

Submission  
No 346

**INQUIRY INTO IMPLEMENTATION OF THE NATIONAL  
DISABILITY INSURANCE SCHEME AND THE PROVISION  
OF DISABILITY SERVICES IN NEW SOUTH WALES**

**Organisation:** Refugee Council of Australia

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Refugee Council  
of Australia

PARLIAMENT OF NSW—HEALTH AND COMMUNITY SERVICES COMMITTEE

## **SUBMISSION TO THE INQUIRY INTO THE IMPLEMENTATION OF THE NATIONAL DISABILITY INSURANCE SCHEME AND THE PROVISION OF DISABILITY SERVICES IN NEW SOUTH WALES**

This submission is a submission from the Refugee Council of Australia (RCOA). RCOA is the national peak body for refugees, people seeking asylum and the organisations and individuals who work with them, representing over 190 organisations. This submission is informed by RCOA's research with refugee support organisations and other relevant services' experience of providing support to refugees with a disability in NSW.

We welcome the opportunity to provide feedback on the experience of refugees with disabilities and the implementation of the National Disability Insurance Scheme (NDIS) and the provision of disability services in New South Wales. We welcome the NDIS as a much-needed reform in Australia's disability sector. However, the implementation of the NDIS has contributed to some significant issues for people from refugee and asylum seeker backgrounds.

Refugees living with a disability are a unique group: most arrive with little or no aids or equipment and most have had access to specialised care prior to arrival. A significant number have immediate needs on arrival requiring the immediate purchase or hire of equipment such as incontinence pads, wheelchairs, and framed beds. Some arrive with a severe or moderate condition that is undiagnosed or not formally diagnosed, arrive as adults with a condition that is typically diagnosed in childhood, or arrive with poorly managed condition.

These needs pose particular challenges for the NDIS, whose users typically are people whose disability has developed since birth or as a result of an accident. Newly arrived refugees living with a disability require streamlined, triaged access to services and extensive case management. In contrast, the implementation of the NDIS has been characterised by long waiting times, and high levels of bureaucracy. It is well suited to individuals who can articulate their needs into the language of the NDIS, not necessarily those who don't have any English nor any understanding of what their options are.

NDIS need support so they can be included and can participate in Australian society. This submission highlights some of the issues and challenges that refugee communities experience in accessing disability support services in NSW, including through the NDIS, as well as for service providers who work with refugees with a disability.

This submission includes recommendations to improve support and access to services for members of refugee communities with a disability.

### **1 Background on Australia's Refugee and Humanitarian Program**

1.1 Australia's Refugee and Humanitarian Program has two main components. In the offshore component, people are resettled to Australia from overseas, usually after either being referred by the United Nations High Commissioner for Refugees, or being sponsored by a person or

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organisation in Australia. In the onshore component, people apply for refugee status (also known as seeking asylum) after arriving in Australia, and are found to be in need of Australia's protection.

1.2 Before 2012, Australia's Refugee and Humanitarian Program discriminated against people with a disability. To receive a visa through the offshore program, a person must meet the health requirements set out in Public Interest Criteria 4007. These require the Immigration Minister to refuse a visa if a person has a "disease or condition", and providing health care or community services for that person is likely to "result in a significant cost to the Australian community in the areas of health care and community services". In effect, those with a disability or other health concern were therefore unable to be resettled in Australia.

1.3 In 2012, the policy changed after a Parliamentary inquiry into the treatment of people with a disability in Australia's migration system. Now, while a person must still meet the health requirements, those requirements can be more readily waived for a person applying for resettlement. This change only applies to the humanitarian program. Migrants with disabilities are still subject to the discriminatory health waiver processes.

1.4 Since July 2012, this has resulted in more refugee and humanitarian applicants with a disability arriving in Australia through the resettlement program. The vast majority of people have been settled in Sydney, with much smaller numbers in Newcastle and Wollongong. The exact number remains unknown, and there is a significant lack of reliable and accurate data on the prevalence of refugee and humanitarian entrants to Australia that have a disability. Better data collection and dissemination are needed to support the full social and economic participation of people with a disability from a refugee background.

1.5 Refugee support and health services, who had previously little experience with the disability sector, developed strong links with the then Department Ageing Disability and HomeCare (ADHC) to facilitate access to services. Health services were also able to develop relationships with disability service providers to facilitate access to services. When the National Disability Insurance Scheme (NDIS) rolled out from 2013, block funding to disability services ceased and services had limited capacity to respond to newly arrived refugees with urgent cases. As NDIS was rolled in, ADHC's disability services ceased. Pathways for urgent newly arrived cases became difficult.

