National Disability Services

NDS Submission

Queensland Productivity Commission Inquiry into the NDIS Market in Queensland

August 2020

1. National Disability Services Limited

National Disability Services (NDS) is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-quality supports and life opportunities for people with disability.

NDS' Australia-wide membership includes more than 1,180 non-government organisations which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.

NDS has been a major contributor to the establishment of the National Disability Insurance Scheme (NDIS). We supported the call for the Productivity Commission to inquire into a National Disability Long-term Care and Support Scheme. We also agreed with the key points contained in the *Productivity Commission 2011, Disability Care and Support, Report no. 54*, Canberra that confirmed our members belief that :

> *"The current disability support system is underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports. The stresses on the system are growing, with rising costs for all governments."*

NDS is committed to the aspirations of the NDIS and has, and continues to be, an active participant in the NDIS's introduction and ongoing operation.

2. The National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) is Australia's largest social change since the introduction of Medicare and its introduction requires the simultaneous development of consumer expertise and the restructuring of service providers as they move from welfare to insurance model funding. We know that disability service providers, just like people with a disability, are not a standardized nor homogenized group. As a result, the impacts, achievements and failures of the NDIS are diverse. When the scheme works well, the outcomes are life changing, however the scheme does not work well often enough.

The Queensland Productivity Commission (QPC) Issues Paper on the transition and market development of the National Disability Insurance Scheme (Scheme) in Queensland, raises many important questions. NDS is appreciative of the opportunity to engage in the QPC's review. NDS provides the following information in relation to the issues raised by providers and questions contained in the QPC Issues Paper.

NDS makes many submissions to inquiries into the NDIS and its connected frameworks on behalf of our members and the broader disability services sector and these submissions can be made available to the QPC.

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4. NDS involvement in Queensland's disability sector

NDS in Queensland has a long and proud history of supporting the state's disability provider sector. Due to our knowledge, connections and reputation, NDS has been contracted by the Queensland government during the period of transition to the NDIS to provide:

- Advice regarding policy issues and considerations
- A communication channel from both 'the government to the sector' and 'the sector to government'
- Networking and professional development opportunities for the sector and
- Business support products and services

The range and diversity of these services has been extensive over the period of transition.

Despite the NDIS having already been rolled out in other states and territories, the scheme continues to undergo significant change. Specifically for Queensland, NDS notes the following observations:

- The establishment of 'Partners in Community' providers in many Queensland roll out regions was significantly delayed. Delays resulted in little prior community engagement to build awareness followed by a rush to "get people in".
- The volume of plans requiring review was high. This was partially due to the rush to achieve targets and partially due to the upskilling of planners. For providers this often required great client engagement/communication and delays or complications in being able to claim funds.
- With a well-defined and established provider registration process prior to NDIS operating in Queensland, the transition to the requirements of the new standards has been costly for providers.
- With well-established legislation and practices with regard to the authorisation and use of restrictive practices in Queensland, the implementation of the new NDIS Quality and Safeguarding Practice Standards and the interface with existing state regulation, has been difficult and resulted in significant costs to providers.
- Continual changing of pricing has placed significant cost on providers. This includes changes in NDIA pricing line items and associated administrative arrangements.
- In issues of dispute it is predominantly the provider who has to carry the cost. Recent NDIA changes to processes resulted in the non-approval of Supported

Independent Living (SIL) quotes submitted by providers. This change by the NDIA resulted in providers continuing to deliver services to people with disability, not able to be left without support services, while not receiving funding for their services.

5. Transitioning participants into the NDIS

From a provider's perspective:

- Queensland's transition into the NDIS was governed via the bilateral agreement between the state and commonwealth governments. The bilateral designated regions, their roll in date and anticipated numbers. Across the 3 years of the bilateral, it was planned for 15,000 participants in year 1, 15,000 in year 2 and 60,000 plus in year 3. These were always seen as high targets particularly given the percentage of new 'never received services before' participants. Across the 3 years of the Bilateral Agreement, no roll out region or annual target was met. With an additional year added to the transition, the anticipated 90,000 plus NDIS participants has not been reached.
- Recently the Queensland government, having secured funding ($20m) from the Commonwealth, has commenced a new service in two roll out regions, the Access and Referral Team (ART). COVID-19 has delayed roll out into other regions. ART is designed to assist potential participants with their access request and is having success in doing so. NDS are concerned that the success ART is having is indicative of an unnecessarily complex pathway into the NDIS that is effectively excluding the very people for whom the scheme was designed to assist.
- From commencement of the rollout in Queensland, service providers were placed in the position of assisting their pre-existing clients with entry into the scheme. Providers understood the scheme, developed experience rapidly, and by virtue of their missions, were compelled to assist given they exist to be of service to people with disability. However, no funding was made available to disability service providers to engage in this service to people with disability. Providers were expected to incur the financial impost of this enormous undertaking across the state. Without this substantial contribution over the years of the transition, the transition to the scheme for people with disability would have been much more fraught with anxiety, stress and inadequate plans to meet their needs.
- The exclusion of service providers from NDIS planning meetings, particularly for people with intellectual or cognitive disability, has been a long standing issue and results in problematic outcomes for many NDIS participants. For clients who had existing services prior to their NDIS transition, their service providers commonly had a deep understanding of their support needs. NDIS participants were learning about the new and very complex scheme. Simultaneously they

needed to learn how their conversations about their goals and aspirations in planning meetings, would translate into the right services and supports and budget allocations arriving in their NDIS plan, to enable service providers to design and offer appropriate services. This circumstance resulted in a very high volume of plans that required reviews. It remains typical that providers continue to support NDIS participants in seeking plan reviews to ensure they receive reasonable and necessary supports and services.

6. Transition of different cohorts

The ability for participants, both new and existing, to transition to the NDIS is influenced by the

- The type of disability and the previous level of support provided under state funding
- Population groups including first nations and Culturally and Linguistically Diverse'
- Geographic location

Some forms of disability were recognized under previous funding arrangements (intellectual, spinal cord injury) while others, like autism were not as well supported. This has meant that certain disability communities have been able to engage in the NDIS better than others.

Population groups have been slow to engage predominantly due to language and expectations. The performance in these groups is improving. For many this has been a result of not being able to access support before. Having failed, nor seeing support in their communities before, many community groups have expressed low expectations of the scheme.

7. Transitioning providers into the NDIS.

The disability sector in Queensland has tackled the introduction of the scheme with the same motivation and goodwill, or social capital contribution, the not-for-profit provider was built upon. The scheme has been widely accepted and indeed, its introduction was actively championed and supported by the provider sector. Regrettably, the implementation of the scheme has been plagued with errors, inconsistencies and a lack of acceptance and understanding of the environment in which the disability provider sector operates in Queensland. The disruption caused by a lack of research into the market readiness of the sector in Queensland to take on

the "largest social reform of recent decades"[1] and the pace of growth, has had a direct bearing on the capacity of the sector to grow in an efficient and sustainable manner.

The National Productivity Commission Study Report of October 2017 stated:

> *"The market-based approach of the NDIS means that there will be significant changes in the way that supports are demanded by and provided to participants. This disruption of the disability supports market is designed to maximise the choice and control of participants, while also giving providers incentives to efficiently and effectively deliver the supports that participants want and need."*[2]

From the outset there were no incentives to understand nor introduce and establish the systemic changes needed to operate under the NDIS.

A recent survey of the sector in Queensland by NDS reported that of 107 respondent organisations:

- 26% of providers have a turnover of less than $250,000;
- 18% - $250,000 to less than $1m
- 21% - $1m to less than $5m
- 14% - $5m to less than $10m
- 9% - $10m to less than $20m
- 7% - $20m to less than $50m
- 2% - $50m to less than $100m
- 4% - more than $100m

These results provide an indication of the level of robustness of the sector to take on the magnitude of the NDIS and capitalise their operations to be able to respond and manage the systemic change required and develop the disability market in Queensland. The following section provides some understanding of the foundation on which the NDIS was overlaid.

NDIS Foundation in Queensland

The NDIS transition and market development of Queensland's disability sector requires an understanding and appreciation of historical funding levels, inequitable distribution and the actions of the state governments prior to and during transition to the NDIS.

