



National Disability Insurance Scheme (NSW Enabling) Bill 2013

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Extract from NSW Legislative Council Hansard and Papers Wednesday 23 October 2013.

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [8.00 p.m.]: I move:

That this bill be now read a second time.

The Government is very proud to introduce the National Disability Insurance Scheme (NSW) Enabling Bill 2013. The bill is necessary to enable New South Wales to take its first steps to ensure the success of the National Disability Insurance Scheme [NDIS] for people with disability in our community. In December 2012, New South Wales became the first Australian State to sign on to the National Disability Insurance Scheme through a heads of agreement with the Commonwealth. This agreement represents a historic milestone for people with disability, their families and carers not only in New South Wales but throughout the country. It establishes the means by which to deliver equitable and adequate support for people with disability, many of whom have struggled for so long without access to the necessary supports they need to live with dignity and respect.

The agreement places real choice and control in the hands of people with disability over the supports that they need to live the lives they want. The reforms will be delivered through a partnership between New South Wales and Commonwealth governments and will benefit approximately 140,000 people with disability in New South Wales. The New South Wales commitment of \$3.1 billion will be directed exclusively to enable people with disability to plan individual funding packages to purchase supports based on an assessment of their capacity and circumstances. In addition, the Commonwealth will be providing \$3.3 billion to make total funding worth \$6.4 billion.

The launch of the National Disability Insurance Scheme occurred in 2013 in the Hunter area. It will result in an estimated 10,000 people beginning to access the National Disability Insurance Scheme over the next three years. The launch in the Hunter and in other locations across Australia will enable us to design the approach to progressively rolling out the scheme across the remainder of New South Wales from July 2016. The New South Wales Government is contributing \$585 million towards this first stage launch. The launch process is critical to ensuring that we have all of the policy and operational parameters right before we move to a full State rollout. Some of the stories we are hearing from early participants suggest that most of the processes are working but, more importantly, people with disability for the first time are about to make a real difference to the way they live their lives.

I cite the example I heard of one young man who has had a major turnaround in his life. From a pattern of challenging and explosive behaviour, which required intensive support from the New South Wales Government-delivered specialist supports and in which he had few opportunities to engage within his local community, he has progressed to an arrangement whereby he makes his own decisions about all sorts of aspects of his life, which was never possible before. He is now in an independent living arrangement, supported by a non-government organisation. One of the key factors in his turnaround is the process of being asked what he wants and feeling in control of the decisions about his life. The decisions may be as simple as what supermarket to shop at, what support person he would like to assist him and where he wants to live. We are moving towards a truly monumental shift in the way people with disability are supported in our community to plan for their lives and achieve their goals.

For people with disability, the National Disability Insurance Scheme is more than just insurance: It is a fundamental human rights issue. It means that people with disability will have choice and control over their supports instead of having services prescribed for them. Ultimately it will lead to more positive outcomes in their lives. This will be fostered through the promotion of a vibrant and competitive market of services and supports across communities in New South Wales that will need to respond to the desires and aspirations of people with disability and bring new approaches, innovation and flexibility to bear in how supports are arranged. The New South Wales Government is by far the largest provider of disability services and community care supports in the State.

There is already a diverse disability and community care non-government sector in place, made up of everything from small local volunteer organised services to large and complex non-government providers that provide a suite of support. For the National Disability Insurance Scheme to be truly innovative and responsive to the needs of people with disability, the non-government sector needs to grow and flourish. I will take a moment to explain

why this is necessary: non-government organisations are mainly inclusive, participatory and quality-focused, and they have the capacity to generate social capital in a way that government and the private sector cannot. That social capital is critical to maximising advantages for people with disability and other vulnerable groups.

There are thousands of non-government organisations across New South Wales, each with their own philosophy, specialisation, and collaborations. The rich diversity of the sector provides an economic and social benefit for New South Wales. They can take risks where a government service may be more conservative and they can influence the views of the community and government about the people that they support, which can lead to greater inclusion, acceptance and knowledge transfer. These are the organisations that have their fingers on the pulse of local communities. These are the organisations that can work directly with local communities and with individuals to make inclusion and choice for people with disability a reality. The role of the New South Wales Government in the future needs to be as an enabler for the non-government sector. We have an obligation to support the sector in accessing a skilled and experienced workforce to help it achieve the innovation that people with disability crave.

We, as the New South Wales Government, also have an obligation to the people that we currently support. That obligation is to do everything within our power to ensure that when the time comes for them to engage with the National Disability Insurance Scheme they have the chance to make choices about their future, to not be constrained by the models of support that are now in place. From 2018 New South Wales will no longer provide or fund disability or community care support and the National Disability Insurance Agency will take over responsibility for the development of the sector and the funding of support for people. This means that the existing State service capacity, workforce and expertise need to be placed in the hands of the non-government sector and reinvested in the marketplace for the National Disability Insurance Scheme to succeed. The key purpose of this bill is to provide for this transfer.

