

**INQUIRY INTO THE EXERCISE OF THE FUNCTIONS OF
THE MOTOR ACCIDENTS AUTHORITY AND THE
MOTOR ACCIDENTS COUNCIL - ELEVENTH REVIEW**

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The Director
Standing Committee on Law and Justice
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

To the Director,

RE: Eleventh Review of the MAA and the MAC and Fourth Review of the LTCSA and the LTCSAC

NDS welcomes the opportunity to contribute to the eleventh review of the Motor Accident Authority (MAA) and the Motor Accident Council (MAC) and the fourth review of the Lifetime Care and Support Authority (LTCSA). Whilst we acknowledge the important role that the MAA and the MAC play, our response primarily concerns the role and functions of the LTCSA and Scheme.

About National Disability Services

National Disability Services (NDS) is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes around 700 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services - from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.

General Observations

National Disability Insurance Scheme/National Injury Insurance Scheme

At a time of significant transformative change in the disability service and support sector, NDS believes the current review of the LTCSA must take into account the challenges and opportunities raised in the Productivity Commission's Final Report into Disability Care and

Support¹. Released on the 10 August 2011 by Prime Minister Gillard, the report recommends the establishment of a National Disability Insurance Scheme (NDIS) and a National Injury Insurance Scheme (NIIS).

Together these schemes would provide access to the full range of long-term disability support services and equipment regardless of the cause of a person's disability.

Specific to catastrophic injury, which is the focus of the LTCSA, the report proposes a separate 'federation' of accident insurance schemes for catastrophic injury (the NIIS), which would draw on the best arrangements already in place around Australia and extend their scope beyond current program boundaries. NSW is fortunate in this regard as the current LTCSA is premised on a no-fault accident compensation scheme. The Productivity Commission has articulated that a 'no fault' scheme, as operating in NSW, is the only scheme design that can efficiently and effectively provide lifetime care and support needs of people who experience catastrophic injury.

The report does however suggest that under an NIIS coverage would extend to the lifetime care and support costs of people who experience catastrophic injuries as a result of all types of accidents. This would include those related to motor vehicle accidents, medical treatment, criminal injury and general accidents occurring in the community or at home. This extends beyond the current scope of catastrophic injury currently covered by the LTCSA and should be considered during this review period.

Further the Productivity Commission indicates that there are strong grounds for state and territory governments to transfer the care and support of catastrophic workplace claims to an NIIS through a contractual agreement with respective workers' compensation schemes. Whilst WorkCover claims currently fall outside the scope of the LTCSA's areas of influence, this recommendation hints at the broadening coverage that an NIIS would afford to current LTCSA schemes.

It is evident that the current LTCSA has a number of key features that could form the basis for an NIIS. Interestingly the report comments that the LTCSA has particularly well developed general guidelines for determining whether a support or service is reasonable. The impacts on catastrophic injury schemes under an NIIS suggest that it would be prudent and timely to review the scope, operations and functions of the LTCSA in light of these recommendations.

The report does not suggest that existing state and territory catastrophic injury insurance schemes would cease to operate under an NIIS. Rather the Productivity Commission recommends that state and territory governments should develop a national framework in which the separate schemes would operate under an NIIS. As discussed previously, structured as a federation of separate no-fault, state-based catastrophic injury schemes the report recommends that the NIIS include:

- *consistent eligibility criteria and assessment tools, and a minimum benchmarked level of support;*
- *consistent scheme reporting, including actuarial valuations and other benchmarks of*

¹ Productivity Commission, Final Report into Disability Care and Support, viewed: <http://www.pc.gov.au/projects/inquiry/disability-support/report>

- scheme performance;*
- shared data, cooperative trials and research studies;*
- elimination of unwanted variations in existing no-fault schemes;*
- a national reinsurance arrangement to pool coverage of high risks among the separate schemes.*

These recommendations suggest that a significant level of forward planning will be required. The current review provides a unique and timely opportunity to review the role, function and coverage of the LTCSA under a future NIS model.

