The mission of Independent Audiologists Australia is to promote and support clinical practices owned by audiologists.

Independent audiologists australia

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Dear Mr Morgan

Thematic review of Commonwealth hearing services legislation

Thank you for the opportunity to contribute to the thematic review of Commonwealth hearing services legislation.

Independent Audiologists Australia Inc (IAA) is a not for profit incorporated association with members who are university qualified audiologists who operate practices in which they have a financial interest. Most of our members hold contracts with the Department of Health as contracted service providers and are "qualified practitioners". Several are in partnership with other audiologists or audiometrists, are employers of audiologists, audiometrists and other support staff and many work closely with medical specialists. Our members offer audiological services across the full spectrum of diagnostic and rehabilitative audiology –under Medicare, WorkSafe, Department of Veterans Affairs, National Disability Insurance Scheme (NDIS), private health funds and private fees, in addition to their work for the Hearing Services Programme (HSP), delivering diagnostic and rehabilitative services for auditory (hearing) and vestibular (balance) conditions for all ages (from newborns to the elderly) and for all degrees of complexity.

Given that IAA members are contracted service providers as well as qualified practitioners (audiologists) under the hearing services programme (HSP) and they employ and supervise staff to deliver the voucher scheme and work with the National Disability Insurance Scheme (NDIS) (which has adopted the HSP voucher scheme), we are qualified to comment on the Commonwealth hearing related legislation in terms of the clarity (or lack thereof) and the impact of its interpretation on audiologist owned practices.

To address the questions posed by this thematic review, we have selected three main areas for comment – the provision of services vs devices, eligibility, contracted service providers vs practitioners and evidence-based measures.
We follow our comments with answers to the questions asked of contributors to the thematic review.

1. **Provision of services vs devices to voucher holders.**

   Gap fees and charges for services supplementary to the voucher

   Rules of Conduct 2012 (p 17, Part 5 (28) fees and charges) specifies that voucher holders can be charged for "top up" (now referred to as partially subsidised) devices. The rule states that services available to voucher holders (either to all voucher holders or if used up by the voucher holder) may not be charged for. Gap fees on claims are also not allowed.

   Requests by IAA to HSP staff to clarify whether providers may charge voucher holders for necessary consultations for diagnostic or rehabilitative audiological services when these are not covered by a voucher was answered in the negative, the reason given was protection of vulnerable Australians against financial exploitation.

   After several years of raising the inequity in the legislated system that allows uncapped amount of top up charges on partially subsidised devices but no additional professional fees for necessary services, those administering the scheme appear to have relented. IAA members have been advised that they may offer supplementary services to voucher holders on a fee for service basis, provided that the voucher holder provide signed consent to participate in fee for service activities and provided that no gap fees are charged on items claimed from the HSP.

   Whilst some members have managed to secure HSP agreement that charging for services not available on an HSP voucher information in writing[1], and HSP staff have provided verbal public confirmation[2], the confirmation remains ambiguous as to whether chargeable services include more extensive diagnostic or rehabilitative programmes than those covered by the voucher or whether only services not covered by the HSP voucher at all (such as auditory processing disorder or vestibular audiology) can be charged for.

[1] "You can charge for services that are not available under the program. We would expect you would claim the appropriate items (e.g. rehab) if the client is eligible for those services." (HSP email to IAA member, personal communication"

[2] Trisha Garrett, Hearing Business Alliance Seminar, Melbourne, 2017.

Many contracted service providers are concerned that without amendments to the legislation, they would be in a vulnerable position if audited if they charged voucher holders fees, even if they have the complied with the requirement to keep consent on file. If found to have contravened the rules of the contract, sanctions can be applied. Consequently, the circumstance could arise that a voucher holder is not be offered beneficial services not available to them on their voucher out of concern that charging for those services (even though the voucher holder is not eligible because the voucher does not cover extensive intervention programmes) might be identified as a breach of the contract.

