



# NDIS Planning

Submission to the Joint Standing Committee

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## 1. Introduction

DARE Disability Support (DARE) has been providing disability services to people with profound intellectual disabilities for almost 60 years in the Blue Mountains and surrounding communities of New South Wales (NSW).

People supported, in addition to profound intellectual disability, have a range of comorbidities, not limited to physical and psychiatric issues, requiring a range of specialist modifications and together with behavioural issues including violence and self-harm.

Services include residential, community and centre-based activities and an Australian Disability Enterprise.

DARE commenced the transition to the National Disability Insurance Scheme (NDIS) as part of the first NSW region.

## 2. Executive Summary

DARE has always been a supporter of the goals of improving the quality of life for people with disabilities, potentially through the NDIS. While we acknowledge the reported high levels of client satisfaction reported by the NDIA, these levels of satisfaction are not supported by our discussions with DARE participants and families .

The benefits to participants can only be maintained with an effective planning process, which at the moment is faulty.

Many people's issues include:

- Poor planning process, that excludes consideration of information provided,
- Reliance on some unknown reference package, rather than an objective assessment tool,
- frustration as a result of the participants inability to discuss their plan following their planning meeting, and prior to completion,
- Decisions made unilaterally by a planner that never meets the participant,
- Frustration at the ongoing level of errors in plans,
- Lack of knowledge both of Local Area Coordinators (LAC's) and planners,
- Lack of an effective and objective assessment tool,
- Inability to benchmark plans to identify anomalies or inconsistent plans,
- Provision of inconsistent information,
- Higher level of bureaucracy,
- IT system, that appears not fit for purpose,
- Current review cycle, based on obituary dates,
- Ongoing plan gaps impacting on operations, and
- Overheads created by the NDIS inefficiencies and burdensome bureaucracy.

As will be noted the current systemic failures certainly do not meet a range of requirements in the National Disability Insurance Scheme Act (2013) (Act) or objectives including:

- Person centred model,
- Assessment based on individual needs,
- Improved wellbeing of families, most participants and families report confusion and disappointment with their interaction with NDIS,
- Efficiency gains and cost savings in the disability support system, failures across the board demonstrate this is not the case, with increased costs to meet NDIS requirements, and
- Market based approach, providers operate in a NDIS monopoly with entrants, operations and fees decided by NDIS, no market exists as such,

### 3. Recommendation

In order to improve the current planning system DARE recommends the following:

- i. All LAC's and planners receive an induction and initial training to ensure that there is a minimum level of understanding with regard to disability planning processes expectations, value and use of supporting information,
- ii. An independently tested assessment tool to be introduced or the current algorithm amended to ensure the efficacy and consistency of future assessments.
- iii. Benchmarks be created for clients in order to proactively identify anomalies, and avoid the need for reviews,
- iv. Subject to a plan being within bench marks a planner be empowered to approve a plan and make amendments including minor adjustments to funding,
- v. A plan be ongoing (living) rather than time limited with planners able to make changes to incorporate needs/changes to the price guide, factual errors and minor shortfalls in funding,
- vi. A culture of continuous improvement created including plan review and capture of "lessons learned" to overcome the current mistakes being repeatedly made,
- vii. NDIS be made financially responsible for future plan gaps if they occur with penalty interest rates introduced on and invoice not paid within seven days, the level of these interest payments to be reviewed regularly by the joint standing committee, and
- viii. A review of the shortfalls in plan implementation be conducted including the current caseload clients funding of LAC's to assist in plan implementation.

### 4. Response

The responses in this submission have been made in accordance with the sequential list of issues identified by and listed by the joint standing committee.

### 5. The experience, expertise and qualifications of planners

Planners in many instances have little direct contact with the participant primarily interpreting the information collected from LAC's via an unknown algorithm which serves as a the defacto assessment tool.

Accordingly DARE does not believe the experiences and qualifications of planners can be considered in isolation but must be considered as part of a chain of information gathering being:

- a) LAC,
- b) Algorithm, and

c) Planner.