Access to information

More broadly, NDS would like raise the issue of the accessibility of information with regard to the documentation, guidelines and websites associated with the MAA and the LTCSA. A number of key documents on both websites are not provided in an accessible version (word doc.) which reduces access to information for people who are blind or vision impaired.

NDS recommends that information, specifically documentation and guidelines related to the LTCSA and Scheme, are made more easily accessible to both people with disability and service providers. Further, it appears that there is limited information and guidance available to assist and inform people from culturally and linguistically diverse (CALD) backgrounds and people from indigenous backgrounds on the roles and functions of the LTCSA and Scheme. It is universally acknowledged that people from CALD and Indigenous backgrounds face significant barriers in accessing basic information about the services and supports that could be available to them.

Accepting that the premises of the LTCSA is to provide personalised, targeted and tailored support services it would be reasonable for this review to consider the practical implications of ensuring that written material, assessments and guidelines are made available in more accessible formats. This issue has been raised in previous reviews by various peak bodies and we encourage this current review to make active progress in this area.

Acknowledgement of Carers

NDS notes that a major project outlined in the Motor Accidents Authority Annual Report, under Future Directions, is targeted at establishing strategies to make claims processes easier for injured people. NDS applauds this commitment however would like to see a stronger expressed commitment to acknowledging the role of family and carers in supporting people with disability in this system of support.

NDS believes that, as public agencies, the MAA and the LTSCA should take steps to formally acknowledge the significant role that family play in providing informal care and support to people with a disability. We believe that as a first step, reference should be made to the National Carer Strategy which gives effect to the *Carer Recognition Act* which came into effect on, 18 November 2010.

The Act represents the Australian Government's commitment to deliver the first element of the *National Carer Recognition Framework*. The aim of the Act is to increase recognition and awareness of the role carers play in providing daily care and support to people with disability, medical conditions, mental illness or who are frail aged. The review provides a valuable

opportunity to consider the ways in which carers, who provide support to people covered under the LTCS Scheme can be better supported and informed.

Commentary specific to the Lifetime Care and Support Scheme

NSW Reform

NDS believes that the recent shifts in the focus and direction of state disability policy should be considered in the review of the LTCSA. The second phase of *Stronger Together: A new direction for disability services in NSW 2006-2016 (Stronger Together II)* commenced in July 2011. *Stronger Together II* places emphasis on enabling people with a disability to be key determiners in how support resources are used and ensuring that people are able to exercise more choice and control over the supports and funding arrangements they require². Further, under *Stronger Together II* all individualised, portable funding arrangement will become available to all people with disability receiving disability services by the end of 2012/14. NDS acknowledges that the principles and operation of the LTSC Scheme is based around a similar model of enablement. Feedback received from a member organisation does however highlight that the current operation of the LTCS Scheme can at times focus largely on medical and care needs and provides limited scope for an individual to direct and choose the services they need or require.

The NSW Government has released a discussion paper to explore how we might best realise our vision for a person-centred disability service system. *Living Life My Way* explores mechanisms for implementing person-centred approaches and clarifies that a person centred system places the person with a disability at the centre of decision making when it comes to the supports and services they use³. NDS recommends that the review process seeks to ensure that the current principles and guidelines for the LTCS Scheme provide parity with the direction and opportunities that will be afforded to people with disability under *Stronger Together II*.

NDS recommends that the review of the LTSCA seeks to consider the ways in which individual decision making can be strengthened to allow for greater opportunity and flexibility in the services that people with a disability access. NDS would support a harmonising of principles and broader adoption of a 'person-centred' approach within the LTSC scheme to ensure both equity and choice are available across both ADHC funded services and those provided under the auspice of the LTCS Scheme. NDS would like to ensure that the scheme evolves to reflect the broader paradigm shift which is occurring under an NDIS and NIIS. For the benefit of both individuals and service providers, it would be timely to review how access, choice and decision making is supported under the LTCS Scheme.

