

Office of the Public Advocate (Queensland) Systems Advocacy

Submission to the Community Affairs Legislation Committee

For the Inquiry into the
*National Disability Insurance Scheme
Bill 2012*

January 2013

Executive summary

The *National Disability Insurance Scheme Bill 2012* (the Bill) is a significant step towards addressing the deficiencies of the current systems that exist across Australia and a meaningful advancement toward the social inclusion of Australians with disability. The National Disability Insurance Scheme (NDIS) should provide greater consumer choice and control, however it is essential to ensure that it accommodates and protects people who are unable to make their own choices, as well as those who require support to make decisions.

There is limited information available regarding the implementation of the NDIS and it is therefore difficult to provide comment on opportunities and/or challenges that may be encountered in enacting the Bill. Further information regarding the implementation of the NDIS, including the Regulation Impact Statement and NDIS Rules, is urgently required. These key documents are likely to have a significant impact on how the NDIS will be delivered and the experience that people with a disability will have in accessing support services.

There is also an urgent need for further information for applicants and their families, carers, etc to assist in managing expectations regarding the extent to which the NDIS will provide for the care and support that people may be seeking.

I am similarly concerned about the preparedness of the disability support sector in Queensland for the launch of the NDIS. The disability services sector must be supported to build its readiness for the implementation of the NDIS.

The majority of the sections of the Bill that relate to NDIS participants consider the need for some participants to have a nominated person act on their behalf. The existence of court-appointed guardians (for personal and health care matters) and administrators (for financial matters) for people with impaired decision-making capacity must be similarly recognised.

The NDIS application process must not be a barrier to potential applicants accessing support. The Access Request form and application process must not be overly burdensome and must be clearly communicated, streamlined and efficient, with appropriate assistance provided to potential applicants, their families and carers. The NDIS Launch Transition Agency (the Agency) staff responsible for assessing the eligibility of potential participants must have appropriate expertise, experience and training in conducting assessments, and in responding to and supporting the differing needs of people with disability, including those from indigenous and culturally diverse backgrounds.

Not all applicants will satisfy the NDIS eligibility criteria. This may result in some people with a disability struggling to access and fund disability support services and could drive a need for state governments to fill the gap. It may also increase demand for mainstream and community services, potentially to a level that cannot be met thus shifting the pressure points within the system as opposed to alleviating them.

The Agency's role in relation to Participant Plans must be limited to ensuring appropriate financial accountability for the use of public monies. The Agency should only have authority to the extent of ensuring that services purchased using NDIS funds can be appropriately mapped to the assessed need of a participant. The Agency's role in developing and actioning Participant Plans should not extend to making subjective decisions about which organisation/s or individual/s will provide a service to the participant. The Agency should, however, provide support for a participant (when required) to make decisions regarding choice of service provider.

The early intervention provisions in the Bill are a financially sound approach to disability support. Early intervention supports should lead to better outcomes for the individual, improve their quality of life and increase their opportunity for social and economic participation. Such supports may also reduce the burden for, and support the ongoing maintenance of, families, carers and informal support networks.

The establishment of the Independent Advisory Council is an important inclusion in the Bill. It is critical that the Council is afforded the ability to provide advice to the Agency Board on its own initiative so it is not restricted to only act in response to the Board.

The Agency has the important functions of developing and enhancing the disability sector and building community awareness. It should take a proactive and collaborative approach, develop meaningful and targeted objectives and include mechanisms to measure the initiative outcomes.

The Agency must be transparent in terms of its research agenda and research findings. The timely communication of research findings will inform and support the disability sector; empower people with a disability, their families and carers; and provide accountability for the NDIS. The collection and application of NDIS data should be used to advance best practice service delivery and positive, meaningful outcomes for people with a disability.

Overall, I am pleased to provide my support for the introduction of a National Disability Insurance Scheme and commend the Australian Government for its commitment to pursuing more effective means by which to support Australians with disability to achieve quality of life outcomes.

