



National Disability Insurance Scheme Bill 2012

**Submission
January 2013**

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BACKGROUND

CHILDREN WITH DISABILITY AUSTRALIA

Children with Disability Australia (CDA) is the national peak body that represents children and young people with disability and their families. The organisation is primarily funded through the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and is a not for profit organisation. Additional funding is also received by the Department of Education, Employment and Workplace Relations (DEEWR). CDA has a national membership of 5000 with the majority being families.

Vision

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA's Role

CDA has the mandate to advocate for children and young people with disability living in Australia and undertakes the following to achieve its purpose:

1. **Education** of national public policy-makers and the broader community about the needs of children and young people with disability.
2. **Advocacy** on behalf of children and young people with disability to ensure the best possible support and services are available from government and the community.
3. **Inform** children and young people with disability, families and care givers about their rights and entitlements to services and support.
4. **Celebrate** the successes and achievements of children and young people with disability.

Guiding Principles

Children the Priority: The rights and interests of children and young people with disability are CDA's highest priority consistent with Australia's obligations under the UN Conventions, Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

Right to Childhood: Children and young people with disability are children first and foremost and have a right to all aspects of childhood that children without disability are afforded.

Right to Participation: Children and young people with disability have the right to participate, in whatever capacity, in the decisions that impact on their lives.

Inclusion: Children and young people with all types of disability, from all cultural and religious backgrounds and all geographic locations are supported by the work of CDA.

Recognition: For the contributions made by families and care givers to support the rights and interests of children and young people with disability.

Partnerships: CDA works collaboratively with relevant government, non-government and private sector agencies to promote the rights and interests of children and young people with disability.

Transparency: CDA is accountable, effective and ethical as the national peak body charged with the mandate of advocating for children and young people with disability.

INTRODUCTION

Children with Disability Australia welcomes the opportunity to respond to the Senate Standing Committee's inquiry into the National Disability Insurance Scheme Bill 2012.

The establishment of legislation around the National Disability Insurance Scheme (NDIS) is extremely challenging. The legislation needs to effectively enable the launch of the scheme in multiple locations, and allow capacity for refinement and evolution, while building in design features for the long term. It needs to clearly enshrine the rights of people with disability, in the design and delivery of their support services, and encourage and enable community engagement. It also needs to make clear how it will support children, young people and families. It must describe the fundamental cultural and policy shift towards inherent control and choice for people with disability, setting out a new regime for the funding and accountability of disability services where the individual is at the centre. Overlaying all of these imperatives is the need to safeguard the long term viability of the scheme and straddle the multiple interests of all governments in the Federation. Thus there is a clear and constant tension throughout the National Disability Insurance Scheme 2012 Bill (the Bill) between these competing but necessary joint roles of the legislation.

CDA congratulates the government and the drafters on developing the Bill from what has been a wide ranging process of specialist and community consultation over the last 4 years. While there are particular features of the Bill that need modification and re-thinking, reaching the point where there is a real scheme that promotes individual choice and control is remarkable.

In this submission CDA focuses on the sections of the Bill that are most relevant to children, young people and families. Some of our key recommendations go to the fundamental principles of the legislation, while others relate to processes and powers that we believe need to be redrafted. For coherence, the sections in the submission follow the chapters in the Bill.

GENERAL OBSERVATIONS

The Bill sets out a very different process of planning and funding than the ones that are currently in place in our disability services systems. While the NDIS is premised on the transfer of power to the people with disability and their families, there is noticeable tension within the Bill between vesting control and choice over support services to people with disability and to setting the parameters around the degree of decision making that is indeed possible. The CEO has been given a high degree of power over the conditions of planning, service delivery and the nature of decision making. In order to achieve desired levels of choice and control, participants are required to comply with many conditions.

For example, whilst the outsourcing of funds and purchasing power attached to plans does in many ways transfer choice and control to participants, there is a concurrent requirement to have these programs planned and approved in what many would see as an administratively contrived way to provide the scheme with certainty and accountability. Whilst the use of NDIS funding needs to be transparent and accountable, the imperatives of the planning process appear to be in conflict. Much of the time the Bill interchanges the ideas of 'fund management' with that of 'plan management', which may give rise to this apparent tension. Accountability for funding and purchasing is one thing but it need not be synonymous with the management of long term care and support with the vagaries that are part and parcel of life.

