

**NSW Submission to the Senate Community  
Affairs References Committee Inquiry into the  
Funding and Operation of the Commonwealth  
State/Territory Disability Agreement**

**August 2006**

## EXECUTIVE SUMMARY

The three Commonwealth State/Territory Disability Agreements (CSTDAs) have provided a national framework for the delivery, funding and development of specialist services for people with a disability. NSW believes that they have resulted in a positive focus on disability issues including complementary Commonwealth and State/Territory disability legislation, adoption of National Disability Service Standards and the establishment of transparent accountability and reporting mechanisms.

NSW supports the development of a fourth CSTDA but has identified three key areas that would require consideration in any new Agreement: gaps and interface issues with other programs; lack of growth funding by the Commonwealth Government; and an appropriate accountability framework.

The CSTDA has been limited in its effectiveness in dealing with cross-portfolio issues, particularly in relation to the interface between ageing and disability. NSW's position seeks to strengthen the focus and commitment to intersectoral collaboration.

The ongoing demand for specialist disability services requires effective joint Commonwealth and State and Territory Government planning to address unmet need. NSW has made a substantial five year commitment of over \$1 billion in its Disability Plan *Stronger Together* and supports a strengthened national focus to address this issue.

Regarding the Commonwealth Government's increased accountability mechanisms in Agreements with the States and Territories, NSW proposes that these requirements should reflect the relative effort by each jurisdiction and enhance the streamlining of administration.

## **SUBMISSION**

### **AN EXAMINATION OF THE INTENT AND EFFECT OF THE THREE CSTDAS TO DATE**

The Commonwealth State/Territory Disability Agreement (CSTDA) provides the national framework for the delivery, funding and development of specialist disability services for people with a disability<sup>1</sup>.

The first Commonwealth/State Disability Agreement (CSDA) (1991-1996) was a landmark event for people with a disability and the disability services sector. Its intent was to rationalise the provision of specialist disability services in Australia and develop, on a national basis, integrated services to ensure that people with a disability had access to appropriate services to address their needs. Despite some shortcomings, the first CSDA went some way to realising this intent by achieving the following:

- parallel Commonwealth/State disability services legislation;
- clearer delineation of Commonwealth and State government roles;
- increased capacity for joint policy and planning;
- a real increase in total disability funding; and
- establishment of National Disability Service Standards to underpin quality assurance processes.

The second CSDA (1997-2001) built on the achievements of the first agreement and attempted to address some of the shortcomings. It was keenly sought by people with a disability and the disability services sector, and achievements associated with the second CSDA included:

- providing a national framework for disability services and a bilateral capacity to target funding towards strategic issues in particular jurisdictions; and

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<sup>1</sup> Administration of the Commonwealth, State/Territory Disability Agreement. Department of Family and Community Services. Australian National Audit Office, 2005.

- a coordinated approach to addressing needs (injection of \$510 million nationally).

The third and current CSTDA (covering 2002-07) is structured around partnerships between the parties. It was negotiated in a policy environment which included a growing focus on the importance of carers and families and the role of community, the Commonwealth Government's Welfare Reform agenda, and the introduction of a new taxation system in 2000, which provided for the distribution of GST funding to State and Territory Governments.

In the current Agreement, the Commonwealth and the State and Territory Governments affirm their commitment to the principles and objectives of the *Commonwealth Disability Services Act 1986*, and their respective State or Territory legislation. In NSW, this is the *Disability Services Act 1993*.

While the current CSTDA retained its function as a funding agreement, there were significant changes which attempted to broaden its focus beyond this, as follows:

- inclusion of a preamble, developed in consultation with State and national advisory bodies, outlining the commitment of all governments to people with a disability;
- inclusion of five policy priorities, which have shaped the work plan of the National Disability Administrators;
- the capacity for State and Territory Governments to enter into bilateral agreements with the Commonwealth Government, based on locally identified initiatives scoped around the five policy priorities (these bilateral agreements do not contain funding); and
- strengthened accountability and reporting requirements, including the provision of an annual public report on performance under the CSTDA.