Inclusion and participation in the community

Consistent with this new agenda is the promotion of social inclusion and community

² NSW Government, *Stronger Together: The Second Phase*, viewed: http://www.adhc.nsw.gov.au/__data/assets/file/0014/234212/898_StrongerTogether_20102016_web_071211.pdf

³ NSW Government, *Living Life My Way*, viewed: http://www.adhc.nsw.gov.au/__data/assets/file/0008/239768/1026_ADHC_PCA-DiscussionPaper_UPDATE_WEB.pdf

participation. Some people with disability need specialised forms of support to be able to maintain everyday wellbeing at home and to be involved in community activities such as school, work, training, recreation, cultural life and neighbourhood activities⁴.

The United Nations *Convention on the Rights of Persons with Disabilities 2007*, which Australia signed in 2008, also recognises the rights of people with a disability to determine their own lives and participate in communities to the fullest extent possible⁵.

Feedback received from a member organisation, who is an approved provider for the scheme, stated that overall the scheme is very efficient and effective. They felt however, that the scheme is medically-oriented and seems quite captured by the large nursing agency organisations that take people from hospitals following the acute phase and maintain their service control. There does not seem to be a reassessment process as people require less or different levels of support.

For organisations whose focus is on community support and community engagement, the hours gained from the scheme are limited to housework support with very limited community inclusion and support activities. NDS strongly recommends that the importance of community involvement and participation be recognised and enabled for by the scheme.

Information for Providers and Administration

NDS would like to ensure that there are processes in place to provide information that is accessible to organisations and that focuses on educating providers about the scheme and its functions, including service compliance requirements and standards. This could also outline requirements for services to become an approved provider of the scheme, and mechanisms for how individuals access funding. NDS would like to see these measures introduced as a way of boosting service capacity and knowledge within the sector.

The LTCSA needs to ensure they do not enforce unnecessary barriers for new providers and deterrents for becoming involved with the scheme. NDS would like to ensure that consideration is placed on the need to make participation worthwhile and promote a sense of opportunity for providers wishing to become involved.

Administration wise, feedback from services suggests that guidelines and processes are clear, and reimbursement for services fast and efficient. NDS recognises the improvements that have been made in this area and encourages the continual enhancement and streamlining of processes.

Quality Assurance and Accreditation

NDS is aware that providers must frequently participate in an audit process to maintain their accreditation for the scheme. Feedback from our members suggests this process is onerous and very expensive, particularly for an organisation providing services to a limited number of clients. An example provided outlined a service that expecting a number of auditors from

⁴ Council of Australian Governments, National Disability Strategy, viewed: http://www.fahcsia.gov.au/sa/disability/progserv/govtint/nds_2010_2020/Documents/National_Disability_Strategy_2010_2020.pdf

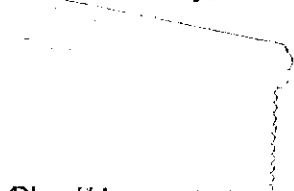
⁵ United Nations *Convention on the Rights of Persons with Disabilities 2007*, viewed: <http://www.un.org/disabilities/default.asp?navid=15&pid=162>

New Zealand to spend up to three days with the organisation in December and that the service has no choice but to comply. It was even suggested by the auditors that the organisation should not proceed due to the small number of clients they support, however this jeopardises their ability to tender for future services.

NDS would like to see a review of current accreditation and quality framework processes with a focus on simplifying processes to reduce the need for service providers to continually prove their credentials to multiple funding agencies. NDS recommends that there be recognition of alternative standards and accreditation that services have attained to reduce the administrative and economic burden on providers. This is another area where there is a need to be consistent with the direction of sector and allow for flexibility in order to better support service providers.

NDS is appreciative of the level of commitment from the Motor Accidents Authority and the Lifetime Care and Support Authority and would again like to thank both Authorities for providing us with the opportunity to take part in this review.

Yours sincerely,



Glenn Jones
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