



Refugee Council
of Australia

JOINT STANDING COMMITTEE ON THE NATIONAL DISABILITY INSURANCE SCHEME

SUBMISSION TO INQUIRY INTO TRANSITIONAL ARRANGEMENTS FOR THE NDIS

The Refugee Council of Australia (RCOA) is the national umbrella body for refugees, people seeking asylum and the organisations and individuals who work with them, representing over 190 organisations and 1,000 individual members. RCOA promotes the adoption of humane, lawful and constructive policies by governments and communities in Australia and internationally towards refugees, people seeking asylum and humanitarian entrants. RCOA consults regularly with its members, community leaders and people from refugee backgrounds and this submission is informed by their views.

This is a submission written with support from RMIT University's Centre for Applied Social Research. This submission was prepared by Dr Christina David (lead), Dr Sharlene Nipperess and Dr Chris Maylea, of RMIT University's Centre for Applied Social Research.

We thank the Joint Standing Committee on the National Disability Insurance Scheme for the opportunity to make this submission to the Inquiry into transitional arrangements for the NDIS. While the NDIS is a welcome and much needed reform in Australia's disability sector, the implementation of the NDIS has contributed to some significant issues for people from refugee and asylum seeker backgrounds, as well as people from culturally and linguistically diverse backgrounds. This submission highlights some of the issues that refugee communities have faced in the transition period for the NDIS, and proposed recommendations to improve the support for refugee communities with a disability.

1. Issues during transitional arrangements

- 1.1. The transition of many state-funded disability support services to the national scheme will have implications for all Australian citizens living with a disability, given uncertainty and the potential for service gaps to emerge. The implications for people already experiencing significant barriers to service access and quality need particular attention.
- 1.2. People from culturally and linguistically diverse backgrounds make up the second largest group of people living with disabilities. Yet, they are significantly under-represented in disability support services, and had very low NDIS participation rates during the NDIS trial phase.¹
- 1.3. Barriers to accessing quality disability support services prevents social and economic participation and wellbeing. This issue has been caused by a lack of consideration, in policy and practice, of the cultural, social and structural barriers that restrict access to necessary services and opportunities.² In a model based on choice and markets such as the NDIS, this

¹ Diversitat Disability Findings Report (2014) <http://diversitat.org.au/wp-content/uploads/2017/06/Diversitat-disability-findings-report-FINAL.pdf>.

² Diversitat Disability Findings Report (2014).

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disadvantage is reproduced for those who find it more difficult to navigate complex service and funding systems and to exercise informed choice.

- 1.4. In 2012, there were welcome policy changes which addressed the discrimination of refugees with a disability in Australia's Refugee and Humanitarian Program. As a result, more people with disabilities have been resettled through Australia's Refugee and Humanitarian Program.³
- 1.5. Holders of a permanent visa, including refugees resettled in Australia, are eligible for the NDIS if they meet age and impairment criteria. However, our research indicates that the disability and refugee support sectors are straining to meet the increasing demand.⁴
- 1.6. Key concerns raised with RCOA include: increased pressure on services without corresponding increases in resources and specialised workforce capabilities; fragmented inter-sectoral communication and collaboration; a lack of culturally responsive practices; and chronic service delays. Cross-cutting barriers relate to language and culture and multiple discrimination arising from having both a refugee background and a disability.
- 1.7. We believe that the access gap experienced by refugees with disabilities will only increase during the transition to the NDIS, unless documented issues associated with the speed and nature of the transitional arrangements are addressed. The Productivity Commission Position Paper on NDIS Costs identified a range of issues relating to the speed of transition, reduced time for planning, fragmented communications, and the increased risk in this climate for those least able to engage with and navigate the complexity of the NDIS and disability service sector.⁵ These are addressed below in relation to people from refugee and culturally and linguistically diverse backgrounds and with reference to relevant research.