Beyond the planner there appears to be a range of other processes unknown to DARE but all which appears to create delay, frustration and cost to the decision making process.

Based on this continuum:

- a) LAC, whilst DARE has had a mixed experience the bulk appear to have little understanding of disability, indeed one advised that their only previous work experience was working in a stationery shop and agreed they had only received minimal training, prior to commencing their role as an LAC.

This is also reflected in the inconsistent information provided by individual LAC's at planning meetings who in isolation appear to bring their own prejudices into discussions, including comments such as NDIS has told them to plan funding (something denied by NDIS)

In addition the high level of mistakes in plans including basic information continues. For instance one client recently had a plan review which noted that the participant living with three, four or five other people, in the same document, the correct answer was in fact two.

- b) Algorithm, in lieu of a genuine assessment process, DARE is unable to comment with regard to the appropriateness of this as previous NDIS advice is that if providers or participants are aware of this tool it would be exploited, however the effectiveness can be judged by the high level of dissatisfaction with plans and the subsequent need for review.

Initial discussions with Mr. David Bowen and former chief executive officer, NDIS was that his planners would be so well trained, understand everything about every disability, that no assessment tool would be required. It is DARE's understanding this algorithm was introduced at short notice to fill a gap, that no testing as to the efficacy has been undertaken.

DARE's view is that a genuine assessment tool will identify individual needs, goals, assess, plan and fund consistently. This should also enable benchmarking of plans to provide a check as to the adequacy of plans and identify either systemic or individual anomalies with LAC's and planners.

This assessment tool should be flexible enough to be able to be able specialists accounts for specific disabilities or circumstances. Prior to commencement there was significant work undertaken by a number of institutions attempting to create this, however at this work was contacted by NDIS's decision not to have an assessment tool.

If a plan falls outside the benchmark it doesn't result in it being wrong but just requires verification of the circumstances creating the anomaly.

- c) Planners, as with LAC's, there appears to be a wide range of planners that have differing skills and experience, exacerbated by what appears to be poor systems and excessive bureaucracy

DARE's view is that an appropriately trained planner utilising an effective assessment tool within predetermined benchmarks should be empowered to create a plan directly or review information from LAC's and approve a plan without further approval, hence streamlining the process. This will also enable errors to be identified where plans fall outside the benchmarks.

The "cut and shut" nature (as noted above) rather than individual consideration of needs is reflected in the high level of mistakes caused by copying of other plans.

Planners should also be delegated the authority to make minor amendments, increase funding within plans where there is sufficient supporting evidence without being required to create new plans if not why bother investing in training.

The process of building a new plan as described by the writer appears to be substantial and needs to be avoided for minor changes. This may be supported by an internal audit process to ensure consistency.

In addition, whilst acknowledging it is difficult with the high level of staff turnover, the introducing a culture of continuous improvement through initiatives such as peer review of plans or capturing "lessons learned" or "best practice" to at the very least overcome the same mistakes caring repeatedly.

Amongst the criticism of planners, who DARE believes in the main do a good job however are compromised by poor systems and a bloated bureaucracy, is that there is little consideration of co-morbidities. This could be addressed by recruitment or training.

## **6. Ability of planners to understand complex needs.**

There is a wide disparity between planners and their interpretation of what is reasonable and necessary as reflected in a large number of reviews sought and the high level of inconsistent plans.

In addition, DARE has observed a high level of subjectivity not identified or corrected by the current controls and bureaucracy. Indeed at one stage DARE was advised by a planner that a participant wasn't able to receive a funded support as "my daughter didn't get that much", which reinforces the need for an objective assessment process.

Certainly a wide range of planners were recruited in NSW from various state government departments and people with a lived experience of people with a disability. People with direct service provision experiences were excluded from consideration in effect losing access to significant expertise and experience.

This by default created a skewed culture with in some instances poorly informed attitudes or in many instances bias, not corrected by having an objective system of assessments in place.