Life is complex, unpredictable, particularly in the support of children and young people in families, and flexibility is a must. Tying down support plans so tightly to funding agreements, limiting service substitution and only including disability services in a plan (when children may be accessing concurrent supports from up to 3 other portfolios) may not provide the autonomy and choice that the Government wants the scheme to deliver.

Overall the processes may have the effect of limiting real life choice through the exercise of highly prescriptive and rigid processes. Some of these dilemmas may be explored in the launch sites, however once in place, this approach in legislation may be very difficult to change in future, as it could be seen as a loss of control over scheme sustainability.

There is also significant power vested in the CEO of the National Disability Insurance Scheme Launch Transition Agency in relation to the scheme. In the present Bill, the CEO can at his or her discretion make decisions about what capacity an individual has to manage their plan, whether a participant requires a nominee to act on their behalf and further who that nominee is, whether parents are appropriate decision makers for their child, and whether a child is capable of making decisions for him or herself. It is unclear why existing mechanisms such as administration, guardianship and child protection systems are not being referred to when there is an identified potential need for assistance or an alternate decision making process.

For the purposes of this submission the term children refers to those aged 0-18 years. There has been some specific reference to children with disability throughout the Bill, namely in Chapter 4 Part 4. Largely however, the legislation is seen to apply to both adults and children. In some instances, the relevance and appropriateness is seen as questionable.

There is little reference within the Bill to the purpose of the scheme in facilitating development. This is seen as a fundamental goal of services and support for children and young people with disability and this needs to be reflected in all relevant sections of the Bill.

A significant gap in the Bill and indeed in the general scheme design is how the NDIS will interface with other community programs. As stated earlier it is common for children to be drawing services from multiple programs in different portfolios. From the point of view of the child and their family, these various supports are all part of a system that is in place to support the development of the child on many levels. At any one time, a child and their family could be using the following services:

- Education (including education support programs, transport)
- Health (inpatient and community based therapies)
- Disability Services
- Community Programs (sporting or cultural organisations)
- Family Support Programs (for example community playgroups or post separation support for parents & children)

Having a heavy-duty planning and accountability responsibility for NDIS disability services (including the current participant statement) that does not actively take account and integrate these other services into the plan will undermine the intent of the scheme. The Bill sets out in great detail the process for planning, purchasing and accounting for disability services, but is largely silent on how these will be integrated into the wider service system, at either the individual or systems level.

While the individualised funding approach has to be seen as strength in the scheme design, transferring funding to individuals and families will on its own do little to confront and resolve the fragmentation that characterises our service system in Australia. This is one of the key problems the NDIS was charged with tackling. As stated in the final report of the Productivity Commission report on Disability Care and Support. The present disability system is “underfunded, fragmented and unfair” yet the Bill limits itself very much to just one service area, meaning that it risks foregoing a significant reform opportunity .

The NDIS is clearly not responsible for funding services that are the responsibility of other programs, however there is a clear coordination and policy leadership role that is undefined in the Bill, yet will be critical to the success of the scheme.

At the centre of this argument is how much the NDIS supports actually support community inclusion and participation and how much they are provided on a business as usual approach.

SPECIFIC FEEDBACK ON LEGISLATION

CHAPTER 1

Part 2 — Objectives and principles

CDA believes that Part 2 needs to better reflect that first and foremost people with disability, including children, are citizens. For participants of the NDIS, services and supports obtained through the scheme are only part of their lives. The NDIS is an enabler of equal rights and opportunities and it is fundamental that the legislation places the scheme in this life and community context.

CDA believes that the objects and principles are more relevant to adults than children. As a model, CDA believes the principles contained in the Victorian Child, Youth and Families Act 2005 are comprehensive and relate to the activities of courts, the bureaucracy and service providers. CDA recommends that similarly styled principles be included in this Bill to ensure relevance for children and families. A copy of the relevant section of the referred Act is contained in Appendix 1.

