



Joint Standing Committee on the National Disability Insurance Scheme
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The Australian Sign Language Interpreters' Association (ASLIA) is a not-for-profit body and is the national peak organisation representing the needs and interests of Auslan/English interpreters and Deaf Interpreters in Australia. The Association is comprised of a national Executive Committee, with representatives from branches in most Australian States and Territories.

This submission has been prepared by a group of interpreting practitioners from several States. The submission is structured as a series of responses to the eight elements of the Standing Committee's Terms of Reference.

Recommendation 1

It is the position of ASLIA, that the provision of interpreters for access to essential medical, legal, educational, financial and community services, remain the responsibility of service providers, as currently stipulated under the Disability Discrimination Act 1992 (DDA), and that these services should not be included in individual NDIS Funding Packages for Deaf participants.

Please note that throughout this submission, ASLIA refers to the Deaf community, members and participants. This general term is meant to include the community of people who require interpreting services to communicate effectively in the mainstream community, including those who identify as Deaf, Hard of Hearing and Deafblind.

A. THE ELIGIBILITY CRITERIA FOR DETERMINING ACCESS TO, AND SERVICE NEEDS OF, DEAF AND HEARING IMPAIRED PEOPLE UNDER THE NDIS

There is very limited information about the NDIS which is presented in Auslan (Australian Sign Language) - the natural and preferred language for Deaf Australians. Deaf consumers therefore may find it extremely difficult and confusing to determine if they are eligible to

access the Scheme, when they are only able to access information in English, which is often their second language.

In addition, it is essential that NDIS assessors working with Deaf participants be well-informed of the community and therapeutic services that people with disabilities may wish to access, and must include the additional knowledge required to determine the access needs of Deaf consumers. NDIS Assessors need to be well versed in obligations inherent in the DDA regarding what constitutes reasonable adjustment in the provision of interpreting services, and the additional needs identified and available under the NDIS guidelines.

ASLIA has consulted informally with consumers of hearing services in states already implementing NDIS and has been concerned to hear several cases where NDIS packages have been under-assessed (perhaps due to inadequate knowledge on the part of the assessor or the Deaf consumer) and funding approved or declined with minimal consistency or explanation.

Under the current NDIS model, many Deaf consumers must anticipate their medical interpreting needs 12 months in advance. This requirement means that the Deaf consumer must predict not only their own potential need for medical consultations and treatment, but also that of their children (as Deaf parents, Auslan interpreting will also be required when attending medical appointments with their hearing or Deaf children). ASLIA submits that this requirement is unreasonable, and that the pre-NDIS process for providing interpreting services in medical settings under the DDA should be maintained.

Further, people over the age of 65 are not eligible for funding under the current guidelines for NDIS. Over 65s access allied health services such as podiatry, physiotherapy and optometry at much higher rates than people under 65 and as such require Auslan interpreters at each of these appointments¹.

The Deaf community over 65 years of age must continue to have access to interpreting for all essential services.

Recommendation 2

NDIS provide translations of key sections of the NDIS website in Auslan by suitably qualified translators. These translations should be professionally filmed and made available on the NDIS website. Deaf consumers could then access these recordings directly from the relevant NDIS webpages in their preferred language.

Recommendation 3

NDIS deliver a clear statement to organisations falling outside of the scope of NDIS Funding Packages which reminds them of the legal obligations to provide access to their services under the DDA.

¹ Foster M, Haynes M, O’Flaherty M, Mitchell G, Skinner E, Haines T. (2012). [‘Final Report, Utilisation of allied health services by people with chronic disease: Differences across health insurance coverage and policy change’](#). Australian National University and The University of Queensland

Recommendation 4

NDIS provide training to NDIS Assessors working with Deaf participants to recognise the needs of Deaf Auslan users, including:

- a) The range of interpreting agencies in Australia and how to book an interpreter (many Deaf people are not used to booking their own interpreters);
- b) How to measure the quality of interpreters used (NAATI accreditation level, experience and expertise);
- c) How to assist the Deaf client to advocate for themselves (particularly for Deaf people who have additional disabilities or minimal language competence); and
- d) How to make a complaint about an interpreter's or professional's skills or conduct.

B. DELAYS IN RECEIVING SERVICES, WITH PARTICULAR EMPHASIS ON EARLY INTERVENTION SERVICES

There is a significant supply and demand issue for Auslan/English interpreters. A study conducted in 2004² indicated the size of the issue, and little has changed in the 15 years since this report was commissioned.

As well as fundamental supply and demand issues, there is a severe shortage of interpreters in rural and remote centres. The vast majority of interpreters reside in metropolitan areas.

Under the current NDIS model, interpreters may not charge for travel, unlike therapists and allied health professionals. This will lead to even fewer interpreters being able to provide services, especially in rural and remote areas.

There is a vital need to increase capability for and access to alternative technologies such as video remote interpreting for regional/remote Deaf clients for whom access to live interpreting is limited due to supply and travel restrictions.