From a NSW perspective, the shortcomings of the current CSTDA, including Commonwealth Government organisational arrangements, are:

- **Ongoing gaps and interface issues with other programs**

The Agreement has been limited in its effectiveness in dealing with interface issues that are cross-portfolio in nature. It makes provision for inter-sectoral collaboration in Section 5(5):

*“The Commonwealth and States/Territories:*

- a. acknowledge that non-specialist services needed by people with a disability are provided by other sectors which lie outside the Agreement; and*
- b. agree to encourage and facilitate inter-sectoral action to promote access to services for people with a disability.”*

The major difficulties and obstacles have occurred through dealing with one Commonwealth Government department regarding matters pertaining to another Commonwealth Government department. This has been problematic in looking at major policy questions from a national perspective primarily relating to ageing/disability interface issues.

The single most significant movement that has occurred with respect to a more collaborative approach to cross-portfolio issues during the term of the third CSTDA was as a result of the COAG health reforms resulting in the Young People in Residential Aged Care initiative.

NSW has made a concerted effort to support inter-sectoral cooperation. A whole-of-government approach on disability issues is being pursued across a range of issues such as accommodation services, therapy services and better coordination of disability research.

Additionally, cross-departmental committees, officer groups and forums have been established with other human services agencies which deal with specific issues of importance to people with a disability and their families and carers, for example, on health issues and housing need.

### **NSW Position**

A future Agreement needs to strengthen the focus and commitment to inter-sectoral collaboration to enable national policy debate and discussion and should address the ageing/disability interface issue, particularly in the areas of health and aged care.

- **Lack of growth funding on the part of the Commonwealth Government**

The current Agreement allows for limited untied growth, excluding indexation, from the Commonwealth Government to the State and Territory Governments. The responsibility for addressing the significant unmet need for disability services has then fallen upon the State and Territory Governments who have made substantial additional investments in each year of the Agreement, beyond the minimum average annual growth required by the Commonwealth Government.

In the last year of the second CSTDA (2001-02), NSW provided \$637.9 million. In 2006-07, the final year of the current Agreement, the NSW Government will contribute an estimated \$1,085.5 million. This represents an increase in annual CSTDA expenditure by NSW of 70.2% (\$447.6 million) over the term of the third Agreement.

In comparison, the Commonwealth Government provided \$165.9 million to NSW in 2001-02 and its estimated contribution for 2006-07 is \$209.2 million, which includes indexation, service transfers and funding for the Respite for Older Carers initiative. This represents an increase in annual contributions to NSW disability services by the Commonwealth Government of 26.1% (\$43.3 million) over the term of this Agreement. This disparity has occurred despite the issue of responding to, and managing demand being identified as a national policy priority in the third CSTDA.

It is acknowledged that the Commonwealth Government has sought to provide greater assistance for older carers through the Respite for Older

Carers initiative, which is to be jointly funded by the Commonwealth and NSW Governments. The initiative involves a total NSW contribution of \$24 million, \$3.8 million in 2005-06 and \$9.1 million in 2006-07. The Commonwealth Government's contribution was \$2.2 million in 2005-06 and will be \$10.7 million in 2006-07. Both jurisdictions will contribute \$11.16 million in 2007-08. However, as indicated below NSW is of the view that the Commonwealth's approach to the Agreement did not allow for joint planning, was inflexible and narrow in focus and imposed additional reporting requirements.

As raised with Disability Services Ministers at the Community and Disability Services Ministers' Conference meeting in July 2006, State and Territory Governments have concerns about the rates of indexation passed on by the Commonwealth Government. These have been consistently below the rate passed on by State and Territory Governments to disability services over the term of the current Agreement. Over time, the consistent payment of inadequate indexation will result in the erosion of the value of base funding under the CSTDA, leading to a reduction in existing capacity, and placing further demand pressures on services.

The indexation rate paid for CSTDA services in NSW in 2005-06 was 2.75 %, whereas the Commonwealth Government's rate of indexation transferred to State and Territory Governments was 2.1%. For 2006-07, the indexation rate in NSW is 3.3%, determined by reference to changes to wage and non-wage costs of human services in NSW. In comparison the Commonwealth Government has identified its indexation contribution to CSTDA services in NSW at 1.8%, 1.5% less than that considered sufficient to maintain services' viability and sustainability. Inadequate indexation threatens the viability and long term sustainability of existing services. State and Territory Governments are then required to provide additional funding to maintain existing services, leaving fewer resources to address need and reduce demand.