The objects and general principles could be better aligned with the United Nations Convention on the Rights of Persons with Disabilities. In Section 3(1)(h), it states

“Give effect to certain obligations that Australia has as a party to the Convention on the Rights of Persons with Disabilities.”

This should be amended to replace the words ‘*certain obligations*’ with ‘*obligations*’. The need for the NDIS to facilitate inclusion and capacity building in other community programs should be reflected in this objective. All efforts must be made to link the NDIS to the community and ensure it does not become a silo in itself.

Object 3(1)(g) needs to be strengthened. If it is to live up to government intention and community expectation the NDIS has a greater obligation to improve the opportunities for people with disability and reform whole of government approaches than simply:

‘...raise community awareness of the issues that affect the social and economic participation of people with disability and facilitate greater community inclusion of people with a disability.’

CHAPTER 3 — PARTICIPANTS AND THEIR PLANS

Part 1 — Becoming a participant

Section 25 Early Intervention Supports

CDA understands that in many cases children will enter the scheme under the early intervention requirements. As such CDA believes that the definition of early intervention in Section 25(c) does not capture the purpose of early intervention in relation to children. It currently says it is to:

‘...mitigate, alleviate or prevent the deterioration of the functional capacity of the person...’

This definition needs to include that early intervention for children aims to build personal capacity and skills, as well as facilitate development.

Section 25(b)(ii) refers to strengthening the capacity of informal supports and the person’s carer. For greater relevance, this section needs to be revised to incorporate the function of families, noting that the delivery of disability supports where children usually occurs in a family context, and that families are much more than just informal supports.

Part 2 — Participants' Plans

In general CDA believes that the planning process is highly prescriptive and potentially inflexible. The Bill needs to create the framework to allow for flexibility and substitution within packages to ensure that supports are relevant and useful. People with disability (particularly children) should not be expected to live orderly and artificially planned lives. Services and supports need to be those things that follow participants and their families around in their life not lead them to pre-determined destinations.

In particular the requirement in section 37(1) that a plan cannot be varied, but must be replaced, undermines the key concept of choice and flexibility. This will make the operation of plans barely feasible in many family situations where variations will just be part of life. It is conceivable that a child participant may change programs or providers at various times because a short term program (such as a speech therapy program) ceases or is not getting anywhere, or leads to an additional recommendations or referral that needs to be followed up. Parents need the flexibility to change, limit or extend programs without having to get a new plan. Alternatively, a child may change schools for educational reasons and although the basic community based NDIS program may not change, there could be different timing, therapists or home based goals to follow up that require differently skilled workers. These things should not necessitate a whole new plan, particularly if it places any kind of assessment or bureaucratic burden on participants or families.

Section 31 Principles relating to plans

Most of the principles are relevant to adults and not many are directly relevant to young children and infants. There is no wording in these principles to reference how they would apply in these circumstances i.e. principle (b) (g) (h) (i).

Section 31(c) should give much greater recognition of the primacy of families in relation to participants who are children than '*consider and respect the role of families, carers...*'

In addition, in section 31(d), remove the words '*who are children*'.

CDA recommends the specific inclusion of principles in this section that directly relate to children and families, that recognise the way families make decisions and should not be defined totally by the presence of disability. As previously recommended, we refer to Appendix 1 as an example of how the best interests of children and role of families can be incorporated in legislation.

Division 2 — Preparing participants' plans

Statement of participant supports

The absolute requirement in section 33(1) for all participants to prepare a participant's statement of goals and aspirations is problematic, particularly for children. For families with very young children entering the scheme there will be a great deal that is unknown and unclear about the future that would make such a statement nigh impossible.

Many families would be insulted by the need to complete such a statement on behalf of their child in order to access essential supports.

For some families with school age children, goals and aspirations will be related to their child's ongoing health issues or their educational attainment, which are not even the primary role of the NDIS. For other families (as with many people across the community), the formal setting of goals is a highly contrived activity.

CDA accepts that there needs to be a service plan in order to activate funding, however the relevance and purpose of this additional layer is highly questionable.

