



Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

Systems and Legal Advocacy for vulnerable people with Disability

The Community Affairs Committee,
PO Box 6100,
Parliament House Canberra ACT 2600
4th November, 2016

Dear Committee Members,

Inquiry into the Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016

Thank you for the opportunity to offer our submission to the Inquiry as named. We hope that our submission offers further insight and reinforces the perspectives of people with disability with whom we work and consult.

We look forward to the final report as it is developed.

Yours sincerely,

Michelle O'Flynn

Director

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

**SOCIAL SERVICES LEGISLATION
AMENDMENT
(TRANSITION MOBILITY ALLOWANCE TO THE
NATIONAL DISABILITY INSURANCE SCHEME)
BILL 2016**

**Submission by
Queensland Advocacy Incorporated**

**Legal Affairs and Community Safety
Committee**

“The reality that the (intellectually disabled) person is a version of myself is one from which so much can be learned and gained, and yet, it is a reality which most people deny and try to escape from.”

Wolf Wolfensberger

“Wrong is wrong, even if everyone is doing it. Right is right, even if only you are doing it.”

Unknown

“All labor that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.”

Martin Luther King, Jr.

About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (QAI) is independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland and where possible in Australia.

QAI does this by engaging in systems advocacy work, through campaigns directed to attitudinal, law and policy change, and by supporting the development of a range of advocacy initiatives in this state.

QAI also provides three individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program. Our experiences in providing legal and advocacy services and support for individuals within these programs has provided us with a wealth of knowledge and understanding about the experiences, needs and concerns of individuals who are the focus of this inquiry.

We shall attempt to address the amendments and repeals to the Social Security Act based on the implementation of the rollout of the National Disability Insurance Scheme (NDIS) and upon the Explanatory Memorandum as provided by the Committee.

QAI also makes further recommendations as this submission addresses issues of major importance to people with disability.

Language conveys commitment not merely information. The words used can shape lives whether intentional or not, whether we know it or not. The language we use conveys what is understood and has meaning in community. Language that is not personalised can diminish people rather than describing who they are and all they can be. Further to this when we consider Language, how it is used and its purpose, the historical use of the word ‘**handicapped**’ has been used to identify, define, categorise and classify – to put people in ‘groups’ so that people are: placed, treated, managed – determined FOR. This has created a culture of demeaning and diminishing people with disabilities and is incongruent with the intent and purpose of the NDIS.

The changes to the Act and the definition of the person to which the Act is relevant has been amended for the purposes of eligibility of the Mobility Allowance and the NDIS, yet implies that a person with disability doesn’t exist outside the ages of 16-65.

Exploration of the explanatory memorandum in conjunction with the Social Service Act is somewhat difficult considering the lack of genuine explanation in the memorandum. While it indicates the changes to be made and points to other sections of the act as the reason for the proposals, there is no real explanation for them other than an assumption that people will transition to the NDIS as a rationale for these amendments.*

CANCELLATION OF THE MOBILITY ALLOWANCE FLAGS NDIS ENTRY

Anecdotal evidence received from people with disability to this organisation via participants in this and other states have indicated that some people have first learned of their acceptance into the NDIS because they have become aware that their mobility allowance has been cancelled. This kind of treatment is not a respectful manner to inform people that their eligibility to the NDIS is confirmed, nor does it ensure that the financial security of the person is upheld. Many participants have confirmed that they must wait six, eight or more weeks before their NDIS Plans are funded. In the meantime they are unable to access their vocational education or training or workplace.

QAI recommends that any cessation of the Mobility Allowance or garnishing of the Allowance does not occur once Plans are approved but instead when services and supports commence under the NDIS.

REPEAL OF VOCATIONAL REHABILITATION PROGRAM AND VOLUNTARY WORK

QAI is perplexed and concerned by the changes to the Act that is limiting the Mobility Allowance to people who “*must be engaged in gainful employment or undertaking vocational training (or a combination of these).*”

The NDIS will not provide all supports to all people with disability who need assistance. Many people with disability who rely on the Disability Support Pension (particularly people with intellectual or cognitive impairment and or mental illness) will be not be deemed suitable for vocational education, training or employment due to a range of social and disability impacts.