## **NSW Position**

Any new Agreement should contain commitments by all jurisdictions to respond equitably to demand and projected future growth.

A fourth CSTDA should include a reasonable rate of indexation from all jurisdictions. Furthermore, NSW would argue for the inclusion of a clause in any new Agreement that states that, where possible, all jurisdictions will apply a rate of indexation that directly reflects changes to disability sector wage and non-wage costs.

There would need to be recognition by the Commonwealth Government that should the State and Territory Governments need to use growth funding to make up for any shortfall in the Commonwealth Government's contribution to indexation in any year, outputs and services would be affected.

- **Limited opportunity for joint planning and delivery of services**

The third CSTDA does not formally require joint planning and delivery of services but defines the joint and separate roles and responsibilities of each jurisdiction for planning, policy setting and management of specific disability service types<sup>2</sup>.

In its offer of additional funding for the Respite for Ageing Carers initiative the Commonwealth Government did not acknowledge the role of the State and Territory Governments, as identified in the Agreement (i.e., to plan and set policy for respite services). The State and Territory Governments were not consulted about individual jurisdictional priorities. In NSW's view, this lack of joint planning has limited the potential effectiveness of the Agreement, which could have enhanced access to respite for other target groups.

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<sup>2</sup> Employment services are a responsibility of the Commonwealth Government. Accommodation, respite, community access and support are the responsibility of State and Territory Governments and advocacy and print handicapped services are a shared responsibility.



It is acknowledged that the Bilateral Agreement under the CSTDA has provided an opportunity in NSW for joint planning particularly at the interface between employment and day program services by officers of the Department of Family, Community Services and Indigenous Affairs and the NSW Department of Ageing Disability and Home Care.

The allocation of employment places by the Commonwealth Government across the State has often not been to areas of the highest need, resulting in vacancies and under-representation of people with a disability in employment. However it is expected that future work by the two agencies should maximise a cooperative and coordinated approach.

Joint action in other areas has been limited however as funding is not linked to this Bilateral Agreement.

### **NSW Position**

Any new Agreement should restate joint and separate roles of the Commonwealth and the State and Territory Government and clarify responsibilities by all parties regarding multilateral and/or bilateral approaches to changes in funding or policy.

## **THE APPROPRIATENESS OR OTHERWISE OF CURRENT COMMONWEALTH STATE/TERRITORY JOINT FUNDING ARRANGEMENTS.**

Over the last five years, Agreements between the Commonwealth and the State and Territory Governments involving Specific Purpose Payments (SPPs), such as the CSTDA, have included increased accountabilities with the inclusion of incentives, sanctions and targets. The rationale for this as outlined in the Australian National Audit Office (ANAO) performance audit for the (then) Department of Family and Community Services' administration of the CSTDA, was that incentives and sanctions can be useful mechanisms for encouraging compliance with the terms and

conditions of SPP arrangements and, specifically, to meet their objectives.<sup>3</sup>

While the current CSTDA does not have incentives and targets, it does contain potential penalties in that the Commonwealth Government can withhold payments if reporting requirements are not met under Schedule 1 of the Agreement (Section 7(6)). If agreement on the use of unexpended funding is not reached, funding can be removed from the following year (Section 8(5)).

It is noted that the Commonwealth Government is also proposing to introduce sanctions and an accountability framework which includes targets, in the new Bilateral Agreement in relation to helping *Younger People with a Disability in Residential Aged Care*. This Bilateral is currently being negotiated between the Department of Ageing Disability and Home Care and the Commonwealth Government and is an SPP separate to the CSTDA.

While NSW is not opposed to sanctions and reporting requirements they need to be realistic and reasonable. Unless they are well thought through and targeted, they could result in significant costs for little or no return, with the potential for resources to be diverted from service provision where they are needed.

