



National Disability Insurance Scheme Costs: Submission on Position Paper

Despite experiencing many pressures and frustrations in the implementation of the the National Disability Insurance Scheme (NDIS), disability service providers remain strongly committed to the vision of the NDIS and its promise to

- expand choice and control for people with disability and their families
- double the resources for disability support in response to the high need for services and equipment
- adopt an insurance approach that invests in early intervention
- increase equity and life opportunities for people with disability across Australia

Critical to realising this vision is the growth of a dynamic, sustainable and values-driven disability sector. Without this, people with disability and their families will not have the choice and quality of support the NDIS promises. The following comments are aimed at ensuring the scheme delivers on its vision.

How is the scheme tracking?

Implementing the NDIS is challenging all stakeholders. While there are real improvements in quality of life for many participants, their—and their providers'—experience of the Scheme is tarnished by difficulties and uncertainties with the transition to the NDIS, particularly planning. Unless these difficulties and uncertainties are effectively addressed, support for the scheme will erode.

Several reports have highlighted problems and make clear that the operational model developed during the NDIS's trial phase cannot respond adequately to the enlarged scale of activities required during the transition to full scheme.

These reports have also highlighted the need for more attention to be given to the risks of market failure. The government-commissioned report from consultant Robyn Kruk, 'Independent Review of the Readiness of NDIS for transition to Full Scheme', states:

In relation to the market and provider readiness, all documentation reviewed and interviewees highlighted high risk in this area. The reviewer recommends both immediate and short-term actions to strengthen mitigation and responses in relation to potential market failure or provider collapse; and to support provider readiness and market development.

The Australian National Audit Office (ANAO) reinforced this view in its November 2016 report on the Transition of the Disability Services Market, which concluded that

the scheme's implementation is outpacing the preparatory work needed (it highlighted the absence of a national workforce action plan).

The growth in demand for NDIS services will severely test the capacity of the market. Inadequate NDIS systems and processes, an uncertain policy environment and a very tight pricing regime combine to discourage providers from investing in growth.

Research by Curtin University and NDS suggests that many non-government disability service providers lack the financial capacity to invest in major growth¹; two-thirds report that they are worried about their capacity to provide services with NDIS prices.² New providers are also hesitant to invest. Unless the non-government sector has the capacity and confidence to grow substantially, the gap between demand and supply will increase. Action on this front is urgently needed.

NDS outlined a series of problems in its policy paper, 'How to get the NDIS on track' and proposed 24 recommendations, many of which (in our view) could be implemented relatively quickly.

The National Disability Insurance Agency (NDIA) has acknowledged that participants and providers are experiencing difficulties with NDIS processes and systems. In an open letter distributed in June 2017, CEO David Bowen stated; "...it is now well recognised that before the commencement of transition to full scheme in July 2016, the quality of the NDIA's internal preparation warranted significant improvement. The NDIA's processes and systems have not resulted in a participant and provider experience during Transition that is of consistently high standards that the NDIA expects ... the NDIA recognises the important need to learn from these early experiences and improve and adapt its processes as quickly as possible."

The NDIA is reviewing the 'pathway experience' of both providers and participants with a view to making improvements. Although its conclusions have not yet been released, the review is a positive step forward.

Scheme eligibility

NDS supports the retention of 'List D—Permanent Impairment/Early Intervention, Under 7 years—No Further Assessment Required' in the operational guidelines on access. It helps reduce both uncertainty for families and the burden on them to demonstrate that their child will benefit from early intervention.

It would be timely, however, to review the list to ensure that all appropriate conditions are listed. It is not clear why some conditions with widely varying degrees of severity are listed and others (such as autism) are omitted. The reasons for inclusion on the list or exclusion should be transparent.

Children who have a condition on List D that is also on List A should have fast-tracked, easy access to the NDIS via the new ECEI approach. Other children will

¹ National Disability Services and Curtin University, Australia's Disability Services Sector 2016, Report 1: Financial Sustainability summary of key findings

² National Disability Services, State of the Disability Sector Report 2016

have conditions of sufficient severity to meet the NDIS Act's disability requirement and also should have easy access to the NDIS via the ECEI approach. Others should receive early childhood supports for a period before a decision is taken as to whether they should become a participant of the scheme (at that time). ECEI providers should have specialist staff to assess and plan for children with conditions where there is variability of severity or functional ability (such as cerebral palsy and autism).

