, which are specialist skills. If prices are set across the board without taking account of additional skills required for work with some client groups it will have the potential to disadvantage deaf and deafblind people in comparison to other disability groups by driving down the quality of service provision such that the only services a deaf person is given could be services they cannot access. We recommend that the NDIA set prices that take account of the extra skills and qualifications required for specialist provision.

In relation to encouraging NDIS clients to work as much as they are able, DSNSW notes that employment support is recommended even where only a “few hours a week” is sought (p.24). However, this would require improvement of the existing Employment Assistance Fund which

stipulates a minimum of 8 hours work per week over a period of at least 13 weeks. Removing these stipulations could supplement the Productivity Commission's recommendations relating to the DSP.

## REFERENCES

Australian Government (1992). *Disability Discrimination Act 1992 (Cth)*. Available at  
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## ACKNOWLEDGEMENTS

This report was prepared with the assistance of Greg Mills, [greg@rumourmills.com.au](mailto:greg@rumourmills.com.au)

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