Services under the voucher scheme are restricted. The current voucher scheme limits the number of claims that can be made for assessments, fitting consultations, follow up and rehabilitation within the period over which the voucher is valid. Limiting claims without allowing the choice of topping up on services significantly restricts and restrains intervention programmes. Many audiologists offer services to voucher holders that are never paid for, just to provide basic audiological care. Free services for one sector of a practice means that income must be derived from a different sector, which means fees or mark ups on products to those who can be charged may need to be high for the practice to remain viable and financially responsible.

Current legislation allows for charging uncapped amounts for partially subsidised devices even though fully subsidised devices are available to voucher holders. The option to offer partially subsidised devices to voucher holders present an opportunity to generate revenue. In some cases, incentives to staff to sell partially subsidised devices have been introduced as exposed in the Australian Media[3]. The HSP has expressed concern for financial exploitation of voucher holders and so restricts fees and charges for services that voucher holders can be offered, but at the same time allows uncapped and unregulated costs for partially subsidised devices.

[3] Incentives paid to allied healthcare professionals concern consumers, as has been raised in the ACCC report into the sale of hearing aids (2017), ABC Radio National Background Briefing (2014) and ABC The Checkout (2017). Currently, there is no legislation within the HSP that prevents audiologists or audiometrists from being paid incentives for device sales.

Gap fees on claims are not allowed under the current legislation. Gap fees on each claim would be another way for revenue to be generated within practices where the fees set by the HSP are inadequate to cover the cost of service delivery.

Ambiguous legislation regarding fees for services needs to be amended. New legislation that reflects contemporary audiological practice is needed to ensure that both devices and services are available to voucher holders, as determined by their clinical need. Where clinically indicated devices and/or services are never covered by the voucher at all or are not adequately covered by the voucher, the contracted service provider needs to be allowed to present the option of additional charges to their patients without risk of sanction.

Selling private hearing devices outright to voucher holders

Contracted service providers understood the Rules of Conduct (page 10ff, Sections 15, 16 and 17) to mean that hearing aids could not be sold to voucher holders as entirely privately-owned devices at any time. Yet, Australian Hearing introduced a programme known as "AH Smart" some years ago, in which they offer voucher holders the option to purchase privately owned hearing devices outright before they are eligible for a new (returning) voucher. The clinical notes for those privately sold devices are not passed on when a voucher holder relocates to a different contracted provider because those hearing aids are sold outside of the HSP. When those voucher holders relocate away from Australian Hearing to other contracted service providers, their next audiologist needs to conduct investigations as to where the hearing aid was obtained, what the settings are and what the reasons were that a private hearing aid was provided at all. Investigations into this practice have not been met with any clarity. The circumstance could occur with other forms of supplementary device dispensing or service provision and is a problem created by the ruling that clinical notes, rather than a comprehensive report, must be submitted when a voucher holder relocates. In the interest of clinical continuity and professional audiology practice, a summary report should be provided when services outside of the voucher scheme have been provided. This requirement should be legislated.

Both the cases cited above – the provision of services supplementary to the voucher and the selling of private devices to voucher holders are practices that need to be very clearly explained in the legislation. The legislation should be updated to reflect current practice, which would reassure all contracted service providers that clinical decisions to offer supplementary services or devices does not contravene voucher rules.

If the legislation is amended to allow one or both above scenarios, then the requirement needs to be that clinical records that are associated with those devices or services must be made available when the voucher holder relocates to a different provider. Further, clarity and equity in the rules needs to reflect the same standard for Australian Hearing as for all other contracted service providers.

2. Eligibility for Australian Hearing and for the voucher scheme

Hearing Services (Eligible Persons) Determination 1997 (Page 5) lists classes of eligible persons that is extremely difficult to comprehend. Classes 2 and 3 are identical, apart from reference to the status of individuals before a certain date, which would appear to make the earlier date obsolete.