Some children with milder levels of impairment can experience enormous improvement from skilled early intervention services. The NDIA needs to build evidence on what types and levels of intervention are beneficial for children with particular conditions and an understanding of how this changes over time. These children should receive the support they need to flourish, whether or not they become long-time participants of the scheme.

Scheme supports

The notion of 'reasonable and necessary support' is sound, but its interpretation can vary. The term will be refined over time through practice, case law and legislative changes; but until this occurs its lack of clarity is a pressure point for scheme viability and a potential source of inequity for participants.

NDS supports the NDIA's decision to bundle core funding allocations so they can be used flexibly. Unfortunately, however, most payment claims can only be made for individual items. This means the system is in danger of becoming overly transactional when compared to block funding.

Under block-funding arrangements, service providers were able to respond easily to specific unanticipated requests, such as providing transport at short notice to an elderly parent to take her son with disability to the doctor. Under the NDIS, there would need to be agreement from the participant to pay for the worker's time to drive the vehicle and to stay during the medical appointment, if requested; and there would be a charge for the cost of using the vehicle.

The need to itemise even relatively small activities in order to claim for them could diminish the overall quality of the assistance provided to participants and their families. NDS is already seeing providers make decisions to cease transport provision because they cannot recoup the costs through charging participants. It is likely that this will be exacerbated by the NDIA's recent decision to exclude all transport from Supported Independent Living. Part of the ordinary life of group homes is to take participants on short trips (such as shopping for ingredients for the evening meal). Having to develop agreements and billing arrangements to cover these trips, rather than fund them as an extension of household activity, will discourage these trips and potentially isolate group home residents from the community.

The quality of participant plans remains inconsistent. Some are excellent; others are poor and absorb substantial effort by participants, their families and providers to rectify. The quality of plans is impaired by three structural factors:

National Disability Services

National Disability Insurance Scheme Costs: Submission on Position Paper

- ambitious NDIS implementation targets are driving rapid high-volume processing of participant plans
- planners lack direct visibility of the supports people transitioning into the NDIS currently receive, causing them at times to omit essential supports from plans inadvertently
- newly-recruited planners often lack experience and knowledge of disability services

The quality of plans is particularly problematic as the scheme enters new regions and new planners are engaged. NDS supports the Productivity Commission's suggestion that the NDIS would benefit from "leveraging expertise from within the industry, and getting specialist disability organisations or service providers more involved in the planning process."

We believe that participants should be allowed to choose with whom they do planning. A participant's allocated budget should be sufficient to purchase assistance with planning and implement their plan (if needed). Planning services could be purchased from a support coordinator; Local Area Coordinator; peer support organisation; Disability Support Organisation; disability service provider; advocacy organisation; plan management provider—or the plan could be developed with the assistance of family or friends.

This would have three obvious benefits: it would relieve Local Area Coordinators (LACs) and NDIA planners from some of the pressure on them to process the high volume of plans and plan reviews as the scheme escalates; it would inject disability expertise and experience into the planning process; and it would give participants wider choice about whom they engage as planners. The NDIA's role should primarily be to determine eligibility, allocate funding and facilitate payments.

Given the inconsistent quality of plans being undertaken by LACs, NDS does not support the NDIA delegating plan approval functions to LACs.

Boundaries and interfaces with the NDIS

NDS supports the recommendation that investment increase in Information, Linkages and Capacity Building (ILC). However, we flag a concern that the current approach to tendering could see valued services disappear. An approach which made gradual changes to existing funding arrangements—building from the service infrastructure that exists, taking account of demand and effectiveness over time—would be preferable. The current tendering timeframe of one year (with the prospect that some could be offered a two-year extension) falls well-short of the Productivity Commission's recent draft recommendation of 7-year contracts for human services³. Contract periods for ILC grants should be longer than one-to-three years.

The Commonwealth and the states and territories have agreed to continuity of support arrangements designed to ensure that people are not disadvantaged during the transition to the full NDIS. The Department of Health has worked collaboratively

³ <http://www.pc.gov.au/inquiries/current/human-services/reforms/draft/human-services-reforms-draft.pdf> viewed 7 July 2017

with the disability sector to design and implement the Continuity of Support Programme for people 65 years and over who have received state or territory-funded disability support. The continuity of support arrangements for other people who have been receiving disability supports but who will not be eligible for the NDIS need to be published by governments as soon as possible. NDS urges governments to work with providers as they develop these arrangements.