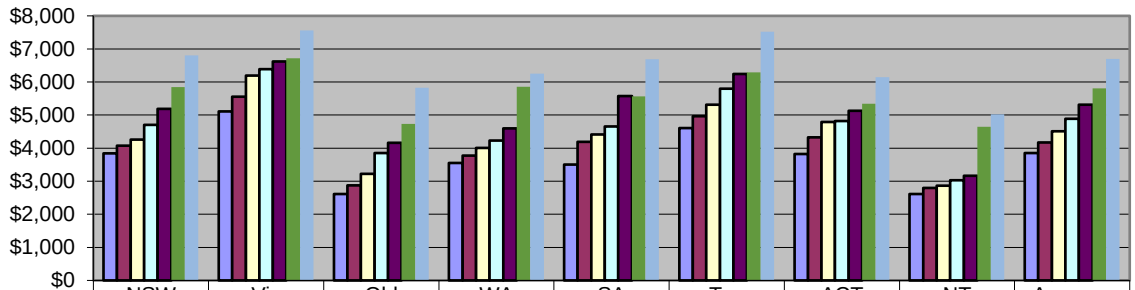
[1] Queensland Productivity Commission, Issues Paper, June 2020 p. 1
[2] Productivity Commission Study Report Overview, October 2017 Ch. 9

Prior to the introduction of NDIS, the annual Australian Institute of Health and Welfare (AIHW) Reports on Disability Services, demonstrated year after year that on a per capita basis, using potential population data across all States, Queensland funding was below the Australian average and well below the best funded States.

Figures demonstrate that in 2009-10, prior to the commencement of NDIS trials, Queensland, using potential population data, was $870 per person below the national average and $1,735 per person below the then best funded State of Victoria. Applying the average shortfall to the then assessed potential population for Queensland of 141,849, the State would have had to provide an additional $123.4m in funding rising from $826.8m to $950.2m to match the average funding. To match the Victorian funding levels using the same potential population, additional funding in Queensland would have had to double to an additional $246.1m from $826.8m to $1,073b.

Data has been extracted from the AIHW reports covering the years from 2003-04 to 2009-10 and are highlighted in the graph below. *(Potential population data provided by the AIHW for each year was used in the absence of actual numbers of people in support.)*

Government Expenditure per capita of the Potential Population by State
Source: AIHW Reports on Disability Services



	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Average
2003-04	$3,843	$5,114	$2,609	$3,556	$3,500	$4,608	$3,821	$2,615	$3,854
2004-05	$4,072	$5,555	$2,878	$3,778	$4,190	$4,961	$4,331	$2,794	$4,174
2005-06	$4,262	$6,197	$3,224	$4,005	$4,411	$5,310	$4,794	$2,867	$4,514
2006-07	$4,700	$6,388	$3,852	$4,230	$4,657	$5,795	$4,825	$3,029	$4,884
2007-08	$5,189	$6,625	$4,158	$4,593	$5,571	$6,239	$5,127	$3,167	$5,311
2008-09	$5,845	$6,713	$4,736	$5,857	$5,565	$6,293	$5,345	$4,648	$5,804
2009-10	$6,805	$7,564	$5,829	$6,253	$6,691	$7,526	$6,149	$5,021	$6,699

These figures serve to highlight the difference in foundational funding between States prior to the implementation of the NDIS.

In addition, to being the second lowest funding State, the Queensland Government had a policy of recovering unspent funds in the disability sector, commonly known as “claw back.” During the course of transition, the State Government was still “clawing back” unspent funds from disability providers. If a provider achieved their registered outputs and did not spend all of the funds, they were effectively punished for efficiency

through a demand to return unspent funds. This approach provided no incentive to operate in a financially efficient manner and did not allow for services to build cash reserves to support their transition to the NDIS and innovation of business models.

NDS had long canvassed the Queensland Government to categorise funding of disability services as an investment in human services and not just grants. Such an approach would have potentially resulted in the adoption of other frameworks for funding of the sector. However, successive Governments in Queensland have adopted a policy of contribution funding relying on the goodwill of staff, volunteers and organisational fundraising to meet the needs of people with disability. This policy, coupled with a "claw back" policy, left many providers with depleted cash reserves with which to implement the NDIS.

For a period of a decade prior to the scheme, it was Queensland Government policy not to offer any new places for people with disability across the State. As families sought supports and were advised that there were no places, they retreated and many were reluctant to allow themselves the hope of receiving supports for their sons and daughters when the Scheme was announced. The attitude of many parents was one of "what's the use, it will be the same as before!"

Regrettably, as the scheme progresses, increasingly the provider sector is seeing more evidence of "the same as before". Where there is a greater focus on the cost of the scheme, which ignores evidence produced through sector feedback, surveys, representations and reviews, than on funding appropriate allocations to meet reasonable and necessary support needs.

Transition to the NDIS

The disability sector in Queensland applauds and supports the independence, social and economic participation of people with disability and the important concept of choice and control. However, it is not a surprise that Queensland has not met its Bilateral targets. There has not been a holistic approach to the dissemination of information about the NDIS sufficient to reach the depth and breadth of the diverse communities across the State.

Providers of services to people with disability in Queensland have worked hard to implement the NDIS both for NDIS participants and the long-term viability of their organisations. However, many factors have had a detrimental impact on the overall establishment of the NDIS in Queensland. Some of these include:

- exclusion of providers with first-hand knowledge of people with disability;
- historical factors of the haves and the have nots in terms of operational funding;
- lack of real planning for implementation in the State;
- lack of consistency in plans and pricing by the NDIA;
- constant shifting of the goal posts by the NDIA; and
- ongoing lack of capital investment in the sector,

The National Productivity Commission in its report on its July 2011 report said in its key points,

> *"The current disability support system is underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports."*

This statement is extremely apt of the disability sector in Queensland. The Productivity Commission also pointed out that the benefits of the Scheme would significantly outweigh the costs and that

> *"…the NDIS would only have to produce an annual gain of $3,800 per participant to meet a cost-benefit test." 3*

Much is made of the cost of the Scheme but nothing is heard about the return to government generated by the Scheme.

The above statements filled the sector with hope that at last, people with disability would receive the supports necessary for them and their families to live a normal life. Hopes began to fade once the transition commenced. It was clear that the NDIA held little respect for the existing disability service provider sector. The Chief Executive Officer at the time advised the sector on multiple occasions that it is inefficient and this was done without any knowledge of the state of the sector in Queensland nor the inequity in funding across the State.

While there has been consideration and welcomed changes to pricing since the inception of the NDIS, inadequacies still exist. There is still little evidence that the NDIA understands that transitioning from an embedded broken system is very different to launching into the NDIS with a new business model. Many disability service providers were over supplying services to people with disability to try and fill the gaps in people's lives. The same providers wanted to support the transition of people with disability already receiving their services to the NDIS and ensure they received adequate funding under the NDIS. Understandably, the same providers wanted to continue services to these individuals if their customers wanted to retain them as their provider. This presented a range of challenges and costs to existing providers that were not necessarily faced by new entrants.

In contrast, new NDIS providers were in a position to consider the viability of service types, in the absence of relationships and pre-existing commitments to NDIS participants. They could choose the nature of NDIS supports and services they would provide.

Capital Investment

Capital investment in infrastructure is absolutely essential in any major reform.

The introduction of the NDIS demanded that providers move from a welfare model of operation to a business model. This huge cultural, psychological and operational change was largely ignored in Queensland apart from funding workshops around the

[3] Productivity Commission 2011, Disability Care and Support, Report no. 54, Canberra. p2

State to provide information to providers on what the Scheme would demand of their organisations. The NDIA sought to force change through inadequate pricing.

There was no research undertaken into the nature of systems required to operate under the NDIS either at a State or national level. Ideally, Governments would have researched and developed a range of options relating to which accounting and customer management systems would provide the integration necessary to produce operational efficiency; what systems would best provide the complimentary interface with the NDIA portal; and how to structure those systems to avoid duplication. The absence of investment in infrastructure has resulted in a patchwork of different systems and processes installed and duplicated in hundreds of organisations across the State, the quality and ability of which bear a direct relationship to the cash position of organisations at the time of purchase and implementation.

