



Brotherhood  
of St Laurence

Working for an Australia free of poverty

Submission to the

# NDIS Thin Markets Project Consultation

Department of Social Services

Brotherhood of St Laurence

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## Summary

The Brotherhood of St Laurence (BSL) welcomes this opportunity to contribute to the Thin Markets Consultation commissioned by the Department of Social Services (DSS) and the National Disability Insurance Agency (NDIA). Our response is based on insights from our service provision in Local Area Coordination (LAC) and Early Childhood Early Intervention (ECEI), and our research.

As the Thin Markets Discussion Paper states, a well-functioning market of supports and services is one of the foundational pillars of the NDIS. It is critical to realising the vision of the scheme, whereby people with disability are living independent yet connected lives and empowered through having choice and control over the supports they receive.

The BSL acknowledges the considerable work to date undertaken by DSS and the NDIA to support the development of the market, and we welcome the commitment to meeting ongoing challenges. We commend the Thin Markets Project team for taking a broad approach to thinking about thin markets.<sup>1</sup> Doing so correctly identifies the problem as one of unmet participant needs and avoids a reductive focus on specific causes.

### Recognising the challenges

The scope, scale and timeframe for establishment of the NDIS market make its development particularly complicated. The market must cover all types of disability and enormous geographical spread, as well as other types of diversity (e.g. culturally and linguistically diverse communities and people experiencing poverty). These challenges are becoming more evident as the scheme is rolled out. Many participants and their families report they are waiting too long for support, are unable to implement their plan and are struggling to navigate the new and complex system (Joint Standing Committee 2018a). Providers report they continue to struggle to maintain financial viability while delivering quality services and meeting administrative requirements, leading to a steady pace of market exit for certain services (Mathys & Randall 2019).

Some of these challenges are technical and transitional (i.e. a matter of poor implementation and/or the predictable adjustments that come with a reform of this scale). However, we contend that many of the challenges outlined in the Discussion Paper are arising because market-based service provision simply does not work for everyone. This view is grounded in evidence from Australia and overseas, as well as our own service experience.

Across the spectrum of marketised human services (e.g. VET, aged care) it is evident that for people with multiple, often overlapping needs who require an integrated service response, markets are neither an effective nor an efficient means of service delivery (Carey et al. 2017; Muir & Salignac 2017; BSL 2016; Olney 2016; Slasberg & Beresford 2016; Yu & Oliver 2015; Considine et al. 2011). For many other people, the complexity of navigating and negotiating their way to quality services can be an overwhelming burden (Dommers et al. 2017; Needham 2013). Yet

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<sup>1</sup> Thin markets emerge when there are not enough providers (supply) in a public or private market for it to function as intended, either in certain geographic areas or for services to meet particular needs. Thin markets have both a low number of 'buyers' (participants) and a low number of 'sellers' (providers), and may also suffer from price volatility—a combination of characteristics that leads to market inefficiencies or failure (Carey et al. 2017).

public policy continues to overestimate the capabilities that people possess to navigate markets, and underestimate the capability required (of both government and providers) to ensure markets truly address the needs of all people.

A marketised system can also result in the erosion of valuable social capital held between agencies and between workers. The significance of this should not be underestimated for people with disability. When activated, these critical social networks can provide participants with access to opportunities and resources in the community including the broader service system that would otherwise not be accessible (PC 2016).

Predictably, this same pattern is playing out in the NDIS: many people with psychosocial and/or intellectual disability (particularly those engaged with justice or child protection), Aboriginal and Torres Strait Islander people, people from CALD backgrounds and those from low socioeconomic families are disproportionately struggling to have their needs met in the NDIS marketplace (Hui 2018; Joint Standing Committee 2018a; PC 2017). The NDIA has rightly recognised this; yet while the introduction of tailored participant pathways for these groups is to be applauded, these reforms alone will not be sufficient to ensure needs are met in the market.

This is not to say that markets have no place in service provision. In some cases, markets can be an efficient means for government to meet the needs of citizens (BSL 2016). The challenge for DSS and the NDIA as market stewards is to identify the populations for whom market-based provision is *not* suitable, and the best alternative to ensure effective, efficient delivery to them. Where markets *are* the answer, the challenge lies in identifying how to make them function both effectively and equitably.

## Meeting the challenges

Within the scope provided by the Thin Markets Discussion Paper, our submission provides guidance on how the government can meet these challenges. We do so against each of the four government response areas proposed in the paper: market facilitation; market deepening; regulation and alternative commissioning. Our conclusions can be summarised as follows:

- Effective market facilitation requires investment in infrastructure that supports people to navigate the market. This holds true for the majority of participants, not just the most disadvantaged.
- Provider partnerships and collaborations are critical to quality service delivery but must be incentivised if they are to survive and thrive in a competitive environment.
- Information alone cannot stimulate new entrants to the market, nor ensure the quality and diversity of new entrants; it must be coupled with support for providers to develop effective business models that will deliver quality services.
- Addressing workforce issues requires investment not only in the content, quality and accessibility of training to increase the supply of skilled workers but also in improving the conditions of those employed in the sector.
- Price regulation can be important to protect people from predatory pricing; however, price limits must not be a barrier to quality, flexible and responsive services.

- Since the evidence is clear that markets will not work for everyone, all the time, alternative commissioning models for complex support services are critical to ensuring equitable access under NDIS.
- A focus on thin markets alone will not solve the challenges in the market. These require a broader response, which includes comprehensive and effective market stewardship.

As the Discussion Paper rightly states, unmet participant need threatens the achievement of the NDIS vision. The social and economic benefits expected by the Productivity Commission in its foundational blueprint for the scheme will not be realised unless all participants are able to access the supports they need to live a good life, regardless of their disability or background (PC 2011).