1.6 In 2015, Australia also agreed to take an additional 12,000 refugees fleeing conflict the Syrian conflict, with the majority arriving in the 2016/17 financial year. The majority settled in the Fairfield LGA. This increased the proportion of arrivals needing access to disability supports such as appropriate housing, equipment and specialised care, therapy support, and opportunities for supported education and work. This increase coincided with the NDIS roll-out in South Western Sydney.

1.7 Australia's federally-funded Humanitarian Settlement Program (HSP) does provide some support to refugees arriving with a disability. It provides on-arrival settlement support and orientation to most people who are resettled in Australia from overseas, and also to some people who arrived in Australia with a valid visa and then sought asylum. This program is designed to assist humanitarian entrants in the first eighteen months of arrival. SIS and HSP provide invaluable support in getting clients to health appointments, establishing benefits, securing housing and connecting them to support groups. However, HSP program does not provide intensive specific support for people with a disability through to NDIS services. Instead, it is a referral support program that assists new arrivals to access mainstream services. As such, caseworkers in these programs are not trained to work with people with a disability or to be aware of the services and programs available to support this group of people.

1.8 HSP is contracted by DSS to provide mobility equipment for the first 28 days only. While a service extension can be requested from DSS, this is rare, and typically donated equipment is sourced, or hire options offered.

1.9 The Specialised and Intensive Services (SIS) component of HSP is geared to assist complex cases for people who have arrived in Australia under five years. SIS is available to people who

experience multiple barriers to settling which require more casework support.<sup>1</sup> Many people with a disability are eligible, but not all. Disability alone is not necessarily assessed as an eligibility criterion.

1.10 SIS does not provide extensive case management. Rather, it is funded to provide a range of occasion-limited services. For example, it funds a SIS case manager to assist the person to access up to 6 health appointments only. This is easily used up when multiple appointments for diagnostic and other assessments to access the necessary ongoing supports are required. Service cap increase requests must be approved by DSS. SIS is not specifically funded to educate clients about the NDIS, or to assist clients make an application to NDIS, but rather to assist them to access services that may be able to assist.

1.11 SIS is also time-limited, with most people exited at 6 months. As the process of getting NDIS funded services typically takes longer than 6 months, SIS is not able to provide case management throughout the NDIS application process. Most clients are exited from SIS before NDIS services are in place, and, depending on the timing, can be exited before an NDIS Planning meeting has occurred. Likewise, SIS is not likely to still be engaged if a review of a plan was required.

1.12 The longer-term case work required to get a client through the NDIS is predominantly provided by local refugee health providers, with smaller numbers being supported by General Practitioners (GPs). NSW has various refugee health models operating including nurse-led assessment clinics or GP-led models. In metropolitan Sydney, the NSW Refugee Health Service has a small disability support team, staffed by 3 full-time equivalent positions, to assist clients with the process of applying for NDIS, ensuring sufficient evidence for eligibility, determining needs, monitoring progress, and ordering necessary support equipment, and advocating on a case by case and systemic basis.

## 2 The NDIS

2.1 The National Disability Insurance Scheme (NDIS) is a fundamental shift in disability funding and services policy, which aspires to shift choice and control toward people with a disability and their families through person-centred planning and individualised plans. To be eligible for the NDIS, a person must be an Australian or holder of a Permanent Visa or a Protected Special Category Visa, aged under 65 years.<sup>2</sup> As such, refugees on permanent humanitarian visas are eligible for the NDIS, while people seeking asylum and those on temporary protection visas (typically Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs)) are not.

2.2 As Advance Diversity Services has noted, recent developments in the NDIS could improve access for culturally and linguistically diverse communities.<sup>3</sup> However, there are still significant barriers to participation which need to be addressed before the program is finalised.

2.3 The National Ethnic Disability Alliance (NEDA) estimates 21.9% of NDIS participants should come from a culturally and linguistically diverse (CALD) background. However, in 2018 only 7% of participants are classified as CALD. Therefore, there is certainly a “substantial accessibility gap”.<sup>4</sup>

2.4 People with a disability face barriers that hinder their quality of social participation. This is compounded for those with a disability from a refugee background as they face “cumulative disadvantage”<sup>5</sup> as a result of experiencing further marginalisation through exclusion and discrimination.<sup>6</sup> The challenges that are inherent in the nature of the NDIS itself, and the existing barriers to accessing this service, need to be acknowledged and considered by the Australian

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1 Department of Social Services, Australian Government, Humanitarian Settlement Program <<https://www.dss.gov.au/settlement-services/programs-policy/settlement-services/humanitarian-settlement-program>>.