The sector needed and still needs a capital infusion of funds to improve operating and structural efficiency. Even then, the way pricing is being managed, as exemplified in most recent changes, is resulting in additional administrative and technical costs to change programming to suit new arrangements which is addressed later in this report.

Provider Capacity

The increased requirements for volunteer Boards and Management Committees across the State were substantial and challenging. Major change required in governance and leadership, organisational design, moving from grants to earned income, generating additional capital (where possible), shifts in skill requirements, internal structural change, accounting restructures, systems development, major strategic change, service expansion, developing performance indicators, business development, financial planning, increased legislative and operational compliance, etc. impacted on organisational capacity. These extraordinary cultural, operational and strategic changes have placed and are still placing considerable pressure on providers. Providers were expected to manage major increases in quantity, quality and a range of different and new responses in the provision of disability supports.[4]

Not only did providers have to transition their organisational operations, they also had to transition the 45,000 people already receiving supports in Queensland and their families, without any recognition or financial assistance. People with disability and their families found the NDIS processes complex and confusing. It was natural for them to seek assistance from existing relationships – their disability service providers - and it was equally natural for providers to provide that assistance given their history and relationships with people. However, the enormous costs of personnel time and stresses impacting on providers, especially senior personnel in organisations, in transitioning their organisation and supporting people with disability and their families, has not been recognised nor accounted for in the cost of transition.

It is noted in the Issues Paper that McKinsey and Company produced in 2018 (p64), anecdotal evidence that suggests the cost of transition could be 1.5% of a provider's

[4] Productivity Commission Study Report Overview, October 2017 Ch. 9

total annual expenditure. It was also noted that providers will also incur ongoing costs to comply with registration, quality and other regulatory obligations.[5] The real cost of transition, still incomplete, will never be known because of operational losses experienced by the sector and the amount of unpaid personnel time expended across the State.

8. NDIS market conditions and prospects

The NDIS market conditions and prospects are mixed depending on the nature of supports and their viability, the availability of workforce, understanding how the NDIS market is unfolding in different areas, community awareness and provider capacity to find the time and financial capital to research innovative options.

Strategic and Business Planning

Strategic and Business Planning for market development in such a fluid environment that is the NDIS, has meant that much time and effort goes into compliance, operational and systems issues instead of searching and researching and efficient and innovative ways of delivering services. The strategic foresight needed is not only relevant to providers but the NDIA. Around the world, social innovation has been highly successful where governments, people/organisations and the private sector work in partnership to meet or improve the delivery services to people and even communities suffering social disadvantage. This is in contrast to government dictating what will happen through one of its agencies.

The NDIA considers price controls are required for some disability supports until their markets are fully developed.[6] Providers are asking, “At what point does the NDIA make that decision? At what point does transition end? When will there be stability in price setting?”

One of the greatest concerns of organisations is that the manner in which the NDIS has been implemented has and/or will compromise organisational values and standards of service. The expectation is that a registered NDIS provider will provide a higher quality service and comply with significant compliance obligations compared to an unregistered NDIS provider who has no compliance requirements while price points are the same for both. While the regulatory body has a Code of Conduct that all NDIS providers are required to abide by, this is in no way comparable to the standards to be met by registered providers. Registered providers also have to comply with the Code of Conduct in addition to the many other requirements.

Parts of the sector have raised the prospect of opting out of the NDIS Commission compliance requirements and offering services as unregistered providers e.g. utilizing Plan Management and Self-management options. As providers deal with their histories, new legislation, NDIA changes in the delivery of services and Quality and Safeguarding Commission requirements, some have determined that there are no benefits in being a registered provider, from the point of view of an NDIS participant making a choice about what service provider they should choose. In fact, they are

[5] Queensland Productivity Commission, Issues Paper, June 2020 p. 16
[6] Queensland Productivity Commission, Issues Paper, June, 2020 p. 5

saying that the behaviour of the NDIA through their lack of meaningful consultation with providers; expecting new changes to be implemented at extremely short notice; and ignoring the evidence the provider sector has offered them over the past six years; is diminishing future prospects and driving participants to unregistered providers. Some long-term senior personnel in the providers are now saying, “I don’t want to do this anymore!”

Participants and families do not understand the complexities of compliance imposed on registered providers. It is often the case that their need is to secure as much support as possible from the funds available to them. The choice between using a registered or unregistered provider, is often driven by the hourly rate. Hence, there are examples where participants are moving away from registered providers because a support worker (often a former organisational staff member) operating as a sole trader, is able to substantially undercut the NDIS fixed price with no compliance concerns.

NDS members have asked how it is possible that a government entity can apply the same pricing mechanism for registered and unregistered providers. In no other industry would the application of legislation or government-led policy apply to one type of business and not another when the two businesses are expected to deliver the same services. This is not reasonable or acceptable to the provider sector in Queensland.

Limiting growth

It is now evident to NDS in speaking with providers and through surveys, that providers are limiting the number of people they will support as well as the nature of the supports offered because they are fearful that their sustainability will be impacted by growing too quickly and having to deal with the constant “shifting of the goal posts” by the NDIA.

Through its annual State of the Disability Sector survey, Queensland providers responded to the following questions with the following response

We are activity growing our organisation (n=115)

- 18% strongly disagreed
- 21% neither agreed nor disagreed
- 35% agreed and
- 23% strongly agreed
- 3% did not know

This means that for this question almost 40% are not wanting to grow. Taking it future, to the question “We are considering getting out of the disability sector”, 144 providers responded with:

- 39% strongly disagreed

- 27% disagreed
- 22% neither agree or disagree
- 7% agree
- 4% strongly agree
- 1% do not know

These results indicate that growth is not a priority for many organisations even though organisations are active in growing because of demand but are placing limitations on growth. Until there is stability in the NDIS market, taking on new participants will not be a priority. Attracting a suitable workforce in order to expand supports is another contributor to providers limiting the growth of participants in the Scheme.

Pricing/Revenue

Pricing issues have been and still are at the center of NDIS operations for providers.

The Productivity Commission Study Report on the NDIS published in October, 2017, recommended that

> *"independent price monitoring and regulation will benefit participants, providers and the community"*[7] *the outcomes of which would mean that "participants will be assured that quality and safety standards are considered in the pricing of NDIS supports (and) providers will have greater certainty that price setting will be transparent and evidenced based."*[8]

This has not happened. There is anything but certainty and transparency. It would appear, that any use of evidenced-based pricing is being used by the NDIA to suit its budgetary requirements evidence of which, is presented later in this submission.

The Commission expressed concern in its report that:

> *"…while ever the price-setting mechanism is held within the NDIA, there is an incentive for it to be used to offset budget pressures."*[9]

NDS members believe that this is exactly what is happening now which is leading providers to say that the sector is going back to the old system of "contribution funding" of supports in Queensland. Prices for providers need to be set in accordance with independent evidence-based market development, operating under a model of integrated systems efficiency. Prices cannot be set based on a system that suits the budgetary pressures of the NDIA as expressed by the Productivity Commission.

[7] Productivity Commission Study Report – October, 2017 *Overview* p. 35
[8] Ibid
[9] Productivity Commission Study Report – October, 2017 *Overview* p. 34

Monash Modified Model (MMM)

Using the MMM of classification for the purpose of distinguishing between the remoteness of geographic locations was flawed from the beginning for many geographic areas. Representation by NDS, providers and individual organisations since the inception of the Scheme eventually brought change to some of the classifications in 2019. While this change was most welcome, the lack of timely action in reviewing the classifications earlier, left numbers of organisations that were operating in rural towns - classified as “regional” but surrounded by areas classified as “remote”, for extended periods resulting in them losing tens of thousands of dollars.

The lack of appreciation of the location of these communities is another example of a decision, over which providers have no control, bleeding them of cash and hindering their ability to develop the infrastructure needed to improve operational efficiency. Had it not been for other types of social support provided by some of these organisations in their communities, and the commitment of individual personnel in organisations to people with disability, they would no longer be providing supports to people with disability in these remote regions.