We recognise that addressing thin markets on a national scale is a formidable task. In fact, few, if any, countries have managed to address it completely. Moreover, the responsibility for action is not held by the public sector alone. The aim of the Thin Markets Project will not be fully realised unless it is embedded within a broader market stewardship strategy that draws on the perspectives and expertise of all sectors—public, private, not-for-profit, community and participants—to co-design the most effective response.

## Recommendations

### Market facilitation

1. Invest in realising the full potential of Local Area Coordinators (LACs)<sup>2</sup> (in addition to planning) to mitigate demand and supply matching barriers, in line with the Productivity Commission's original conception of the role. Do so by:
  - a. bringing together the NDIA, Partners in the Community and people with a disability to re-envisage the LAC role under the NDIS so that it can achieve expectations as they pertain to planning, while simultaneously advancing individual and community capacity building
  - b. reviewing and adjusting Partners in the Community contracts so as to reflect the importance of navigational support, individual and community capacity building in KPIs
  - c. reviewing the funding levels for LAC to ensure they are adequately resourced to undertake all aspects of the role
  - d. developing research that explores the variants of LAC implementation across Australia to understand what works for whom and in what circumstances
  - e. based on research and service experience, co-developing tools, training and practice guides that foster consistent (but locally contextualised) best practice in LAC across the nation.

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<sup>2</sup> While we refer to LAC as the primary vehicle for NDIS navigational support in this submission, we note that this function is fulfilled for children aged 0–6 by ECEI providers.

2. Provide ongoing funding for a robust advocacy sector through federal and state systems, so every NDIS participant can access support to obtain the best plan for their needs.
3. Enable and incentivise collaboration among providers by:
  - a. including the cost of interagency collaboration in pricing
  - b. incentivising and rewarding collaboration among providers, particularly those delivering services for participants with complex support needs.
4. Commission and fund Partners in the Community (LAC and ECEI providers) to build a systematic data set on participants' service requirements and the extent to which these are being met, to encourage and inform the development of responsive local marketplaces.
5. Expand the Jobs and Market Fund to provide ongoing support for providers to develop their business models to address continuing challenges. Do so in consultation with the sector to ensure that the fund enables what they need.
6. Guarantee minimum participant numbers to ensure service viability and/or new entrants while the market matures.
7. Work with service providers to streamline administrative processes, while maintaining rigorous participant protections.

### Market deepening

8. Develop and report on provider diversity targets within NDIS markets, distinguishing between organisational sizes and types.
9. Enhance the Growing the NDIS Market and Workforce strategy, in consultation with the sector, to reflect the 'four pillars' outlined by the Australian Services Union (ASU): decent pay, secure jobs, workforce engagement and professional standards.
10. Invest in new integrated qualifications that combine practical vocational skills with relevant theory and are co-designed by education providers and the disability sector (see, for example, the work done by Future Social Service Institute (FSSI)).
11. Refine funding models to ensure prices include the costs of employing appropriately skilled disability support workers and providing them with decent wages, job security and professional development opportunities and job quality.

### Regulation

12. Supplement a narrow fee-for-service approach by reinstating some block funding to enable providers to engage in service and quality improvement activities and workforce development (supervision and training at a minimum).
13. Allow flexible pricing to accommodate tailored, responsive services for all participants (not just those who self-manage) which reflect the real costs of quality service delivery.

### Alternative commissioning models

14. Use alternative commissioning models, such as block funding, to guarantee access to quality services for disadvantaged participants.
15. Co-design the commissioning framework (for these services) with the sector and participants to embed good practice and ensure the costs of meeting complex needs are covered.

### Addressing thin markets as part of comprehensive market stewardship

16. Develop a comprehensive market stewardship strategy for the NDIS to ensure the needs of all participants are met. This strategy should be guided by the principles of equity, effectiveness and sustainability.
17. Develop and publicly report on a framework that measures the extent to which the government is adhering to these principles.

## The Brotherhood of St Laurence and the NDIS

As an independent non-government organisation with strong community links that has been working to reduce poverty in Australia since the 1930s, the BSL has a strategic focus on building community inclusion. This commitment is reflected in our role as a LAC and ECEI provider for the National Disability Insurance Scheme (NDIS) in the North Eastern Metropolitan, Hume Moreland, Western Melbourne and Bayside Peninsula areas in Victoria. We have been delivering LAC since July 2016 as part of the first phase of NDIS implementation). We commenced as an ECEI provider in November 2016. Our engagement in this planning and community capacity building is driven by the recognition that people with disabilities are among the most socially and economically excluded Australians.

Through our Research and Policy Centre and in partnership with the Melbourne Disability Institute of the University of Melbourne we undertake research and evaluation activities with the aim of informing the successful implementation of the scheme in supporting people with a disability to live a good life. We also hold deep expertise in the implementation and function of human services markets through our policy and research work on competition policy, vocational education and training (VET), employment services, aged care and energy markets (BSL 2018; Myconos et al. 2018; BSL 2017; BSL 2016; Simons et al. 2016; CME 2015; Azpitarte & Sullivan 2017 unpub.).

To maximise efficient and effective implementation of LAC and ECEI, we regularly consult with participants, staff and providers to determine their experience in the NDIS. The input from these three groups has shaped this submission and recommendations.

### 1 Market facilitation

The Discussion Paper suggests three possible responses under market facilitation: demand-supply matching, supply partnerships and information provision. While we acknowledge these responses go some way towards addressing known market failures, on their own they are insufficient to create an effective market for supports. This is because:

- matching demand and supply to meet a person's need requires comprehensive navigational infrastructure
- supply partnerships are not easily achievable in a competitive market without investment and incentives
- information alone is insufficient to address any barriers to market entry for new providers.

