



Australian Federation
of **Deaf Societies**

Submission to the Government on the National Disability Insurance Scheme Bill 2012

About the AFDS

The Australian Federation of Deaf Societies (AFDS) was established in 1966 to meet the needs of organisations providing services to the Australian Deaf Community. One in six Australians is affected by hearing loss. Increasing rates of hearing loss are associated with increasing age, rising from less than 1% for people aged younger than 15 years to three in every four people aged over 70 years. With an ageing population, hearing loss is projected to increase to 1 in every 4 Australians by 2050 (Access Economics, 2006).

Services are provided to all states and territories by AFDS members, who are:

- Deaf Society of New South Wales
- Deaf Services Queensland
- Royal South Australian Deaf Society (Deaf CanDo)
- Tasmanian Deaf Society (TasDeaf)
- Victorian Deaf Society (Vicdeaf)
- Western Australian Deaf Society

The combined annual turnover of AFDS member organisations is over \$30 million. Members provide a wide range of services and projects including:

- Auslan (Australian Sign Language) interpreting services and Auslan video translation services
- Counselling services and support for individuals and families
- Accredited and non-accredited education and training programs
- Deaf Awareness Training programs
- Employment support services

- Services for hard of hearing people
- Community development and advocacy

This submission has been compiled utilising the extensive experience, knowledge and skills from the AFDS, which we offer to assist the Government in their understanding of deaf and hard of hearing people's issues.

NDIS Bill 2012

The AFDS has closely reviewed the National Disability Insurance Bill (NDIS) Bill 2012. The AFDS and its member organisations continue to engage with the Government and support the development of the NDIS and provide the following feedback on the proposed legislation for the initial sites in relation to ensuring that the needs of deaf and hard of hearing people are included in the NDIS.

As the reality of the NDIS moves closer, the AFDS hopes that the issues of deaf and hard of hearing people are being understood within government, and that understanding is reflected in policy; and that the services, needs and specialist provisions are included in initial design stages. The draft NDIS rules and the operating guidelines for the NDIS Launch Transition Agency (the Agency) are of keen interest to the AFDS, and would have been beneficial to read in conjunction with this Bill.

The AFDS continues to seek assurance that deaf and hard of hearing people will be able to "access the reasonable and necessary supports over their lifetime" as highlighted through this reform, and that it will offer equity for our members enabling deaf and hard of hearing people to achieve full social and economic participation, and to live lives supported by, and as part of, their community.

AFDS has been advocating for, and continues to seek reassurance on the following points.

1. That deaf and hard of hearing people will be better off under the NDIS than they are now.
2. That deaf and hard of hearing people will be included in the NDIS and be eligible for all the needs and supports that will assist them to live and to access employment, including access to Auslan interpreters, access to and provision of technology, and other supports. Deaf and hard of hearing people continue to deal with isolation, lack of community understanding, reduced work opportunities and work experience, and lack of social interaction.
3. Increased numbers of Auslan interpreters and continued high levels of Auslan interpreters to meet the needs of deaf and hard of hearing people.
4. The AFDS seeks to ensure that the legislation allows for the changing needs of deaf and hard of hearing people as their life and employment paths change, and as different services or technologies become available. In recent years, new technologies have made many changes to a deaf or hard of hearing person's social interactions, their work involvement and capacity, and for some to increase their independence.

The AFDS continues to contribute to the NDIS development process. We are keen to see the draft NDIS rules and the NDIS Launch Transition Agency operating guidelines to consider in tandem with the NDIS Bill. Questions around how participants will manage their packages of funding or supports, their flexibility with providers and those details are important to deaf and hard of hearing people because of their unique position, and varying levels of support needed. We ask that the Government work to provide these as soon as possible to include in public consultations or for a further submission.

While not expecting the NDIS to be a cover all for all issues, the AFDS makes the following comments so that the NDIS Bill will be inclusive of and incorporate the needs of deaf and hard of hearing within its provisions. The AFDS offers the following comments and feedback on sections of the Act that are relevant to people who are deaf or hard of hearing.

Chapter 1, Part 2 – Objectives and Principles

Section 4 (11)

Equipment and technology is essential to many people with disabilities for their participation in all aspects of Australian life. For the deaf and hard of hearing community, communication technology is a key part of participating in society and in employment, in tandem with Auslan and Auslan interpreters. The AFDS notes that ‘aids, equipment and technology’ should be included in Section 4(11) as reasonable and necessary supports, so that they are included in this initial legislation.