The change in classification and the increase in the remote pricing has certainly improved the viability of providers impacted by the remote classification assumptions. However, it is taking time for NDIA staff to understand the changes. Some have consistently had their claims rejected by the NDIA because NDIA staff are not cognisant of the re-classifications. This is another example of an additional operational costs to providers as they engage with NDIA personnel who do not understand changes in their own systems and pricing. The accumulative costs are substantial of the hours spent by senior personnel in organisations over many years dealing with NDIA errors and misinformation. Incorrect advice to providers by NDIA staff has been a common theme throughout the transition.

NDIS Price Guide 2020-21: Recent Price Changes

The NDIA continues to introduce changes to pricing without consultation or understanding the impact of these changes on providers. The most recent changes to Supported Independent Living (SIL), Group or Centre-based supports, claiming for Activity Based Transport and the setting of Support Worker pricing are explored below. The immediate response from providers to these changes is that they will be a nightmare to administer with the need to negotiate with participants and families to on-board all users of these services as though participants are once again, transitioning to the Scheme.

Supported Independent Living (SIL)

SIL changes were effective from 1st July 2020 with no time to reconfigure management systems to facilitate the different pricing elements. The changes will also slow cash flow to organisations as they deal with the different elements outlined in the Price Guide. In addition, providers have reported that claims lodged for SIL prior to these changes have been held back and will be paid under new fixed price arrangements. This then has the potential for claims to be incomplete given the new arrangements.

Negotiating the Roster of Care in a household takes time. The roster is one document and cannot be cut and pasted to separate the support needs of one person to another to maintain confidentiality. It requires providers to re-write the roster for each person and their family for review and discussion. This reduces the efficiency of administration.

Claiming for Shadow Shifts

The Price Guide 2020-21 at page 25 outlines the conditions under which shadow shifts may be claimed where the participant has complex individual support needs that are best met by introducing a new worker. The provider may claim for up to 6 hours of weekday support per annum. Providers advise that this decision is unacceptable and in no way meets conditions conducive to the provision of safe, person-centered, quality services to people with disability. Providers are not able to meet the legislative requirements of Workplace Health & Safety nor the expectations of the Quality and Safeguarding Commission in relation to people with complex support needs with no capacity for appropriate levels of 'onsite' training

Speaking with a number of providers of different size and location, all require much more intensive periods of training depending on the complexity of supports required. Hours range from 9 to 40 hours in Shadow Shifts. An example from one provider delivering very high intensity supports in an accommodation setting is saying that 5 x 8-10 hours shifts are needed to train staff appropriately and to meet legislative requirements.

The hours allowed are clearly grossly inadequate.

Group or Centre Based Supports

In assessing the impact of the manner in which proposed pricing is applied to group supports, providers have suggested that pricing is geared towards "minding" participants in groups, when the opposite is required. Every person has an NDIS plan from which different strategies are developed depending on the nature of the goals to be achieved through various programs offered by providers. Group facilitators are expected to have a specific skill set to develop a program plan, resources, develop risk assessments and report on the outcomes for individuals and the program as a whole.

Information provided on the NDIS website "Understanding the Price Guide" says that *"From 1 July, providers will have the opportunity to use either the new streamlined pricing arrangements for group-based supports or continue to use the 2019-20 arrangements."*[10] Providers have advised that the use of such language belies the truth of what it will take to make the new system of funding work. Providers advise that moving from a single price to multiple pricing can hardly be described as streamlining as the change will increase the administrative burden of providers. It is a costly change to the programming of their customer management systems and will impact on the cost of providing group-based supports.

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The removal of the "capital" component from the price disadvantages organisations who have leased premises for the provision of group supports which will mean a further reduction in revenue for those providers.

The following tables outlines the losses per hour comparing current pricing with proposed pricing:

Standard weekday daytime – Community-based supports

RATIO	2019 - 2020 Pricing		Interim 2020 -2021 Pricing		Planned NDIA Pricing Model		Difference in Revenue Per Hour	
	Hourly Rate per Participant	*Total Revenue per Hour*	*Hourly Rate per Participant*	*Total Revenue per Hour*	*Hourly Rate per Participant*	*Total Revenue per Hour*	*$*	*%*
1:1	$52.85	$52.85	$54.30	$54.30	$54.30	$54.30	$0.00	0
1:2	$29.60	$59.20	$30.41	$60.82	$27.15	$54.30	-$6.52	-11%
1:3	$21.84	$65.52	$22.44	$67.32	$18.10	$54.30	-$13.02	-19%
1:4	$17.97	$71.88	$18.46	$73.84	$13.58	$54.30	-$19.54	-26%
1:5	$15.64	$78.20	$16.07	$80.35	$10.86	$54.30	-$26.05	-32%

(excludes TTP and COVID-19 loading)

Standard weekday daytime – Centre-based supports

RATIO	2019 - 2020 Pricing		Interim 2020 -2021 Pricing		Planned NDIA Pricing Model	Centre Cost of Capital per group		Difference in revenue per hour with Capital Component		Difference in revenue without Capital Component
	Hourly Rate per Participant	*Total Revenue per hour*	*Hourly Rate per Participant*	*Total Revenue per hour*	*Hourly Rate per group*		*Total Revenue per hour*	*$*	*%*	%
1:1	$54.95	$54.95	$56.45	$56.45	$54.30	$2.15	$56.45	$0.00	0%	0%
1:2	$31.70	$63.40	$32.56	$65.12	$54.30	$4.30	$58.60	-$6.52	-10%	-12%
1:3	$23.94	$71.82	$24.59	$73.77	$54.30	$6.45	$60.75	-$13.02	-18%	-24%
1:4	$20.07	$80.28	$20.61	$82.44	$54.30	$8.60	$62.90	-$19.54	-24%	-36%

(excludes TTP and COVID-19 loading)

The proposed pricing imposes losses in revenue of between 10% and 24% for group-based supports where premises are owned by a provider and between 12% and 36% if a provider leases the premises on standard weekday daytime supports.

The outcome of this proposed change is that providers are now saying they will withdraw from offering this service. Some are already losing money on this type of support. One provider asked, "Is the NDIA deliberately trying to kill groups?" The loss of group-based support would potentially mean people having to access the community in greater numbers. In outer regional and remote towns, the communities do not have the capacity to absorb more people with disability.

Providers state that the proposed price is leading them to a decision not to provide the supports.

Overheads

The NDIA in its Annual Pricing Review 2020-21 [11]outlines its findings in relation to overhead costs being just over 20% on average with ranges reported of between 10.5% and 43%. Only 20% of submissions reported overhead costs of close to the benchmark of 10.5%. The nature of the organisations who have overheads down to the benchmark, is not known.

NDS had reported that a survey of 70 organisations reported median overheads of 16% ranging up to 30%. This report was released in January 2015 based on the financial year 2012-13![12]

The review includes information on overheads reported by the Nous Group and NDS. These reports are referenced and pre-date the introduction of the NDIS.[13]

In its discussion relating to overheads, the report outlines that the efficient 25% estimate for overheads is 19.8% well above the assumed 10.5% in the model. [14] In its recommendations, the NDIA did not accept this finding but instead, moved the overhead percentage from 10.5% to 12%15 maintaining pressure on providers despite the evidence.

Span of Control

The review states that respondents to the survey reported a span of control of 11.8:1 close to the benchmark. The efficient 25% estimate for span of control is 15:1. In its recommendations, the NDIA accepted this finding and moved the span of control to 15:1.16

Workers Compensation

The cost model prior to 1st July 2020 provided 3% on salaries for Workers Compensation. The Cost Model Working Group reported that premiums are generally lower than this percentage but that it varies State by State. They also argued that premiums for workers supporting people with complex needs is higher, between 3% and 5.5%.[17]. This advice was ignored by the NDIA. In fact, it stated in the report, "The review accepts that participants with complex needs will often require more funding, both for more supports and for more skilled or experience supports workers. However, this is a planning issue, not a pricing issue."[18] There is no evidence provided supporting the notion that planning is the answer to a recognised and accepted need for funding complex needs.