The move to include incentives, sanctions and targets in SPP Agreements needs to recognise the recommendations by the Australian Parliament's Joint Committee of Public Accounts and Audit that financial accountability requirements for SPPs should be as streamlined as possible, to improve administrative efficiency and to avoid duplication between Commonwealth and State and Territory Auditors-General.<sup>4</sup>

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<sup>3</sup> ANAO Audit Report No. 14 pg 88

<sup>4</sup> ANAO Audit Report No. 14 pg 75

Another factor to consider is the relative size of the Commonwealth Government contribution against that of the State and Territory Governments. Where the Commonwealth Government contribution is substantial, there may be a sustainable argument for an enhanced level of accountability requirements imposed on the State and Territory Governments. However, in the case of the CSTDA where the Commonwealth Government's contribution to disability services in NSW is 16.2% of total funding in 2006-07 (and decreasing in subsequent years if Commonwealth growth does not match that of the NSW *Stronger Together* initiative), the accountability requirements should reflect the relative contributions of both parties' contributions.

### **NSW Position**

NSW is supportive of transparency and accountability with regard to the administration and expenditure of public funding. However the accountability framework needs to be based on the relative amount of effort contributed by each jurisdiction. This needs to be guided by the objective to streamline the administration of the program.

Should penalties and sanctions feature in any new Agreement, NSW would support the development of national guidelines to ensure consistent application of the accountability framework across both levels of government.

### **AN ANALYSIS OF LEVELS OF UNMET NEEDS**

In 2002, the Australian Institute of Health and Welfare (AIHW), in preparation for the third Agreement, undertook an analysis of the 1998 Disability, Ageing and Carers Survey plus the CSTDA MDS data. The research found that only a small percentage of people with a disability access government funded specialist disability services – many have their needs for assistance met through support from the community, family support sources, or through purchasing services (either generic or disability-specific).

A current NDA project *Responding to Demand* proposes to update unmet need in relation to accommodation, respite and community access (day programs, post school options, continuing education) as the former project had done. The updated work will only provide a partial picture as it does not include unmet need for community support services (therapy services, advocacy, early childhood intervention). Completion timeframe for this project is scheduled for June 2007.

Consideration of the issue of unmet need must recognise that in addressing growth in demand, State and Territory Governments have responded by increasing the supply of specialist disability services. However, despite substantial funding increases and the implementation of demand management strategies, State and Territory Governments are experiencing a growing gap between demand for specialist services and the supply of those services. Key demand factors include: the underlying growth in the eligible population; service-use cohort effect (tendency for clients to require services for long durations); policy changes that restrict access to other sources of assistance; socially driven demand; and a reduction in supply of informal care.

Reforms in Commonwealth Government funded supported open employment and business services have the potential to also affect the demand for State funded services. The Commonwealth Government's reforms require employment and business services to be commercially viable through increased productivity. These reforms have affected access to disability employment services for people with high support needs and low productivity which has resulted in people who would otherwise have accessed a supported employment service requiring access to State funded day programs and services.

### **NSW Position**

NSW supports a joint Commonwealth and State and Territory Government responsibility for responding to and managing demand.

The NSW Government is committed to providing greater assistance and long term practical solutions for people with a disability and their families. The NSW Government recently launched *Stronger Together: a new direction for disability services in NSW 2006 – 2016*. This is a NSW Government plan to change the way people with a disability are supported and includes a significant boost in funding: an additional \$1 billion over the first five years. The main aims of the strategy is to increase assistance and options for people with a disability to live at home, and to also increase the range of specialist accommodation services.

Specifically, *Stronger Together* will, in the area of:

- *accommodation*: create 180 new places for innovative supported accommodation options in 2006-07 and by 2010-11 there will be 990 places;
- *respite*: create 670 additional flexible respite places for adults with a disability in 2006-07, and by 2010-11 there will be 810 new respite places. Respite for children and young people with a disability will increase by 450 by 2010-11;
- *community access*: expand community participation programs for people with a disability from 3 days a week to 4 days and 5 days for people with high support needs. This will assist 1,990 people next year;
- *community support*: create new therapy places for children and adults with a disability; increase intensive, innovative and flexible support packages for children and young people and their families; increase places in day programs and intensive in-home support places.