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Background to the submission

In 2011, the Productivity Commission's Inquiry Report, *Disability Care and Support*, identified that Australia's disability support system is 'underfunded, unfair, fragmented and inefficient'¹. The Commission suggested that significant reform was required and proposed a new national scheme for the provision of disability support.

The *National Disability Insurance Scheme Bill 2012* (the Bill) provides a broad framework for a National Disability Insurance Scheme (NDIS) and establishes the National Disability Insurance Scheme Launch Transition Agency (the Agency). In doing so, it offers a mechanism to enable Australians with a disability greater choice and control over the care and support they receive.

In November 2012, the Senate referred an Inquiry into the *National Disability Insurance Scheme Bill 2012* to the Community Affairs Legislation Committee who will deliver their report in March 2013. The Committee has invited submissions from individuals and organisations to inform their findings.

Interest of the Public Advocate for Queensland

The Public Advocate was established by the *Guardianship and Administration Act 2000* to undertake systems advocacy on behalf of adults with impaired decision-making capacity in Queensland. The primary role of the Public Advocate is to promote and protect the rights, autonomy and participation of Queensland adults with impaired decision-making capacity (the adults) in all aspects of community life.

More specifically, the functions of the Public Advocate are:

- Promoting and protecting the rights of the adults with impaired capacity;
- Promoting the protection of the adults from neglect, exploitation or abuse;
- Encouraging the development of programs to help the adults reach their greatest practicable degree of autonomy;
- Promoting the provision of services and facilities for the adults; and
- Monitoring and reviewing the delivery of services and facilities to the adults².

The Public Advocate is firmly committed to ensuring that Australia's responsibility under the United Nations Convention on the Rights of Persons with Disabilities is upheld. Some of the particular focus areas of the Office are: Equality and non-discrimination (Article 5); Awareness-raising (Article 8); Equal recognition before the law (Article 12); Freedom from exploitation, violence and abuse (Article 16); Living independently and being included in the community (Article 19); Freedom of expression and opinion and access to information (Article 21); Respect for privacy (Article 22); Respect for home and family (Article 23); Education (Article 24); Health (Article 25); Habilitation and rehabilitation (Article 26); and Work and employment (Article 27).

In 2010, there were approximately 110,000 Queensland adults with impaired decision-making capacity.^{3 4} This vulnerable cohort includes adults with a disability, some of whom receive a government-funded or government-provided specialist disability service. The most common types of disability experienced by these adults were intellectual disability (40%) and psychiatric disability (32%)^{5 6}.

The majority (66%) of Queensland adults with impaired decision-making capacity have a profound or severe level of limitation with the core activities of communication, self-care and mobility.^{7 8} This means that in addition to having impaired decision-making capacity, people require assistance to undertake, or are not able to undertake, some core activities in normal daily life.

¹ Productivity Commission 2011, *Disability Care and Support: Executive Summary*, Report No. 54, Productivity Commission, Canberra, p3.

² Section 209, *Guardianship and Administration Act 2000* (Qld).

³ Australian Bureau of Statistics 2012, *Microdata: Disability, Ageing and Carers, Australia 2009*, Cat No. 4430.0.30.002, Australian Bureau of Statistics, Canberra.

⁴ Australian Bureau of Statistics 2008, *Population Projections, Australia, 2006 to 2101*, cat no. 3222.0, Australian Bureau of Statistics, Canberra.

⁵ Australian Bureau of Statistics 2012, *Microdata: Disability, Ageing and Carers, Australia 2009*, Cat No. 4430.0.30.002, Australian Bureau of Statistics, Canberra.

⁶ Australian Bureau of Statistics 2008, *Population Projections, Australia, 2006 to 2101*, cat no. 3222.0, Australian Bureau of Statistics, Canberra.

⁷ Australian Bureau of Statistics 2012, *Microdata: Disability, Ageing and Carers, Australia 2009*, Cat No. 4430.0.30.002, Australian Bureau of Statistics, Canberra.