The HSP voucher scheme has been adopted for their participants on NDIS managed plans. Funding for community service obligations previously given directly to Australian Hearing has been redirected to the NDIS. Lack of clarity in who is eligible for a voucher under the NDIS and which NDIS participants must receive services at Australian Hearing has caused confusion, inequity and uncertainty in the hearing services field. NDIS planners and participants are mistaking the HSP voucher scheme for Australian Hearing and confusing the CSO work for the voucher scheme. Potential voucher recipients under the NDIS scheme are not being advised of their true eligibility by NDIS staff. In some cases, NDIS participants appear to be told they can only receive services at Australian Hearing whereas in fact voucher rules allow for selection of contracted service providers of their choice. If deemed to have complex needs, then the contracted provider must offer the option of Australian Hearing's CSO programme to the participant, but the choice of whether to consult Australian Hearing remains that of the individual voucher holder. None of this appears to be accessible in the legislation.

The maintenance of implantable devices is a very confusing and unnecessarily complicated system. As shown in the hearing services document entitled "Services for clients with an implanted hearing device" (issued February 2018) Australian Hearing receives a subsidy to maintain speech processors of cochlear implants for the whole hearing services programme (voucher and CSO). However, the maintenance of implants *other than* cochlear implants may fall under the maintenance contract held with a contracted service provider in the same way that hearing aid maintenance is carried out.

Further, voucher holders may opt for two maintenance packages – one with their contracted service provider for any hearing aids and the other with Australian Hearing for their implanted device(s). Australian Hearing is responsible for maintenance of implant parts but does not supply replacement processors for adults, nor do they carry out any programming (mapping) of implants. Some contracted service providers will provide the following services to the same person: assessment, provide and maintain hearing aids under the voucher scheme, and assess for, prescribe and map implants for the same person, but must send the person to Australian Hearing for maintenance of the implant because of the subsidy. At times, Australian Hearing may issue hearing aids to be used in conjunction with implants, but because they do not map implants, the implant fitting cannot be optimised to match those hearing aids. Australian Hearing does not do anything other than serve as a technical service for spare parts. The implantee must return to their practitioner for mapping of the implant and other rehabilitative services. The implant audiologist would be far better placed to provide ongoing maintenance of implants, but at present is locked out of subsidies. We would hope to see legislation for hearing services reflect contemporary audiological practice whereby all audiologists with the capacity to assess for, and programme, a range of implants would be eligible for the government subsidy that applies to maintaining those devices. Whoever maps an implantable device should be able to access any subsidy that government applies to that maintenance. The claim for maintenance must reflect an amount that would cover the cost of spare parts for devices. Whichever contracted service provider is maintaining those devices ought to have access to the subsidy. Patients should not have to hold maintenance contracts with Australian Hearing simply because they have implants. Rather, the subsidy should apply to wherever that patients chooses to receive maintenance services, whether at Australian Hearing or with a contracted service provider.

Confusion has arisen over the relatively recent practice for Australian Hearing to provide services to non-voucher holders on a fee for service basis. Children (including Indigenous children at risk for hearing loss caused by otitis media) and adults have been charged for assessments by Australian Hearing. Practices whereby fees charged by Australian Hearing are refunded if those individuals are later found to be eligible for their services are reported when those same patients consult practitioners in the private sector. Australian Hearing charges for services for those who have an ABN, under an arrangement that was introduced as part of a drought relief scheme for farmers. Yet, the legislation does not appear to explain either fee for service practices.

The Australian Hearing website lists who is eligible for their services, making no reference to private, fee paying members of the public.

On recent enquiry, IAA members have been advised that Australian Hearing is allowed, under the legislation, to see anyone. Yet, those of our members who have been employed at Australian Hearing in the past report that historically, Australian Hearing did not attend to fee for service patients other than some specific categories such as pilots or compensation cases.

The option for those in remote areas to receive Australian Hearing services without a voucher provided they qualify appears to be outdated. Many of the listed postcodes have permanent contracted service providers (including Australian Hearing and other providers) so the rule allowing those eligible for vouchers to be seen at Australian Hearing without a voucher does not seem appropriate. How this works in practice is very difficult to follow.