Importantly, the bill is designed to achieve three critical objectives: to ensure that the implementation of the National Disability Insurance Scheme delivers maximum continuity of services for people with disability as they make decisions about their future, promotes the retention of a skilled disability services workforce, and maximises the capacity of the disability services sector. This is a necessary step in meeting this Government's commitments under the heads of agreement.

As I mentioned earlier, the New South Wales Government has already committed \$3.13 billion to the implementation of the National Disability Insurance Scheme. This will be matched with a contribution of \$3.3 billion from the Commonwealth. The total commitment for New South Wales represents the largest contribution of its kind. We are committed to making the National Disability Insurance Scheme work and the types of transfers enabled by the bill are designed to boost the sector and guarantee the success of the scheme. Should any income be generated under the bill, it will be used to support the inclusion of people with disability across the New South Wales community.

At present, the New South Wales Government funds and delivers support to over 90,000 people with disability across New South Wales. These services include supported accommodation in group homes and other centres, respite, therapy services and community-based support. Similarly, the Home Care Service of New South Wales is the largest organisation of its kind in the country and delivers community care supports to 50,000 older people and people with disability to enable them to remain in their own home. The 14,000 staff who currently work within the government sector to deliver services to people with disability are a highly experienced and dedicated group of people. People with disability, their families and carers are grateful for the special expertise and commitment of staff in the sector.

The relationship between this workforce and the people it supports cannot be overstated. It is a key priority of the Government that, where possible, staff continue to work with the same people and maintain those relationships beyond 2018 and into the future. This reflects the commitment that, for people with disability, the transition to the National Disability Insurance Scheme is to be a seamless one as reflected in the objects of the bill. The National Disability Insurance Scheme also represents a huge shift in the employment market, with an expected requirement for up to 25,000 new jobs in the non-government sector. I now turn to the detailed provisions of the bill. The functions of the bill apply to those assets and staff in the government disability sector involved in delivering services under the key disability legislation. Section 5 establishes the purposes for which the transition can be effected and reflects the dramatic change that the National Disability Insurance Scheme will have on the operations of Family and Community Services.

Part 2 provides for how transfer arrangements may be structured and enables government to tailor the right package of services to transfer to the sector. The bill has been drafted to provide flexibility in the types of transactions required to implement the move to the National Disability Insurance Scheme—flexibility in scale, in location and in the types of support to ensure that the transfer of services occurs in a way that is focused on good outcomes for people with disability in New South Wales and that no-one is left behind. These measures include the creation of corporate and other entities to package services which can then be transferred to non-government organisations. This will allow assets to be brought together in a way that is viable and appealing to non-government providers.

To support staff in the move to the non-government sector, part 3 of the bill provides for the continuity of industrial instruments, strengthening the requirements of the Commonwealth Fair Work Act 2009 for transferring staff. It also provides for continuity of entitlements, including sick leave, annual leave, long service and extended leave, and superannuation benefits. Further, the bill allows the Government to negotiate with new providers to ensure staff interests are best reflected, and transfer agreements will set parameters around employment guarantees and other more detailed conditions of transfer.

Part 4 of the bill deals with the transfer and vesting of assets, which include the full range of assets, rights and liabilities that the Government uses to deliver supports. These include some 580 group homes, six large residential centres, vehicles, therapy equipment and contractual rights. The bill enables the vesting of property from the Government's disability portfolio to alternative owners where this will be seen to be of the greatest benefit to the State. Section 19 also enables the severance of fixtures from land to allow organisations to utilise these assets while the assets are maintained in the State.

While it is not a revenue exercise, nor will it be a fire sale, the movement of services will be carefully thought out following detailed scoping, investigation and examination of the best options for people with disability, the current workforce and the sector at large. In those circumstances, where the best option is for the transfer of a property to the private sector, schedule 2 includes a right for the Government to register an interest on the title to the property to ensure that it continues to be used for the benefit of people with disability in New South Wales.

It is a tribute to all those who have worked together to develop the National Disability Insurance Scheme that the passage of the National Disability Insurance Scheme legislation and its roll-out has received bipartisan support. As we move towards making the National Disability Insurance Scheme a reality in New South Wales, I call on members to offer their complete support for this bill. I will go so far as to say that a vote against this bill is a vote against the National Disability Insurance Scheme and the rights of people with disability to live with dignity and respect in the New South Wales community. This bill represents the New South Wales Government's biggest investment in disability service provision, from State-directed support to self-directed support. It is an investment in the future of disability service provision and, more importantly, the future of people with disability and our community as a whole. I commend the bill to the House.

Debate adjourned on motion by the Hon. Lynda Voltz and set down as an order of the day for a future day.