⁸ Australian Bureau of Statistics 2008, *Population Projections, Australia, 2006 to 2101*, cat no. 3222.0, Australian Bureau of Statistics, Canberra.

Despite accessing multiple service systems (including specialist disability services), across multiple sectors (government, non-government and private organisations), people with impaired decision-making capacity have a high level of unmet need. The current combination of specialist interventions and mainstream services is failing to meet the support needs of people with impaired decision-making capacity.

Queensland adults with impaired decision-making capacity are among the most disadvantaged people in the community. An unacceptably high level of disadvantage is experienced across a range of social and economic indicators. This disadvantage significantly reduces quality of life and increases the risk of abuse, neglect and exploitation.

As a result, there is a critical and immediate need for all levels of government, across all sectors, to invest in a sustainable social system that ensures access to social, economic, civic and specialist resources for people with impaired decision-making capacity, their families and support networks. This is a primary way to promote inclusion, protect rights and interests, and reduce risks of abuse, neglect and exploitation.

Position of the Public Advocate

The Bill is a significant step towards addressing the deficiencies of the current disability service systems that exist across Australia and advancing cultural change and genuine social inclusion. The proposed legislation does not extend to the implementation of the NDIS and it is therefore difficult to provide comment on the opportunities and challenges that may be encountered in enacting the Bill, the potential sustainability and success of the Scheme, its impact on the delivery of support services and the long-term achievement of positive and meaningful outcomes for Australians with a disability. Further information regarding the implementation of the NDIS, including the Regulation Impact Statement and NDIS Rules is urgently required.

As highlighted by the Centre for Welfare Reform, the NDIS ‘has the potential to be one of the most exciting instruments for turning disability rights into real rights, however much will depend on the details of how the NDIS is designed’.⁹ I note the potential flaws of the proposed NDIS as identified by the Centre and await the upcoming paper detailing their system concerns. The Committee is referred to the article *Fears for NDIS*¹⁰, published by the Centre for Welfare Reform.

I also look forward to further details regarding implementation of the NDIS in Australia to enable a more fulsome analysis of the Scheme and its ability to respond to the concerns that I detail further in this submission.

I support the Guiding Principles in the Bill, which advance the inclusion and participation of people with a disability. All Australians have the right to feel valued and respected. They have the right to access to social and economic resources and have their needs met so that they can live in dignity.

The inclusion of people with impaired decision-making capacity

The proposed NDIS is premised on the assumption that individuals have the capacity to make their own decisions. This is likely to present challenges for people with impaired decision-making capacity.¹¹ People with impaired decision-making capacity have the same rights as people with capacity so it is essential to ensure the NDIS accommodates and protects people who are unable to make their own decisions.

The needs of people with impaired decision-making capacity must be considered at both policy and implementation levels. Access to, and navigation within, the NDIS system must allow for substitute and/or supported decision-making in certain circumstances and include protections from potential abuse, neglect or exploitation. In addition, every effort must be made to understand the surrounding circumstances and ascertain the true wishes of the person with impaired decision-making capacity prior to decisions being made on their behalf.

⁹ Duffy, S. 2012, *Fears for NDIS*, The Centre for Welfare Reform, viewed 23 January 2013, <http://www.centreforwelfarereform.org/library/by-az/fears-for-ndis.html>.

¹⁰ Duffy, S. 2012, *Fears for NDIS*, The Centre for Welfare Reform, viewed 23 January 2013, <http://www.centreforwelfarereform.org/library/by-az/fears-for-ndis.html>.

¹¹ JFA Purple Orange 2012, *The Road to NDIS: Lessons from England about Assessment and Planning*, Julia Farr Association, Adelaide.