Legislation must consider that practitioners are differently qualified. Audiologists hold university qualifications and offer a range of diagnostic and rehabilitative services (including devices that are wearable or implantable) for all types of hearing and balance disorders for all ages. Audiometrists hold diploma qualifications that offers training in basic hearing testing of adults and the prescribing and dispensing of hearing aids. Legislation about hearing services ought to consider the different skills and qualifications held by audiologists and audiometrists. Legislation should include requirements to work to a scope of practice determined by qualifications and not by self-assessment as has been endorsed by the Hearing Services Programme. The full range of services that might be needed by a voucher holder may not be available at every contracted service provider so pathways from audiometrists to audiologists need to be legislated so that in-depth audiological assessment and intervention is always available such as when hearing devices are not sufficient intervention to address all hearing concerns or outcomes are less than anticipated. The pathway needs to be legislated because without legislation competition between providers who are different qualified for a limited pool of voucher holders discourages referral.

In summary, all contracted service providers and the public deserve clear and comprehensible legislation that specifies who is eligible for a voucher, makes clear distinction between voucher eligibility and eligibility for Australian Hearing and audiology vs audiometry services, and allows for a simple, single maintenance scheme without loss of any subsidy. Given the importance of this information, we urge clarity, consistency and unambiguous statements when explaining who can be directed to the voucher scheme and who can be directed to Australian Hearing, whether by the NDIS or other service providers.

3. Evidence based practice

A self-assessment tool known as the Wishes and Needs Tool (WANT) (defined in the Hearing Services Act 1997 Compilation 2013, page 4) is required to be used to assess voucher holders who, according to the legislation have a "type 2" hearing loss (i.e. for those with hearing thresholds better than an average of 23 dB HL) to determine eligibility for hearing devices. The WANT is referenced almost exclusively in documentation provided by the Hearing Services Programme. Requests by IAA to the HSP for copies of the research that supports the tool have never been responded to. Searches of academic literature do not yield information about this tool, other than its use in one Australian study[4] that found no association between desire for hearing aids, as measured by the WANT, and hearing aid adoption, suggesting a more complex relationship between motivation and uptake of devices. Yet, despite the lack of evidence to support use of the WANT, the tool is referenced in the legislation surrounding eligibility for services. Legislated use of tools that are not evidence based is significant because failure to administer the tool can result in sanction when service providers are audited. University qualified audiologists are being told to administer a tool where the only evidence is that it does not predict hearing aid use, yet they risk sanction for not using the tool. We call for the review of legislation to exclude reference to the WANT, and any other, tool or measure that has no evidence to support its use.

[4] Ridgway, J., Hickson, L., & Lind, C. (2015). Autonomous motivation is associated with hearing aid adoption. International Journal of Audiology, 54(7), 476 - 484. doi:doi:10.3109/14992027.2015.1007213

Answers to Questions posed by the Thematic Review

1. *Do you consider any of the legislative instruments (or provisions within) are redundant or unnecessary or otherwise not fit-for-purpose?*

   As indicated in our comments above, legislation relating to what can be charged for, who is eligible for Australian Hearing, eligibility for the voucher scheme, and requirement to use tools without supporting evidence are not fit for purpose and all should be substantially amended.

   A single Act that specifies all rules for both Australian Hearing and contracted service providers would make the legislation far more accessible and transparent, allowing for all to understand any differences that may exist between how contracted service providers and Australian Hearing can operate.

   The original Australian Hearing and Hearing Services Acts have many amendments. Those Acts and their amendments should be consolidated to form a single Act, so that only one piece of legislation needs to be read to understand hearing services.

   Exclusion of central auditory processing disorder assessment and treatment as a declared hearing services is out of date and inconsistent with knowledge that auditory processing ability can be accounted for and addressed, can co-exist with peripheral hearing disorders and is a limiting factor in benefit from hearing devices.

   Audiologists are qualified and skilled in using assessment tools to assess auditory processing and to factor processing abilities into counselling, advice and intervention plans. Addressing auditory processing disorder ought to form part of any holistic audiological intervention programme as is deserved and expected by voucher holders.

   The expectation that contracted service providers will offer services at no charge to either the Commonwealth or to the individual needs revision. For example, when a voucher holder loses or damages their hearing device beyond repair and their aid is no longer listed (being obsolete), an alternate device needs to be fitted. The guidelines do not allow for a refit claim under this circumstance. This means that the aids can either be supplied over the counter on factory settings with minimal explanation on how to use the aid (not recommended) or undergo a hearing aid fitting and follow up process for which the contracted service provider is not paid.