Aids, equipment and technology should be included in the NDIS rules as reasonable and necessary supports, and the AFDS offers to work with the Government on this compilation of all the equipment used by deaf and hard of hearing.

Section 21 – When a person meets the access criteria

We suggest that this Section also include the option of a medical diagnosis to meet the access criteria. An option of a medical diagnosis would ensure that this section picks up people who are hard of hearing, have functional capacity and can communicate and might not be included by other criteria.

Section 22 – Age requirements

The AFDS would like to clarify this clause in relation to a person being diagnosed of their condition before the age of 65, but only seeks to join the NDIS by making an access request after the age of 65. This may occur with a degenerative hearing issue that is manageable or is lived with, until a time when assistance is needed. The person will still require all the supports and assistance which may be early intervention for that condition, which would be better addressed by a disability scheme than any other area.

We concur with the submission from National Disability Services on this Bill, who state:

The 65 year age limit on access to the NDIS will create inequity, with access to support dependent on the age at which a person acquires their disability rather than their need for support. In addition, the age limit creates a perverse incentive for people approaching 65

years to exaggerate the functional incapacity in order to gain access to the NDIS before the door closes.

With minor change the early intervention provisions could help reduce this inequity and this perverse incentive. Legislation should allow access to the NDIS for people who have a diagnosis of a listed degenerative condition (such as motor neurone disease, multiple sclerosis or post-polio syndrome), even if at age 65 they do not yet need formal support services. If the Agency accepted that their condition was likely to deteriorate in coming years (to a point where they would require services) they could be deemed a participant but have their development of a support plan suspended.

To limit the financial risk to the NDIS, a time limit could apply to the plan suspension (for example, the participant would need to be receiving supports by the age of 70 or would cease to be a participant).

Section 24 – Disability requirements

The AFDS notes the inclusion of deaf and hard of hearing people in the criteria for disability requirements as noted in 24 (1) (a) *sensory impairment*; and (c) *the impairment or impairments result in substantially reduced functional capacity... in undertaking one or more of the following activities:*

- (i) *Communication;*
- (ii) *Social interaction*
- (iii) *learning*

It is not clear to what extent and how a participant would be supported with ‘communication’ and therefore it is hard to ensure it covers all requirements. For example, does this apply to everyday living; and/or to enable them to participate in work if they require Auslan interpreters to fulfil a particular role? If the use of Auslan interpreters increases, this will impact upon supply and demand of Auslan interpreters, and therefore how this will be managed, as already there is not enough Auslan interpreters to meet demand. We look forward to more detail on this area.

Section 25 – Early Intervention Requirements

The AFDS supports the importance of early intervention to assist development and education at an early stage and which can have a beneficial effect on increasing function, development and understanding of supports. Early intervention assistance is vital for deaf and hard of hearing people, for communication and particularly language development in children and therefore the following clause needs amendment as children may not have developed functional capacity of the points in (i).

Section 25(c) states:

(c) the CEO is satisfied that the provision of early intervention supports for the person is likely to:

- (i) *mitigate, alleviate or prevent the deterioration of the functional capacity of the person to **undertake communication, social interaction, learning, mobility, self-care or self-management**;....*

We suggest the additional words such as “or build the functional capacity of the person”.

Section 29 - When a person ceases to be a participant

This section outlines when a person is no longer a participant in the NDIS, and as mentioned previously, the AFDS is concerned about the exit age of the scheme being 65 years, and how participants will move from a disability scheme to an aged care scheme. The AFDS would like more information on how the NDIS Bill will interface with the *Aged Care Act 1997* and the National Health Reform Agreement 2011 and assurances that all entitlements will be portable so that a person is not disadvantaged due to their age.

Section 33 - Participants Plans

The AFDS members are very interested to understand how personal plans will be developed. The NDIS Launch Transition Agency will have a complex and vital job to fulfil to provide participants with a system of developing plans to suit people of such a large array of different decisions and aspirations.

Personal planning provisions emphasise a person-centred and self-directed approach. A plan must include a statement of ‘participant goals and aspirations’ prepared by the participant, and a statement of ‘participant supports’ to be approved by the Agency. The AFDS notes here that it is important that the Agency or provider who works with the participants on their plan preparation have experience of working with deaf people and have knowledge and an understanding of deaf community and culture. The deaf community has its own identity, history, and culture, and an understanding of this will be important to achieve the best outcome for the participant.