The language of the Bill is quite broad when it specifies that a person may make a request to become a NDIS participant [Chapter 3, Part 1, Section 18]. The Bill does not specify that a support person or substitute decision maker may submit an Access Request on behalf of a person with a disability (should the person be unable to complete and submit the request themselves), however the inclusive, person-centred nature of the Bill suggests that a support person or substitute decision maker would be permitted to make an application on a person's behalf. It is my position that the policies, rules and procedures relating to this Clause should accommodate (and not exclude) the needs of Australians who require another person to submit an Access Request on their behalf.

The majority of the sections of the Bill that relate to NDIS participants consider the need for some participants to have a nominated person act on their behalf. The Bill specifies that a request under the Bill may be made by the participant's nominee on behalf of the participant [Chapter 4, Part 5, Division 1, Clause 78 (2)]. This particularly relates to the preparation or review of plans and the management of funding for supports. I am supportive of this approach.

Any NDIS policies, rules or procedures relating to the appointment or actions of a Plan or Correspondence Nominee should complement, and not be in conflict with, state guardianship and administration legislation. This includes the underlying principles of state legislation.

In accordance with this, it should be noted that Queensland adult NDIS participants who have impaired decision-making capacity may have a court appointed guardian to make personal and health care decisions on their behalf and/or an administrator to act on their behalf in relation to financial matters. Guardians and administrators are appointed to ensure the interests of the adult with impaired decision-making capacity are protected and their needs are met. As such, an appointed guardian or administrator may apply to the Agency to become an appointed Plan and/or Correspondence Nominee for the purposes of the NDIS. A guardian or administrator will be able to provide the Agency with court documentation as evidence of their appointed guardianship.

The Bill [Chapter 4, Part 5, Division 2, Section 89] does not include a provision for the alteration or cancellation of a Plan or Correspondence Nominee in response to a court-ordered change in guardianship or administration. It only allows for an alteration or cancellation at the request of a participant or the Nominee themselves.

It should be noted, however, that a person's decision-making impairment may be a temporary situation or could fluctuate over time. As a result, the court may revoke a guardianship or administration appointment. In addition, a change in personal circumstances may result in the appointment of an alternative guardian or administrator. The Bill and related NDIS policies, rules and procedures should recognise the existence of court-appointed guardians (for personal and health care matters) and administrators (for financial matters). They should also be responsive to any changes in guardianship or administration for NDIS participants.

Supporting the disability services sector and managing the expectations of potential participants

I am concerned about the preparedness of the disability support sector in Queensland for the launch of the NDIS; this concern may also be warranted nationally though I defer to the knowledge of my interstate colleagues in this respect.

While some businesses and organisations may already be planning for how they will operate in the new environment, there is likely to be a considerable number who do not fully understand the implications of the NDIS on the marketplace, how to prepare for the market changes or how to position their organisation to operate within this new environment.

The sector must be supported to build its readiness for the implementation of the NDIS. Regardless of whether a state or particular regional area within a state is participating as a launch site or not, resources should be provided to assist state governments, regional offices, non-government service providers and community organisations to understand the likely nature of operating within a market economy and how they might position themselves to be of best service to people with a disability, both prior to and following the introduction of the NDIS.

Navigating the new disability support system will be difficult for NDIS participants, their families and carers if the organisations providing support services are not prepared or organised. This may also impact on the quality of the disability support services available to participants.

The Regulation Impact Statement should be released to the sector as a matter of urgency. The sector needs to understand how the NDIS will be delivered and the implications for their organisation as soon as possible, so they can prepare for the new disability support environment.

I note that the NDIS Rules, which will guide and detail the operation of the Scheme, are still being developed.¹² These rules should be publicly released as a matter of urgency. The Rules are likely to have a significant impact on how the NDIS will be administered and delivered as well as the experience that people with a disability will have in accessing support services. The release of further detail around the delivery of the NDIS is urgently needed to shape and manage the expectations of potential participants and the disability support sector.