The 3% assumption for Workers Compensation is reported as higher than both the standardised all industries Australian average premium rate of (1.5%) and the standardised 1.7% national average for the Health and Community Services sector.[19]

[11] NDIS Annual Pricing Review 2020-21 p. 50
[12] Ibid
[13] NDIS Annual Pricing Review 2020-21 p. 55
[14] NDIS Annual Pricing Review 2020-21 p.56
[15] NDIS Annual Pricing Review 2020-21 p. 64
[16] Ibid
[17] NDIS Annual Pricing Review 2020-21 p. 50
[18] NDIS Annual Pricing Review 2020-21 p. 59
[19] NDIS Annual Pricing Review 2020-21 p.54

The TTP Survey similarly found that the average workers compensation premium among respondents was 2.6%, with a median of 2.3% and a 25th percentile of 1.7%.

The recommendation is to decrease the workers compensation premium percentage from 3% to 1.7% in line with the efficient 25% of respondents[20] is another reduction disadvantaging providers rather than accepting the average of 2.6% or the median of 2.3%.

What we are witnessing here is the acceptance of the results in the efficient 25% of providers, in both workers compensation and span of control, but the rejection of the findings in relation to overheads by the same efficient 25%. The movement of overheads to the "assumed" 12% in no way aligns overheads with the most efficient providers in the sector nor the evidence presented in the review.[21]

Activity-based Transport

Advice from providers is that changes in the application of transport in the Price Guide for 2020-21 will add an additional administrative burden. Engaging technical people to reprogram management systems to facilitate costing involved in apportioning support worker time and other costs such as tolls, parking fees and running costs as well as assessing the distance travelled by each individual a number of people travel at the same time in the same vehicle. The general view is that costing and managing transport has always been an administrative nightmare and that proposed changes will have significant cost impacts.

9. Workforce Readiness

Through its Queensland office, NDS has been heavily involved in the preparation of the sector for the changes to workforce foreseen with the implementation of the NDIS. Initially funded by the Department of Communities, Disability Services and Seniors, and later by Job Queensland, NDS had 'Local Workforce Coordinators, located each NDIS region just prior to and post the region's roll out. Local Workforce Coordinators engaged with all parties in the region's ecosystem (employers, training providers, Universities, local councils, job search agencies and interested parties) to develop workforce plans reflective of the region. Through this project and via our general engagement with members and the broader sector NDS has unparalleled knowledge of workforce.

Skill Requirements

The move to a business model of operation under the NDIS requires a higher level of skill both on Boards, Management Committees and in the management of operations.

[20] NDIS Annual Pricing Review 2020-21 p. 64
[21] NDIS Annual Pricing Review 2020-21 p. 58

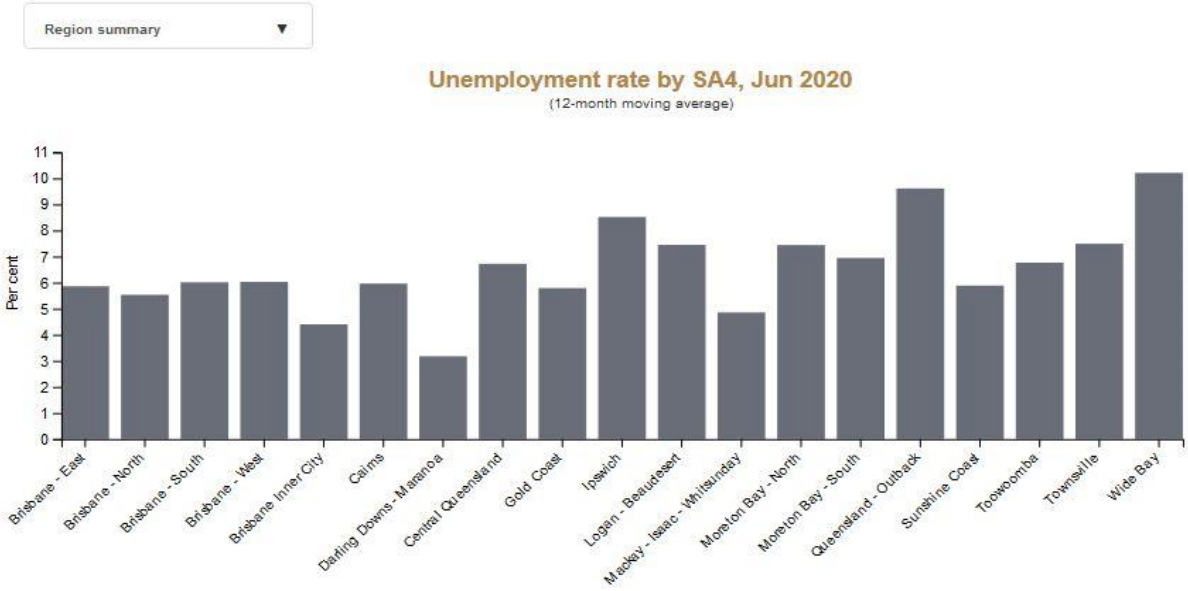
Skill requirements in governance, management, financial, workforce and system levels are extensive and are still under development in many areas of the sector. The need to employ people with the skill sets required to operate under the Scheme and pay them appropriately, has a direct impact on the cost of overheads.

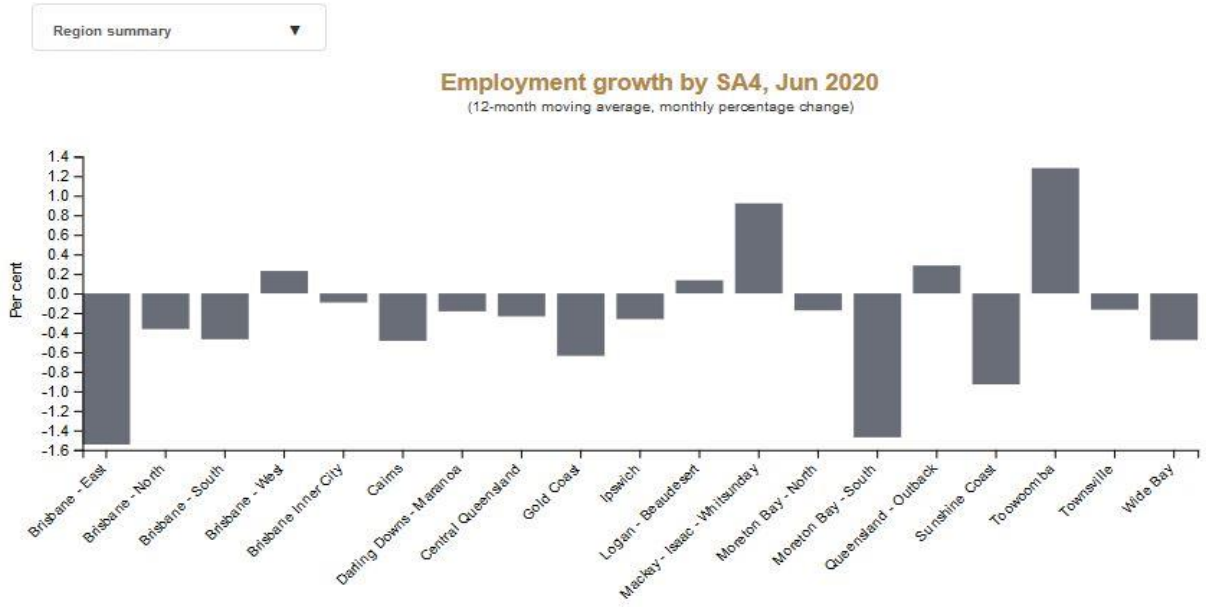
The expectation is that the workforce will need to double to meet the needs of people who qualify for support under the NDIS. If organisations are to expand their operations, it is inevitable that new skill sets will be required at appropriate pay rates to ensure ongoing efficiency and effectiveness in the sector.

The ability to recruit additional people in all spheres of the workforce is made all the more difficult in rural, remote and very remote regions where providers are already experiencing difficulty in attracting suitable staff.

