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08/08/2017

To: Mr Gerry McInally
Committee Secretary
Joint Standing Committee on the National Disability Insurance Scheme

Dear Mr McInally,

I wish to submit the attached document to the Joint Standing Committee on the National Disability Insurance Scheme. This document is a direct response to a letter from Assistant Minister Jane Prentice regarding ongoing issues with poor communication and responsiveness by the NDIA to provider and participant requests, and feedback provided by the Agency to providers which appears to conflict with the *National Disability Insurance Scheme Act 2013*.

I hope this document may shed light on some of the difficulties facing service providers within the current NDIS structure.

Sincerely,

Richard Goward

Prosthetist, Orthotist
B.P&O, MAOPA

Director - Momentum Sports & Rehabilitation Services

08/08/2017

The Hon. Jane Prentice, MP
Federal Assistant Minister for Social Services and Disability Services

Dear Ms Prentice,

Thank you once again to your response to my letter. I understand that you have directed me to discuss my concerns with [REDACTED]. I unfortunately I have been unable to do so as the contact number provided was for a [REDACTED] – not [REDACTED] as was indicated in your letter. This contact number goes straight through to voicemail, and messages left on this voicemail one week ago continue to go unanswered. As you are aware, I have also made an official complaint to the NDIA regarding the ongoing lack of responsiveness from the Agency to provider and participant requests. Despite my initial conversation with [REDACTED] on 11/07/2017 and her *promise* to provide me with updated information in relation to my request on 14/07/2017, no further contact has been received.

As I have outlined within my previous two letters and official complaint, attempts to contact the Agency by both participants and providers continue to go completely unanswered. Your advice of encouraging individuals “to contact the NDIS if they have a concern about the time taken to consider their request” appears deliberately dismissive, illogical and fails to recognise the issue at hand.

I thank you for bringing to my attention the Independent Advisory Council (IAC) advice regarding the implementation of the concepts of ‘reasonable and necessary’, ‘choice and control’, and ‘ordinary life’. I must admit I was unaware of the existence of these documents. It should be noted here that the terms ‘standard grade’ and ‘entry level’ are not found anywhere within these documents. As you know, the purpose of an advisory council such as this is to guide how decisions should be assessed and implemented by assessors. From the context of your letter, I am confused by your reference to the IAC “paper” (there are seven referenced on the NDIS website) that somehow justifies the concept of ‘ordinary life’ as framed within the feedback provided by the NDIA, dated 23/11/2016: *“The recommended prosthetic limb does not meet reasonable and necessary criteria (as per section 34 of the NDIS Act) as it is not considered value for money to provide mobility needs for an ordinary life.”* The justification provided by the Agency on this instance does not relate to any of the criteria referenced within Section 34 of the Act, nor any other piece of legislation, rules, or advisory documentation published by the NDIA. I wish to draw your attention to the following excerpts from the Act, which are just as legally binding to NDIA decisions as Section 34 of the Act:

3 Objects of Act

(1) *The objects of this Act are to:*

(g) *promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the mainstream community;*

4 General principles guiding actions under this Act

(11) *Reasonable and necessary supports for people with disability should:*

(a) *support people with disability to pursue their goals and maximise their independence;*
and

(b) *support people with disability to live independently and to be included in the community as fully participating citizens; and*

(c) *develop and support the capacity of people with disability to undertake activities that enable them to participate in the mainstream community and in employment.*

The IAC *advice on reasonable and necessary support across the lifespan: An ordinary life for people with disability* document explores the concept of an ‘ordinary life’ though fails to clearly define it. It is evident within the context of the entire document that an ‘ordinary life’ is a life free from the difficulties that disability brings. With this in mind, I draw your attention to the following excerpts:

Consider the infrastructure necessary to provide life-building support

Section 7 in the paper argues that the current organisation of support clusters does not promote planning that facilitates the enablers of an ordinary life. The information from pricing clusters provides little or no guidance to help planners assist participants to think about how they can achieve positive relationships and a sense of belonging; individual autonomy; active involvement in decision making; active engagement in the physical, social, economic and cultural community; and how participants can use their unique strengths in ways that provide a challenge and enable them to make a contribution.

The reorganisation of this information is important to maximise aspirations and facilitate opportunities for an ordinary life.

...