#### Invest in navigational support for effective demand and supply matching

The Discussion Paper suggests 'giving participants information about the service options or providers available to them, or matching supply and demand through electronic platforms' as a solution to facilitate the NDIS market (EY 2019, p. 5). Our research and service experience demonstrates that to find their way to quality services in the market, many (if not most) service users require much more direct face to face navigational and capacity building support than can be provided through a website. Making the 'right' choices in a complex market environment can be daunting and stressful. Our LAC and ECEI participants tell us that they are overwhelmed by the

amount of information they must process to find their way to services. The situation is compounded for those who have complex needs requiring multiple and relational services, and/or those who are otherwise disadvantaged.

The NDIA's original market approach document (the primary reference for the agency's role as market steward) recognises 'intermediaries and infrastructure' to support navigation as the critical third factor for a high-performing NDIS market (NDIA 2016, p.13). In the Productivity Commission's blueprint for the NDIS, LACs were envisaged as best placed to fulfil this role. The Commission recognised that many consumers experience profound difficulties in finding and accessing available services in a market. To address this barrier, LACs were intended to be able to:

lay a clear pathway for clients to acquire the support they need ... through the NDIS itself, as well as advising clients on supports available through other government agencies [and] who to contact and how to go about securing them (PC 2011, p. 485).

Advocacy organisations were also seen to have a critical, complementary role to LACs in supporting participants in the marketplace.

However, the pressures of transition have prevented the LAC role from being fully realised, and the underinvestment in navigation support is contributing to a mismatch of demand and supply (Joint Standing Committee 2018a; Mavromaras et al. 2018; PC 2017).

A skilled 'navigator' service has been a critical component of market infrastructure in other marketised service systems in Australia and overseas. Service users need advice about the options open to them, practical support navigating the system and advocacy when things go wrong. Without this investment, many participants struggle to find the way through a complex, loosely regulated market and may be exposed to increased financial and personal risk (Dommers et al. 2017; BSL 2016; Slasberg & Beresford 2016; Yu & Oliver 2015; Needham 2013).

### Navigating the NDIS market: a complex and fragmented experience

The current navigational infrastructure in the NDIS is a fragmented, inefficient mix of LACs/ECEIs, financial intermediaries, support workers or primary providers, advocacy organisations, family members, friends and other informal supports. For many participants, the burden of finding their way to services falls on them.

While the current arrangements assume that only the most disadvantaged require navigational support (as demonstrated by only about 40 per cent of NDIS participants being funded for support coordination), our research with LAC staff and participants indicates this is not the case (Perdevich & Pagan 2018). Only the most confident, educated and resourced participants with strong support networks can navigate and negotiate their way to good outcomes on their own. Even then, these outcomes often come at considerable cost to the time, energy and wellbeing of the participant and/or their family. In practice, we are seeing a sizeable percentage of participants struggling to reach the services they need.

Even for those *with* funded support coordination, problems persist. Long waiting lists for well-regarded support coordinators and limited funded hours present barriers to implementing plans (Joint Standing Committee 2018a; PC 2017). Our LAC staff and participants also report that the quality of support coordination can be an issue. For those with complex needs, particularly with

psychosocial disability, finding an appropriately skilled, local support coordinator can be almost impossible. The lack of funding for staff supervision, professional development and interagency work further compromises the quality of support available.

For those *without* funded support coordination, LAC providers are the primary source of ‘official’ navigational support. LAC staff play an important role as intermediaries in a complex service system. In our research, LAC staff recognised the diversity and breadth of their functions as system navigators, and felt they were well placed to use their knowledge of different stakeholders to address points of weakness in the service system. LAC staff repeatedly spoke about building participants’ capacity to articulate their needs, exercise voice and take control of what they wanted from their support hours (Perdevich & Pagan 2018).

However, in reality most LAC staff time is spent on plan development rather than assistance with plan implementation even though both functions are part of the LAC role. Plan development was originally intended to be an NDIA role; it was added to the LAC scope following the trial period as a result of a staffing cap imposed at the NDIA. This focus on plan development was not matched by increased funding for LACs. Consequently, they have spent significantly less time on their broader responsibilities including navigational support and individual and community capacity building. LAC key performance indicators are also heavily weighted towards planning.

The pressures of transition and getting participants into the scheme to achieve COAG bilateral agreements have further shifted the LAC workload to throughput of plans (Perdevich & Pagan 2018; PC 2017; ANAO 2016). This reflected in the LAC contracts: the first round required LAC providers to undertake both planning and individual and community capacity building for people with funded supports and others with disability who were not eligible for the scheme. These functions were described as:

- link people to the NDIS – 65% of staff time;
- link people with disability, their families and carers to information and support in the community – 20% of staff time; and
- work with their local community to make sure it is more welcoming and inclusive for people with disability – 15% of staff time.

However, by round three (2017), the individual and community capacity building and linkage functions had declined from 35 to 20 per cent of LACs role.

Concurrently, while the role for advocacy organisations has only become more critical given participants’ unfamiliarity with the scheme and their rights under the NDIS, the sector does not have funding security beyond June 2020. The Productivity Commission report on NDIS costs found that ‘many State and Territory Governments have reduced or ceased funding for disability advocacy — rolling it into NDIS funding of supports instead’, reducing the sector’s capacity to support participants (PC 2017, p.39).

### Enhanced market facilitation: realising the potential of LAC

Participants need a skilled, single point of contact where they can get quality support to understand how their plans work, what services are available locally and how they can navigate

the new market. They need to be able to access this support when they need it, for as long as they need it.