<sup>2</sup> *National Disability Insurance Scheme Act 2013* (Cth) <[http://www.austlii.edu.au/au/legis/cth/num\\_act/ndisa2013341/](http://www.austlii.edu.au/au/legis/cth/num_act/ndisa2013341/)>, ss 21-25.

<sup>3</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 1.

<sup>4</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 16.

<sup>5</sup> Karen Soldatic, Kelly Somers, Amma Buckley, and Caroline Fleay, “Nowhere to be found’: Disabled refugees and asylum seekers within the Australian resettlement landscape’ (2015) 2 *Disability and the Global South* 501, 508.

<sup>6</sup> Karen Soldatic, Kelly Somers, Amma Buckley, and Caroline Fleay, “Nowhere to be found’: Disabled refugees and asylum seekers within the Australian resettlement landscape’ (2015) 2 *Disability and the Global South* 501, 514.

Government to ensure a more inclusive NDIS. A greater understanding of the discrimination faced by people with a disability from refugee backgrounds in their access to disability services will ensure better rates of participation and more positive outcomes for this disadvantaged cohort.

2.5 The premise of the NDIS is that individuals with disability have the right to participate in the community and pursue their identified goals. Those who are eligible to access the NDIS now have much more choice, with a person-centred approach being at the heart of the NDIS. Indeed, “choice” may be an unfamiliar concept for some community members, especially those who come from more community or collectivist focused cultures. A disability service program that is individually tailored requires that people with a disability are fully aware of what services they are eligible for, and how to use these services to improve their quality of life.<sup>7</sup> While choice is vital, and reflects the social model of disability emphasised in Convention on the Rights of Persons with Disabilities, adequate support must be provided for users to be able to make a fully informed choice. For refugees and humanitarian entrants to be able to make a fully informed choice, they will need extra support, including appropriate access to professional interpreters, and sufficient casework support to help them navigate the NDIS and other mainstream services.

2.6 Service Coordination is one service type that can assist people who are not able to purchase services without support. Newly arrived refugees rarely have English soon after arrival, and none have an understanding of disability support services that are available near their local LGA, or whether they have multilingual staff. Without Support Coordination, the person will be notified about their plan by mail in English. This is highly problematic for people who do not speak English. One service provider reported that they found an unopened approved Plan during a home visit: the client was waiting for needed services without knowing they had the funding available to use them. As well as the delay to needed services, this delay could have a long-term impact on future plans: if the package is only partially spent, it could be argued it was not needed and could be reduced in the following year’s plan.

### **Recommendation 1 Review consumer-driven care models to ensure appropriateness**

*The National Disability Insurance Agency and the Commonwealth Government Department of Health review consumer-driven care models implemented by NDIS and aged care reforms to take into account the particular needs of people from refugee backgrounds, including longer appointment times, interpreters, flexible service delivery systems, and planners who are skilled in working cross culturally and have an understanding of the refugee experience.*

### **Recommendation 2 Develop mechanisms to ensure full implementation of the NDIA CALD Strategy**

*The National Disability Insurance Agency should develop action items to ensure full implementation of the NDIA CALD Strategy and publish regular monitoring and evaluation reports to assess the implementation of this strategy.*

### **Recommendation 3 Provide additional settlement support to use the NDIS effectively**

*Refugee and humanitarian entrants living with a disability should be provided with additional settlement support through the Humanitarian Settlement Program in order to understand and navigate access to the NDIS. This should include additional hours to receive casework support so they can attend appointments and assessments, and support in completing the application for the NDIS.*

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<sup>7</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 2.

#### **Recommendation 4 Provide Support Coordination to all newly arrived refugees**

*Support Coordination should automatically be provided to all newly arrived refugees applying for NDIS-funding to ensure they are able to access services as soon as possible.*

### **3 Delays in initial assessment and service provision**

3.1 The lack of documented diagnosis is the first major delay to accessing the NDIS. Eligibility rests on diagnosis, but a timely diagnosis depends on the availability of specialists to diagnose conditions in the public health system. Purchasing private services through the MBS subsidised Chronic Disease Management Plan is not an option as an assessment, rather than treatment is required. Even where the person arrives with medical reports, they may not be accepted as they are not in English, or are not produced within Australia.