Delays in service provision can often be attributed to an organisations' inability to determine whose obligation it is to provide the interpreting service. There has been longstanding uncertainty and confusion across State and Federal Government departments, including health and community services, legal, educational and financial services, about who is obliged under Commonwealth legislation, to provide interpreting services and who is not. This creates significant delays in access to services for Deaf consumers while managers and administrators volley over interpreting responsibilities, departmental budgets and unjustifiable hardship.

The National Auslan Booking Service (NABS) was established in 2005 to provide interpreting for medical appointments. The establishment of NABS reduced this uncertainty for many, by automatically funding interpreting access for all allied health and private practitioner appointments. However, there is still debate within the private hospital system about whether they should pay for interpreters. The peak representative body for the private

² Commonwealth of Australia (2004) [Supply and Demand for Auslan Interpreters across Australia](#), Department of Family and Community Services

hospitals has stated that their members are under no obligation to provide interpreters, because Deaf people can 'choose to go public'.

This attitude means that Deaf people are (a) being refused access to a service they have effectively paid for, in breach of the Commonwealth Disability Discrimination Act, and that (b) the costs for servicing Deaf people's health will unreasonably fall to the public system.

With the implementation of the NDIS, we are concerned that this already murky area will become even more confusing, as essentially a third option of Individual Package funds is added to the mix. The concern is that organisations and departments required under the DDA to provide access to their services will have an avenue to evade this responsibility by passing the cost onto Deaf consumers via their NDIS packages.

This situation is something that culturally and linguistically diverse (CALD) consumers with a disability do not have to consider, nor negotiate when accessing services, including early intervention services.

Recommendation 5

NDIS provides appropriate allowances in funding packages for cost of travel for interpreters to locations outside metropolitan areas, especially to rural and remote areas.

Recommendation 6

NDIS undertake research and development to increase supply of reliable alternative technologies to facilitate interpreting services in rural and remote areas.

Recommendation 7

NDIS delivers a clear statement to organisations falling outside of the scope of NDIS Funding Packages which reminds them of the legal obligations to provide access to their services under the DDA. NDIS makes this statement available in Auslan.

Recommendation 8

NDIS provides appropriate education and training for NDIS Assessors, specifically around legislated requirements for provision of language access.

C. THE ADEQUACY OF FUNDING FOR HEARING SERVICES UNDER THE NDIS

Notwithstanding ASLIA's position to exclude essential services from individual NDIS packages, Deaf consumers in NDIS areas have been informed that they must prioritise medical interpreting in their NDIS package, something that CALD consumers do not have to do because they are able to use federally funded services such as the Translating and Interpreting Service (TIS). With a lack of clarity around what the NDIS will reasonably accommodate in terms of interpreting, it is impossible to gauge the level of funding that a Deaf individual might require.

As stated previously, ASLIA's concern is primarily around essential funding for provision of access to those critical services – medical, legal, education, financial - which may fall outside

of the scope of the DDA. There is a disparity with CALD consumers with a disability, who have no requirement to budget language access into their packages for critical services.

Recommendations to address these issues have been stated in other sections of the TOR.

D. THE ACCESSIBILITY OF HEARING SERVICES, INCLUDING IN RURAL AND REMOTE AREAS

In rural and remote areas, there is a higher proportion of Indigenous consumers, many of which have chronic ear disease and need specific culturally-appropriate service provision³.

For both Indigenous and non-Indigenous consumers, there is a distinct lack of access to hearing services, early intervention, Auslan intervention, accredited Auslan interpreters, and poor access to alternative technologies such as video remote interpreting, and often poor internet connectivity for successful utilisation of such technology.

In addition to this, there is a general lack of awareness within hearing services in remote areas about the existence of video remote interpreting options, and Deaf consumers very often go without interpretation at all, even when services have been available.

Recommendation 9

NDIS make additional allowances for the costs of providing face-to-face interpreting services in locations outside metropolitan areas, including the costs of travel and living away from home for interpreters.

Recommendation 10

NDIS undertakes a review of technological challenges in providing reliable video remote interpreting services.

Recommendation 11

NDIS undertakes to increase awareness in rural and remote regions of Video Remote Interpreting, where available.

E. THE PRINCIPLE OF CHOICE OF HEARING SERVICE PROVIDER

ASLIA fully supports the principle of choice of service provider as one of the fundamental tenets in our professional Code of Ethics.

The current service model of the National Auslan Booking Service and several other Auslan interpreting agencies gives consumers the ability to nominate their preferred interpreters and to decline provision from interpreters they do not wish to use.

However, there are TWO parties utilising the interpreter - neither the hearing service provider nor the Deaf consumer can participate in the conversation without interpretation.

³ Morris PS, Leach AJ, Silberberg P, Mellon G, Wilson C, Hamilton E et al. 2005. Otitis media in young Aboriginal children from remote communities in Northern and Central Australia: a cross-sectional survey. BMC Paediatrics 5:27.doi:10.1186/1471-2431-5-27.