NDIS should be a standing item on the agenda of every COAG ministerial council that has responsibility for services that interface with the NDIS. This would help foster regular discussions to resolve uncertainties about service gaps, duplications and other boundary issues. NDS supports the Productivity Commission's recommendation that review points of National Agreements and National Partnership Agreements should include specific commitments and reporting obligations consistent with the National Disability Strategy (including how boundary issues are dealt with).

Provider readiness and prices

NDS has consistently argued that some key NDIS prices are clearly inadequate. The results of the NDIA's recent price review have not changed this picture and, in our view, ignored the evidence. While disappointed with the NDIA's price review, we welcome its recent commissioning of McKinsey and Company to conduct a further pricing review. The Terms of Reference cover important issues (including deregulation, regional pricing versus national pricing, complexity, respite etc.).

To date, the task of delivering the scheme within budget has fallen disproportionately on service providers (because price controls have been a convenient lever to manage costs). But, this approach is short-sighted. Inadequate pricing – through its impact on staff training, experience and supervision - risks compromising the quality of supports and, ultimately, the safety of participants. It also adds to the risk of market failure, which the Productivity Commission has identified.

The NDIA could introduce realistic assumptions and flexibility into pricing without jeopardising the financial sustainability of the NDIS, in the following way:

- Base individual participant budgets on reasonable and necessary supports, realistic costs (based on real data) and evidence-based reference packages;
- Allow participants and providers to negotiate prices for supports without exceeding the participant's budget
- Publish a price guide based on market information to enable participants (and their representatives) to compare and negotiate prices
- Base purchasing on hours or on deliverables which meet participants' expectations.

NDS supports the view that price deregulation should occur as soon as possible. NDS would like to see trials of deregulation for some supports begin this financial year.

We also strongly support the Productivity Commission's recommendation that an independent price monitor be introduced immediately and that the NDIA's power to set price caps for scheme supports be transferred to an independent price regulator by no later than July 2019.

The only research underway to monitor the impact of the scheme on the sustainability of the disability sector is the study being undertaken by NDS and Curtin University. NDS is heartened to see the importance of this work acknowledged with the recommendation that funding should be provided for this work to continue.

We are also pleased that the Commission accepts that the costs of service delivery differ across states and territories and that prices should reflect this. NDS has long argued that prices should enable the delivery of disability supports in diverse locations and to the diverse population of people with disability. Setting individual budgets based on accurate data about support costs and allowing flexibility to negotiate prices are the best means of achieving this.

There is a danger that the speed of implementation will cause serious supply problems in thin markets. NDS has long argued that the NDIS should not be implemented across the country according to a single template. We urge governments to find less disruptive ways to introduce NDIS principles in remote areas. Block funding or direct commissioning should be given serious consideration, with reporting mechanisms that promote quality-of-life improvement and the choice and control of participants.

Many regional providers have a long history of working well with local communities – and may provide a range of community services. The NDIA needs to respect these relationships and the pivotal local role played by these organisations by working with them to design how the NDIS can work.

Emergency response

Emergencies can result when a family carer is unable or unwilling to continue to support a person with disability (whether for a short or longer term). This may be because they become unwell, sustain an injury or feel over-burdened by their caring responsibilities. Emergencies can also arise when a person with disability has escalating challenging behaviours or they unexpectedly need additional personal care or household assistance.

Emergencies will arise for participants of the NDIS, for people who will become participants of the NDIS, or for people with disability who have a temporary need for assistance but who do not become participants of the NDIS at this time.

Associated with emergency response is the need for a provider/s being willing and able to provide supports in an emergency (often this is a need for short-term accommodation). State and territory governments have processes to implement emergency responses but these will cease as the NDIS is implemented.

Arrangements for managing emergencies that will arise as the NDIS is implemented are currently poorly articulated and are inadequate. This needs to be addressed, ideally through the NDIA establishing emergency response agreements with a number of disability support providers across the country. These providers should have the authority to implement an out-of-hours emergency response, the funding for

National Disability Services

National Disability Insurance Scheme Costs: Submission on Position Paper

which is agreed with the Agency (or for a non-participant, with the state or territory government) as soon as is practicable.

The prices for many disability supports are too low. The only substantial way to encourage new providers to enter the market to supply supports such as community participation, personal care and supported independent living is to increase the prices for these supports.

