

NDIS Issues Overview

Adapting to Build and Utilise What Works

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Introduction

In December 2017, the Commonwealth and WA Governments executed a Bilateral Agreement confirming that the national NDIS (delivered by the NDIA) will be rolled out in Western Australia commencing in June 2018. The effect of this agreement was to discontinue WA NDIS and to establish the NDIS in WA in a similar form to that established elsewhere but based on a bilateral, rather than multilateral, agreement. From 1 July 2018, the NDIA will assume responsibility for the delivery of the NDIS in WA. The NDIS will continue to roll out on a geographic basis and is intended to be fully rolled out across Western Australia by 2020.

In order to be successful though, it is important that the design and governance of the NDIS be structured and implemented in such a way that is locally responsive and captures all of the benefits of the mature system established in WA over the past six decades by including existing mechanisms that will enhance local decision making. It must articulate with the rest of the disability system.

The purpose of this brief overview is to demonstrate that a fundamental risk associated with the roll-out of the NDIS in WA is that the transfer from one system to another may result in the loss of some essential elements built on decades of hard won experience, adaptation and evidence. Such an outcome could ultimately lead to people with disability not maximising their choice and control or getting the supports they need. Some useful existing supporting legislated structures, such as the Ministerial Advisory Council on Disability and the Disability Services Board, should be incorporated in the new emerging disability support system to ensure this experience is brought to bear.

The WA disability sector is made up of people who have significant, practical experience in all aspects of the disability services system and this sector is willing and looking forward to being engaged to ensure the system preserves the capacity for innovation and continuous improvement that the state has had historically. This will bring considerable strength to our aim of achieving the best possible system combining the strengths of the NDIS with the strengths of local experience and local decision making to avoid the dangers that we see within the current trajectory of the NDIS roll-out, and in particular, to assist the NDIA and WA government in avoiding the significant additional costs associated with systemic breakdown.

NDIS Reform Context in WA

WA has a significantly different service history and different delivery challenges as compared to other jurisdictions. The state's mature system includes the historical LAC system, local decision making, individualised funding as well as the capacity of the components making up the system to work together. Indeed, historically, service user

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groups, government and service providers have worked closely to build on the system. Our local knowledge makes it imperative that the governance structure for the roll-out of the NDIS in WA is undertaken with significant local decision-making capacity. The state's disability sector is committed to supporting the NDIA to best harness the strengths of the WA approach, and to ensure the roll out process is smooth so that people with disability continue to receive and benefit from quality supports.

The NDIS, as a new component of WA's disability services system, is a very immature and untested funding service which is having significant (and expected) teething problems associated with the roll-out of such a complex, national social reform. Nevertheless, the NDIS and the principles embedded in the Scheme are very welcome and supported. However, there are many gaps across all elements of disability services that are, in fact, not filled by the NDIS. This is clearly evidenced through the significant implementation challenges experienced in most Australian jurisdictions to date.

These gaps relate to the areas of:

1. Participant Choice and Control;
2. Appropriate Clinical & Comprehensive Services & Supports for Participants;
3. Service Provider Sustainability;
4. Increased Government Expenditure & Efficiency; and
5. the Roll-out Process.

It has been 25 years since the WA government first introduced individualised funding in disability services and seven (7) years since the state government provided a significant injection of sustainability funding and established a new partnership-based approach to commissioning and procurement. This is also a period over which pricing research, experience and collaboration has resulted in higher levels of sustainability for service providers. Indeed, many of the structural arrangements incorporated into the NDIS have their origins in WA service provision models.

It is also recognised that the current NDIS model works well for a cohort of people with disability while there is also a cohort for whom the current one-size-fits-all approach is simply not working. This inconsistency will cost more as time progresses and we will see clinical and other risks manifest. This is particularly the case for people with complex needs who require high end supports. The system will need to further adapt for this group of people, in order that the aspirations inherent in the NDIS are to be achieved.

Additionally, the roll-out phase is different to the ongoing operational phase which will commence in 2020. The first phase sees a need for material support for the disability services sector in order that it can make the necessary changes from currently being fit-for-purpose under pre-existing government policy to now having to be modified to meet new government policy. The additional investment required of service providers will dramatically impact their sustainability. This problem has been exacerbated by the unique multiple-funding policy framework established in WA and the fact that control was relinquished to the Commonwealth after the state government had indicated it would not do this.