In accordance with this, there is also an urgent need for further information for applicants and their families, carers, etc to assist in managing expectations regarding the extent to which the NDIS will provide for the care and support that people may be seeking. It is clear from my discussions with individuals, families/carers and staff from service organisations in Queensland that many people do not understand what is meant by the term 'reasonable and necessary supports'; nor do they understand how this will be assessed.

The Bill outlines that the NDIS Rules will include provisions for registered providers of disability support services [Chapter 4, Part 3, Section 73 Clause (2)]. Provision for conducting audits to ensure that registered providers meet minimum service levels and quality standards is supported.

The compulsory requirements for registered providers must ensure that they have sound business, accounting and governance practices, and appropriate complaint and audit processes, however compliance with NDIS requirements should not be overly burdensome for providers or be a barrier to operating their business. The registration and compliance processes for providers should be clear and not overly demanding.

Supporting NDIS applicants and participants

The NDIS is designed to provide support to all Australians who have a permanent disability that impacts their communication, mobility, self-care or self-management. The majority of potential NDIS participants will be identified through their application to access support, however there will be others who continue to be 'hidden' within the community. These vulnerable people might include those who have a disability and who are homeless, in contact with the criminal justice system, undertake high risk activities/behaviours, reside in remote areas, are indigenous, or are from a culturally diverse background.

Strategies to identify these 'hidden' members of the community should be built into the Scheme. Despite the potential lack of awareness these people may have of the NDIS, they will have a right to apply for support.

The NDIS application process must not be a barrier to potential applicants accessing support. The design of the NDIS Access Request form and application process must not be overly burdensome for potential applicants, their families and carers. The application process, including the provision of required documentation, must be clearly communicated, streamlined and efficient.

Appropriate assistance in navigating the process and submitting the required documentation must be provided to the potential applicants, their families and carers where this is required. It is equally important that the Agency staff responsible for assessing the eligibility of potential participants have appropriate expertise, experience and training in conducting assessments, and in responding to and supporting the differing needs of people with disability with respect to their ability to engage with and participate in the assessment process.

Not all people with a disability, or impaired decision-making capacity, have or need a carer. For those who do, families, unpaid carers and informal support networks often provide the majority of care. For many, quality of life is dependent on the commitment of families and support networks. While the Bill acknowledges and respects the significant roles of families, carers and support networks, I trust that the implementation of the NDIS will extend to providing practical support for the development and ongoing maintenance of families, carers and informal support networks.

¹² Commonwealth of Australia 2013, *National Disability Insurance Scheme: Exposure Draft National Disability Insurance Scheme Bill 2012*, Commonwealth of Australia, viewed 16 January 2013, <http://www.ndis.gov.au/wp-content/uploads/2012/11/Legislation-overview-final.pdf>.

Similarly, the Bill explains that people with disability will be supported to exercise choice and control in the planning and delivery of their support services and interactions with the Agency. Without the detail of how the NDIS will be implemented, it is difficult to determine whether people requiring assistance will actually receive an appropriate and adequate amount of support.

The principle in the Bill that provides for people with disability to be assisted to coordinate the supports they access outside the NDIS with those accessed through the NDIS is welcomed. A lack of accessible information and assistance to guide the navigation of government, non-government and private sector providers can compound the stress and frustration experienced by people with a disability, particularly those who also experience impaired decision-making capacity, as they attempt to identify and secure support services.

Any child exhibiting a developmental delay or person with a disability [as described in Chapter 3, Section 25, Clause (a)] will meet the access criteria for early intervention support. The provision of early intervention supports to reduce the future need for support and to prevent the deterioration of a person's functional capacity is not only a financially sound approach, but is likely to lead to better outcomes for the individual, improve their quality of life and increase their opportunity for social and economic participation. Such supports may also reduce the burden for, and support the ongoing maintenance of, families, carers and informal support networks.

I note that the General Principles in the Bill allow participants to exercise their choice and control of disability supports in a way that is appropriate to their circumstances and cultural needs. It is anticipated that the NDIS policies, rules and procedures relating to the eligibility assessment process, plan development and implementation accommodate the cultural and linguistic needs of people with an Indigenous or other cultural background.