2. How refugee communities come to Australia

- 2.1. Under Australia's Refugee and Humanitarian Program, the Australian Government annually sets a number of places for refugees and humanitarian entrants. While numbers have fluctuated, the Refugee and Humanitarian Program is currently set at 16,250 places in 2017–18 and will increase to 18,750 places in 2018–19.⁶ The Australian Government has also recently resettled 12,000 people from the conflicts in Syria and Iraq as a one-off program in addition to the annual humanitarian intake.
- 2.2. There are two main ways in which people come to Australia through the Refugee and Humanitarian Program: through resettlement from overseas (the 'offshore' component), and by claiming asylum in Australia (the 'onshore' component).
- 2.3. Until recently, Australia's Refugee and Humanitarian Program has discriminated against people with a disability. The *Migration Act 1958* and regulations are exempt from the *Disability Discrimination Act 1992*, enabling the Government to discriminate against people with a disability in the area of migration. To receive a visa through the offshore program, a person must meet the health requirements set out in Public Interest Criteria 4007. This has the effect that the Immigration Minister must not grant a visa if a person has a "disease or condition" and the provision of the health care or community services for that person would be likely to "result in a significant cost to the Australian community in the areas of health care

³ Refugee Council of Australia, *Humanitarian Arrivals with Disabilities* (March 2016) <http://www.refugeecouncil.org.au/wp-content/uploads/2016/06/1606-SPN-disability.pdf>; Victorian Refugee Health Network, Response to 'A discussion paper of the Victorian state disability plan 2017-2020' (July, 2016) http://refugeehealthnetwork.org.au/wp-content/uploads/Submission_2016_July26_State-disability-plan.pdf

⁴ Refugee Council of Australia, *Humanitarian Arrivals with Disabilities* (March 2016) <http://www.refugeecouncil.org.au/wp-content/uploads/2016/06/1606-SPN-disability.pdf>; Victorian Refugee Health Network, Response to 'A discussion paper of the Victorian state disability plan 2017-2020' (July, 2016) http://refugeehealthnetwork.org.au/wp-content/uploads/Submission_2016_July26_State-disability-plan.pdf

⁵ Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs*, (14 June 2017) <http://www.pc.gov.au/inquiries/current/ndis-costs#report>.

⁶ The Australian Government has committed to continue the allocation at 18,750 after 2018-19.

and community services". Those who failed this health requirement because of a disability or other health concern were not able to be resettled in Australia.

- 2.4. However, this policy changed in 2012, after a Parliamentary inquiry into the treatment of people with a disability in Australia migration system. Now, while a person must still meet the health requirements, those requirements can be waived for a person applying for resettlement. The relevant policies direct the decision-maker to grant a health waiver, regardless of the impact that person may have on the health or community services in Australia.⁷ This change only applies to refugees with disabilities. Migrants with disabilities are still subject to the discriminatory health waiver processes.
- 2.5. Since July 2012, this has resulted in more refugee and humanitarian applicants with a disability arriving in Australia through the resettlement programme. However, the exact number remains unknown.

3. Settlement services for refugee communities

- 3.1. Australia's settlement services framework is internationally renowned as an example of best practice in supporting the successful settlement of refugee and humanitarian entrants. The Australian Government funds a program to provide on-arrival settlement support and orientation to most people in the offshore program, and also to some people in the onshore program who arrived with a valid visa.
- 3.2. The initial months of settlement in Australia are some of the most challenging periods in a refugee's settlement journey. Refugee and humanitarian entrants typically arrive in Australia with limited or no financial resources (with some new arrivals bringing literally nothing more than the clothes on their backs), limited or no English language skills or knowledge of Australian culture, laws and systems. On arrival, they are confronted with many and often competing settlement challenges: finding appropriate accommodation, learning English, completing education, obtaining or upgrading qualifications, seeking employment, supporting family members still living in refugee situations overseas, learning about life in Australia and recovering from experiences of torture and trauma.
- 3.3. In this context, effective on-arrival support plays a critical role in assisting new arrivals to find a foothold in Australia and begin their settlement journey in a positive way. HSS (now HSP) providers are the first point of contact in Australia for many new arrivals in Australia and the support they offer can have a significant influence on future settlement outcomes.
- 3.4. However, these settlement services are not designed to cater for the needs of refugees with disability. While the HSS/HSP and CCS programs provide initial casework and referral support, they are not specific services for people with a disability. As discussed below, the lack of specialised support across both the refugee and disability sectors has left a gap in service delivery for these people, resulting in significant problems for new arrivals.