In addition, in order to improve the system's capacity, NSW will invest in expanding training for Government and non-Government disability workers.<sup>5</sup>

NSW proposes that the Commonwealth Government in the new Agreement considers the effort by the State and Territory Governments to

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<sup>5</sup> NSW Government (2006) *Stronger together – a new direction for disability services in NSW 2006-2016*

meet ongoing demand for disability services and commits significantly greater funding for disability services. In particular, the Australia Government should note the significant additional expenditure by the NSW Government under the current Agreement and the increased expenditure proposed under the *Stronger Together* initiative.

Considerable demand for the broad range of disability services continues to exist in spite of the additional funding that has been made available by the States and Territory Governments under the third CSTDA. The Commonwealth Government must do more to assist State and Territory Governments meet the demands being experienced by all disability service systems across Australia.

### **AN EXAMINATION OF THE AGEING/DISABILITY INTERFACE WITH RESPECT TO HEALTH, AGED CARE AND OTHER SERVICES, INCLUDING THE PROBLEMS OF JURISDICTIONAL OVERLAP AND INEFFICIENCY**

The importance of focusing attention on ageing/disability interface issues is highlighted by statistics that show that of CSTDA-funded service users in NSW in 2004-05, 21% (9,583) were aged 45+.<sup>6</sup> This is significant given the evidence of earlier onset of age-related needs in people with disability.

There is ongoing debate in the ageing and disability sectors about the most appropriate environment in which to support people with a life-long disability who are also frail and aged: the disability support system or the mainstream aged care system. Despite there being no age-based criteria for entry into the aged care system, access by people with a disability is often restricted and is made more complicated by recent evidence that some people with a disability acquire age-related conditions (such as dementia) at a younger age than the general population.

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<sup>6</sup> AIHW (draft) *Disability Support Services 2004-05* p 83

Anecdotally, people with a disability (and disability service providers) report experiencing barriers at the point of assessment, but more particularly when being considered for an available place in an aged care facility. Aged care service providers also report practical difficulties arising from staff in aged care facilities lacking relevant skills in supporting an older person with a lifelong disability, including behaviour management skills and appropriate communication skills.

Recent work undertaken by NSW concerning the ageing/disability interface identified the following issues:

- Gaps in service provision including where there are no appropriate services or service models. This includes:
  - aged care for people with a disability who wish to age in place;
  - residential care for people with a disability who wish to reside in aged care specific facilities;
  - models to support people with early onset dementia;
  - day program services for older people with a disability; and
  - skills and training for staff working across specialist disability, community care and mainstream aged care services to support people with a disability who are ageing.
  
- Problems with access to existing services when people with a disability need to augment specialist disability services or to transition from the disability to the aged care system. These problems arise from the narrow interpretation of legislation such as the *Aged Care Act 1997*, and from the diverse implementation in different jurisdictions of program policies and guidelines of the national Home and Community Care and CSTDA programs. Spicer has argued that rigid policy and strict program application are often the drivers of service provision rather than the

needs of individuals for services provided flexibly and innovatively<sup>7</sup>. Older people with a disability living in rural and remote areas, indigenous people with a disability and people with a disability from culturally and linguistically diverse backgrounds experience additional difficulty in accessing services.

- A lack of program flexibility to allow pathways and transitions between services to improve inter- and intra-sector collaboration to achieve the desired outcomes. The lack of formal transition pathways between State and Territory Government funded disability services and Commonwealth Government aged care services can lock people with a disability into the specialist disability service sector and out of aged care. People with a disability are therefore prevented from accessing a broad, cross-sectoral suite of support services that would better meet their needs as they age.

The NSW work concluded that any reforms in the area of the ageing/disability interface issue should:

- Allow for appropriate assessment of needs at the appropriate time for people with a disability who are ageing, particularly taking note of prevalence of the early onset of ageing for people with a disability.
- Support people with a disability to move to appropriate residential aged care when their aged care needs change and can no longer be effectively met in the community.
- Support people with a disability to 'age in place' like other members of the general population.
- Enhance the capacity of the disability, community care and aged care service systems to meet the support needs of the increasing numbers of people with a disability who are ageing.
- Provide flexible support services across service systems.