The assessment tools used to determine the eligibility of a person with an Indigenous or other cultural background must be adequate and culturally appropriate. Westernised assessment tools can be culturally biased due to language and general communication differences, education levels, remoteness, lack of baseline measurement and the inability of tools to allow for personality, family, community and cultural differences. A person should not be denied access to the NDIS due to discriminatory assessment tools and processes.

Not all applicants will satisfy the NDIS eligibility criteria. This may result in some people with a disability struggling to access and fund disability support services and could drive a need for state governments to fill the gap. It may also increase demand for mainstream and community services, many of which maybe unprepared for this increased demand. The risk being that the pressure points in the current disability service system are simply shifted to other service systems, as opposed to being alleviated.

Participant Plans

The Bill outlines the matters that are compulsory inclusions of a Participant Plan, namely a statement of goals and aspirations and a statement of participant supports [Chapter 3, Part 2, Division 2, Clause 33]. It unclear whether these two items form the only significant components of the Plan or whether the Plan has a broader scope e.g. whole-of-life planning. Presumably, the intent for the plans is to provide the Agency with financial accountability relating to funded supports. Further detail about the purpose and scope of the Plans is required to manage the expectations of potential participants and the disability support sector.

It is the Agency's responsibility to facilitate the preparation of Participant Plans. The level of support that will be extended to a person for the purpose of developing their Plan is unknown. Some participants will have a clear view of their goals and aspirations, while others may require assistance to recognise their possibilities. As highlighted in *Disability Expectations: Investing in a better life, A Stronger Australia*, some people may require resources to assist them to envisage a good life for themselves. This is particularly relevant for people who have 'experienced years of passive service recipiency and whose personal horizons of what is possible may have diminished'.¹³

¹³ PricewaterhouseCoopers 2011, *Disability Expectations: Investing in a Better Life, A Stronger Australia*, Pricewaterhouse Coopers, Australia, p34.

In addition to the two compulsory statements, a Participant Plan should also document other details relating to the individual and to evidence that the NDIS Plan Principles have been upheld. For example, it might be valuable to document the degree to which the Plan was directed by the participant (including the degree of input by others and the support provided to enable the participation of the NDIS participant), the degree to which the participant is able to execute the Plan (i.e. make service provider choices, coordinate supports from different providers) and when the Plan will be reviewed (or under what circumstances it will be reviewed).

A Participant Plan comes into effect when the Agency has received the two compulsory statements and approved the statement of participant supports [Chapter 3, Part 2, Division 2, Clause 37]. The Agency's role should be limited to ensuring appropriate financial accountability for the use of public monies and, in accordance with this, the Agency should only have authority to the extent of ensuring that services purchased using NDIS funds can be appropriately mapped to the assessed need of a participant. The Agency should not have authority to make subjective decisions about the lifestyle goals of a participant.

In the situation where a statement of support is not fully approved, the Agency must clearly communicate which elements of the support statement are not approved and the reasons for its decision. The provision of such information is important to ensure the participant can make an informed choice about whether to accept the decision or seek a review of the decision.

It is important that the Agency's role in developing and actioning Participant Plans does not extend to making subjective decisions about which organisation/s or individual/s will provide a service to the participant. The Agency should, however, provide support for a participant (when required) to make decisions regarding choice of service provider.

The development and implementation of a Participant Plan for someone with an Indigenous or other cultural background should accommodate their linguistic and cultural needs. This includes family and community decision-making practices and alternative approaches to the delivery of disability support services.

The Bill specifies that if a participant provides the Agency with a revised statement of goals and aspirations, the Agency will respond by providing a revised Plan containing the updated statement of goals and aspirations and the statement of supports as per the existing Plan [Chapter 3, Part 2, Division 4, Clause 47]. The provision of the updated Plan appears to be an administrative exercise as the Bill does not commit the Agency to re-examining the suitability of existing supports in light of the revised statement of goals and aspirations. The conduct of a re-examination might be considered in light of the Plan being a financial accountability tool of the Agency.