This is the case regardless of whether a participant is self-managed, using a financial intermediary, or agency managed; all are still entitled to exercise choice and control, and access the information and support they require to do so. Effective market facilitation needs to consider not only simplistic solutions to supply and demand (such as information portals), but person-centred and capacity-building support that can mitigate some of the barriers currently inhibiting the effective function of the NDIS marketplace.

The original LAC model (which predated the NDIS and did not previously include planning), is place-based and focused on building positive connections between individuals and their communities to facilitate meaningful social inclusion (Bartnik & Chalmers 2007). LACs work with people's strengths and assets to advance their aspirations, simultaneously working to ensure the broader services system and community is responsive and inclusive. This fidelity model is recognised as both an effective and efficient way to achieve community inclusion and support outcomes. Importantly this work does not necessarily privilege funded service supports.

If LAC under the NDIS is to realise the scope, intent and outcomes of the original LAC model, changes will be required to Partners in the Community contracts, KPIs and IT systems. This will enable the important non-planning components of the LAC role while ensuring that funding is adequate for the full scope of LAC work.

Given the unprecedented scale of LAC under the NDIS, research to understand what works and for whom in a variety of circumstances—from remote to metropolitan—will be critical, as will the development of training, tools and resources that support good practice. The recently announced National Disability Research Partnership, led by the Melbourne Disability Institute at the University of Melbourne, presents a good opportunity to undertake this research effort.

Most importantly, realising LACs potential will require deep collaboration between the NDIA, Partners in the Community and people with a disability as true partners in the delivery of the scheme. The BSL is involved with other Partners in the Community and the NDIA in establishing a national collaboration of LAC providers to further this work. With the end of the formal transition period, it is timely to work together to ensure that the LAC role can reach its full potential for the benefit of people with a disability.

**Recommendation 1:** Invest in realising the full potential of Local Area Coordinators (LACs) (in addition to planning) to mitigate demand and supply matching barriers, in line with the Productivity Commission's original conception of the role. Do so by:

- a) bringing together the NDIA, Partners in the Community and people with a disability to re-envisage the LAC role under the NDIS so that it can achieve expectations as they pertain to planning, while simultaneously advancing individual and community capacity building

- b) reviewing and adjusting Partners in the Community contracts so as to reflect the importance of navigational support, individual and community capacity building in KPIs
- c) reviewing the funding levels for LAC to ensure they are adequately resourced to undertake all aspects of the role
- d) developing research that explores the variants of LAC implementation across Australia to understand what works for whom and in what circumstances
- e) based on research and service experience, co-developing tools, training and practice guides that foster consistent (but locally contextualised) best practice in LAC across the nation.

**Recommendation 2:** Provide ongoing funding for a robust advocacy sector through federal and state systems, so every NDIS participant can access support to obtain the best plan for their needs.

### Incentivise collaborative service partnerships to ensure good practice

The Discussion Paper also suggests that ‘supply partnerships, such as place-based collaborative models, alternative business models, co-operatives or sharing infrastructure’ can address service delivery challenges for providers. We wholeheartedly agree that greater collaboration among diverse providers delivers more effective services, cost saving to providers, and greater return on investment for government through better service outcomes.

However, evidence from both Australia and overseas indicates such collaboration is unlikely to occur in a competitive human service market environment (BSL 2016; Olney 2016; Considine et al. 2014; Butcher & Freyens 2011). These findings are already being confirmed in the NDIS. Our LAC and ECEI staff report declining levels of networking and collaboration among providers and agencies under the NDIS, as the capacity to recoup costs for coordination activities that support good practice has been undermined. The effect of competition is also being felt, with decreased trust and information sharing between providers struggling to maintain financial viability in the new market (Green et al. 2018).

The impact of this declining collaboration is disproportionately felt by people who have multiple and complex support needs. Interagency work is not funded, resulting in fragmentation of services for participants who have complex disabilities, or are in contact with multiple government departments. Without care coordination, support is atomised and inefficient, exposing participants to poorer outcomes and even harm. The Victorian Royal Commission into Family Violence underlined the importance of coordination and collaboration: fragmented service delivery, short-term and piecemeal funding, no measurement of outcomes and a lack of investment in service coordination were all found to have contributed to the failure of government to support the victims of family violence (RCFV 2016, pp. 245–6).

Collaboration and service integration between providers is critical to good, person-centred practice, particularly in health and disability services (Collings et al. 2016; Adam 2006). Collaboration helps prevent people from ‘falling through the cracks’ or dropping out of the service system entirely. For practitioners, improved coordination reduces the administrative burden of referral and cements professional networks across service areas, building new stores of both social and economic capital (BSL 2016; PC 2016).

Fragmentation and poor service integration are by no means new in the disability sector. However, marketisation can compound these issues, so there is an imperative to enable collaboration between providers to mitigate these effects. Evidence from other service systems both in Australia and overseas highlights the unintended effect of competition on critical social capital among providers, and the prioritisation of efficiency over effectiveness for the sake of financial viability (Mallett & Myconos 2015; Saunders 2015; Yu & Oliver 2015; Considine et al. 2011; Kähkönen 2010; Fear & Barnett 2003).

While contestability is important, the pursuit of choice through competition should not come at the expense of collaboration, flexibility and quality of service provision. NDIS providers need to be incentivised to work proactively together, especially to meet the needs of participants with complex support needs.

**Recommendation 3:** Enable and incentivise collaboration among providers by:

- a) including the cost of interagency collaboration in pricing
- b) incentivising and rewarding collaboration among providers, particularly those delivering services for participants with complex support needs.