This NDIS Issues Overview is focused on recognising the key service advances made in WA over the past 30 years and identifying some of the core risks faced by people with disability

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and the organisations that support them in this state as a result of the Commonwealth-state bilateral agreement. As a starting point to the analysis and to provide some policy context, a chronology of WA Disability funding is shown at Figure 1. A Systems Comparator, Figure 2, has also been prepared which flags NDIS Risk Areas impacted negatively while two cases are used to demonstrate the funding shortfalls inherent in the new system to finalise this paper.

Figure 1: Chronology of Disability Funding in Western Australia

31 Years Ago	1987	Local Area Coordinators (LAC) – LAC model introduced in 1987. The program started in Albany in 1988 and was expanded to other country areas the following year. It was introduced to Perth in 1991 with full WA coverage in 2000.
25 Years Ago	1993	Individualised Funding – WA government introduces individualised accommodation support funding.
22 years Ago	1996	Objective Funding Model – Estimate of Resident Staff Support Instrument (ERSSI) introduced to balance individuals’ needs with population support requirements. ²
17 Years Ago	2001	Mixed Funding for Flexibility (Unit Pricing) – Business Rules, based on funding principles and the analysis of actual costs; where direct care costs represented 85% and program support costs 15% of the total allocation.
15 Years Ago	2003	Realistic Funding – The Fair Level of Funding Policy was established by the WA government to provide a baseline of the funds required for the provision of accommodation and community-based support services.
14 Years Ago	2004	Certainty of Indexation – A regular indexation process was established by the government for state funded services. Staff wages identified as significantly under-funded.
13 Years Ago	2005	Shared Management Model – policy, principles and pricing developed to support individual’s managing their own supports with assistance as needed.
12 Years Ago	2006	Service User Choice – The disaggregation of block funding to enable service users to exercise their right to choose an alternative service provider / service model if desired.
10 Years Ago	2008	Evidence-Based Funding – Audit of service provider costs undertaken to allow the government to better understand the costs of service delivery.
10 Years Ago	2008	Data-Rich Feedback – WA government funds the annual production of the “State of the Disability Sector Report”.
7 Years Ago	2011	Fair Pricing, Individualised Funding & User Choice All Human Services in WA – WA government establishes the Delivering Community Services in Partnership Policy (DCSP). Additional funding to meet historical underfunding provided in two tranches with Component 1 applied during 2011 and Component 2 funding in 2013 to address historical underfunding, rural and remote issues, challenging behaviours and people with changed needs. The DCSP Policy replaced the Funding and Purchasing Community Services Policy (2002) and was effective from 1 July 2011.
4 Years Ago	2014	NDIS – Trial sites commence with individualised funding.
4 Years Ago	2014	WA-NDIS – Price Guide developed following a tender process building on more than 20 years of cost and funding experience.
Started 4 Years Ago	2014-17	Only State with three Disability Funding Systems – State funding, WANDIS and NDIA trial sites.
This Year	2018	Bilateral signed with Commonwealth – WA government makes decision for a Commonwealth administered NDIS in WA.
2 Years’ Time	2020	NDIS Fully Rolled Out – Operational Phase to begin.

² See *Public briefing note on the ERSSI*, Disability Services Commission, 2001; CORDS CEO Manual, Disability Services Commission, November 2012).