4. Rushed transition to NDIS and risks to already vulnerable groups

- 4.1. The transition to a full national roll-out of the NDIS has been characterised by uncertainty regarding shifting state and federal funding accountabilities and an emphasis on meeting targets for participants, at the expense of a meaningful planning process and participant and community outcomes.⁸ The Productivity Commission's Position Paper on NDIS Costs identified concerns regarding the NDIS roll-out schedule and noted concerns from disability,

⁷ Department of Immigration and Border Protection, *Policy Advice Manual: Offshore Humanitarian Program - Visa Application and Related Procedures*.

⁸ The Productivity Commission for the Steering Committee for the Review of Government Service Provision, (*Report on Government Services 2017*) <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/community-services/rogs-2017-volume-f.pdf>.

mental health and advocacy organisations that attempts to meet bilateral agreement targets risked the scheme's financial sustainability and long-term success.⁹

- 4.2. Cutting corners in the planning phase, including truncated telephone rather than face-to-face planning conversations, was identified in the Productivity Commission's Position Paper as risking quality and outcomes. The Commission noted that the greatest impact of this would be felt by already vulnerable groups including those with language, literacy and/or cultural barriers.
- 4.3. These people were most likely to struggle to understand important messages and information in the absence of visual clues and without adequate opportunity to clarify meaning. Many people in this category may not fully understand their rights if not properly explained, including the right to request a face-to-face planning meeting. This paper also highlighted concerns that some people may fear that to express dissatisfaction with the process may jeopardise their opportunity to join the NDIS.
- 4.4. The results of inadequate planning are plans which do not adequately reflect or address the complexity of a person's support needs. The intersection of disability and the refugee experience will inevitably be complex and will require specialised support, as well as time to develop trust and understanding. This has not been accommodated for.
- 4.5. Reduced time for planning, conducting planning conversations over the phone, and the failure to adequately attend to cultural and social needs in this phase will reduce the person's capacity for and right to choice and control. These are key objectives of the *NDIS Act 2013*. Given that the quality of an individual's NDIS plan is central to the scheme's success, rushing this process carries risks not only for the individual but also for the optimal use of funded supports, natural and mainstream resources and community planning.¹⁰
- 4.6. The National Institute of Labour Studies' (NILS) evaluation of the NDIS showed that people who have been least informed about the NDIS, are least able to advocate for themselves, and are least able to navigate the NDIS and disability support sector were most likely to be disadvantaged during poor quality and rushed planning processes.¹¹ These groups typically include 'hard to reach' communities, people with psychosocial disabilities, and people from culturally and linguistically diverse backgrounds, including refugees. These populations will continue to be disadvantaged in the transition of state funded disability support services to the NDIS due to uncertainty, the potential for emerging service gaps and worsening problems with delays.

5. Service integration and inter-sectoral collaboration

- 5.1. The transition of state-funded disability support services to the NDIS will continue to be characterised by uncertainty and fragmentation as the system transitions to a new funding and market model. This impact will be felt not only by NDIS participants, but also for those not eligible for an individualised funding plan (IFP) who still need some form of support service related to their impairment. There are concerns that service gaps will develop as State governments withdraw their services in the transition to the national scheme. This concern has been articulated very strongly by mental health advocates and peak bodies who

⁹ National Institute of Labour Studies, *Evaluation of the NDIS* (Intermediate Report, Flinders University, Adelaide, September 2016) <http://www.ndisevaluation.net.au/>.

¹⁰ Productivity Commission. *Report on Government Services 2017* <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/community-services/rogs-2017-volumef.pdf>

¹¹ National Institute for Labour Studies, *Evaluation of the NDIS* (Intermediate Report, Flinders University, September 2016, https://www.dss.gov.au/sites/default/files/documents/12_2016/initial_report_final_wcag_compliant_19_12_2016.pdf

have expressed concerns about potential gaps in early intervention and community-based supports during and after the transition.¹²

- 5.2. In RCOA's consultations with people from refugee backgrounds and people seeking asylum communities and the organisations supporting them, it has become clear that these people are already falling through the gaps.¹³ The consultations raised key issues relating to shifting refugee and disability policy contexts and the impact of this on access to necessary and timely supports. Service barriers related to language, accessible information, culture, visa status and multiple discrimination. The participants in the consultations attributed service gaps and delays to insufficient resourcing as well as service fragmentation within and between the two sectors. This was compounded by a failure to prepare for the increase in numbers of refugees with a disability and their families following the policy change to access requirements in 2012. Stakeholders also were uncertain whether the NDIS would alleviate or further exacerbate this service burden.
- 5.3. Unless steps are taken, shifting accountabilities between state and commonwealth funded disability support services during the transition to the NDIS will worsen existing service gaps and fragmentation. The transition should take into account the limitations of a competitive market-based model to properly engage with and support certain groups, such as those with more complex socio-cultural needs or those located in rural areas. Extra resources and more targeted supports will be required by certain communities, including people from refugee backgrounds and those who are seeking asylum, to ensure they are properly informed and can access appropriate supports.