A fairly consistent theme in interaction with LAC's and planners is the willingness to ignore the advice of other professionals, medical and health related together with service providers leading to poor outcomes and ongoing reviews. This has included for instance budgets created using

some form of estimate or historical amount not based on a calculated cost of obtaining, for instance, allied health support.

It is DARE's belief that a poor internal culture was created at the commencement of the NDIS, DARE attended a number of forums where the inaugural chief executive officer accused providers of fraud or "ripping off" people with disabilities, clearly not a desirable basis for building a new disability system.

Problems are further exacerbated in instances where the planner never meets the participant but creates a plan based on input from the LAC. For instance LAC's have previously advised participants that the NDIS direction is to cut the Coordination of Supports funding in plans (this is again denied by NDIS) however, one can only assume given that the LAC is the gateway for information to planners that this has led to unfairly reduced plans.

The option for participants, their families, carers or advocates to view a draft plan and, question or agree the recommendation before acceptance does not exist. The only option being to accept a poorly constructed plan or seek a review - a long and arduous process.

## **7. The ongoing training and professional development of planners;**

DARE is unaware of the current training provided to planners or LAC's nor how training gaps are identified.

Clearly based on a number of reviews and poor decisions highlighted through the Administration's Appeals Tribunal and DARE's own experiences there are significant shortfalls.

The systems supporting planners, particularly their information Technology System are failing them creating long delays and confusion, making it extremely difficult to efficiently and consistently undertake their work.

As an organisation with an extremely large budget, despite a large and ongoing turnover in senior management it is assumed some form of training needs analysis exists, clearly DARE has no understanding on the drivers for this process.

As noted above an internal system of continuous improvement and sharing of best practice may overcome the continually avoidable mistakes being made.

If the training matrix is circulated DARE may be able to make an informed comment but in the absence of which can add nothing further.

## **8. The overall number of planners relative to the demand for plans;**

DARE does not have access to data matching the number of planners to participant demand and can only provide anecdotal evidence based on its observations.

As noted, as a result of poor systems and excess bureaucracy it is assumed that the planning aspect of this role is lost in accommodating this. It is DARE's belief that by empowering planners

and enabling them to do the role they are charged with, will create better plans and greater efficiency.

DARE's direct experience is that plans continue to expire, plan gaps (at the time of preparing this response DARE is owed over \$100K in plan gaps with no prospect of recovering these funds in the short term) or to make any change to a plan takes an inordinate amount of time to process, this is lost amongst the numerous NDIS areas and staff or becomes part of the frustrating review process.

Based on these criteria, there is clearly a shortfall in the planning resources either the system needs to be fixed or more resources added.

## **9. Participant involvement in planning processes and the efficacy of introducing draft plans;**

Participant's involvement is geared towards those who are able to directly or indirectly articulate their needs or strongly advocate a case for supports. Unfortunately this approach has failed to meet the needs of people with profound intellectual disabilities.

In these instances NDIS (in many instances via LAC's) has relied on the involvement of nominees or family members that may have little direct involvement or understanding of the supports required or, in other instances, have drawn their own conclusions.

The weaknesses of this approach has been exacerbated by in many instances the highly adversarial attitudes adopted by LAC's and planners. Indeed DARE has had its staff requested to be present to discuss supports for a non-verbal participant, with no other advocate told to "shut up" or directed to leave the room.

Similarly DARE has noted consistently the lack of consideration to reports from Allied Health providers, some being discounted solely based on the author, not content.

The lack of a genuine discussion with participants is demonstrated by the regular comment "we are not going to give you any more" which establishes an ongoing cycle of rationing and reviews.

## **10. The incidence, severity and impact of plan gaps;**

Plan gaps are primarily due to poorly performing NDIS Systems rather than the fault of planners, with the exception of Supported Independent Living bookings not being made at the time a plan is approved, which is pure incompetence.

At the time of preparing this report DARE has approximately \$100K in outstanding funds, the oldest is from two years ago and this is despite ongoing weekly follow ups. Other providers advise of similar problems, the largest we have heard is \$9 million, although this is not directly verified.