Therefore, both parties should be able to make an informed choice of provider which will be mutually acceptable. It is important to recognise that neither party is in a position to judge the quality, accuracy, impartiality and completeness of the interpretation; the hearing person can only assess the interpreter's spoken skills, the Deaf consumer can only judge the interpreter's signing skills. What frequently happens, is that access to a skilled and competent interpreter is unwittingly forfeited in favour of personal preference.

For example, personal preference may be given to interpreters whose rates are cheaper, or who provide 'value-added' support in the form of transport, advice, friendship or other non-interpreting assistance. Personal preference based on these factors may result in an interpreter being nominated and (unethically) accepting an interpreting job for which they are grossly under-skilled. Under both the ASLIA and Australian Institute of Interpreters and Translators (AUSIT) codes of ethics, this type of behaviour seriously contravenes several principles including Impartiality, Professional Conduct, Competence and Confidentiality.

The only way to ensure both consumer choice AND service quality is to establish and maintain a stringent system of ongoing regulation and monitoring of all interpreters engaging in work under the NDIS. The current NDIS guidelines state that interpreters must hold Accreditation from the National Accreditation Authority for Translators and Interpreters (NAATI). However, this alone is not enough to address the skills disparity, and the potential for unethical conduct in the interpreting sector.

Without an appropriate system as outlined in the recommendation below, the rapidly expanding interpreting industry and Deaf consumers are vulnerable to unconscionable practitioners who may get preference for work based solely on their rates, their personality or their willingness to 'value-add', rather than for their accuracy, confidentiality and maintenance of professional standards of work.

Recommendation 12

NDIS liaise with the National Accreditation Authority for Translators and Interpreters (NAATI), ASLIA and other relevant bodies to establish an appropriately-funded system that requires registered practitioners to engage in ongoing professional development, that monitors interpreter performance and ethical behaviour, and establishes a complaints process that is accessible in Auslan and English.

F. THE LIAISON WITH KEY STAKEHOLDERS IN THE DESIGN OF NDIS HEARING SERVICES, PARTICULARLY IN THE DEVELOPMENT OF REFERENCE PACKAGES

ASLIA supports initial and ongoing consultation with key stakeholders. Key organisational stakeholders include the Deaf societies in each of the States and Territories, Deaf Australia, National Auslan Booking Service, private Auslan interpreting service providers and peak bodies including ASLIA. Further consultation should take place with consumers of interpreting services, which includes both the Deaf community members and the organisations who utilise interpreting services to communicate with their Deaf clients.

ASLIA is aware of several regions where hearing services are provided by staff who have no skills in Auslan and minimal knowledge of interpreting, or Deaf culture.

Recommendation 13

NDIS provides Deafness Awareness Training (readily delivered by any of the state Deaf societies) for staff and assessors within hearing services, especially those charged with needs assessment and package design.

Recommendation 14

NDIS seeks to employ Deaf staff within hearing services, and staff who have existing knowledge of Auslan, interpreting and Deaf Community.

G. INVESTMENT IN RESEARCH AND INNOVATION IN HEARING SERVICES

ASLIA supports Deaf Australia in their assertion that there is an imbalance in the research and development of hearing services which favours development of and access to assistive devices over language acquisition and lifelong access to language.

Research and innovation must reflect the holistic needs of Deaf consumers and which addresses the lifelong benefits of early acquisition of sign language.

ASLIA also supports further research and innovation into the training and development of sign language interpreters, including Deaf interpreters (also known as Relay interpreters), which seeks to increase supply and quality of interpreting practitioners.

Recommendation 15

The Commonwealth Government should fund research, especially on early intervention, which can lead to unbiased and honest advice to parents of a newly-diagnosed Deaf child and which does not exclude access to Auslan and the Deaf community.

Recommendation 16

The Commonwealth Government should also fund research on the efficacy of interpreters, including Deaf interpreters and how their work can be improved.

H. ANY OTHER RELATED MATTERS.

Joint Standing Committee on the NDIS – Hearing Services Terms of Reference did not have Auslan accessible versions of the TOR available on their website.

To date, NDIS has not provided adequate information on how it will manage funding of interpreting services where there are multiple beneficiaries. For instance, interpreted access to theatre, group training, and public seminars.

Under the DDA, the onus is still on the provider of the service to provide interpreting, as happens in many conferences, theatre productions, seminars and so on. While actual payment of interpretation may constitute unreasonable hardship for the service provider, NDIS clearly states services' obligation under DDA to provide access, including assisting parties to coordinate access. Where there is a legitimate claim of "unreasonable

hardship”, it would be expected that the service provider would assist by liaising with all interested Deaf parties to reach an agreement on distribution of cost.

Recommendation 17

NDIS provides a simple process of part-payment for a hearing service, in cases where a group of Deaf people with an NDIS package are ‘sharing’ the interpretation or translation.

Recommendation 18

NDIS delivers a clear statement to all organisations and service providers that reminds them of the legal obligations for providing access to their services under the DDA.