Even the most basic of planning processes would incorporate goals, so it would be better that the NDIS rules detail the requirements for the planning and review processes for scheme operatives rather than place an unreasonable expectation on participants and families. As such we would recommend the removal of this requirement for participants.

Division 3 — Managing the funding for supports under participants' plans

Section 43 Choice for the participant in relation to plan management

For those who self manage their plans, there is complete control and choice over services and supports. This is matched by responsibility for all areas of employment, purchasing, financial management and location of services and supports, with cash advances for services and supports being built into the scheme as opposed to a claims management process

There needs to be the capacity for parents to manage their child's plans, as well as utilising a plan management provider. The Bill seems to focus on the management of 'funding' rather than the quite separate task of managing the vagaries of daily service provision, decision making, review and managing involvement in outside programs (such as education). Parents are the natural managers of their child's services or 'plan' and should be able to maintain this role but choose to have the funding managed by a plan management provider. There appears to be the capacity to manage plans at this level inferred within the present Bill but it is believed this option should be explicitly stated.

Section 44 Circumstance in which participant must not manage plan to specified extent

The NDIS rules must detail the criteria by which decisions are made to deny participant requests to self manage in (1)(c) The NDIS must, not 'may', prescribe a criteria for the CEO to have regard to when considering whether a participant managing the funding for supports under the plan would present an unreasonable risk to the participant.

Section 45 Payment of NDIS amounts

This section provides the Agency the ability to pay NDIS funds into nominated bank accounts, either connected to the participant or a plan manager. CDA is of the view that there are many other payment methodologies that should be available to participants. Payments and transactions could feasibly be separated from service-related management of plans without compromising choice and control. Having other options, such as funds held by the agency, a swipe card or with an intermediary may have the effect of reducing the controls needed over participants in the form of nominees and auditing of plan funds.

CHAPTER 4 — ADMINISTRATION

Part 3 — Registered providers of supports

Given the importance the current reform has given to the shift in culture and practice of the disability services industry, CDA is concerned about the provisions of Sections 42(2) and 69 that registered service providers have the ability to not only provide services but also manage the funding of a participant's plan.

CDA views this as a direct conflict of interest, and waters down the ambition of the sector reforms that the NDIS has signalled. Participants must be offered a range of options for the management of their plan so as not to limit choice, however their service provider should not be available as a choice in this area.

It needs to be incumbent on the NDIS from the launch phase to provide new choices for participants, and the Bill needs to make this part of the reform explicit. Service providers already exercise significant influence over their clients, and to generate the true benefits of control and

choice that comes with individualised plans, there needs to be a deliberate change in the current dynamic.

For the powers vested in the NDIS to register and monitor disability service providers to be truly effective, detailed information about provider requirements (at the industry level and individual level), provider performance, standards monitoring and participant feedback will need to be collected.

The Bill appears to leave much of this to the development of the NDIS rules. The type of detail required is best covered in the rules, however CDA believes that the Bill should contain a strong statement of the need to utilise a range of safeguards to set a standard about the protections required to safeguard participants from a range of potential abuse, neglect and exploitation, as well as commercial exploitation, and the need to meet specified requirements in support programs.

We strongly believe that the current standards based quality systems are not suited to an individualised funding environment, particularly if service purchasing is decentralised to participants. To effectively monitor the quality and safety of service delivery, the agency needs visibility of the service relationships between participants and providers. Participant complaints and agency initiated file audits may uncover breaches of standards, but this is after the fact. Part 3 needs to build in greater requirements for the greater transparency of providers for participants as well as the scheme, as they will be critically important in the process of managing and regulating providers. While section 73 lists the areas that the rules may cover, CDA is of the view that this can be strengthened. In 73(2)(b) additional points to be added are

- (e) add the words *'that involve participants'* to *'auditing requirements in relation to registered providers of supports'*
- (f) organisational requirements for preventative systems to safeguard participants against abuse, neglect and exploitation
- (g) organisational systems for full consumer participation in the organisation of the registered service provider

CDA supports the powers given to the CEO in Part 3 to require providers to meet registration requirements. This needs to include a set criteria that covers service practice, corporate structures, workforce capacity and ability to respond to individuals that will be covered in the rules. In addition to these requirements it will be essential for the sophisticated collection of data and participant feedback.