Service delivery without payment occurs frequently within the HSP. We have provided the of refit example above. Other commonly occurring scenarios include voucher holders who are not eligible for re-assessments, but the possibility exists that their hearing has changed and relocated voucher holders who are unsatisfied with their benefit from hearing aids and who require further assessment, counselling and revised intervention plans. Whenever services must be delivered that are not paid for, recovery of costs through other available means must be found to maintain viability of the practice. To date, most contracted service providers have relied on top up fees paid when selling partially subsidised devices to voucher holders. The practice of the hearing services programme not funding necessary services has undoubtedly lead the field to rely on cross subsidization, which in turn has created a context whereby business owners can expect practitioners to meet sales targets for profitable devices to generate income necessary to cover the cost of services that have been provided without any claim. We urge government to remove any legislation that directly or indirectly encourages cross subsidization through the sale of devices. Our experience with practice management and clinical service delivery informs our view that a better outcome for the Australian public would be achieved through the funding of clinically indicated services and devices with the option to extend both, where clinical need justifies the recommendation.

Funding for the delivery of hearing healthcare and prevention programmes to populations at risk for temporary hearing loss such as those due to otitis media is currently only assigned to Australian Hearing. Despite their funding, Australian Hearing have been reported to charge fees to assess the hearing of Aboriginal and Torres Strait Islander children at risk of hearing loss due to otitis media. Given the fees Australian Hearing is charging, even though they are publicly funded to carry out hearing health programmes, some agencies are seeking alternative providers.

Practitioners who are committed to delivering hearing services for all Australians, are taking on the work of Australian Hearing, but without the subsidy.

Legislation needs to be clear and transparent as to Australian Hearing's status as a for-profit agency. This fundamental information could not be accessed in the legislation and so is either obscure or absent.

The Australian Hearing Services Act is no longer fit for purpose given that the legislation predates the for-profit status of the government owned agency. Transparent, unambiguous and equitable legislation should be written to address the role of Australian Hearing and other providers,

2. *Do you consider the legislative instruments simple, clear and easy to read? If not, which elements of the legislation pose particular challenges, and what changes would you suggest?*

   As mentioned, the legislative instruments are not clear, and nor do we consider that they are easy for professionals or the public to read. Consolidation and amendment of the Acts would be timely to clearly specify who is eligible given developments in the NDIS, what they are eligible for, what fees and charges are allowed, and the revised status of Australian Hearing as a for-profit agency. The scope of Australian Hearing needs to be easily compared to that of other contracted service providers.

   Australian Hearing Services Regulations 1992 Statutory Rules 1992 No. 188 as amended under the Australian Hearing Services Act 1991 prepared in 2012 is not a legible document. Even for those familiar with the voucher scheme and the CSO work of Australian Hearing, the explanation of charges and chargeable days (section 5 and 6) is obscure. The legislation ought to be clearly stated as to what can be charged for and when charges apply if this is to be regulated.

   All legislation needs to be updated to remove reference to the Office of Hearing Services (OHS) as we have been advised not to use that term to refer to the Hearing Services Programme. Similarly, reference to “top up” should be revised to use current terminology of fully and partially subsidised devices.

3. *Do you consider any of the legislative instruments generate unnecessary administrative burden (for service providers, hearing device manufacturers and suppliers, clients, government or others)? If so, what changes could be made to address this?*

   From the perspective of our members who are contracted service providers and practitioners who work with the Australian public, the scheme places unnecessary administrative burdens on all involved because no flexibility is allowed. Individual voucher holders must fit into prescribed programmes and claiming systems.

All rules that refer to the sequence of device fitting and rehabilitation ought to be discontinued to facilitate individual counselling or device provision at the time when the voucher holders are clinically suitable. This would provide greater potential for providers to achieve the best outcomes for voucher holders in the most effective time frame. Clinical services would be far easier to deliver and administer with a flexible pathway, ability to use funds to suit individual needs and with equity across all service providers, including Australian Hearing.

