

**Joint submission to the Productivity Commission's review of
*National Disability Insurance Scheme (NDIS) Costs***

**Principles of federal financial relations
and the National Disability Insurance
Scheme**



**Queensland
Government**



**Government of
South Australia**



**ACT
Government**

The Governments of Victoria, Queensland, South Australia, and the ACT are pleased to provide this joint submission to the Productivity Commission’s review of National Disability Insurance Scheme Costs.

Introduction

The Intergovernmental Agreement on Federal Financial Relations (IGA FFR) was designed to improve the wellbeing of all Australians in areas of national importance. The NDIS is an exemplary model of the need for intergovernmental cooperation, based on the IGA FFR principles of **fair and sustainable financial arrangements** between governments in the context of the fiscal imbalance that exists between the Commonwealth and states and territories (states), **collaborative working arrangements**, and **clear public accountability**.

Fair and sustainable financial arrangements

The funding arrangements for the NDIS must be considered in relation to the objectives of the NDIS. This particularly includes concepts of reasonable and necessary support; choice and control for participants; and the objective of increased social and economic participation – indeed, a key rationale of the NDIS is specifically a move away from the previous rationed, waitlisted schemes that had existed, which did not appropriately provide supports for Australians with a disability.

Funding for the Scheme should therefore not be about cost minimisation, and participants’ supports should not be capped unnecessarily, nor eligibility criteria reduced for financial reasons.

Australia’s Federation has been characterised by a significant degree of vertical fiscal imbalance (VFI). States’ revenue is insufficient to meet responsibilities, while the Commonwealth’s revenue exceeds its spending requirements.

VFI has grown mainly due to the expanded taxation powers of the Commonwealth since Federation, leading the PC to conclude in the 2011 Inquiry that the NDIS should be constituted under a ‘single funder’ approach¹ as the Commonwealth Government has the lion’s share of Australia’s broad, efficient tax bases.

This VFI challenge is one of the reasons that government funding for disability services has been historically ‘inequitable, underfunded, fragmented, and inefficient’². Disability funding had been subject to uncertainty stemming from the annual determination of relatively narrow state government budgets, which needed to be prioritised to also deliver substantial state responsibilities for health, education, and housing for example.

¹ Productivity Commission 2011, Disability Care and Support, Report no. 54, Canberra, Chapter 14, pp.637-692.

² Productivity Commission 2017, National Disability Insurance Scheme (NDIS) Costs, Canberra, p.3.

States are now contributing their ongoing disability resources (and for some, additional resources) to the Commonwealth for the NDIS within agreed and specified escalation parameters. Under these arrangements, the Commonwealth is responsible for managing Scheme costs, including managing cost over-runs from within the specified state contributions and the Commonwealth's own funding, and enjoying any improvements in Scheme costs. Bilateral agreements between the Commonwealth and states have been negotiated and signed in good faith, and a significant reform program has commenced on the basis of clear roles and responsibilities including for future funding, escalation and risks.

States consider that it would be inequitable to alter these funding and risk sharing arrangements that have only recently been negotiated, agreed, and signed in good faith.

To deliver on its objective of improved social and economic participation, and to ensure equity in application and integrity in the Scheme, the NDIS must be free from the influences of evolving budget pressures. The Scheme is an insurance-based model and participants require confidence that their supports will be provided for as long as required. Decisions about eligibility and reasonable and necessary supports should not be subject to ongoing revisions to align costs with a targeted funding level.

Increasing the proportion of state funding or the indexation of the state contribution would add to the revenue burden on states, and may result in a reversion to the previous rationed and waitlisted disability system that was 'underfunded and inefficient', with disability funding once again competing with other state service delivery obligations. It is worth remembering that, in part, it is this concerted attempt to move away from uncertainty of supports that has driven the design of the NDIS to be one that provides participants with confidence about the services that will be available in the future.

Increasing budgetary pressure on states may also impact on the delivery, quality, and access to mainstream services that participants rely on, and are necessary for the sustainability of the NDIS. States will continue to have responsibility for substantial mainstream services that interface with the NDIS, and bear significant risk from growth in these services. In addition to providing for reasonable and necessary disability supports, where appropriate, the NDIS should support participants to access services from mainstream systems, consistent with the applied principles agreed between the Commonwealth and states. For example, this includes access to affordable, appropriate, and secure housing; access to general health services particularly where there are complex health needs; and participation in learning and education. All of these areas are largely the obligation of states governments. Supporting and strengthening mainstream services not only has the effect of making certain that participants are fully included in society as is envisioned by

the NDIS, but also safeguards the sustainability of the NDIS by ensuring that the Scheme provides only the ‘reasonable and necessary’ supports rather than those more appropriately funded by the another system.

As the Issues Paper notes, the NDIS is not intended to replace these services, and they will need to function in conjunction with NDIS supports to realise the objectives of increasing social and economic participation. An unbudgeted increase in disability funding (e.g. through cost shift to the states, or an increase in the rate of indexation of the state contribution), without a corresponding increase in revenue could mean a reduction in quality or accessibility for those who access those services.

Given the above, the implications of changing cost and risk sharing arrangements to increase the burden on states is likely to have negative implications for the NDIS’ sustainability. To increase the NDIS’ dependence on smaller state budgets already reliant on Commonwealth grants, and which are arguably unable to be efficiently expanded to a meaningful degree, may lead to a backwards step – towards an NDIS that is not fully funded and therefore reducing the certainty of supports for participants.

Governance and collaborative working arrangements

A core foundation of the IGA FFR is the need for all governments to mutually agree objectives for areas of coordinated federal action. This is particularly important for the NDIS given it is the fruit of a ‘cooperative federal venture’³, characterised by the interaction between the ongoing scope and sustainability of the Scheme, and the mainstream services relied on by participants that will continue to be state responsibilities.

Bilateral Agreements of all jurisdictions have set out the need for shared roles and responsibilities so that all parties can work together to minimise the risks to other parties, and to continue to work collaboratively. These arrangements are required so that states can continue to support the interface with mainstream services, and the establishment of the market for disability services.

Commitment to clear public accountability for outcomes

The IGA FFR points to simple, standardised, and more transparent performance reporting to promote appropriate public accountability. Given the significant change in functions and responsibilities between the Commonwealth and states, and the significant task of fostering a new market-based approach to disability supports, there is a need for public accountability and clearly defined roles and responsibilities.

³ Productivity Commission 2011, Disability Care and Support, Report no. 54, Canberra, p. 427.