Workforce readiness

Workforce growth is a major focus in the Position Paper. The commonly-used figures suggest that the disability support workforce will need to double, but the lack of detailed data and discrepancies in estimates makes it difficult to know the extent of the shortfall and where and when the gaps will emerge.

NDS agrees that national averages mask wider variations in demand and supply at the local level. In some regions the workforce needs to grow very significantly, in others only marginally. Recruitment difficulty will also vary, depending on the nature of the local labour market and factors such as housing affordability, transport connections and levels of unemployment and under-employment. Better workforce data is needed.

NDS supports the Commission's recommendation that the NDIA should provide State and Territory governments and the sector with data to enable state jurisdictions to make effective workforce development policy. Access to this data will also benefit providers.

For example, providers would be greatly assisted by quarterly data indicating:

- therapy support hours billed, by profession, state and region
- direct support hours by price guide category billed by state and region
- numbers of active registered providers by support categories by state and region
- the distribution of categories of support hours billed

This type of information should be incorporated into detailed and regularly-updated market position statements.

NDS supports the recommendation that the ABS should be funded to conduct regular collections of disability workforce data. A first step should be to adjust the ANZSIC and ANZSCO classifications to distinguish between disability and aged care industries and occupations.

NDS agrees with the Commission's observation:

While it is understandable that State and Territory Governments want to address potential workforce shortages, there is a risk that fragmented workforce policies may lead to duplication or unnecessary programs at a time when the scheme can least afford it.

Broadly, we support the draft recommendation that:

State and Territory Governments should make use of their previous experience in administering disability care and support services to play a greater role in identifying workforce gaps and remedies tailored to their jurisdiction.

However, we note the urgent need for a national disability workforce plan to be developed that draws on the knowledge of industry and governments. It needs to have clear actions, targets and reasonable time-frames. Such a plan would help give direction and coherence to state efforts and avoid unnecessary duplication.

At present, Sector Development Fund (SDF) grants are non-transparent and often have short timeframes for completion. This does not work well for many workforce initiatives which take time to develop and implement.

NDS recommends that the SDF be enlarged and extended beyond June 2018 (when it is scheduled to end) to at least June 2020. This would enable it to fund actions arising from a national workforce strategy (through funding allocation processes that are transparent) as well as to support other important sector development initiatives.

The role played by family carers is indispensable and deserves recognition and support. However, in line with our previous submissions, NDS does not support paying informal caregivers who live in the same residence as the NDIS participant. Paying family and friend carers should be restricted to those who do not live under the same roof and then only when there is no other suitable formal support service. Exceptions should be few and well-monitored. Many family and friend carers would be insulted if offered payment to provide support, feeling that it would be inappropriate and fundamentally change the nature of their family relationships. One researcher observes that it could lead family carers to feel trapped in their caring role:

...in this type of 'job' it is particularly difficult to exit—should these care-givers or care-users decide that they would prefer an alternative form of care (e.g. residential care or a different care-giver), then these relationships are now even more difficult to leave, since to do so would incur direct economic costs as well as emotional costs."⁴

Other pitfalls include the household becoming dependent on the income and therefore resisting the NDIS participant becoming more independent; and potential difficulties with insurances.

Respite

NDS is concerned about the likelihood of respite becoming less available over time. Short-term accommodation (used for respite by families) currently has a flat daily rate, making it uneconomical to provide such a service on weekends or public holidays. Some providers are considering ceasing to provide this essential service. Without urgent change the pricing structure, more participants will move into full-time supported independent living, a more expensive option.

⁴ Clare Ungerson, *Whose empowerment and independence? A cross-national perspective on 'cash for care' schemes*, *Ageing & Society* 24, 2004, 189-212

To make short-term accommodation viable, NDS recommends that the NDIA differentiate prices by participant support requirements; pay higher rates for weekends and public holidays; give a clearer definition of expected base level support to be provided; and allow providers to claim (or charge participants) for additional supports. In addition, an SDA-like payment for the provision of short-term accommodation houses is needed to prevent such houses being converted into long-term housing.

The NDIA agreed to review the short-term accommodation rate for 2017–18 but, disappointingly, did not change the pricing, other than to apply indexation. The NDIA has now established a further price review (by McKinsey and Company).

Participant readiness

For some participants support coordination is vital. These include people with complex health or behaviour support needs; families in contact with multiple government agencies; participants with few or no informal carers or families in their lives; some people with psychosocial disability; participants involved with justice departments; participants with substance abuse; and young participants leaving out-of-home care.