### Support providers to operate in the new market by improving information and reducing administrative burden

Under market facilitation, the last solution proposed in the Discussion Paper is the provision of supply and demand information to stimulate new provider entrants. The DSS and the NDIA have recently introduced the NDIS Demand Map to assist providers to plan their service offerings and meet demand. We agree that the ability of new and existing service providers to meet demand is improved by access to high quality, timely information about the services that local participants need.

Since 1994, data sets to support decision making by service providers have been provided by the Commonwealth under various agreements. Prior to the NDIS, the Disability Services National Minimum Data Set was an annual collation of nationally comparable data about disability support services provided under the Commonwealth National Disability Agreement. The data was reliable, consistent and gathered with minimal impost on the disability services sector.

The NDIA is now responsible for providing the equivalent information in the form of market position statements. The feedback from providers working with our LAC and ECEI staff is that these market statements are too general to inform good decisions and investment. Current,

emerging and future providers have little data to guide the deployment of their workforce and ongoing capital development.

Difficulties with predicting income and increased focus on billed hours have impacted service providers' willingness to engage in quality improvement or workforce development, because funds are insufficient to cover these activities. This creates insecure employment for many disability and allied health professionals, particularly new graduates who may not be able to access the mentoring and support they require (Cortis 2017). In effect, this compromises the supply of new workers, creating further barriers to entry for new providers and threatening the viability of existing market players.

In our view, existing NDIA data need to be complemented by a dynamic learning and reflecting process that allows the voices of people with disabilities to be heard by service providers (including prospective providers). Partners in the Community (LAC and ECEI providers) have an important role in building this data set. The 2016 Auditor General's *National Disability Insurance Scheme - management of transition of the disability services market* report endorsed the role of Partners in the Community because they are 'well placed to gather both market demand and supply data (ANAO 2016, p. 59). They could provide an established mechanism for gathering real-time data on supply and demand in local markets to help providers to understand what people with disability need.

However, even improved information is not enough to incentivise new entrants to the market, nor to support existing providers. Inadequate pricing, the high administrative burden and the complexity and uncertainty of NDIS processes are resulting in a sense of insecurity in the sector (Mathys & Randall 2019; PC 2017).

Existing providers consistently report struggling with the administrative requirements of the NDIS. There has been insufficient support available for them to develop sound business models for the new environment (Joint Standing Committee 2018b; PC 2017). Providers must now take into account variation in participant numbers, the timing/amount of plan funding and how non-billable work can be covered. This requires specialist skills in business development and is a significant shift from traditional block funding.

Recognising the demands of transitioning the sector from block funding to the new market system, the Australian Government established the Sector Development Fund (SDF), which was administered by DSS and operated from 2012/13 to 2017/18. However, in its evaluation of the SDF, the ANAO (2016, p. 34) found that there was limited evidence of a strategic approach to grant-making, which impeded the intended impact of the SDF. Since the official transition period ended in July 2019 (except in Western Australia, which will transition by July 2020), DSS replaced the SDF with a NDIS Jobs and Market Fund (JMF) in the 2018/19 Federal Budget. The JMF shifts the focus to workforce and market growth. While this is certainly important, continued support for providers to transition their business models is still needed, since existing providers are experiencing ongoing challenges.

To support existing providers and encourage new market entrants, a more sophisticated approach to market information is required. This must be coupled with greater support for providers to develop sound business models as transition continues.

**Recommendation 4:** Commission and fund Partners in the Community (LAC and ECEI providers) to build a systematic data set on participants' service requirements and the extent to which these are being met, to encourage and inform the development of responsive marketplaces at the local level.

**Recommendation 5:** Expand the Jobs and Market Fund to provide ongoing support for providers to develop their business models to address continuing challenges. Do so in consultation with the sector to ensure that the fund enables what they need.

**Recommendation 6:** Guarantee minimum participant numbers to ensure service viability and/or new entrants while the market matures.

**Recommendation 7:** Work with service providers to streamline administrative processes, while maintaining rigorous participant protections.

## 2 Market deepening

The second possible government response proposed by the Discussion Paper is market deepening, described as interventions that 'seek to encourage supply to meet needs' (EY 2019, p.5). Given the variety of participant needs under the NDIS, achieving the required diversity of providers and ensuring all types can operate sustainably is difficult, even in a mature, metropolitan market. Some of the approaches to market deepening outlined in the Discussion Paper are welcome—in particular, options which integrate services, and market solutions such as training and workforce development. However, we believe they are not sufficient to meet the diverse range of needs of participants; and in the case of service bundling, they may have a perverse impact.

### Promote diversity of providers to match the diversity of participant needs

NDIS service markets need to include diverse organisations to reflect the diverse needs of participants. Indeed, the NDIA's Market Approach document states (2016, p.13):

The NDIA, like consumers, is seeking a marketplace with a diverse array of providers that maximises choice and control for participants, but also enables strong links with non-specialist services and family and community support to help achieve the overall NDIS aims of increased social and economic participation for people with disabilities. Choice will be fostered through harnessing a broad and interactive NDIS marketplace and community.

The Discussion Paper suggests bundling services to increase efficiency for providers where delivering a single service is inefficient. While we recognise the challenges faced by providers in achieving appropriate economies of scale under the NDIS, bundling services is likely to have the perverse consequence of reducing the NDIS market to a small number of large providers.

This concentration is likely to have a substantial impact on the quality of service offerings. As Needham (2018) observes, ‘big organisations in the public (and indeed private) sectors are not good at being human’—arguably a necessity to addressing a person’s needs. Instead, market deepening interventions should focus on building the diversity of providers, including cultural and ethnic organisations, disability specific organisations, and large, medium and micro organisations.