Figure Two: Systems Comparator

Issue	WA Government and WA-NDIS	NDIS	Risk Areas Impacted Negatively
Collaboration & Shared Expertise	Partnership between services sector and WA government.	Registration process and no collaboration	<ul style="list-style-type: none"> • Service sustainability • Service efficiency • Participant choice and control
Pricing arrangements	Prices built on 20 years of research, local knowledge, a tender process and evidence of comprehensive cost of services delivery.	NDIA has not collected any statistically relevant evidence of comprehensive cost and price is based on available funds rather than comprehensive cost estimates.	<ul style="list-style-type: none"> • Service sustainability • Participant choice and control
Price Sustainability	Annual indexation based on actual salaries costs and general cost increases.	Commonwealth’s National indexation factor applied – not specific enough to cover WA comprehensive costs.	<ul style="list-style-type: none"> • Service sustainability • Participant choice and control • No investment funds or Industry Adjustment Plan to guide and inform, creating certainty
Cost of Doing Business - Cash	Payment in advance supported sustainability of service providers.	Payment in arrears combined with administrative delays in payments threaten sustainability of service delivery.	<ul style="list-style-type: none"> • Service sustainability • Participant choice and control
Cost of Doing Business – Administration	Efficient contracting process with intimate knowledge of sector held by government. Simple invoicing and payments system. Planning co-ordinated by WA government and service providers closely involved.	Portal system and transaction management requires additional administration staff, and poor implementation costs service providers. Many planners inexperienced and lack knowledge of disability; lack of involvement of provider and lack of risk-based planning process ³ .	<ul style="list-style-type: none"> • Participant choice and control • Participant supports delays • Clinical appropriateness of plans • Cost of planning and delays to service providers
Flexibility in Funds Use & Response to Client	Flexibility in certain circumstances built upon local decision making and delegated powers.	Most decisions are centralised with limited delegation. Choice is threatened by lack of local decision-making capacity.	<ul style="list-style-type: none"> • Loss of participant choice and control • No Provider of Last Resort capacity • No emergency support
Emergency Hospital Stay	Block funded and applied to emergency situations.	Not funded.	<ul style="list-style-type: none"> • Clinical risk to participants • Sustainability of service provision • Increased cost to WA Government
Training	Non-recurrent funds applied for all new options.	Not funded.	<ul style="list-style-type: none"> • Clinical risk to participants increased • Provider risks increased • Work force development risk • Staff risks increased
Transport	Subject to New Vehicle Purchase and Replacement Policy.	Limited funding applied within person centred plan. Not flexible for group options.	<ul style="list-style-type: none"> • Loss of participant choice and control

³ Gilchrist, DJ (2017), *Issues Paper: Better Financial Reporting for Australia’s NFPs*, A Report Prepared for Anglicare Australia, Canberra.

Comparison of Funding in Operation – Two Cases⁴:

Regardless of the system being reviewed, funding is a complex process and it is difficult to compare the WA government, the WA-NDIS and/or the NDIS funding systems. With the advent of individualised funding, such comparisons have become harder.

Comparisons are also much more difficult when we consider the relative funding requirements for care services in the context of low, medium and high complexity disability.

However, the matrices below serve to demonstrate key funding deficiencies identified under the NDIS funding model as compared with the funding model of the WA government or the WA-NDIS as it was. It is important to note that the funding arrangements demonstrated by the cases do not include additional funding needs related to such elements as transport, thus like-for-like funding arrangements are only demonstrated to the extent possible.

Case Study 1:

Bob is an adult with a profound disability and lives in group supported accommodation with three other participants (metro).⁵ Rate per week:

Year	WA Government \$	WA-NDIS upper end \$	NDIS \$	NDIS+IPR ⁶ \$
2014/15	See WA-NDIS ⁷	4,001.86 ⁸	3,024.38 ⁹	N/A
2015/16	See WA-NDIS	4,078.01	3,181.06 ¹⁰	N/A
2016/17	See WA-NDIS	4,143.42	3,305.12	N/A
2017/18	See WA-NDIS	4,177.81	3,453.85	3,540.20

Case Study 2:

Sue is an adult with a moderate disability and accesses in-home care (metro).¹¹ Rate per hour:

Year	DSC \$	WA-NDIS lower end \$	WA-NDIS upper end \$	NDIS \$	NDIS+IPR ¹² \$
2014/15	See WA-NDIS	41.50	56.90	41.58 ¹³	N/A
2015/16	See WA-NDIS	42.30	58.00	42.77 ¹⁴	N/A
2016/17	See WA-NDIS	43.00	59.00	43.58	N/A
2017/18	See WA-NDIS	43.40	59.50	45.54	46.68 ¹⁵

⁴ These cases are indicative only and the combination of funding via both systems can be very complex. Therefore, these cases are provided as examples only. The assumptions behind the cases are available upon application to the authors.

⁵ WA-NDIS Cluster 1: ‘Accommodation – Higher Support’. NDIS ‘Supported Independent Living’ – Higher Needs. Support Item Ref No. 01_030_0115_1_1.

⁶ Where the estimated impact of NDIA’s response to the IPR recommendations is taken to be immediate.