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<sup>7</sup> Spicer, I., (2003) cited in Victorian Association of Health and Extended Care (2005), *Younger People With a Disability Receiving HACCC Services Through Linkages (Community Options) Programs: Solutions and Options*, Victoria, Australia



- Improve the co-ordination of services within service systems.
- Enhance access to services for people with CALD and Indigenous backgrounds and people living in rural and remote areas.

Bigby, a key researcher in the ageing and disability area, found that in the absence of specific policy about provision of support for older people with lifelong disabilities, informal policy, in the form of collaboration, pilots and ground up initiatives exist at service provider level. This can lead to a situation where access to support is inconsistent, unpredictable, and possibly unsustainable. Furthermore, she argues that unlike other areas of disability policy, which is adopting a whole-of-government approach to access and support for people with a disability, when it comes to people with a disability who are ageing, the debate is still framed by governments in terms of which sector is responsible – an ‘either/or approach’. Instead of departmental entrenched positions, Bigby proposes a shared understanding of the role of disability system, locating ageing more clearly as part of the life course for people with a disability.<sup>8</sup>

A recent initiative by the NSW and Commonwealth Governments, the Innovative Pool Pilots, has sought to address some of the issues faced by people with a disability who are ageing and want to age in place. The Pilots provide additional funding from the Commonwealth Government Department of Health and Ageing to meet the age-related care needs of people with a disability living in State-funded accommodation services. Preliminary evaluation findings are that these Pilots have been successful in supporting a group who might otherwise have moved into residential aged care facilities. However the Commonwealth Government has announced that while current clients will continue to be supported, the Pilots will not expand and no new clients will be accepted into the program.

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<sup>8</sup> Bigby, C., *Ageing with Intellectual Disability: Program Interfaces*, presentation at the Aged and Community Services Conference, May 2006.

## **NSW Position**

The NSW Government would strongly encourage the Commonwealth Government to take action to improve access for people with a disability who are ageing to the mainstream aged care system by including people with a disability in the definition of “special needs groups” under Section 11-3 of the Commonwealth *Aged Care Act* 1997. This would lead to reasonable appropriations being made, limit direct or indirect discrimination at the point of assessment or acceptance into a facility, and staff being appropriately trained and resourced to provide high quality care for people with a disability who are ageing. There should also be ongoing discussions with State and Territory Governments with a view to increasing capacity for shared model development.

NSW would welcome continuation of the Innovative Pool Pilot model as a regular form of aged-care provision to people with a disability who are ageing or need aged care services, and the expansion of the Pilots to support older people with a disability living in their own homes (with or without family or government-provided support), an option which is available to other older people living in the community who are assessed as eligible for aged care.

## **CONCLUSION**

NSW believes that there have been benefits from past and current CSTDAs. The Agreements provide a national framework for disability services within parallel Commonwealth/State disability services legislation, use National Disability Service Standards to underpin quality assurance processes, articulate policy priorities and provide transparent accountability and reporting on performance of Commonwealth and State and Territory Governments.

In view of this, NSW proposes that there should be a comprehensive fourth CSTDA, which includes policy priorities, funding arrangements, and

identifies key outcomes. NSW supports the existing separation of responsibilities for disability services between the jurisdictions, but sees that there is a need through the new Agreement to recognise jurisdictional responsibility for services to people with a disability who are ageing.

In terms of administrative arrangements, NSW supports the position that any new Agreement contains:

- reasonable reporting requirements;
- accountability requirements which are proportionate to the Commonwealth Government funding provided; and;
- realistic sanctions and targets.

Lastly and most significantly, NSW also proposes that a new Agreement would recognise the principles of a reasonable level of indexation and the need for increased effort by the Commonwealth Government to match the significant effort by the State and Territory Governments to address the issue of unmet need.

NSW welcomes the opportunity to contribute to this Inquiry and looks forward to an opportunity to discuss these matters further with the Committee.