3.2 NDIS focuses on functional disability.<sup>8</sup> Determining functional disability usually requires an assessment by an allied health professional such as an Occupational Therapist (OT), but often also a psychologist, or speech therapist. Waiting lists for publicly funded community-based allied health services are up to 14 months in some areas of metropolitan Sydney. Most refugees are in acute financial hardship on arrival and cannot afford to purchase private services. Unlike GPs and specialists, private allied health services are not eligible for fee-free interpreting through the Commonwealth Government's Translating and Interpreting Service (TIS), so the costs of an assessment also include the cost of an interpreter.

3.3 Unlike most Australians living with a disability, refugees on arrival are not already receiving existing services or necessarily have any equipment while they wait for their NDIS Plans to come into effect. These delays can be substantial. Service providers indicate that it can take months to collect the evidence needed to submit an application for NDIS access (which may include a GP report, paediatrician report, Occupational Therapy report, and psychometric assessment); between two to nine months for NDIS to determine eligibility; and at times an additional two months more for an NDIS planning meeting, and extremely varied time frames (2 days – 3 months) to acceptance of the plan. Even with the benefit of a Service Coordination provider from NDIA, it may be a number of months before services are in place. Delays of up to 6 months between lodging an application, access and services being granted are commonly reported.

3.4 Plan quality is another issue. At times, NDIS planners and LACs have limited understanding of the presenting disability and have developed very poor plans. For example, one client with cerebral palsy but no intellectual disability was set up for a day placement at a service for people with moderate to severe developmental delay. For others the plan is clearly inappropriate for someone with no English and no understanding of services in NSW. For example, where Support Coordination is not included in plans, and LACs are not supporting families if support coordination is not available. Delays also occur when more evidence is required, and whenever there is any service agreement changes. For example, when there are changes to an equipment order, the service provider is required to go back to the family to change the contract first. In some cases, where equipment has been delayed, NDIS requests a new quote as the quote is now out of date, and needs to be re-issued. In this case, health services must assist the family again. In other cases, Support Coordinators may be part of the plan but do not pick up the referral, leaving the client unassisted. A NSW case, the referral was given to a Western Australia based Support Coordinator.

3.5 Provision of specialist equipment such as wheelchairs and hoists is also subject to delays. Specialised equipment needs to be prescribed by an OT before it is ordered. Custom-made equipment (for example for people with curvature of the spine) takes considerable time to make. When specialised equipment does arrive, an OT appointment is often needed to make adjustments and to show the family how to use it safely.

3.6 Faced with urgent needs, refugee health services have been forced to purchase private OT services to meet this gap. They have developed relationships with community groups and sourced

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<sup>8</sup> <https://www.ndis.gov.au/operational-guideline/access/disability-requirements>

donated or second hand equipment to meet the immediate need. While SIS has the capacity to request approval from DSS to continue to hire necessary services, this is only available for SIS clients and is rarely applied for. Delays in equipment make it more difficult for them to participate in, and integrate into, their new community: it can mean they cannot leave their home at all.

3.7 Access to early intervention services has also been delayed for many children living with a suspected disability. NDIS created an additional pathway for children up to 7 years old with disability or developmental delay, the Early Childhood Early Intervention (ECEI). Large waiting lists for services are reported by service providers, with the restructuring of ECEI providers causing confusion. One service provider reports that few of their referrals made to ECEI have resulted in services being provided, with families not aware of the process or their progression in the queue. The waiting list does not appear to recognise that newly arrived refugee children are likely to have had limited access to prior services in triage.

3.8 The lack of access to the NDIS leaves people without support to access vital services and puts pressure on settlement services that are not equipped to deal with disabilities. As settlement services are not funded to provide extensive case management, the cost is shifted to the NSW Government, as health services pick up the case management without sufficient dedicated resources or additional funding.

3.9 A recent change in policy has also been identified by service providers as increasing the risk of delays. Changes to the HSP in October 2017 has meant that health information are not made easily available for all new arrivals, just those considered 'high risk'. Service providers are concerned that this may increase the risk of critical health conditions being left unaddressed upon their arrival, leading to delays in receiving vital supports. 'High risk' denotes immediate medical care is needed, but does not indicate long-standing disability that may require immediate modified or specialist equipment. For example, a person living with cerebral palsy may not be high risk, but may need a wheelchair and services soon after arrival to attend to daily living.