The NDIS is premised on a diverse market of quality service providers, including small community organisations which offer bespoke services. Support for diversity is crucial not only for choice and control, but also to protect the contribution of those smaller providers embedded in local community networks.

**Recommendation 8:** Develop and report on provider diversity targets within NDIS markets, distinguishing between different organisational sizes and types.

### Invest in workforce conditions as well as supply to meet workforce development needs

The Discussion Paper recognises the impact that ‘challenges in recruiting and retaining qualified workforces and providing learning and development opportunities’ pose to the effective functioning of the market (EY 2019, p.4). The workforce supply challenge presented by the scale of the NDIS reform is well documented: it is estimated that at least an additional 70,000 workers need to be found to support people with disability in the NDIS (Joint Standing Committee 2018a).

DSS is responsible for workforce development under the NDIS and has to date focused on increasing the supply of new workers through their *Growing the NDIS Market and Workforce* strategy (DSS 2015). However, workforce development cannot be reduced to supply alone. To attract and retain sufficient workers to meet this demand, disability support jobs must be secure and well paid, with career paths. Yet the disability sector is characterised by casualisation, insecurity and low pay, and affords workers few career progression opportunities; and providers report increasing staff turnover (Mathys & Randall 2019; Cortis 2017). Around 43 per cent of the disability workforce are casual workers (Mathys & Randall 2019, p. 8). This is understandable, with service providers having limited guarantee of future revenue, but it can make disability support unattractive to many prospective employees. Staff turnover compromises not only providers’ viability but also the quality of care and participant outcomes.

While the same is true of most care industries, there are indications that NDIS price settings are contributing to the proliferation of insecure work in the sector (Joint Standing Committee 2018a; Cortis 2017).

The sustainability of the NDIS is reliant on a highly skilled, qualified and stable workforce. Any workforce strategy must attend to the current and future conditions of the workers, as well as the supply of new workers. Significant investment in the conditions and quality of the current workforce is required, alongside investment in the quality and availability of tertiary training.

Considerable work identifying these issues and possible solutions has been done by (among others) the Australian Services Union (ASU) and the Future Social Service Institute (FSSI), a unique

collaboration between the Victorian Council of Social Service (VCOSS), RMIT University and the Victorian Government. ASU has outlined ‘four pillars to make the NDIS the best it can be’: decent pay and conditions, secure jobs, workforce engagement and professional standards (ASU 2019). In Victoria, a \$2.6 million investment has been granted to FSSI to redesign training programs with a focus on not-for-profits and their role in service delivery. We endorse these developments, and draw our recommendations from their work.

**Recommendations 9:** Enhance the Growing the NDIS Market and Workforce strategy, in consultation with the sector, to reflect the ‘four pillars’ outlined by the Australian Services Union (ASU): decent pay, secure jobs, workforce engagement and professional standards.

**Recommendation 10:** Invest in new integrated qualifications that combine practical vocational skills with relevant theory and are co-designed by education providers and the disability sector (see, for example, the work done by Future Social Service Institute (FSSI)).

**Recommendation 11:** Refine funding models to ensure prices include the costs of employing appropriately skilled disability support workers and providing them with decent wages, job security and professional development opportunities and job quality.

### 3 Regulation

Under the third proposed government response—regulation—the Discussion Paper focuses on price setting as one key regulatory option for addressing market challenges in the NDIS. We acknowledge price setting as a practical way of containing costs and protecting consumer protections against predatory pricing. However, the need to ensure financial sustainability must be balanced with the costs of providing a quality service.

In our view, the current fee-per-hour approach conceives of all services as transactional—that is, easily quantified by a unit cost and contained to the individual interaction between client and the person providing the service. Rarely does the price include the costs associated with ensuring those services are high quality—costs of considerable pre and post-session work, supervision and professional development, and internal and external collaboration between staff and other services or government departments.

The inadequacies in the current pricing structures and their impact on the quality and availability of services are well documented. Providers are consistently reporting they are struggling to remain financially viable, maintain quality and develop a sustainable workforce (Mathys & Randall 2019; Green et al. 2018). In a recent survey of the disability services sector, 54 percent of respondents indicated their organisation would have to reduce the quality of its services to remain viable under the NDIS, and 58 per cent reported they might not be able to continue to deliver their services under the NDIS at all (Carey et al. 2019, p. 12). The Productivity Commission’s report on NDIS costs noted that pricing has ‘hindered market development by

discouraging the provision of some disability supports. In some cases, it has led to poor participant outcomes, especially for those with complex needs' (PC 2017, p. 315).

Our LAC staff see firsthand the impact of inadequate pricing on the quality of support, particularly for participants experiencing disadvantage, as demonstrated in the following example.

*Case Study: Sandy is female, mid-30s, lives alone and experiences psychosocial disability. Sandy has a history of trauma and difficulties with interpersonal relationships. This history often affects her ability to build strong engagement and trust with providers, particularly when she feels that they have made a mistake or upset her.*

*Before the NDIS, Sandy was supported by a mental health case worker. The case worker was part of a team with strong supervision and professional development processes. Among other benefits, this meant that Sandy had access to a secondary case worker who knew her and could provide support when her primary case worker was on leave. The case worker and Sandy jointly identified solutions to supporting Sandy to repair relationships with the other service providers she relied upon and to build trust over time.*

*When Sandy entered the NDIS she received a comprehensive plan that included support coordination and significant capacity building supports, in addition to other services and supports.*

*Despite having support coordination, after a few months of activating her plan, Sandy had not accessed the other supports in her plan. By that time her plan contained little funding for support coordination as it had been expected that her plan would be implemented.*

*LAC staff contacted Sandy and her support coordinator to help her engage with her supports. Her support coordinator expressed concern that Sandy found it difficult to engage and build trust with providers, resulting in her not getting the supports she needed. Several providers felt they had minimal incentive to work towards engaging Sandy because her behaviour was challenging and they had plenty of other NDIS participants to support.*

*Equally, her support coordinator found it difficult to work with Sandy without regular supervision and a team to support her, especially when Sandy expressed wanting to disengage. Despite her NDIS plan being reviewed to include more support coordination, the funds remain unused.*

Effective price setting must take into account all the aspects of service delivery that support quality outcomes, not simply billable hours. Specifically, we argue that regulated pricing should include allocations for:

- direct service provision, including logistics (transport etc.)
- interagency networking and collaboration
- staff supervision, training and professional development
- the higher cost of complex care, including intensive one-to-one support and support for participants with challenging behaviours.

