Issue.2

Date 10/01/2022

National Customer Service Line

The Issue: - **Lack of responsibility for supports/assistance implementation**

**for people with severe and complex needs.**

Dear Sir/Madam,

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After following many if not all the available and generally known information leads, I came to the conclusion that there are no supports/programs made available and accessible to diagnosed severe and complex needs people.

What is the problem?

The problem is that there are no agencies/programs available/accessible (to my present knowledge) to provide upskilling for person-centred and directed 1-1 and/or group (Paid) services/supports. i.e. Upskilling to engage in social, community and economic need

1. Our organisation, being an NDIS SDA provider, (5 long-term accommodation places and 4 short/Medium-term and Respite accommodation places) proposes to offer and to make available the facility to the residents fitting the criteria.
2. Our Live-Earn and Learn “Intentional Community” facility residents in collaboration with their own supports have the opportunity to implement their developed Wellness Recovery Action Plan (WRAP) onsite/offsite as they require.
3. Unfortunately, even though the NDIS provides them with funding as well as an indicative process to follow, they are not provided with the necessary assistance to access the appropriate service providers, by their appointed Support Coordinator/s.
4. There doesn’t seem to be no one single service provider that can assist in all supports, our suggestion is that since there are specific assigned NDIS positions like, i. e. NDIA assigned complex needs manager and specialist support coordinator to organise the participant’s specific supports. Is there anyone to oversee that they’re discharging their responsibilities by aiding with their client’s plan implementation?
5. Perhaps this gives food for thought namely, is there a missing link in the process?

**I hope you find that the above problem is extremely serious and in need of prompt action.**

Thank you in anticipation.

1. The objects section of the Act in [section 3](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ndisa2013341/s3.html) is in the following terms:
   * *(1) The objects of this Act are to:*
     + *(a) in conjunction with other laws, give effect to Australia’s obligations under the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); and*
     + *(b) provide for the National Disability Insurance Scheme in Australia; and*
     + *(c) support the independence and social and economic participation of people with disability; and*
     + *(d) provide reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme launch; and*
     + *(e) enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports; and*
     + *(f) facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability; and*
     + *(g) promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community; and*

*(ga) protect and prevent people with disability from experiencing harm arising from poor quality or unsafe supports or services provided under the National Disability Insurance Scheme; and*

*(h) raise community awareness of the issues that affect the social and economic participation of people with disability, and facilitate greater community inclusion of people with disability; and*

1. As pointed out by Mortimer J in *McGarrigle,* [s.4(11)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/aia1901230/s4.html) in the Act is important in conveying an understanding of the expression “reasonable and necessary supports”. It provides that:
   * *(11) Reasonable and necessary supports for people with disability should:*
     + *(a) support people with disability to pursue their goals and maximise their independence; and*
     + *(b) support people with disability to live independently and to be included in the community as fully participating citizens; and*
     + *(c) develop and support the capacity of people with disability to undertake activities that enable them to participate in the community and in employment.*
2. [Section 4(11)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/aia1901230/s4.html) repeats some of what is referred to in the objects, and looks forward to parts of what is specified in [s.34](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/aia1901230/s34.html) of the Act, discussed below.
3. [Section 4(11)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/aia1901230/s4.html) states that reasonable and necessary supports for people with disability should support such persons to pursue their goals and maximise their independence; and support them to live independently and to be included in the community as fully participating citizens, and **to develop and support the capacity of people with disability to undertake activities that enable them to participate in the community and in employment.** If something about the disabled person means that he or she is not able to be included in the community as a fully participating citizen, and a reasonable and necessary support will avoid that result, it will be appropriate for it to be provided.
4. Section 14 of the Act, to which Mortimer J also refers, states as follows:

*14 Agency may provide funding to persons or entities*

*The Agency may provide assistance in the form of funding for persons or entities:*

*(a) for the purposes of enabling those persons or entities to assist people with disability to:*

* *(i) realise their potential for physical, social, emotional and intellectual development; and*
* *(ii) participate in social and economic life; and*

*(b) otherwise in the performance of the Agency’s functions.*

### **The National Priorities Pool Program (NPPP)**

Under the Indigenous, Regional and Low SES Attainment Fund (IRLSAF) the [National Priorities Pool Program (NPPP)](https://www.dese.gov.au/heppp/national-priorities-pool-program-nppp) is a standalone program. The objectives of the National Priorities Pool Program are to provide grants to Table A higher education providers to conduct research projects and trial initiatives designed to:

* inform future equity policy development and equity practice nationally and at an institutional level
* help increase the number of persons from a low socio-economic status (SES) background, persons from regional areas and remote areas, and Aboriginal and Torres Strait Islander persons who aspire to, access, participate in, remain in, and succeed in higher education
* help increase the number of persons from a low SES background, persons from regional areas and remote areas, and Indigenous persons who obtain higher education awards.