As an aside from the obvious impact of cash flow and operations caused by these outstanding funds, it takes an inordinate amount of time to continually follow up NDIS. DARE's experience has been universally poor, it has tended to take the intervention of various politicians to actually



achieve payment. The most frustrating element is that there is normally no dispute as to the value or liability but is a system problem with no recourse or way of short circuiting the system.

DARE has been advised that to overcome the continuing plan gaps, that expired plans in the future will be automatically extended for 28 days. However senior NDIS staff advised that this does not apply to SIL, the largest cause of plan gaps for DARE. If so, this is clearly a ridiculous and self-defeating approach that does not solve the problem.

It is DARE's view that as with any other non-paying customer, the NDIS should be levied a penalty interest rate for any funds over the seven (7) days outstanding. All penalty interest rates paid should be reported further to parliament or the Joint Standing Committee as an aid to monitoring performance.

#### **11. The reassessment process, including the incidence and impact of funding changes;**

DARE has included consideration of the reassessment process as part of its comments under review process.

The recent chaos around the last price guide effective 1<sup>st</sup> of July, 2019 released on the 27<sup>th</sup> of June, 2019 then again on 1st July, 2019 has created a high level of confusion amongst participants and providers.

In addition, it was used to effectively formalise a number of policy changes with regards to for example transport. (NDIS advises that there was no policy changes as such but rather NDIS representatives previously providing incorrect information, which and they have now clarified).

The unilateral announcement that transport can no longer be charged against core supports also demonstrates the NDIS do not believe in participant's rights to choice and control over the funding allocated to meet their reasonable and necessary needs

At the time of preparing this submission information is still being sought on both the application of these changes and implementation

With all NDIS changes and bureaucratic processes including managing planning gaps it is providers or support people that bear the full costs of these, for instance with the recent price changes at no notice cancelling and redoing all service bookings, reissuing quotes and explaining changes to participants.

As discussed the most recent changes were issued the same day they were applicable, clearly no other organisation would be able to operate in a similar fashion.

There was limited opportunity (effectively nil) to have input into these changes, prior to publication.

The final prices in the guide as demonstrated by many providers leaving the scheme has always been based on ridiculous assumptions with regards to overheads, margins and based on the SCHADs level 2 increment 2 rates, rather than an equitable rate that encourages growth and investment.

The price guide by discouraging investment will similarly have implications in meeting further demand indeed the current disability system with artificially restricted pricing will create a system built to a price not a standard.

DARE believes that pricing in the future must be set by an independent body in a transparent manner that recognises the true costs in delivering supports including consideration of complexity or locality and not calculated based on bias or a need to balance the NDIS budget.

## **12. The review process and means to streamline it;**

There are two forms of review:

- a) Yearly (or other time determined), and
- b) Change in circumstances.

The review process, similar to the NDIS complaints process is broken, bureaucratic, time consuming and costly. In addition rather than resolve a request for review or negotiate an outcome, it is normally rejected and the process made to recommence from the beginning.

With regard to a) the review process is based on a time determined a period, normally 12 months, it has created plan gaps and caused stress to all those involved. Given participants have already been assessed as eligible with a lifelong disability and if plans are working, why conduct a full review?

It is DARE's belief that future plans should be considered "living" documents that continue and are amended at times of changes, not just when a date falls due

Accordingly it is DARE's recommendation there in the absence of changes rather than replicate the whole planning process at what are relatively short time intervals, unless requested plans be provided with a "soft touch" for review, budgets refreshed at new rates and plans continued.

If something has changed then a full or partial review can be conducted at any time, initiated by participants on NDIS. This should allow a concentration of resources at time of change rather than the process dictated by short time frame and the extensive cost of a new plan being built.

## **13. The incidence of appeals to the AAT and possible measures to reduce the number;**

DARE doesn't have access to information on the total number of appeals made, the success rates or what we have been told are the larger number that are resolved just before or during the appeals process.