Unfortunately, the decision-making on when support coordination will be provided (and at what level and number of hours) is not transparent. The sector would like information on how these decisions are made. Also warranted is a review of the reporting requirements for support coordinators which is onerous for situations where the numbers of hours of coordination are low.

Under state-funded services, providers running group homes were expected to assist residents with managing their health (taking them to appointments, scheduling regular screening tests and often staying with them if they were hospitalised). They also coordinated supports for residents using a number of service providers and kept these providers informed of matters such as medication changes. It is now unclear who will be responsible for these important tasks, particularly as the new NDIA quoting tool for these supports focuses only on in-home supports. It is difficult for external support coordinators to undertake these tasks effectively as they rarely know if a participant is unwell and needs to see a doctor or if the participant has had a medication change. This is a flaw in the scheme's design that needs to be rectified.

A problem with the current arrangements for intermediaries such as Plan Managers is that their purchasing on behalf of participants is not visible to the NDIA so is not included in the data being collected on purchasing patterns. This information gap should be addressed.

NDS recommends that price caps should not apply when participants use a Plan Manager. As with self-managing participants, prices for supports should be able to be negotiated with providers.

The development of an eMarketPlace is overdue. NDS supports the recommendation that it should be prioritised.

Governance

In general, decision-making within the NDIS is too centralised. While national consistency on key features of the NDIS design is essential, the detail needs to be more responsive to local differences. In rural and remote areas of Australia, in particular, a template approach won't work.

NDS supports disability service providers in WA who want a nationally consistent NDIS that provides local accountability and that recognises and respects local needs and conditions and the complexities of delivering services in regional, rural and remote areas. WA providers have little confidence that an Agency based in Geelong will be sufficiently responsive to local issues in WA. They would prefer a well-resourced and skilled agency based in WA believing that it would be best-placed to deliver and oversee the transition to the NDIS in that State. The ongoing arrangements for the NDIS in Western Australian should be finalised as soon as possible to remove uncertainty for people with disability, their families and carers and providers.

Given the problems with the quality of plans and the high number requiring amendment, NDS supports the recommendation that the NDIA be required to report on the number of unexpected plan reviews and reviews of decisions, review timeframes and the outcomes of reviews. NDS also supports the recommendation that improved performance reporting is needed. Importantly, there should be measures of quality, especially the quality of plans, not just measures of volume.

NDS agrees with the Commission's recommendation on finding a better balance between participant intake, the quality of plans, participant outcomes and financial sustainability, but we note that this will not be achieved easily. While people with disability should not have to wait any longer than is necessary to access the NDIS, the haste and inexperience in processing new entrants is affecting the quality of their plans. NDS would not like to see any delay in children with early intervention needs accessing the scheme; nor potential participants with urgent and complex needs.

Funding arrangements

Given the scale of the NDIS reform, NDS supports lifting the staffing cap on the NDIA during transition and immediately post-transition. However, there are practical measures that the Agency could take which would reduce the workload of staff while improving the functioning of the NDIS. Two examples are:

- remove the requirement that providers submit a quote for all Supported Independent Living participants. Assessing and processing quotes for participants where the provider is willing to accept the benchmark price is an unnecessary burden on providers and NDIA staff
- allow disability service providers to develop plans; this would reduce pressure on NDIA staff and LAC partners.

Most Australian adults expect to choose with whom they live, but an NDIS Rule could prevent residents of government-run group homes from choosing an alternative provider during scheme transition. The Rule requires that where an in-kind support is provided, the participant's plan "must specifically identify that the

support will be provided by the relevant provider of that in-kind support." NDS acknowledges that the NDIA has developed operational guidelines to help ensure participants do have choice about where they live and with whom they live. The effectiveness of these guidelines needs to be monitored.

In-kind arrangements outlined in bilateral agreements allow governments to fund their group homes at a higher rate than the NDIA pays non-government providers, perpetuating a disparity in public funding between government providers and non-government providers.⁵ In-kind arrangements limit participant choice and contradict the principle of competitive neutrality. They should be phased out quickly.

July 2017

Contact: Dr Ken Baker
Chief Executive
National Disability Services

National Disability Services is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-quality supports and life opportunities for people with disability. Its Australia-wide membership includes over 1100 non-government organisations which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.

⁵ According to the Productivity Commission's 2017 Report on Government Services, state and territory governments fund their group homes, on average, at \$32,510 per resident more than they fund non-government group homes.