The amendments to the Act will deny Mobility Allowance to people who may be engaged in volunteer work and vocational rehabilitation, regardless of whether they are eligible for the NDIS or not.

Vocational training no matter where it is delivered or by what services or support extends the skills and experiences for people with a range of disabilities. Volunteering not only prepares people with disability for ‘gainful employment’ but offers social and emotional supports, relationship opportunities and a great deal of personal satisfaction and accomplishment is experienced by people contributing their time, labour, devotion, loyalty and skills to community.

The NDIA states that transport support will be provided for ‘*people participating in day programs*’ which may also include support service provided vocational training. People who are **self-directing** their supports and services under the NDIS will often be undertaking the same activities with their own employees or contractors, and should also be considered as undertaking vocational training.

QAI recommends that eligibility for the Mobility Allowance includes people engage in vocational training of all types and volunteer activities, who are not eligible for the NDIS and for those who are NDIS participants, that safeguards be ensured so that they are not disadvantaged.

FINANCIAL DISADVANTAGE

The NDIS describes the Mobility Allowance as the following:-

Mobility Allowance provides financial assistance for people with disability, illness or injury aged 16 years or over who cannot use public transport without substantial assistance and need to travel to and from their home for work (including volunteer work), training or job seeking.

The tiered system of assistance as outlined by the NDIS Participant transport funding information below :-

Three new participant transport support levels:

Level 1 - The NDIS will provide up to **\$1,750** per year for participants who are not working, studying or attending day programs but are seeking to enhance their community access.

Level 2 - The NDIS will provide up to **\$2,625** per year for participants who are currently working or studying part-time (up to 15 hours a week), participating in day programs and for other social, recreational or leisure activities.

Level 3 - The NDIS will provide up to **\$3,456** per year for participants who are currently working, looking for work, or studying, at least 15 hours a week, and are unable to use public transport because of their disability.

Exceptional circumstances: participants can receive higher funding if the participant has supports (mainstream, informal or funded) in their plan that enables their participation in employment.

There is a need to ensure that people with disability are not 'worse off' either financially or socially. Currently many people with disability are charged for transport by their personal support service providers, fees that range in prices and yet are often this is shared by travelling in buses, or cars with other service users who pay the same or similar fees regardless of the number of people travelling on any given day. These same service providers are likely to charge higher rates under the NDIS that will exceed the limited allowance for participants who are not working or studying or have long given up the hope of employment due to an inaccessible and unwilling workforce and employment sector.

In Queensland current eligibility for the Taxi Subsidy Scheme is outlined below:-

To be eligible you must be a permanent resident of Queensland and able to fully meet at least 1 of the 6 eligibility criteria listed below:

1. Physical disability requiring dependence on a wheelchair for all mobility outside the home.
2. Severe ambulatory problem that cannot functionally be improved and restricts walking to an extremely limited distance.
3. Total loss of vision or severe visual impairment (both eyes).
4. Severe and uncontrollable epilepsy with seizures involving loss of consciousness.
5. Intellectual impairment or dementia resulting in the need to be accompanied by another person at all times for travel on public transport.
6. Severe emotional and/or behaviour disorders with a level of disorganisation resulting in the need to be accompanied by another person at all times for travel on public transport.

The NDIS will not be responsible for: *Support to compensate for the lack of a public transport system.*

A highly significant number of people with disability, who may or may not be eligible for the NDIS, engage in employment that is not paid at the award rate. Some are paid with vouchers or gift cards so that their DSP is not compromised as the nature of their work is often intermittent. Other people are paid at rates of pay that are under the award rates or subjected to the slave rates of pay as per the Business Services Wage Assessment Tool which was found to be discriminatory. Not all of the workplaces using the BSWAT are Australian Disability Enterprises (sheltered workshops) but may in fact be ordinary workplaces that have applied this tool to retain workers with disability at minimal cost to the employer.

This group of people will be severely impacted if their Mobility Allowance is withdrawn or limited, and or if the levels of transport assistance provided under the NDIS does not meet current financial transport assistance.