Further, under the present Bill there is no requirement for those who do not choose to have their plans managed by the Agency and self manage to employ 'registered' service providers although this is required for other types of participant management [Section 33(6)]. It remains unclear how potential inherent employment conflicts will be managed. For example, the management of an employee grievances of bullying, sexual harassment or non-compliance with industrial requirements (OHS, wages and conditions) is going to be problematic when the employer is also the scheme participant and dependent on the employee for aspects of personal care.

The Bill needs to specify that participants must meet the required regulatory conditions (industrial, commercial and governance) related to the service they are purchasing to ensure that this decentralised payments system does not erode current minimum standards.

Part 4 — Children

CDA strongly supports that the primary consideration at all times where children are concerned needs to be a child's best interest. CDA also believes that consideration needs to be provided to the views and opinions of the child and believes that legislation around the NDIS should reflect the United Nations Convention on the Rights of the Child. Particular consideration needs to be given to Section 12 which states:

'parties shall assure to the child who is capable of forming his or her own views the rights to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child'.

In addition to the principles listed in part 2 of the Bill, the section on children needs to be underpinned by a separate set of principles that would underpin the NDIS approach to working with children and families. The Bill should create a context in which it allows the NDIS to facilitate the role of families to maximize development and social participation of the child participant. Again, the principles in the Victorian Children, Youth and Families Act 2005 make a good reference point for specific principles in this Bill.

CDA is concerned about the power that Section 74(1)(b) provides to the CEO to decide whether parents are appropriate decision makers for their children. It is unusual for a bureaucracy to take decision making away from parents without reference to existing systems. It is unclear as to why, that in the event there are questions regarding the capacity of parents, that the matter is not referred and assessed under existing child protection systems and relevant legislation.

CDA recommends that the CEO's power to decide whether parents are appropriate is removed. Referrals should be made to existing processes in the event a review of circumstances is required in this instance.

It is also noted that the Bill provides the CEO the power to decide whether a child is capable of making decision for him or herself in Section 74(5)(a). CDA also notes that in such circumstances, for example where conflict may exist between children and parents or guardians regarding the decision of children regarding medical treatment for cancer or decisions around terminations, there are established processes which look at the competency and capacity of the child to make an independent decision within the relevant legal context and parameters. It is believed that these processes should be examined and applicability to similar scenarios within the NDIS scheme ascertained and referred to if the need arises.

Our community values and instils within families considerable responsibility for making decisions in the best interests of their children. This community structure is supported and promoted extensively. It is only when there are significant concerns regarding a child's wellbeing or safety that intervention regarding parental decision making occurs. In the first instance, extensive services and supports are available to children and families, except in extremely exceptional circumstances, which are less restrictive interventions or methods of conflict resolution. This model of service provision and community value of children and families should be consistent, and reflected, in the NDIS.

The creation of a stand alone decision making process regarding whether an individual is an 'appropriate' parent of a child with disability is also problematic as it is contradictory to the intention of the National Disability Strategy (NDS). The NDS has as its core objectives that all areas of the community should be inclusive of people with disability, including children.

Part 5 — Nominees

CDA understands the need to the inclusion of the nominee role in Part 5 of the Bill, however believes that the choice to appoint a nominee should rest with a participant (and family in the case of children) unless there is a guardianship order, a specification in a community treatment order or forensic order.

Section 86 provides the CEO the power to appoint a nominee at their own initiative. CDA does not believe that this power should be available to the CEO. If the circumstances exist where the CEO believes a nominee should be appointed other than at the participants initiative it should be dealt with by the relevant systems for obtaining administration or guardianship orders.

There are many people with disability that require support with decisions, but are not managed by state appointed guardians. It is this group who are most at risk with the model proposed in the Bill. The NDIS needs to make every effort to support the decision making of participants in the planning, implementation and review components of their plan as part of its modus operandi.