4. *Do you consider any of the legislative instruments impose significant unnecessary compliance costs on business, community organisations and individuals? If so, how could compliance costs be reduced?*

   Claiming software should be compatible with Medicare claiming software to reduce the administrative burden on staff to have to use multiple systems within a single clinic, and for any given person who has received their services. Claims lodged through the same system as Medicare claims would allow audiology practices to adopt alternate medical office management systems outside of the dated software programs that currently incorporate the hearing services claiming systems.

   The restrictions on gap fees and supplementary service charges, whilst allowing uncapped device costs places a burden on the public and on service providers who must adopt a form of cross subsidization to offer fundamental and necessary services to some voucher holders, that are not paid for.

   Compliance costs would be reduced by efficient answering of queries put to the HSP by contracted service providers and practitioners, such as by allowing phone access to clinical experts and when communicating with professionals, to include name, position and phone numbers.

5. *Do you have suggestions for reducing regulatory burden or improving the operation of the legislation?*

   The legislation needs to clearly and unambiguously state what the scope of Australian Hearing is and what contracted service providers can do considering both the voucher scheme rules and the recently introduced NDIS. Providers who operate alongside Australian Hearing and the public must be able to understand the legislation to interpret current practices.

A single Act that allows for specifically showing any distinction within a single document between the government for-profit agency Australian Hearing and other contracted service providers is essential to the HSP and NDIS working effectively and for communicating the rules to the Australian public.

We have raised concerns about the way the HSP programme operates through various enquiries and investigations such as recent parliamentary inquiries and the recent PriceWaterhouse Coopers review of the voucher scheme prices and device supply. Whilst we have attempted to provide explanations and raise concerns on some key points, we have concerns with how the programme is implemented which we hope will be resolved through clear and unambiguous legislation. We would strongly urge further examination of at least the following:

- Contracted service provider vs recognition of practitioners as providers – we consider that adopting the Medicare system (as already exists for audiologists who are Medicare providers) would simplify clinic administration. Contracted service providers need not hold qualifications in audiology, but can be multinational businesses. We recommend investigating contracting to practitioners in the way that Medicare provider numbers are allocated.
- Regulation of the audiology and audiometry professions under a board appointed by AHPRA that includes a mandatory register. Membership of the National Alliance of Self-Regulating Health Professions (NASRHP) by Audiology Australia (which we understand has not yet been achieved) was mentioned in recent correspondence to IAA from Minister Wyatt (19 April 2018) as sufficient to address regulation of the audiology profession. However, NASRHP membership by Audiology Australia does not address concerns we have related to protection of title, scope of practice and self-regulation by an elected board. Membership of Audiology Australia remains voluntary, regardless of whether Audiology Australia is or is not a member of NASRHP. Audiologists might choose to belong to the Australian College of Audiology (ACAud) as an alternative professional practitioner body recognised by the HSP, but ACAud is not a member of NASRHP. Audiologists and audiometrists might choose *not* to belong to *any* professional body but can nonetheless still deliver services outside of publicly funded schemes. Under existing limited regulatory schemes, *any person* regardless of qualifications can undertake the work of audiologists and/or use the title of audiologist. Regulation of unregistered healthcare practitioners is reactive to complaints. We strongly urge further consideration by

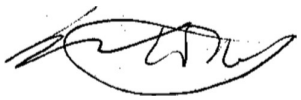
government of their current guidelines as to which professions should be regulated under AHPRA.

- Reconsideration of the status of Australian Hearing as a for-profit agency given that a decision has been made it should remain government owned. Reverting to not for profit status would be appropriate and serve to establish the agency as a resource to the field rather than a competitor.
- Revise accreditation rules to consider clinical and business ethics.

Thank you for the opportunity to comment on the existing legislation.
We would welcome further discussion about the matters raised in this submission, or other issues related to the practice of our profession.

Your sincerely

Grant Collins
IAA President



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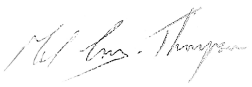

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