In outer regional, remote and very remote regions, the ability to recruit support staff, has always been challenging. While employment options for people are slim in very remote areas, the ability to engage a person with the attitudes and values needed to support people with disability, is almost non-existent. In addition, providers operating in the metropolitan area and regional cities are also having significant difficulty in recruiting support staff with the right attitudes and values.

Current ABS data demonstrates that the unemployment 12 month moving average to June 2020 is high in many regional areas especially in Outback Queensland and the Wide Bay regions. These results are no doubt influenced by the COVID-19 pandemic. In addition, employment growth is declining as demonstrated in the following graph. Please note that this figure are significantly under reported by to the current JobKeeper initiative – part of the Commonwealth's response to COVID-19.





One would expect that in such circumstances, the ability to employ staff would improve. However, in the current COVID-19 environment, providers are experiencing difficulties in maintaining supports to people with disability with staff self-isolating because of concerns for the people they support while others have decided not to work because the JobKeeper program is paying them more than they had been earning. Providers are seeking to recruit new people to enable rosters to be filled but have experienced a similar problem with people receiving JobKeeper or JobSeeker payments. The outcome is that additional pressure is being placed on existing staff who are having to work the extra hours to ensure that people with disability receive the supports they need.

Recruitment and Training

The 12% loading for administration is purported to cover the cost of all aspects of running the business including recruitment and training of staff.

Human Resources Director Australia reported in November 2019 that it costs organisations a staggering $18,982 on average to hire one employee, according to new research by ELMO Software. The survey of over 1,500 HR professionals across Australia and New Zealand found an organisation's average cost of hiring a new executive is $34,440, compared to $23,059 for senior-level managers, $17,841 for mid-level and $9,772 for entry-level positions.[22]

Staff turnover in the disability sector varies in different parts of the State. The areas of support in which people work also impacts on the longevity of the workforce. From NDS experience in working with the sector, providers have reported that turnover of anywhere between 3% and 19% with the higher levels tending towards providers of Supported Independent Living.

[22] https://www.hcamag.com/au/specialisation/employee-engagement/this-is-how-much-it-costs-to-hire-one-employee/192036

Providers have advised that the cost of recruitment and training is greatly underestimated. Developing recruitment and retention strategies inclusive of incentives to maintain and retain good staff in a competitive market, where similar qualifications and experience apply to aged care, other community services sectors and the disability sector, does not appear to be a consideration in the setting of price for overheads.

Training is an area of concentrated attention for auditors of Quality Systems. Providers have highlighted that up to forty hours of orientation and training is required per person for new people entering the disability workforce. One example provided to NDS is from an Early Childhood Early Intervention provider advised that 38 hours of training is required in their organisation for orientation and training for all new staff. This cost, which has been assessed at $1,450 per person and which excludes the cost of a trainer, is carried by the organisation before a single dollar is earned. Add to this cost, a 12 hour p.a. training component per Support Worker working 15 hours per week, the cost is $1,956 per person. With ongoing training required each year, this provider has assessed that it will take 2.7 years to recover the cost of that training. Another provider in a remote region in North Queensland supporting people with varying needs including complex behavioural support needs and including the use of restrictive practices, requires all staff and Board members to complete 17 modules of training every year.

The cost of recruiting, training and engaging facilitators is a significant factor in the employment of staff which is purported to be carried within the 12% overheads allowed in pricing.

NDS lodged a submission with the Joint Standing Committee inquiry into the NDIS workforce in June 2020. This submission is attached.

10. Thin Markets

In 2019 The Department of Social Services (DSS) and the National Disability Insurance Agency (NDIA) commissioned the NDIS Thin Markets Project (the "Project") to develop a structured approach to responding to thin market challenges in the NDIS. NDS prepared a submission to the Project which we provide as an attachment. As noted in the NDS submission:

> *Complete solutions to resolve all thin market problems across Australia are unlikely to be found, but we can do more to increase the ability of participants to be able to purchase the supports they require.*

At a State level, NDS discovered that there has been a dearth of knowledge about the NDIS in very remote regions in Queensland on the part of both providers, people with disability and their families and the community. Indeed due to the funding NDS has received from the Queensland government, it has been able to engage with some of these communities over a long period.

There are several aspects to the support of people with disability in thin markets. The most common of which include:

- Knowledge of the NDIS
- Knowledge of where people with disability are located
- Interest by providers and people with disability in participating in the NDIS
- Access to Allied Health services
- Distance between providers and participants – travel
- Workforce
- Transport

NDS has worked with organisations in Remote and Very Remote regions of the State but principally through the Central Western Regions of Queensland because of their greater interest and the existence of smaller organisations. A number of these are auspiced by local Councils although one Council decided to withdraw services to people with disability in this region because of the introduction of the NDIS.

In this region, there had been an amount of confusing information delivered to providers including advice from Queensland Government. NDS continued to work with the communities in the region resulting in at least one of the providers making a decision to engage with the NDIS and is currently plan managing sixty-one (61) participants and providing direct support to eight (8) people.

In the South West region, providers invariably were connected to larger organisations based in Toowoomba. Nevertheless, the vastness of the area creates its own significant difficulties and challenges for major providers in being able to reach people with disability in the very remote regions for the pricing on offer.

In North Queensland remote regions, some disability services were often auspiced by larger organisations based in Townsville. There are limitations on service provision in many areas because of distances and the unknown locations of people with disability. For example, there are only two providers of services between Townsville and Mt. Isa of which NDS is aware one of which is Charters Towers.

In the town of Charters Towers, which was originally classified under the Modified Monash Model as rating 4 and which attracted standard pricing, had a major financial impact on the cost of providing services. It has now been rated 6, remote. However, this is another example of the rating bleeding providers of financial capital. Had it not been for other services provided by the major provider in town, the delivery of services to people with disability would have been placed in jeopardy.

In Far North Queensland, many of the providers are classified as Regional apart from Aboriginal and Torres Strait Islander communities in the Gulf.

Interest in the participating in the NDIS in remote and very remote regions is very much dependent on the level of engagement by existing providers of community services.

Many provide a range of different services but the complexity of the NDIS created reluctance to engage with the NDIS. Most providers in the very remote regions do not believe that statistical data on the potential number of participants is correct because of the lack of knowledge of where people reside. In addition, until there was some stability in the role of Local Area Coordinator role, the motivation to become involved in the NDIS was very limited.

Ongoing connection with and support by NDS to providers in the Central West and the appointment of a stable Local Area Coordinator, has seen an increase in the number of people participating in the NDIS. It is this level of personal connection that is essential if people with disability are to be attracted to the Scheme.

Regional / Remote population decline

The depletion of population in remote and very remote areas has an impact on the ability of providers to develop the economies of scale to service people with disability.

Figures extracted from ABS data and Queensland Regional Profiles of Central Western Queensland local government areas are provided as an example. Statistical data on the number of people with severe or profound disability according to Census data, is also provided for these local government areas as follows:

LGA Regions	Population as at 30th June					Percentage decline 2007 to 2026
	2007	2012	2016	2021	2026	
Barcaldine (very remote)	3,338	3,249	2,909	2,627	2,508	-24.9%
Blackall-Tambo (very remote)	2,076	2,236	1,924	1,787	1,746	-15.9%
Central Highlands (remote)	27,596	29,741	28,783	28,658	28,845	-4.5%
Longreach (very remote)	4,174	4,217	3,727	3,350	3,160	-24.30%
Winton (very remote)	1,404	1,380	1,156	1,101	993	-29.30%
Totals	**37,184**	**39,443**	**37,343**	**36,422**	**36,259**	**-2.49%**
Queensland	**4,111,018**	**4,568,687**	**4,848,877**	**5,261,567**	**5,722,780**	**+39.2%**

LGA Regions	NDIS Est. 0-64 yrs based on 2011 census	No. of people with severe/ profound disability 2016 census 0-64 yrs	Total No. of people with severe/ profound disability 2016 Census. All ages	Percentage of the population	Percentage of population in the lowest quintile of social disadvantage
Barcaldine	44	48	110	3.8	10.2%
Blackall-Tambo	48	29	113	5.9	36.7%
Central Highlands	405	459	715	2.6	14
Longreach	75	82	186	5.1	0 quintile 1 50.1% quintile 2
Winton	28	10	53	4.7	44.7%
Total Queensland	**95,724**	**121,729**	**243,267**	**5.2**	**20**

Population for all the communities in the Central West other than Central Highlands which is stable, are projected to fall.[23] Blackall-Tambo and Winton are already in substantial decline with the number of people with severe or profound disability decreasing by 63.75% and 64.3% respectively based on 2016 census. The additional element associated with some of these very remote regions is the level of social disadvantage with Blackall-Tambo and Winton again recording the highest percentages of social disadvantage. Anecdotal evidence suggests that families who have a son or daughter with a disability have left these regions while others are not able to afford to move to larger centres to access supports.