The fact that money is being transferred to the control of participants in the NDIS model requires a degree of safeguarding to ensure that this funding is used for purpose under this legislation. CDA appreciates that these safeguards need to be in place, however there is a dilemma about how to balance the need to protect the NDIS funding with the autonomy of participants to retain control of key decisions. There is concern that the nominee provisions are potentially oppressive in that it is possible for the agency to decide to take away a person's decision making entitlement in preference to supporting their decision making.

This dilemma reflects a pressure point with the NDIS model where the Bill does not distinguish well between the management of funds with the management of plans (for service delivery). If this distinction can be made clearer, participants may see a clearer set of choices about the degree to which they want to be involved with the management of their services.

Chapter 6 — National Disability Insurance Scheme Launch Transition Agency

Part 2 — Board of the Agency

CDA recommends that Section 127(2) be amended to specify that Board members of the NDIS cannot be people who are board members or who hold senior management positions with disability service providing organisations, regardless of whether they meet the other criteria.

Due to the move towards a market system for disability services, there will be untenable conflicts of interest that must be avoided.

Part 3 — Advisory Council

With the recommendation about Section 127(2) in mind, it is appropriate that people with relevant experience of service delivery to be appointed to the Independent Advisory Council. As there will be less commercially sensitive information available to the Advisory Council, specific conflicts can be more easily managed .

CDA recommends that there be a majority of people appointed to the Advisory Council with lived experience of disability (including family members)

Appendix 1

Principles from the Child, Youth and Families Act 2005 (Vic)

Chapter 1

Part 1.2 — Principles

Division 1 — Decision Makers to Have Regard to Principles

8. Decision makers to have regard to principles

- (1) The Court must have regard to the principles set out in this Part (where relevant) in making any decision or taking any action under this Act.
- (2) The Secretary must have regard to the principles set out in this Part (where relevant) in making any decision or taking any action under this Act or in providing any service under this Act to children and families.
- (3) A community service must have regard to the principles set out in this Part (where relevant) in making any decision or taking any action in relation to a child for whom it is providing, or is to provide, services under this Act.
- (4) This section does not apply in relation to any decision or action under Chapter 5 or Chapter 7 (in relation to any matter under Chapter 5).

9. Role of principles

- (1) The principles set out in this Part are intended to give guidance in the administration of this Act.
- (2) The principles do not apply to Chapter 5 or Chapter 7 (in relation to any matter under Chapter 5).

Division 2 — Best Interests Principles

10. Best interests principles

- (1) For the purposes of this Act the best interests of the child must always be paramount.
- (2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.
- (3) In addition to sub-sections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action—
 - (a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child;
 - (b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child;
 - (c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community;
 - (d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;

- (e) the effects of cumulative patterns of harm on a child's safety and development;
- (f) the desirability of continuity and stability in the child's care;
- (g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child;
- (h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered;
- (i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent;
- (j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child;
- (k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child;
- (l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity;
- (m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture;
- (n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;
- (o) the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance;
- (p) the possible harmful effect of delay in making the decision or taking the action;
- (q) the desirability of siblings being placed together when they are placed in out of home care;
- (r) any other relevant consideration.

Division 3 — Decision-making Principles

11. Decision-making principles

In making a decision or taking an action in relation to a child, the Secretary or a community service must also give consideration to the following principles—

- (a) the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing;
- (b) where a child is placed in out of home care, the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process;
- (c) the decision-making process should be fair and transparent;
- (d) the views of all persons who are directly involved in the decision should be taken into account;
- (e) decisions are to be reached by collaboration and consensus, wherever practicable;
- (f) the child and all relevant family members (except if their participation would be detrimental to

the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision-making process;

(g) the decision-making process should be conducted in such a way that the persons involved are able to participate in and understand the process, including any meetings that are held and decisions that are made;

(h) persons involved in the decision-making process should be—

(i) provided with sufficient information, in a language and by a method that they can understand, and through an interpreter if necessary, to allow them to participate fully in the process; and

(ii) given a copy of any proposed case plan and sufficient notice of any meeting proposed to be held; and

(iii) provided with the opportunity to involve other persons to assist them to participate fully in the process; and

(iv) if the child has a particular cultural identity, a member of the appropriate cultural community who is chosen or agreed to by the child or by his or her parent should be permitted to attend meetings held.