6. The Information, Linkages and Capacity Building framework

- 6.1. The Information, Linkages and Capacity Building (ILC) is a new program which aims to provide support and information for individuals and families with disability-related needs who are not eligible for an individual funding plan. Supports provided through ILC activities are intended to build individual, family and community capacity for community inclusion, including resourcing community awareness and change. As such, the ILC framework has the potential to work across levels—including with businesses, community and mainstream services—to promote inclusion and remove barriers to participation.
- 6.2. However, the recent round of ILC grants to community organisations included only five specifically focused on culturally and linguistically diverse communities. Only one of these focused specifically on supporting the social inclusion of refugees with a disability. These grants total \$1,717,710 of the more over \$14 million (a little more than 12%) allocated to deliver ILC National Readiness activities across Australia in 2016-2017. Each of these covers one, two or three states with none having national coverage.¹⁴
- 6.3. One of the five projects focuses on building the capacity of mainstream services to provide more culturally competent services to people from culturally and linguistically diverse background. The other four projects focus on community awareness and capacity-building. One grant, awarded to the Australian Migrant Resource Centre in South Australia, will focus on supporting the social participation of refugees with a disability. This is the only ILC grant focusing specifically on the experience of refugees with a disability.
- 6.4. We believe this funding will be insufficient to cover the service gaps which will remain as a result of the shift to the NDIS. The high number of people from refugee backgrounds who need support from disability services has not been reflected in transitional arrangements. We

¹² Victorian Council for Social Service, *Submission to the Joint Standing Committee on the NDIS* (Report, February 2017) http://vcoss.org.au/documents/2017/02/SUB170227_NDIS-Psychosocial-disability_Final.pdf, 1–28.

¹³ RCOA, *Australia's response to a world in crisis. Community views on planning for the 2016-17 Refugee and Humanitarian Program* (April 2016) <https://www.refugeecouncil.org.au/wp-content/uploads/2016/04/2016-17-Intake-submission-FINAL.pdf>.

¹⁴ National Disability Insurance Agency, *Information, Linkages and Capacity Building* <https://www.ndis.gov.au/communities/ilc-home>.

believe greater recognition of the needs of refugees living with a disability should be reflected in the funding available to this group.

7. Recommendations

Recommendation 1: Assertive outreach

The Australian Government should look at increasing assertive outreach programs offering targeted, specialised, personalised and culturally responsive information and support to help people from refugee and culturally and linguistically diverse backgrounds. These programs should be designed to help them understand changes to the disability support sector in the transition to the NDIS and what this means for their individual situation, including services both in and outside the NDIS and the interface between these two sectors. This support would include accessible information about individuals' rights and responsibilities as an NDIS participant or as a user of ILC services.

Recommendation 2: Enhanced advocacy support

The Australian Government should increase funding to enhance advocacy support for people from a refugee background living with a disability to adequate support is provided to for this community to access their rights.

Recommendation 3: Accessible interpreter services

Disability services, including NDIS, should have full access to free, qualified and professional interpreting services.

Recommendation 4: Inter-sectoral collaboration

The Australian Government should work to improved collaboration within and between the disability and resettlement support sectors to reduce barriers experienced by people from a refugee background. Such collaboration may lead to disability and support services partnering to apply for future ILC grants.

Recommendation 5: Culturally responsive practitioners

The Australian Government should ensure that NDIA planners and Local Area Co-ordinators have skills to work with people from refugee and culturally and linguistically diverse backgrounds and are informed about the interface between disability, resettlement, and housing services. This should be delivered through comprehensive training programs for all staff.

Recommendation 6: Enhanced funding focus

The Australian Government should ensure adequate funding within the ILC for specialised settlement services to focus on projects to support people from refugee backgrounds living with a disability.

Recommendation 7: Further research

The Australian Government should undertake further research to fully understand the needs of refugees and people seeking asylum living with a disability and service responses.