The NDIA pricing review report considered that the sparsity of participants requiring services in these regions. Their view is that the problem will not be resolved through increasing prices or travel time as these solutions do nothing to aggregate demand and ensure efficient delivery of services. The report goes on to say that thin markets operate in remote and very remote areas but this can be resolved through "commissioning" rather than increasing the price.[24] The sector is interested in understanding how commissioning is going to work and who would be the likely providers of supports in these sparse and distance laden regions?

Aboriginal and Torres Strait Islander Communities

NDS has a connection with a major community-managed provider of primary health care to aboriginal communities in the Gulf. In 2017, during the course of transitioning

[23] https://statistics.qgso.qld.gov.au/qld-regional-profiles
[24] NDIS Annual Pricing Review 2020-21 p. 94

to the NDIS in Queensland, NDS spent time to gain an understanding of the unique characteristics associated with the delivery of supports to these communities. It was clear that the NDIA pricing was never going to be adequate to meet the needs of people with disability in these communities.

NDS understands that “commissioning” is being proposed for Aboriginal and Torres Strait Islander communities but that “commissioning” will be dependent on numbers. In addition, NDS understands that tenders will be called for the commissioning of services. While transparency is desirable through the calling tenders, sending a new provider into Aboriginal and Torres Strait Islander communities will be met with resistance until trust is established. Building trust and understanding culture takes time. Providers say that several visits are required before Aboriginal and Torres Strait Islander people will engage.

The ability to provide safe access and accommodation for staff in these communities is also troublesome and expensive. Access to these Gulf communities is by plane adding of another dimension to the concept of transport. Providers of services in these communities advise that staff engaged to provide certain supports find themselves solving a whole range of social issues, most of which do not relate to the purpose of their employment.

For people with disability in these communities, the efficiency and effectiveness the NDIA is seeking in the Scheme, would be best canvassed and then delivered by the organisations who work with these communities on a regular basis rather than calling tenders and accepting the cheapest tender.

NDS is advised that one glaring need in Aboriginal and Torres Strait Islander communities is to provide supports to children with development delay aged 0-6. The opportunity to provide supports to many children has passed since the NDIS was introduced.

It is now 6 years since the NDIS commenced and nothing has changed with regards to the implementation of the NDIS in in Aboriginal and Torres Strait Islander communities.

11. Mainstream Interface

Access to Allied Health Services

Access to Allied Health services is one of the key issues when it comes to mainstream interface. Access is somewhat hit and miss depending on location. The quality of the service provided and in many cases, the limited experience of clinicians with people with disability, is also a concern.

Providers have highlighted that the level of demand for therapy services through the NDIS will outstrip the number of therapists available. One provider has assessed that based on NDIS capacity building figures as at March 2020, over 5,500 clinicians will

be required to fulfil capacity building requirements. In the areas of Developmental Delay and Global Developmental Delay, over 3,100 clinicians alone, will be needed.

The crossover for primary health care providers in some remote and very remote communities in the area of Allied Health Services, is also an issue. Apart from whether experienced clinicians are available, the Department of Health considers allied health for people with disability to be an NDIS issue resulting in people with disability unable to access the therapies they need unless they travel to major centres. Even when people travel to major centres they may not be able to gain access to the therapies they need. Waiting lists are common in regional centres. There needs to be greater level of partnership between mainstream services and providers.

Hospitals

The support of people with intellectual and cognitive disability during hospital stays has always been a major concern for disability organisations. The lack of experience by hospital staff in supporting people with disability, especially where there are complex personal and health needs involved, has generally resulted in disability service providers needing to be present to assist health personnel to understand the person's communication and broader support needs. Indeed, hospitals have expected that organisations will provide the staff necessary to maintain those supports during the hospital stay. However, there has never been any funding to cover such circumstances and there are examples where staff have sat in hospitals for weeks without organisations being paid for their time.

There is no doubt that people who have developed the skills to support people in hospital are the best people to provide that support. However, the expectation that disability organisations will provide that support free-of-charge, is not acceptable and is one of the issues that has to be addressed by the NDIA and departments of health.

With the COVID-19 pandemic currently operating, there are major concerns about how people with disability will be appropriately supported in hospital when someone with intellectual or cognitive disability falls ill with this virus and requires hospitalization. In addition, if a person is a resident of a Supported Independent Living house, then the ability to isolate people from one another adds to the complexity of support. Who is responsible for providing alternative housing for people supported under SIL in such circumstances? These matters are complex and require paid time if a provider is to be engaged by others to assist in resolving these complex and multi-sector issues.

One of the significant inconsistencies in the development of support plans, has been the lack of Support Coordination applied in participant plans. Providers cannot understand why one person with similar support needs to another will be approved for Support Coordination and the other not qualify for this support type. Not providing Support Coordination in participant plans leaves many individuals vulnerable to service gaps and major risks. Providers report that they continue to undertake coordination work for individuals given the lack of Support Coordination in people's plans and also the inadequate experience of many Support Coordinators that currently provide services. This work is unrecognized by the system and unpaid.

Transport

Transport in thin markets is basically non-existent. In remote areas there is generally no public transport apart from one taxi in some towns. In very remote regions, public transport does not exist. Transport falls on to the provider who may or may not have the capacity to provide the transport needed. One provider operating in a remote region and who was providing transport, has now ceased unless transport is within the boundaries of the town or towns in which they operate. Another provider in a very remote region and auspiced by a Council, continues to provide transport to one person with a disability who lives 1.5 hour's drive from town. A round trip to access the community for two hours for this person is 8 hours duration.

12. Quality and Safeguards Commission

The NDIS Quality and Safeguarding Commission (NDIS Commission) commenced its responsibilities in Queensland on the 1 July 2019. The introduction of the Commission changed significantly the regulatory process for Queensland providers. Prior to the NDIS Commission, Queensland had a well-established and understood registration process, quality assurance framework, worker screening methodology and restrictive practices authorisation and reporting practice. These processes were managed by the Queensland government.

The transition of existing providers to the new NDIS Commission requirements has been difficult. The cost of such a significant change was deemed to be "the cost of doing business" with providers receiving little to no support in their transition. In August 2020 there are many transitional issues and arrangements still being determined.

Having recently made a submission to the Joint Standing Committee for their 'Inquiry into the NDIS Quality and Safeguards Commission', NDS will make its submission available the QPC.

13. The Queensland Government's continued involvement in the NDIS market

NDS recognizes the significant work that has occurred within the Queensland government as the state both prepared and transitioned to the NDIS. It also acknowledges the importance of State government and its agencies in building and developing a more inclusive Queensland society. As not all Queenslanders with a disability will be eligible for the NDIS and the intersections and interactions with all government services by people with a disability, NDS is keen for the State to maintain its leadership role.

The Queensland government needs to ensure that the NDIS is meeting the needs of Queensland's unique population demographics and dynamics.

NDS does however believe that true choice and control should happen across all NDIS funded services. In this regard, any government service delivered should be under the same requirements as the market. Specifically:

- Accommodation Support and Respite Services (AS&RS) should be working under the same pricing arrangements, quality standards and legislation as other NDIS registered service providers. Paying above regulated prices distorts the market, weakens a participant's ability to compare services and prevents fair marketplace competition.
- Limiting some of the supply work under Queensland's restrictive practices framework to only government personnel. This is covered further in the next section.
- As previously mentioned, NDS acknowledges the work being undertaken by the Assessment and Referral Team under money the State secured from the Commonwealth. NDS believes there was an opportunity for a co-design of the approach, one that enabled existing providers to also provide the equivalent service. Existing providers are already established in communities which would have enabled the process to be rolled out faster and across more regions. It would also have built organisational expertise that would reside post funding.