However clearly any appeal demonstrates a failure in the system that led to the appeal which may be caused amongst other things by:

- a) Poor or inconsistent information, being collected or provided,
- b) Poor plans or planners (refer above),
- c) Failing system and bloated bureaucracy creating delays, or

d) Unrealistic participant expectations.

Traditionally planners have only sought a list of goals, as noted based on DARE's experiences these have contained both errors of fact or reflect an LAC's or planner's bias. As there is no assessment tool there is not an objective way to measure reasonable and necessary for each individual.

Aside from the factual errors, LACs or planners are not familiar with the costs of supports they are seeking, in many instances this appear to be based on a best guess or some form of historical precedent. This is exacerbated further by their refusal to have a dialogue with health professionals or providers.

#### **14. The circumstances in which plans could be automatically rolled-over;**

Based on DARE's comments, 12) Reviews, it would seem preferable to the current situation of time dependent (normally 12 months) plan reviews to be replaced with an ongoing plan that continues, subject to a "soft touch" approach until there is significant changes to a person's goals or circumstances.

This will reduce the stress for participants and their support network and allow longer term planning whilst being able to respond to short-term changes.

In addition this will reduce the high levels of administration costs, eliminate plan gaps and provide greater choice and control for participants.

#### **15. The circumstances in which longer plans could be introduced;**

As noted above DARE believes rather than a review be determined on a mandated time basis that "living" plans should be on going, supported with a "soft touch" to accommodate price changes minor changes in goals or circumstances. In doing so resources can be focused on creating quality plans at times of significant changes.

If adopted this will reduce stress and workload for participants and support networks, reduced overheads and enable longer term at planning of supports,

#### **16. The adequacy of the planning process for rural and regional participants;**

DARE operates in the Blue Mountains and surrounding communities, its observations and experiences to date are as above, noting an over bureaucratic system compromised in part by poor systems.

However one common issue across all plans is the lack of consideration and confusion with regard to transport costs. Consideration of transport is a key element in inclusion and independence however this is rarely considered and in DARE's experiences never incorporated into plans.

NDIS's view has been that the former tiered "mobility allowance" is sufficient for all participants irrespective of their need, circumstances, aspirations or physical location. This is clearly contrary to the individual nature of the NDIS and the lack of this consideration results in plans not being implemented with, in some instances participants marooned in their homes.



In a recent example, a DARE SIL client with high support needs who cannot utilize public transport, received a “mobility allowance” in his plan. The allowance received barely covers the cost of his transport needs to fulfil specific plan goals. The client’s day to day requirements such as visiting family or friends, personal appointments and general community access are not considered or included in this plan. This is exacerbated by the fact that he lives approximately 50 kms from nearest large shopping precinct where the client enjoys shopping, seeing movies etc.

## **17. Any other related matters.**

### **a) Employment**

Since commencement of the NDIS and until recent times the issue of employment has been overlooked and ignored.

In recent times DARE acknowledges attempts to address this situation. However the level of support funding for participants in Australian Disability Enterprises (ADE’s) remains unresolved.

The current protocol is that the former Disability Maintenance Instrument (DMI), created by Department of Social Services (DSS), previously used to determine support funding was grandfathered, with new participants allocated an average rate based on the provider’s historical level of support.

Previous estimates are that DARE is subsidising supports costs by \$150K per year.

Accordingly a new assessment tool is required to recognize the true cost of supporting participants in ADE’s. This is to include the total cost which may encompass work place changes and training of support staff.

### **b) Plan implementation**

As publicised in numerous forums, participants, particularly those without strong support networks or advocacy skills have struggled to implement plans.

For those without Coordination of Supports (CoS) funding they are forced to rely on the overworked and under prepared LAC’s to deliver this function. To correct this situation, greater funding is required for LAC’s or CoS and needs to be integral element in future plans

DARE trust the above are of assistance with your deliberations and please do not hesitate to contact the writer if you require any further information

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