3.10 In NSW, refugee health services are only given access to overseas health reports once a referral is made, which may be a week after arrival. If refugee health providers were informed of arrivals' needs prior to arrival, preplanning assistance would commence, including ensuring requests for appropriate mobility aids. Where possible, refugee health or HSP providers should be able to transfer medical information to Centrelink as proof of diagnosis to streamline receipt of required disability related benefits. Alternatively, offshore medical information generated by the DHA should be automatically sent to DHS and linked via the Centrelink Registration Number.

#### **Recommendation 5 Priority access to support**

*Refugees and humanitarian entrants with a disability should receive priority access to NDIS, medical advice and allied health assessments, and Enable NSW disability support equipment. This priority access recognises the lack of prior access to disability support services prior to arrival, and immediate equipment needs.*

#### **Recommendation 6 Funding for immediate access to disability support aids**

*The Department of Social Services should extend funding for hiring of disability support aids until people have access to Enable NSW or the NDIS-funded equipment. DSS should provide clear advice that where long waiting lists exist, services can be purchased.*

#### **Recommendation 7 Health information transfers**

*The Department of Social Services, Department of Home Affairs, NSW Health and contracted services should work to implement a system that ensure accurate and timely health information transfers from assessments offshore to health and settlement service providers providing on-arrival support.*

## 4 Finances, housing and transport

4.1 As permanent visa holders, newly arrived refugees are eligible for Centrelink benefits, and are assisted by HSP services to apply within days of arrival. There are a range of benefits that a person with a disability or their carer may be eligible for, including the Disability Support Pension (DSP), Carer Allowance and Payment, Rent Assistance, Child Disability Assistance Payment, and the Youth Disability Supplement. Eligibility typically depends on diagnosis. As many newly arrived refugees have may not have been diagnosed prior to arrival, the person needs to be referred to specialists for diagnosis. Private specialists typically do not bulk bill and are therefore not an option for this group. Public waiting lists are typically lengthy. For some specialist services there are no public options, for example diagnosis of adults with intellectual delay in parts of Sydney.

4.2 In some cases, diagnosis will have been provided by specialists overseas but are not accepted by Centrelink as they are not in English or on the grounds that the diagnosis was not conducted by an Australian doctor. Others may have had a diagnosis from a doctor contracted by the Department of Home Affairs as part of their Immigration medical assessment. Delays getting the Disability Support Pension (DSP) due to lack of acceptance of medical reports from posts is highly problematic, particularly as HSP only funds the hire of mobility aids such as wheelchairs for 28 days. After this time clients are expected to rent their own wheelchair. Service providers report that their clients cannot afford to rent specialised wheelchairs and other equipment on Newstart.

4.3 Appropriate housing for humanitarian entrants with a disability is crucial in enabling them to live a healthy, productive and dignified life.<sup>9</sup> Many service providers reported concerns about the lack of appropriate short-term and long-term accommodation for this group. Public housing stock is extremely limited in metropolitan Sydney, even for priority groups, so newly arrived refugees, with few exceptions, must use the private rental market after arrival<sup>10</sup>.

4.4 Stock of affordable disability-appropriate rental housing is also extremely limited, especially for people with no rental record. HSP providers or sponsors usually assist newly arrived refugees to find rental properties. Applications for rental accommodation may have occurred prior to their DSP application so are based on the lower Newstart income, limiting their rental options further. The rush to secure accommodation, or pressure to acquiesce to the preferences of the carer, can result in people locked into leases in houses they cannot use. There is a need for accommodation support that can recognise the needs of the person with a disability and is able to advocate for their rights. RCOA member organisations have noted a number of cases where people in wheelchairs have been settled into rental accommodation with insufficient space in the bathroom to allow for daily care. Others have been settled into flats with steps, leaving the person unable to leave their house without risk to themselves or their carer. Determining whether a flat is appropriate for someone with a complex disability can be difficult, and may require the oversight of an OT.

4.5 Affordable and accessible public transport is also crucial for social and economic participation, especially as this will affect a person's ability to access mainstream and disability related services. Having access to accessible and affordable transport and being able to understand the way that transport works is essential to making appointments, participating in social activities, and accessing education and employment.<sup>11</sup> State governments have a key role in ensuring that the transport network is wheelchair accessible.