Pricing structures also need to be flexible enough to meet the needs of all participants. Current pricing mechanisms do not differentiate enough between different services, modes of delivery and disabilities. Without flexible pricing arrangements, there is little scope to arrange for services

that are tailored, responsive and person-centred. This creates both economic and social costs for individuals, their families and carers and the broader community.

By contrast, plan self-management under the NDIS provides far more flexibility to have needs met (albeit by shifting the risk and responsibility onto the individual or their carer). There is much to learn from the benefits (and risks) of self-management to inform how price setting could be addressed.

**Recommendation 12:** Supplement a narrow fee-for-service approach by reinstating some block funding to enable providers to engage in service and quality improvement activities and workforce development (supervision and training at a minimum).

**Recommendation 13:** Allow flexible pricing to accommodate tailored, responsive services for all participants (not just those who self-manage) which reflect the real costs of quality service delivery.

## 4 Alternative commissioning models

Lastly, the Discussion Paper suggests alternative commissioning models as an option for government in addressing issues in the NDIS market. We welcome the inclusion of this approach as recognition that markets do not work for everyone in the provision of essential services.

When delivering services for the most vulnerable people and those whose needs are multidimensional and complex (particularly in rural and remote areas where markets and existing services are typically shallow) it is invariably more efficient in the long term to invest in carefully commissioned wraparound services than to rely on the market. We have seen this demonstrated time and again in our research and service experience in implementing marketised services in VET, employment services, aged care and energy markets (BSL 2018; Myconos et al. 2018; Simons et al. 2016; CME 2015; Azpitarte & Sullivan 2017 unpub.).

Thin markets or outright market failure will always persist where providers see service needs as high cost, with inadequate or inconsistent 'flow' of participants to be financially viable. Our LAC staff have observed this in services for people with psychosocial disability, for people with challenging behaviours, and for people with complex and overlapping needs, such as engagement with the justice system, homelessness, and drug and alcohol issues. The literature on the NDIS consistently raises these concerns, finding that services for the most vulnerable participants in the NDIS are most at risk from thin markets and market failure (Carey et al. 2019; Mathys & Randall 2019; Green et al. 2018; Mavromaras et al. 2018; PC 2017).

Our research on choice and control with LAC staff in the North Eastern Metropolitan Area demonstrates that the market does not automatically respond to gaps in cases where a service is not financially viable or where it might be considered socially challenging (Perdevich & Pagan 2018). LAC staff recounted several examples of service gaps that affected people with behaviours of concern, including one person who was prevented from leaving a forensic mental health

institution because of lack of availability of suitably skilled community access workers, and another who was forced to remain in a forensic mental health institution past the discharge date due to a lack of alternatives. Other gaps included the limited care options available for a person with an acquired brain injury and high support needs, and the lack of services equipped to respond to crises, such as when a family unexpectedly relinquishes an adult in their care.

The imperative for alternative commissioning models is fundamentally an issue of equity. Since its inception, equity has been at the heart of the NDIS; indeed, one of the driving reasons behind the reform was the inequity experienced by people with a disability under the old system, sometimes referred to as the 'postcode lottery' (PC 2011). The NDIS Act is premised on the recognition that everyone, regardless of their background or their disability, is entitled to self-determination, choice and control, full inclusion in their community and having their (reasonable and necessary) needs met.

However, despite the welcome development of planning pathways for people with psychosocial disability and complex support needs, there is growing evidence that the scheme is struggling to cater to all the diverse needs of its participants (Hui et al. 2018; Joint Standing Committee 2018a; Mental Health Australia 2018; PC 2017). Our experience on the ground highlights the ways in which the scheme is reproducing, and in some cases extending, the inequities and fragmentation experienced under the previous system of disability services.

For the most disadvantaged participants, the consequences of not being able to access high quality and timely services can be catastrophic. Our staff report seeing significant decline in participants' functional capacity and wellbeing as a result of extended wait times for services, or a poor service experience—particularly for people with psychosocial disability who are often already isolated. Incidents of participants entering crisis are reported not only by our staff but also in other research (Carey et al. 2019; Hui et al. 2018). Among these is the case of a participant tipped into homelessness because of being unable to access the services they required.

Such experiences directly contravene the early intervention and insurance principles of the NDIS. The scheme's fundamental economic rationale is that investing in people's capacity now will decrease costs in the future; but instead some participants' needs are increasing rather than decreasing during their engagement with the NDIS. For these participants, there must be a safety net: alternative commissioning models, based on close collaboration between the NDIS, DSS and state and territory governments, are essential.

**Recommendation 14:** Use alternative commissioning models, such as block funding, to guarantee access to quality services for disadvantaged participants.

**Recommendation 15:** Co-design the commissioning framework for these services with the sector and participants to embed good practice and ensure the costs of meeting complex needs are covered.