There is potential conflict between the General Principles of the Bill and the ability of the Agency to decide whether to conduct a review of a Participant Plan. The General Principles support participants to exercise choice and control in the planning and delivery of their supports, however the Bill provides the Agency with the power to decide if they will conduct a review of a Plan at a participant's request [Chapter 3, Part 2, Division 4, Clause 48]. The power to make such a decision does not support consumer control or the ability of a participant to manage their plan to the extent that they wish to do so.

The Bill provides little detail about the scope and inclusions of a Participant Plan review. A review should revisit the statements of goals and aspirations and supports, and a participant's living arrangements, informal supports and social and economic participation to ensure the continued appropriateness of the statement of participant supports. A review should also support the participant to consider the outcomes they have achieved, their relationships with family and their support network and their autonomy, independence and resilience.

NDIS Launch Transition Agency

In addition to the primary responsibility of delivering the NDIS, the Agency has the important functions of developing and enhancing the disability sector and building community awareness of disability. I support these additional functions and trust that the Agency will take a proactive and collaborative approach to working with the disability services sector. Initiatives to develop the sector and build community awareness must be developed with meaningful and targeted objectives and include mechanisms to measure the outcomes of the initiatives.

I also support the Agency functions of producing and sharing disability related data and undertaking research relating to disabilities. These activities should form the cornerstone of Agency decision-making and be used to advance best practice service delivery and positive, meaningful outcomes for people with a disability.

It is anticipated that the policies, rules and procedures relating to the Agency's research function support a consultative and transparent approach. The Agency's research agenda should complement (and not duplicate) existing research projects as well as pursuing new research. I encourage the Agency to consider research partnership opportunities and the formation of a reference group, comprising government, non-government, academic and disability service sector representatives, to inform the development of research priorities.

The Agency must be transparent in terms of its research agenda and research findings. The timely communication of research findings will inform and support the disability sector; empower people with a disability, their families and carers; and provide accountability for the NDIS.

The establishment of the Independent Advisory Council is an important inclusion in the Bill. I support the significant function of the Council providing advice to the Agency Board on its own initiative so it is not restricted to only act in response to the Board. The legislated requirement that the Board must have regard for the advice of the Council will help ensure the Agency is fulfilling its functions, adhering to the Guiding Principles in the Bill, is accountable and remains in touch with people with a disability and the disability services sector.

I note the Council's membership should reflect the diversity of people with a disability [Chapter 6, Part 3, Division 2, Clause 147]. I therefore encourage the appointment to the council of a person who is either a person with a disability, family member or carer with indigenous heritage. I trust the Council will also include members representing the interests of people with a disability, families, carers and other informal support providers, advocates, service providers and support workers.

Review of legislation

I support the proposed review of the Bill in two years. I trust that the review will consider the intended and unintended outcomes of the legislation for potential participants, participants, families, carers, disability support providers and government.

General support for the Bill

It is the submission of the Public Advocate of Queensland that the proposed Bill is a meaningful advancement toward the social inclusion of Australians with disability. The current disability service system is fragmented, dysfunctional and inequitable. It exacerbates the exclusion and disadvantage experienced by people with disability.

People with disability have the right to access the social and economic resources required to realise their potential. In accordance with this, I support the development and implementation of an effective system that affords people with disability more control and choice over the supports they receive.

Notwithstanding my support for a new system that provides for consumer choice, there remains a responsibility for government to accommodate and protect people with disability who are unable to make their own choices as well as those who require support to make decisions.

I look forward to the opportunity to provide comment on further details of the NDIS, as they become available, in the interests of ensuring that the implementation of the NDIS meets the needs and upholds the rights of those people it is being designed to serve.

Jodie Cook

Public Advocate (Queensland)