The Council recommends that reasonable and necessary support should facilitate the enablers of an ordinary life, namely positive relationships, belonging, achieving autonomy, active involvement in decision-making, opportunities for challenge and contribution. This should be facilitated through conscious attention to the enablers in planning conversations, capacity building opportunities, and in service provision.

...

Recommendations in relation to other NDIS responsibilities

12. Build the capacity of people with disability and families

Capacity building of people with disability and families is one of the key strategies under NDIS responsibility that can address some of the societal and service barriers that inhibit opportunities for an ordinary life. This is because capacity building provides the possibility of giving people a vision of an ordinary life that can act as a driver of change in demand in the service system and in society. In addition, demand for an ordinary life can reinforce the view that a life lived in services, surrounded by paid staff is not an ordinary life. This is a message critical for the sustainability of the NDIS.

Continuing this theme of capacity building, from the IAC *advice on ‘choice and control’*:

1. The centrality of choice and control

Advice to the Council from experts reaffirmed the lack of choice and control in many aspects of the disability services in Australia and the imperative to give substance to this legislative mandate in the operations of the Scheme. It emphasised the centrality of participants’ right to directing and making decisions about what is important to them in leading a good life. They emphasised that choice should be linked to building an individual’s social capital and maximising the life chances available to them to enable greater social and economic participation and contribution to the ‘common good’ (Williams, 2013).

And here lies my issue with the NDIS as it stands today. I wholeheartedly agree with the ideas put forward within these IAC documents, yet there is little concrete direction as to how these ideas should be implemented within current NDIS frameworks. Too much ambiguity and interpretation exists within the Scheme structure and this makes both the provision and assessment of service requests incredibly challenging. The concepts of ‘standard grade’ and ‘entry grade’ are two such examples of this ambiguity. These are non-specific, technically inaccurate and situationally dependent terms that do not support establishment of a cohesive, clear, efficient and effective funding scheme. They do not provide me with any level of clarity to, as you put it, “better understand the expectations and limitations of the NDIS.” I am not

new to provision of assistive technologies within insurance-style funding schemes, yet I have absolutely no idea what these phrases mean nor how to implement them. They do not exist beyond the vague allusions within the assistive technology prescription guidelines – and are certainly not found within the legislation – which only increases the ambiguity of the existing prescription and assessment criteria.

As an NDIS provider, I am required to take a participant-centered approach to service delivery, including structuring services in such a way that meet the goals identified within participant plans. I have not encountered a set of participant goals I did not feel were unreasonable or unachievable, and I have assumed (following their inclusion by an NDIA-approved planner within the participant plan) that the Agency considers them in the same light. Thus, I have structured all my service recommendations to the NDIS accordingly. All documentation provided to providers in relation to management of participant services identifies the need for:

- Acknowledgement & incorporation of participant goals into service delivery;
- Choice and input from the participant into service delivery; and
- Thorough clinical assessment, oversight, and accountability of service delivery.

These are fair and reasonable expectations. My problem lies in that *many* assistive technology requests by the Technical Advisory Team have made assessments that appear to overlook the legislative guidelines.

Multiple instances exist whereby decisions have failed to:

- acknowledge participant goals in assessment of service requests;
- acknowledge assessments & recommendations from treating health professionals;
- support high quality or contemporary best practice;
- support participants to live independently and maximise their independence;
- support participants to be included in the community as fully participating citizens;
- develop and support the capacity of participants to participate in the mainstream community and employment; or
- facilitate tailored and flexible responses to the individual goals and needs of the participant (including social, cultural, developmental, and functional needs).

I am aware that the NDIA participated within an Australian Orthotic & Prosthetic Association (AOPA) NDIS-themed workshop earlier in the year to advise Prosthetists & Orthotists how to make more appropriate service requests. I have subsequently been in discussion with AOPA to better understand the concepts raised within this workshop, and I have received clarification and feedback that could not be found on the NDIS website. I still believe unreconciled differences exist between the legislation and the NDIA's prescriptive guidelines. I request that you direct my issues to a party within the Agency that can shed more light on these discrepancies between the legislation and prescriptive guidelines, and request a response that provides clear advice as to how these conflicts may be overcome for future service requests.

Sincerely,

Richard Goward
Prosthetist, Orthotist
B.P&O, MAOPA

Director - Momentum Sports & Rehabilitation Services