⁷ WA government funding followed WA-NDIS once the WA-NDIS price list was established.

⁸ Each of these amounts are calculated from the weekly equivalent of the annual highest level of funding within the funding bracket.

⁹ Support Item Ref No. 14 005. The value shown is the simple mean of the price released on 4 August 2014 (\$2,995.92) and the price effective from 1 December 2014 (\$3,052.84).

¹⁰ Support Item Ref No. 14 005. Price effective from 1 August 2015.

¹¹ WA-NDIS Cluster 2: ‘Daily Living’ – ‘Assistance with daily personal activities’. NDIS ‘Assistance with self-care activities’. Support Item Ref No. 01_011_0107_1_1.

¹² Where the estimated impact of NDIA’s response to the IPR recommendations is taken to be immediate.

¹³ Support Item Ref No. 09 011. The value shown is the simple mean of the price released on 4 August 2014 (\$41.19) and the price effective from 1 December 2014 (\$41.97).

¹⁴ Support Item Ref No. 09 011. Price effective from 1 August 2015.

¹⁵ Assuming a 2.5% increase (the mid-point of the recommended range 2-3%) in line with Recommendation 14 (assuming this service falls within the IPR definition of ‘attendant care’).

Principal References

Council of Regional Disability Services (CORDS), CEO Manual Disability Services Commission, November 2012.

Department of Communities, WA-NDIS Quarterly Performance Report, September 2017.

Government of WA Community Services in Partnership Policy, 2011.

Disability Services Commission, Direct Care and Business Support Framework for

Disability Sector Organisations, 2010.

Disability Services Commission, The Fair Level of Funding Policy, 2003.

Disability Services Commission, Individual Funding Policy, February 2015.

Disability Services Commission Annual funded Sector Report 2008/09 (Benchmark data page 19, page 54)

Disability Services Commission/ Curtin University Annual funded Sector Report 2009/10 (Benchmark data page 21, page 49).

Disability Services Commission, Background Paper No1: "Understanding individual options and how they are currently funded by the Disability Services Commission," September 1996.

Disability Services Commission, Discussion Paper No 1: "Towards a funding model for Individual Accommodation Options," November 1996.

Disability Services Commission, Public Briefing Note on the Estimate of the Requirement for Staff Support Instrument (the ERSSI) and Accommodation Support Funding Benchmark Policy, March 2001.

Disability Services Commission: WA NDIS My Way Support Clusters Lower South West 2014-15 Pricing Arrangements, 14 October 2014

Disability Services Commission: Perth Metropolitan: Support Clusters and Price Framework for Disability Services effective from 1 July 2017. There are Price Guides for the impacted regional areas as well.

Gilchrist, DJ (2017), *Issues Paper: Better Financial Reporting for Australia's NFPs*, A Report Prepared for Anglicare Australia, Canberra.

Gilchrist, D. 'A Longitudinal Study of the WA Disability Sector, Part 1: Responding to Change – Costing and Pricing', 2012.

Heads of Agreement between the Commonwealth and Western Australian Governments on the National Disability Insurance Scheme, December 2017.

Joint Standing Committee on the NDIS, Accommodation for people with disabilities and the NDIS, 2016.

McKinsey & Company, Independent Pricing Review, National Disability Insurance Agency, February 2018.

Principal References

Fiona Macdonald, Eleanor Bentham and Jenny Malone: Wage theft, underpayment and unpaid work in marketised social care; RMIT University report published in The Economic and Labour Relations Review, 2017.

National Disability Insurance Agency, National Disability Insurance Scheme COAG Disability Reform Council Quarterly Report 31 December 2017, available online at <https://www.ndis.gov.au/news/quarterly-report-q2-2017.html>

National Disability Services, Analysing Time: A guide to understanding key elements of workforce costs under the NDIS, July 2017.

National Disability Services (NDS) Business Confidence Survey, UWA, December 2017.

National Disability Services, Getting the NDIS Back on Track, July 2017.

National Disability Services, State of the Sector Report, December 2017. Productivity Commission, Disability Care and Support Volume 2, 2011.

Office of the Auditor General Western Australia, Western Australian Auditor General's Report into Sustainable Funding and Contracting with the Not-For-Profit Sector – Component I, Report 13 – September 2013