## 5 Addressing thin markets as part of comprehensive market stewardship

Ultimately, we believe that the Thin Markets Framework that will be developed through this consultation must be embedded in a comprehensive market stewardship approach if it is to effectively address the issues outlined here. To date, the NDIA has articulated a narrow scope for their role as market steward, limiting actions to price setting, ensuring minimum standards and monitoring market entry (NDIA 2016, 2018). Responsibility has been fragmented across government boundaries, and insufficient intervention has occurred to ensure the effective and equitable development of the market (Joint Standing Committee 2018a; PC 2017). If the government is to achieve the ambition of the NDIS and enable all people with a disability to live a good life, market stewardship must go beyond this approach, and recognise governments' long-term responsibility to ensuring all participants' needs are appropriately met.

The NDIA's role as market steward is outlined in two key documents: the *NDIS market approach: statement of opportunity and intent* (2016) and the *NDIS market enablement framework* (2018). Both documents conceive of the agency's approach to market stewardship as 'light touch', and as further diminishing post transition (NDIA 2018, p. 4):

The NDIA expects that the markets will develop organically to meet the needs of participants, and that any intervention will reduce over time. While the market matures, the NDIA will consider intervening in extraordinary circumstances. If intervention is required, the NDIA will use the lightest touch to resolve the issue on behalf of participants or the market as a whole.

This approach is underpinned by a set of false assumptions about how long transition will take, and the kinds of interventions required to achieve robust markets. The Joint Standing Committee on the NDIS concluded that 'market stewardship will be required well beyond the transition period as it will take time for the market to mature and participants to learn how to fully explore service options' (2018a, p.10). Despite the projected full roll-out of the scheme by July 2020, neither participants nor providers are ready to operate optimally in the new environment, and the current market dysfunction is a clear symptom of this.

The narrow scope of market stewardship also fails to account for the impact of other aspects of the scheme and wider policy settings which contribute to participants' needs being effectively met. These include the planning process; the role and function of LACs, ECEIs and ILC programs; the role of families, carers and other informal supports; the interface with mainstream services; the role and availability of advocacy organisations and peak bodies; and the relationship between multiple government agencies, including the NDIA, DSS, the Commission and the state and territory governments.

Of most concern in the current market stewardship approach is the absence of any consideration of equity. 'Equity' is not mentioned in either of the NDIA's key market documents, nor in related documentation such as the DSS's *Growing the NDIS market and workforce* (2015), nor the Discussion Paper for this consultation. Given the mounting evidence on the challenges facing people experiencing disadvantage in the NDIS, this omission represents a significant risk to success of the scheme (Malbon et al. 2019; Hui et al. 2018). As we outlined previously, markets do

not always work for the most vulnerable, and without active market stewardship based on the principle of equity, can have catastrophic impacts on people's lives.

Based on the experience of other marketised services, the most disadvantaged NDIS participants are likely to be subject to predatory pricing, poor quality services and other unintended costs (Simons et al. 2016; Yu & Oliver 2015; Considine et al. 2011). The widespread use under Job Network of 'cherry picking' the more employable jobseekers, while 'parking' disadvantaged clients in training programs, shows how attempts to use competition to incentivise quality can backfire (Horn 2013). Likewise, previous VET reforms in Victoria illustrate the powerlessness of an ill-equipped regulator to stop fraudulent colleges from 'gaming' individualised funding to profit at the expense of disadvantaged students and taxpayers (Yu & Oliver 2015).

Market stewardship responsibility must extend to ensure adequate intervention for the large cohort of participants who require support to exercise market choice. This includes recognising the different barriers that people face in accessing and engaging with the services they are entitled to. Individuals who are experiencing disadvantage, deep social exclusion or discrimination may need additional resources and specialist support to access services which other groups may find more straightforward (BSL 2016). To achieve equity for these participants, the unit price for service delivery will have to reflect the actual cost of meeting their access needs. But equity in human services cannot simply be purchased; it also relies on leveraging personal, business, government and community networks to address people's needs through collaborative, interagency and multisectoral work.

We conceive of the market stewardship role of government as encompassing a wider range of responsibilities than those of a conventional regulator. It requires governments to do more than just fund individual budgets and set market rules; they must 'actively monitor the market for inequities and not just protect citizens from worst case scenarios (i.e. fraudulent providers) but steer and manage the market to ensure it is benefiting all citizens' (Carey et al. 2018).

Specifically, we believe that as market steward, the government through the DSS and NDIA must:

- provide participants with clear, accessible and up-to-date information about the quality and performance of providers to enable them to exercise informed choice
- provide navigational and advocacy services to support decision-making
- monitor markets for inequities (and collect adequate data to do so) and act to address them
- set *and* adjust 'rules of the game' (e.g. prices)
- monitor markets to ensure that there are sufficient providers for competition to deliver benefits for consumers, and to provide incentives to improve quality and responsiveness
- supplement 'thin' markets, either by commissioning specialist services or by offering seed funding to new market entrants
- monitor service quality, and promote innovation and the dissemination of best practice within markets.

Governments have an enduring obligation to guarantee that all Australians have access to the resources they need to flourish, and as market stewards, must play an active role in ensuring that

human services deliver improved long-term outcomes and public value for citizens (Gash et al. 2014). We urge DSS and the NDIA to recognise their obligation to actively ensure the effective and equitable functioning of the NDIS market for the long-term sustainability of the scheme.

**Recommendation 16:** Develop a comprehensive market stewardship strategy for the NDIS to ensure the needs of all participants are met. This strategy should be guided by the principles of equity, effectiveness and sustainability.

**Recommendation 17:** Develop and publicly report on a framework that measures the extent to which the government is adhering to these principles.

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