No persons with disability should be disadvantaged financially by changes to these types of transport assistances, as the NDIS is rolled out. People who are engaged in work whether under or over 15 hours of work per week, whether they are paid at under or over the award wages should experience financial disadvantage as change occurs in the welfare or support areas of their lives.

Regardless of the activities a person with disability undertakes, whether eligible for NDIS funded supports or not, clearly the Productivity Commission maintained that no-one would be disadvantaged due to the NDIS rollout. Indeed it appears that those least able to afford the costs of transport are those most likely to be disadvantaged, if their work is not paid at award rates or higher or if they are never likely to be employed.

Indeed there are estimated to be large numbers of people with intellectual/cognitive impairment and or mental illness who currently do not access the Mobility Allowance or the Taxi Subsidy Scheme as they have made use of the public transport system. Significant numbers of these people travel to offer their expertise and lived experience as consultants on the NDIS and yet are not paid or compensated for the costs they incur in offering such expertise and first-hand knowledge.

Access to Healthcare Card: The Mobility Allowance top tier payment of \$3400 per annum is an important supplementary payment and for those not receiving Disability Support Pension. It brings with it eligibility for the Healthcare Card allowing for subsidised medication as well as other cost reductions. Access to the Healthcare Card helps with costs including health care, aids and equipment, transport, housing and personal care.

Aligning the Mobility Allowance with NDIS eligibility will lock some new people with disability out of the payment. It will also deny them access to the Healthcare Card. They will not have access to specialist disability support services and they will be denied any subsidised transport assistance.

QAI suggests that a significant percentage of such people should apply for state funded Taxi Subsidy Scheme concessions because for some people, mobility between public transport and places of residence is becoming an issue.

QAI recommends that a consistent approach be adopted to determining and providing transport assistance through Mobility Allowance, Taxi Subsidy Schemes and any other support similar to the individualised approach to NDIS funding. QAI further recommends that where people do not have adequate access to reasonable public transport options should be entitled to retain their Mobility Allowance and Taxi Subsidy.

JOB SEARCH ACTIVITIES

Such activities as searching for employment are intrinsically linked to vocational education and or training and volunteering. Many people with disability will undertake volunteer work in the hope of future employment prospects in the same workplace. The continuity of transport assistance is vital for many people who engage in these activities as part of community contribution and participation. Given the extreme difficulty people with disability encounter in finding work in the first instance,

reducing the continuity period for Mobility Allowance would severely disadvantage people who are both enhancing their job prospects by undertaking vocational training, volunteering and searching for work.

QAI recommends that the Continuity period for Mobility Allowance remain at 12 weeks as it is presently, and be maintained in the Mobility Allowance Bill.

Finally, QAI has grave reservation regarding the subsection 1038(2) which disallows the return to of the Mobility Allowance to a person who exits the NDIS.

The Amendments statement that the Bill is compatible with human rights and freedoms is a mistake, or deliberately misleading. Given the concerns named in this Submission it is clear that there will be significant breaches of human rights and added disadvantage to people with disability who already experience severe hardship financially, in areas of education, employment and across the spectrum of opportunities and citizenship in Australian life.

We draw your attention to pages 12 “notes on clauses” *‘To the extent that the changes in this Schedule may limit the right to social security, those limitations are reasonable and proportionate to the policy objective of ensuring a sustainable and well-targeted payment system.’*

QAI asserts that herein this statement lay the true motivation for the tightening of eligibility, omissions and repeals of criteria for Mobility Allowance, and that this is merely a cost saving mechanism consistent with government goals of reducing welfare without genuine regard to the human rights of people with disability.

and page 13 *‘ICCPR sometimes require nation states ‘to take affirmative action in order to diminish or eliminate conditions which cause or help perpetuate discrimination’. In this context, the amendments made by this Bill promote and advance the rights of persons with disabilities in Australia by strengthening support for them to exercise their social, economic and cultural rights through their participation in the National Disability Insurance Scheme.’*

QAI asserts that this statement points to the perennial problem of abdication of responsibility to another place, again referring people with disability, their families and supporters on an endless cycle of searching for adequate supports only to find that they will be rejected once again. Again QAI reiterates that only an individualised approach will ensure that people with disability are not routinely failed by a uniform and inflexible colossus.