4.6 Public transport is not suitable for everyone living with a disability. In these cases DSS should approve service caps to ensure HSP can provide transportation until the taxi transport subsidy scheme (TTSS) is in place. The TTSS supports NSW residents who are unable to use public transport because of a severe and permanent disability. At present, a person may have exhausted

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<sup>9</sup> Refugee Council of Australia, *Literature Review on Housing for Refugees and Asylum Seekers* (September 2013) <[http://www.refugeecouncil.org.au/r/rpt/1309\\_HousingLitRev.pdf](http://www.refugeecouncil.org.au/r/rpt/1309_HousingLitRev.pdf)>.

<sup>10</sup> If they have arrived on a Refugee visa (subclass 200) they will be moved into initial accommodation by the HSP service before being assisted to find rental accommodation usually within 3 months, but potentially up to 6 months.

<sup>11</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 1.



the assistance provided via HSP before the TTSS or DSP is in place leaving them and their carers extremely isolated.

4.7 Some NDIS funding is inaccessible for people on low incomes. Modifications to private cars can be funded through the NDIS. However, this option is unattainable for those on lower incomes as approval for such modification would only be granted if the car/vehicle is less than 3 years old. Refugee families are typically in acute financial disadvantage at arrival and therefore not able to purchase a newish car. As approvals for some equipment from NDIS may take a year from submission to approval it is likely that the car needs to be 2 years old at the time of application.

### **Recommendation 8 Appropriate housing for people arriving with a disability**

*To address the issue of housing for refugees arriving with a disability:*

- *The Australian Government should ensure that adequate short-term accommodation is set aside for refugee and humanitarian entrants with a disability on arrival. Further, additional support should be provided for people with a disability to transition into long-term affordable and accessible housing.*
- *The Commonwealth Government Department of Social Services should provide funding for an OT housing assessment prior to the client signing a rental agreement, particularly where a person has moderate to severe mobility issues.*
- *The Commonwealth Government Department of Social Services should extend funding for hiring of mobility aids until new humanitarian entrants have access to equipment via Enable NSW or the NDIS, or at a minimum, until the DSP is in place.*
- *Short-term accommodation should be extended until the Disability Support Pension has been finalised so families have an accurate estimate of their income when finding accommodation, to increase the likelihood that they could find appropriate housing.*
- *The NSW Government should adopt an affordable housing supply strategy to expand the supply of affordable rental housing, with effective targets.*

## **5 The interface between settlement case support and disability services**

5.1 Although it is often thought that people from refugee backgrounds receive 'intensive support',<sup>12</sup> this may not always be the case. Mainstream disability services are generally unfamiliar with the specific needs of new arrivals coming from refugee backgrounds<sup>13</sup>. There is also a lack of knowledge and competency to work with people from culturally diverse backgrounds who struggle through multiple layers of discrimination. There is no 'specific case-management funding' to support new arrivals through the NDIS planning and assessment processes.<sup>14</sup> Other states have noted that independent advocacy services are overwhelmed with demand and often deprioritise assisting CALD people with a disability from accessing the NDIS<sup>15</sup>.

5.2 The NDIS model 'assumes empowerment', which can hinder participation from diverse communities.<sup>16</sup> The NDIS assumes that individuals from minority groups and those for whom English

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<sup>12</sup>Julie King, 'Disadvantage and disability: Experiences of people from refugee backgrounds with disability living in Australia' (2016) 3 Disability and the Global South 843, 29.

<sup>13</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 21.

<sup>14</sup> Diversitat Settlement & Community Programs, *Diversitat Disability Findings Report* (2016) <<http://diversitat.org.au/wp-content/uploads/2017/06/Diversitat-disability-findings-report-FINAL.pdf>>, 6.

<sup>15</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 29.

<sup>16</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 6.

is not their first language are informed about the support that is available to them,<sup>17</sup> and that they are able to “articulate” their goals in a way that can take advantage of the services that they may be entitled to.<sup>18</sup> The structure of NDIS services assumes that the person accessing the scheme understands his or her own needs,<sup>19</sup> understands Australia’s complex system of services, and has proficient English. In contrast, newly arrived refugees arriving in NSW tend to have extremely limited capacity to choose services. They do not understand service types as many have had no access to any type of specialised disability therapy prior to arrival. Speech therapy, occupational therapy, and day programs may have no equivalent in their country of origin. Most people with intellectual impairment have never been able to go to school before, with many being home-bound. In addition they are likely to have limited understanding of their rights in Australia, and little capacity to advocate for their interests, so without intervention, are wholly dependent on the advice of others around them.