### **National Disability Coordination Officer Program**

The [National Disability Coordination Officer (NDCO) Program](https://www.dese.gov.au/access-and-participation/ndco) works strategically to assist people with disability to access and participate in tertiary education and subsequent employment.

NDCOs work with stakeholders at a local level to reduce systemic barriers, facilitate smooth transitions, build links and coordinate services for people with disability between the education, training and employment sectors.

# Planning meetings focus on support categories instead of your needs

1. The roll-out of the NDIS has seen planning meetings focus on trying to “fit” you into traditional models of support.
2. This is instead of starting with your needs and preferences, then looking for the options that might suit you best.
3. This has led to an increase of product-based solutions (such as SIL) with complex funding that have made home and living supports difficult to understand and hard to tailor to your needs.

48. Section 3 sets out the objects of the NDIS Act:

*Section 3*

*(1) The objects of this Act are to:*

*(a) in conjunction with other laws, give effect to Australia’s obligations under the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); and*

*(b) provide for the National Disability Insurance Scheme in Australia; and*

*(c) support the independence and social and economic participation of people with disability; and*

*(d) provide reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme launch; and*

*(e) enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports; and*

*(f) facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability; and*

*(g) promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community; and*

*(h) raise community awareness of the issues that affect the social and economic participation of people with disability, and facilitate greater community inclusion of people with disability; and*

*(i) in conjunction with other laws, give effect to certain obligations that Australia has as a party to:*

*(i) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23); and*

*(ii) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5); and*

*(iii) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4); and*

*(iv) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9); and*

*(v) the International Convention on the Elimination of All Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40).*

*49.*Section 4 sets out what are described as General principles guiding actions under this Act. *Section 4(11) of the NDIS Act provides:*

*Reasonable and necessary supports for people with disability should:*

*(a) support people with disability to pursue their goals and maximise their independence; and*

*(b) support people with disability to live independently and to be included in the community as fully participating citizens; and*

*(c) develop and support the capacity of people with disability to undertake activities that enable them to participate in the community and in employment.*

50. This is relevant when considering whether to approve a statement of participant supports.

51. Section 4(17) is also significant. It provides:

*(17) It is the intention of the Parliament that the Ministerial Council, the Minister, the Board, the CEO and any other person or body is to perform functions and exercise powers under this Act in accordance with these principles, having regard to:*

*(a) the progressive implementation of the National Disability Insurance Scheme; and*

*(b) the need to ensure the financial sustainability of the National Disability Insurance Scheme.*

52. Section 31 provides:

***Principles relating to plans***

*The preparation, review and replacement of a participant’s plan, and the management of the funding for supports under a participant’s plan, should so far as reasonably practicable:*

*(a) be individualised; and*

*(b) be directed by the participant; and*

*(c) where relevant, consider and respect the role of family, carers and other persons who are significant in the life of the participant; and*

*(d) where possible, strengthen and build capacity of families and carers to support participants who are children; and*

*(da) if the participant and the participant’s carers agree—strengthen and build the capacity of families and carers to support the participant in adult life; and*

*(e) consider the availability to the participant of informal support and other support services generally available to any person in the community; and*

*(f) support communities to respond to the individual goals and needs of participants; and*

*(g) be underpinned by the right of the participant to exercise control over his or her own life; and*

*(h) advance the inclusion and participation in the community of the participant with the aim of achieving his or her individual aspirations; and*

***(i) maximise the choice and independence of the participant; and***

*(j) facilitate tailored and flexible responses to the individual goals and needs of the participant; and*

(k) provide the context for the provision of disability services to the participant and, where appropriate, coordinate the delivery of disability services where there is more than one disability service provider.

64. Of particular relevance are the following:

*7.4 The NDIS will be responsible for supports related to a person’s ongoing functional impairment and that enable the person to undertake activities of daily living, including maintenance supports delivered or supervised by clinically trained or qualified health practitioners where these are directly related to a functional impairment and integrally linked to the care and support a person requires to live in the community and participate in education and employment.*

*7.6 The NDIS will be responsible for supports that are not clinical in nature and that focus on a person’s functional ability, including supports that enable a person with a mental illness or psychiatric condition to undertake activities of daily living and participate in the community and social and economic life.*

*...*

*7.17 The NDIS will be responsible for:*

*(a) supports related to daily living that a person would require irrespective of whether they are working or looking for work (including personal care and support and transport to and from work);*

*...*

*7.19 The NDIS will be responsible for:*

*(a) supports to assist a person with a disability to live independently in the community, including by building their capacity to maintain a tenancy, and support for appropriate behaviour management;*