Section 70 refers to ‘a class of supports’ or ‘a class of person’. Because of the person-centred approach to the new Scheme, there will be jobs that a participant will now be able to pay for that might need a registered provider to supply. The AFDS believes that some supports provided under the NDIS however will be able to be provided by a range of providers that will not need to be officially registered providers. Specialised and specific support absolutely has to be provided by registered suppliers, and where relevant ‘accredited’ providers, but non-specialised jobs such as cleaning, transporting or other assistance jobs would fall into a different class of supports. One example might be a social exercise event such as bushwalking that might incur some cost but not be provided by a registered organisation.

The AFDS would like to see flexibility or apportionment over a period of time in plan management so that some supports can be varied without NDIS Launch Transition Agency approval, or to be classified in an open way. This would suit deaf and hard of hearing people who might need to ‘save up’ hours for Auslan interpreters for work days, or particular events, if they are allocated a quota of interpreting per week or fortnight.

Section 34 - Reasonable and necessary supports

The AFDS notes the list of criteria to determine which supports will be funded under the NDIS. Support in the form of aids and equipment used by deaf and hard of hearing people are essential in assisting them to pursue their (a) *goals, objectives and aspirations* and (b) *undertake activities, so as to facilitate the participant's social and economic participation*.

The AFDS stresses that the supports that fall into this category must allow deaf and hard of hearing people to live and work to their maximum capacity. Aids and equipment to enable communication through a variety of means are vital, and will require personal choices by the participants. There is a wide range of equipment to choose from that requires advice, assistance and perhaps trial by the participant, and the same quality and choice must be available nationally. Participants in the NDIS must also have the choice of which equipment they prefer to suit their needs, and to be able to access training specific to their needs regardless of the costs thereby providing an entitlement to reasonable and necessary supports.

Participants must also be able to contribute financially to the purchase of the equipment to improve its quality or purpose, if they have the means to do so.

Section 70 - Registered providers of supports

The AFDS note that Section 70 determines that the CEO of the NDIS Launch Transition Agency must approve a person or entity as a registered provider of supports in relation to managing the funding for supports under plans and the provision of supports. We reiterate that participants in the Scheme must have choice over the person or entity managing their NDIS plan, plus have choice over the service providers. This is a key tenet of the NDIS that it provides choice and personal decision making at all levels for the participant in the scheme.

The criteria for registration of providers should be clearly determined to ensure that quality assurance standards are met.

The AFDS also supports some services to be block funded. There are types of services that can achieve more by being block funded, such as case management and Information services.

Section 74 - Children

The AFDS notes that in section 74 the CEO of the NDIS Launch Transition Agency has the power to override the decisions or wishes of a parent in determining the participation plan and we ask that more consideration and clarification should be put into this section. Some children are able to make some decisions for themselves and there should be provision for the CEO to be take their decisions into account.

This section also raises questions with Section 34 (d) which states:

the funding or provision of the support takes account of what it is reasonable to expect families, carers, informal networks and the community to provide;

This means that the CEO might have the power to act according to the wishes of the child but contrary to the wishes of the parent. The parents might then be obliged to work on a plan for their child that they do not agree with. It may not be appropriate for the CEO to be able to determine how much support a family must provide, in some cases overriding the wishes of the family.

We would like to see more detail here. Also, for the cohort of deaf and hard of hearing people, the Agency must have advice 'by suitable professionals in the deaf and hard of hearing sector'. For example, we understand there are times when families will persist with an approach long past the time when an alternate approach should be taken.

Knowledge of sensory disability within the Agency, the Board of the Agency, and on the Advisory Council

AFDS sees it as important that staff, Board members and Advisory Council members have knowledge and understanding of deaf and hard of hearing issues if they are to ensure the NDIS meets the needs of this sector. People with sensory impairment have unique and specific issues, and knowledge and understanding of the Deaf community and their official language, Auslan, will be key to the NDIS meeting their needs and having a positive impact upon their lives. The AFDS would like representation on the Advisory Council of someone from the deaf or hard of hearing sector and for the size of the Advisory Council to be sufficient enough to allow for that representation.

We suggest that the legislation should make provision that the Agency must engage or appoint key internal specialists to ensure internal auditing and advice can be provided on deaf and hard of hearing issues (and for other disabilities).

At stated, the AFDS seeks to ensure that the needs of deaf and hard of hearing will be met by the NDIS.

As the peak body representing deaf sector service providers, the AFDS looks forward to providing more information to the Government and contributing to the consultation sessions.

**Australian Federation of Deaf Societies
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