5.3 Newly arrived refugees with a disability do not have enough knowledge and support to be able to negotiate the services available to them, especially when the NDIS is designed to be a consumer-driven service.<sup>20</sup> Settlement services noted that it takes around 50 hours to support a newly arrived person to complete the NDIS referral, which these agencies are not funded to do: the funding structure of SIS case management does not fit the comprehensive long-term case management required to get a person through the NDIS.<sup>21</sup>

5.4 The Victorian Refugee Health Network has highlighted the need for “culturally inclusive approaches” and for consultation of individuals with a disability from refugee backgrounds.<sup>22</sup> As the NDIS assumes an “understanding of needs”,<sup>23</sup> it is essential that the model of support takes into account past and present experiences that may affect an individual’s use of services.

5.5 Providers are also concerned that the extra needs of refugees with disabilities will not be met because of the limited resources to support complex needs.<sup>24</sup> A service provider in NSW mentioned that they are wary of making referrals to SIS, as they may not be referred to a case manager equipped to support people with a disability. There are few disability support workers and interpreters who are familiar with both the needs and experiences of refugees and those with disability.<sup>25</sup> Having many clients can also make it hard for caseworkers to make appropriate referrals and support their clients.<sup>26</sup>

5.6 There is currently insufficient funding in settlement services programs to help people find appropriate disability and health-related services. Diversitat notes that there is a need for support and early intervention as part of on-arrival settlement to prevent individuals from getting ‘lost in the

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<sup>17</sup> Ethnic Communities’ Council of Victoria, *Talking Disability: Under-Representation of Culturally Diverse Communities in Disability Support* (Project Report, 2014), 5.

<sup>18</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 30.

<sup>19</sup> Diversitat Settlement & Community Programs, *Diversitat Disability Findings Report* (2016) <<http://diversitat.org.au/wp-content/uploads/2017/06/Diversitat-disability-findings-report-FINAL.pdf>>, 6.

<sup>20</sup> Refugee Council of Australia, *Australia’s Response to a World in Crisis: Community Views on Planning for the 2016-17 Refugee Council of Australia, Australia’s Response to a World in Crisis: Community Views on Planning for the 2016-17 Refugee and Humanitarian Program* (March 2016) <<http://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>>, 75. *gee and Humanitarian Program* (March 2016) <<http://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>>, 75.

<sup>21</sup> Refugee Council of Australia, *Australia’s Response to a World in Crisis: Community Views on Planning for the 2016-17 Refugee and Humanitarian Program* (March 2016) <<http://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>>, 75.

<sup>22</sup> Philippa Duell-Piening, *Response to a Discussion Paper of the Victorian State Disability Plan 2017-2020* (Victorian Refugee Health Network, July 2016), 17.

<sup>23</sup> Diversitat Settlement & Community Programs, *Diversitat Disability Findings Report* (2016) <<http://diversitat.org.au/wp-content/uploads/2017/06/Diversitat-disability-findings-report-FINAL.pdf>>, 7.

<sup>24</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 20.

<sup>25</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 3.

<sup>26</sup> Advance Diversity Services, *Issues That Refugees with Disabilities Face and Recommendations on Improving Policy and Practice to Better Support This Group*, 20.

system.<sup>27</sup> There is also a lack of collaboration between existing mainstream disability services and settlement services, which results in services failing to meet the specific needs of humanitarian entrants with a disability.

**Recommendation 9 Embed specialised disability support consultant in settlement services monitoring from time of medical report**

*The Australian Government should consider ways to embed specialised disability support officers within on-arrival settlement services specifically to ensure caseworkers supporting new arrivals with a disability can access staff who have expertise in the integration of disability and settlement service systems.*

**Recommendation 10 Increase capacity of services to provide support to refugees with disability through the NDIS**

*NSW Health should consider funding refugee health services or networks to develop care pathways across health, disability and settlement services for people with significant impairments from refugee backgrounds. This should be through a consensus process including all relevant services and, where appropriate, people with disabilities and their carers. NSW Health should provide additional support to boost the case management capacity of refugee health services across the state.*

**6 Access to culturally appropriate services and translating and interpreting support**

6.1 In May 2018, the National Disability Insurance Agency (NDIA) released its 2018 Cultural and Linguistic Diversity Strategy. This strategy “focuses on ensuring that the NDIS is delivered in a manner that respects and takes into account the language and cultural needs of individuals needed to achieve full participation in the NDIS.”<sup>28</sup> The long awaited release of the CALD Strategy is welcome, as it seeks to ensure that people from diverse backgrounds have equal access to the NDIS.