14. Restrictive Practices

There are a range of issues with regard to providers operating under the dual regulatory systems in relation to the authorisation and use of restrictive practices under the Disability Services Act 2006 Queensland (DSA 2006) and the NDIS Quality and Safeguarding Commission. Many of the concerns raised by providers, some of which are outlined below, have a direct impact on increasing the costs of services to NDIS participants with behaviour support as an identified area of need. The mismatch between regulatory requirements and NDIA pricing will continue to impact on adequate supply of appropriate services and the quality of such services. This supply issue relates to both implementing providers and Behaviour Support Practitioners.

Greater assistance to providers at the time of transitioning from the regulation of the use and authorisation of restrictive practices under the Disability Services Act 2006 Queensland (DSA 2006) to operating under the dual regulatory obligations of the DSA and the NDIS Quality and Safeguarding Commission regulation, would have been highly beneficial. There were a number of areas causing confusion and difficulty for providers during transition, some of which continue to date, including differences in definitions of restrictive practices, or what practices are deemed to be within scope for required reporting. It is not a straightforward matter to identify the use of regulated restrictive practices and requires a reasonable level of education in this area in order to understand the demarcations and interrelationships between duty of care; developmentally age appropriate practices (e.g. locking a gate for a four year old child); least restrictive alternatives; skills deficits; and restrictive practices.

Under the DSA 2006 providers had been required to identify circumstances under which they were placing limitations on human rights based on skills deficits, as defined in the DSA 2006, which identifies these practices as exclusions to regulated restrictive practices. The national regulation does not recognise these exclusions. There are a range of implications of this regulatory inconsistency. For example, the DSA 2006 regards the locking of gates, doors or windows to safeguard adults with an intellectual or cognitive disability who have a skills deficit that might otherwise place them at risk of harm as an exclusion to regulated restrictive practices. A different response is required to support individuals who are deemed to have a skills deficit. The immediate implication during the transition for providers was as follows:

1) For providers experienced in the area of regulatory obligations regarding restrictive practices they needed to reassess every instance of actions that had previously been covered by the locking of gates, doors and windows regulatory policy.

2) Redefine actions as restrictive practices as per national regulation.

3) In cases where the NDIS participant did not have an allocation for behaviour support in their NDIS plan, the provider needed to initiate conversations that triggers a plan review. Until such time that the NDIA made an inclusion of an allocation of behaviour support in an NDIS participant's plan, the provider was required to report every instance of the use of an unauthorised restrictive practice to the NDIS Commission. This reporting was in many cases extremely onerous and work that providers were not funded to undertake. The alternative for providers was for them to work with the NDIS participant and their family to either find an independent Behaviour Support Practitioner prepared to undertake pro bono work for the participant and provider to meet the regulatory obligations (i.e. develop and submit a plan for a Short Term Approval or Interim Behaviour Support Plan) or supply their own Behaviour Support Practitioner to undertake this work pro bono.

4) In cases where the NDIS participant did have an approved Positive Behaviour Support Plan, that did not include newly defined restrictive practices, the provider needed to initiate conversations to effect reviews of Positive Behaviour Support Plans. This may or may not have required an NDIS participant plan review.

5) For providers not experienced in the area of regulatory obligations regarding restrictive practices, this required the same commitments as above, but in addition to these required that they educate themselves regarding the dual obligations under state and national regulatory arrangements.

Unlike the existing framework in Queensland, the national regulation extends to cover regulated restrictive practices used for under 18 year olds. This change effectively meant a practice that had not required reporting under the state-managed system required providers to identify and report every instance of its use, until such time as a Short-Term Approval, Interim Behaviour Support Plan was in place.

Meeting the regulatory obligations has continued to be highly problematic for some providers due to issues that are outside of their control, such as delays in inclusion of behaviour support funding in people's NDIS plans and the shortages of behaviour support practitioners available to develop plans in a timely manner. Some providers are reporting that they have wait lists of six months or more to develop Positive Behaviour Support Plans for NDIS participants. The administrative burden on providers relating to reporting requirements during this period is substantial and not claimable under the NDIS.

NDS have previously raised concerns regarding impediments to market development in the area of behaviour support services for adults with intellectual or cognitive disability who are subject to containment of seclusion as defined under the DSA 2006. In these cases, the DSA regulates that it can only be a delegate of the Chief Executive of the Department of Communities, Disability Services and Seniors that can undertake the development of the required multidisciplinary assessment and Positive Behaviour Support Plan. This regulatory arrangement pre-existed the introduction of the NDIS. NDS has made submissions in the past that this is neither a necessary or desired arrangement within the NDIS market model. This is an area that can be responded to by the non-government market provided the NDIA pricing is adequate for the services required. Further to this concern and in keeping with one of the core pillars of the NDIS (choice and control) NDIS participants should be empowered to choose their preferred supplier of behaviour support services.

15. Conclusion:

While NDS acknowledges that the roll out of the NDIS is Queensland, the largest social reform since Medicare, has not been easy, we also acknowledges that it is has been a significant achievement. This has only been possible due to the collective effort of:

- many individuals - participants, their families and carers, employees of the sector and volunteers
- many organisations - individual for profit and not for profit organisations, advocacy groups and peak bodies
- both Commonwealth and State government departments and agencies.

While the perspectives of the above are all different, the sort outcome is the same, people with a disability being able to live an ordinary life. All parties collectively need to embrace continuous improvement and accept that new policies, new practices and new values will always be needed during, and post, transition.

16. The Way Forward

In the last two years, NDS has included a section in our State of the Disability Sector Report listing twelve items NDS would like to see happen under the title of "The Way Forward". Below is an updated version of these actions.

1. **A fully-funded NDIS** - Governments must commit to funding the NDIS acknowledging the need for reviews that reflect all evolving evidence about the costs of disability support.
2. **Prices to stimulate growth and quality** - Prices set by the NDIA are insufficient to sustain some services and threaten quality. Prices should reflect realistic costs and be progressively deregulated. A key component of achieving this outcome is NDIS pricing being set by an independent body separate from the NDIS.
3. **Market stewardship that responds to warning signals of market failure** - Pricing, workforce shortages and uncertainty are impeding growth of NDIS supports. To prevent market failure, and to encourage solutions, improved data, clarity about market interventions and a systematic response to emergencies are needed.
4. **NDIS processes informed by experience** - Providers are under pressure to reduce costs, but they can only be as efficient as NDIA systems allow. NDIS and the NDIS Commission should understand and consider the costs to providers when making changes. Likewise, participants should be able to develop their plans with people who have knowledge of disability supports – this may include providers.
5. **Flexibility that reflects national diversity** - NDIS planning, funding and service models must respond to local conditions, particularly in rural, remote and very remote Australia. Different population groups may require different solutions.

6. **Complex design problems resolved** – Disability is complex and the NDIS is struggling with complex design problems, such as employment, transport, thin markets and the interface with other service systems. NDS is confident quality and sustainable solutions can be found by working closely with all parties, including providers.
7. **Investment in quality and safeguarding** - Continuing investment in organisational cultures and staff development is critical to complement the introduction of the NDIS Quality and Safeguards Framework. Recognizing the cost of training in pricing arrangements is critical.
8. **More employment pathways for people with a disability** – there is a spectrum of employment pathways - school-to-work support, open employment and supported employment. Action should be taken to ensure that people with a disability are able to find employment in line with their personal aspirations no matter what the pathway.
9. **National Disability Strategies** – strong strategies (like the 'National Disability Strategy' and the 'Disability Workforce Strategy') that include strong performance measures, access to resources, a prominent public profile and ownership across government and the disability community, are critical.
10. **Pride** – a community that takes pride in the success of people with a disability and those individuals, organisations and government agencies that maximum that success.

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