6.2 Importantly, the CALD Strategy commits the NDIA to engage with communities, ensure that information is accessible in multiple languages, increase community capacity to participate in the NDIS, and improve monitoring and evaluation of the participation of people from diverse backgrounds. The strategy recognises that the NDIS needs to develop sophisticated, targeted data collection as well as skills in cultural competency, so it can engage with people of culturally and diverse backgrounds.

6.3 Confusion remains over disability service providers eligibility to access fee-free interpreting through the Translating and Interpreting Service (TIS). The NDIA did not enter into a contractual arrangement with TIS until 2017, creating significant barriers for people or the provision who do not speak English.<sup>29</sup> While TIS is now funded for NDIS services, concerns have been raised about the lack of interpreters and cultural competency in the NDIS program and within NDIS contractors.<sup>30</sup>

6.4 There is significant work still needed to be done by the NDIA to ensure full participation of people from refugee backgrounds. It is therefore disappointing that there are no other commitments from the NDIA on how they will engage refugee and migrant communities, and no extra funding to ensure this participation. Unfortunately, there is no effective mechanism in the strategy to measure

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27 Diversitat Settlement & Community Programs, *Diversitat Disability Findings Report* (2016) <<http://diversitat.org.au/wp-content/uploads/2017/06/Diversitat-disability-findings-report-FINAL.pdf>>, 4.

28 National Disability Insurance Agency, *Cultural and Linguistic Diversity Strategy* (2018) <<https://www.ndis.gov.au/medias/documents/cald-strat-pdf/Cultural-Linguistic-Diversity-Strategy.pdf>>.

29 Victorian Foundation for Survivors of Torture, *Service responses for people with disabilities from refugee backgrounds in Northern Melbourne*, 2018, 2.

30 Refugee Council of Australia, *Australia's Response to a World in Crisis: Community Views on Planning for the 2016-17 Refugee and Humanitarian Program* (March 2016) <<http://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>>, 75.

and implement the CALD strategy. Nor does the strategy ensure participation from people with a disability from migrant and refugee backgrounds in the monitoring and evaluation of the NDIS.

**Recommendation 11      Ensure full access to translating and interpreting services**

*The Commonwealth Government departments of Home Affairs and Social Services should provide access to free interpreting services for allied health consultations through the Translating and Interpreting Service.*

**Recommendation 12      Review policies and procedures for using interpreters**

*All disability services should review their policies and procedures to ensure appropriate use of interpreters for all service provision. Encouragement and close monitoring of interpreter use should be adhered to.*

## **7 Exclusion of refugees on temporary visas**

7.1 A key concern with the NDIS is the exclusion of those on temporary protection visas who are not eligible for the scheme, as they will not satisfy the residency requirements to access the NDIS.<sup>31</sup> Service providers also highlighted that these refugees have very limited access to settlement services,<sup>32</sup> which will hinder settlement outcomes and create prolonged health, social and financial issues.

7.2 NDIS has replaced State-based disability services, so refugees on temporary protection visas and asylum seekers will now be denied access to most disability services, regardless of their need. The refugee determination process can sometimes take years, leaving asylum seekers with a disability (or their children) without necessary therapy for many years. The number of people on temporary protection visas is growing, and restricting an individual with a disability from accessing support services will lead to emotional and financial hardship for the individual and their family,<sup>33</sup> and prevent their inclusion and participation into Australian society.

**Recommendation 13      Grant access to NDIS and other disability supports to holders of temporary protection visas and asylum seekers**

*The Commonwealth Department of Home Affairs, through its Status Resolution Support Services (SRSS) contracts, should provide NDIS equivalent packages of support for people seeking asylum who meet the non-residency related requirements for NDIS.*

*Until this is implemented, the NSW government should fund NDIS equivalent packages of support for refugees holding Temporary Protection and Safe Haven Enterprise visas who are not eligible for NDIS.*

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<sup>31</sup> Refugee Council of Australia, *Australia's Response to a World in Crisis: Community Views on Planning for the 2016-17 Refugee and Humanitarian Program* (March 2016) <<http://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>>, 7.

<sup>32</sup> Philippa Duell-Piening, *Response to a Discussion Paper of the Victorian State Disability Plan 2017-2020* (Victorian Refugee Health Network, July 2016), 21.

<sup>33</sup> AMPARO, *The NDIS and Culturally and Linguistically Diverse Communities: Aiming High for Equitable Access in Queensland* (AMPARO Advocacy Inc, October 2016), 31.