

The provision of hearing services under the National Disability Insurance Scheme (NDIS)

Submission to the Joint Standing Committee on
the NDIS

30 January 2017

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA started in 1994 as the Australian Plaintiff Lawyers Association, when a small group of personal injury lawyers decided to pool their knowledge and resources to secure better outcomes for their clients – victims of negligence. While maintaining our plaintiff common law focus, our advocacy has since expanded to criminal and administrative law, in line with our dedication to justice, freedom and rights.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

¹ www.lawyersalliance.com.au.

Introduction

1. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the issues raised by the terms of reference of this inquiry. This submission makes comments on Terms of Reference 1(a), (b), (c), (d) and (e).
2. The ALA is well placed to make a submission to this inquiry as its members represent injured and disabled people in their compensation claims. These clients are seeking supports that will enable them to participate fully in the everyday life of the community.
3. The ALA has been involved with the National Disability Insurance Scheme (NDIS) since 2009, and made a submission to the Productivity Commission Inquiry into the NDIS in 2010. We followed this up with a major submission and gave evidence before the Senate Committee on Community Affairs when it reviewed the NDIS Bill in 2013.

National Disability Insurance Scheme Act 2013

4. In considering the terms of reference for the present inquiry, the ALA considers it necessary to return to the *National Disability Insurance Scheme Act 2013* (the Act) itself. Section 3(1) provides that the Scheme is directed to supporting the independence and social and economic participation of persons with disability, providing reasonable and necessary supports to participants, and enabling participants to exercise choice and control over the planning and delivery of their supports. Section 5 provides guidance for people acting on behalf of participants, and emphasises protection and respect for difference, autonomy, self-determination and supported decision-making, in promoting the section 3 objects referred to above.

Terms of Reference

5. Term of Reference 1(a) considers the eligibility criteria of participants in the context of hearing services. The disability requirements in section 24 of the Act require a disability which is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, which are likely to be permanent, and result in

substantially reduced functional capacity, and affect the person's capacity for social and economic participation, and is a permanent condition. Section 25 makes similar provision for early intervention, where a condition may be prevented or alleviated so as to reduce the future need for supports.

6. There are some hearing conditions of a permanent nature which fall under section 24 and those which may be alleviated or mitigated to reduce the need for future supports under section 25. The Committee should emphasise these basic provisions in reporting, and indicate that government should ensure that adequate resources are provided to achieve these objectives. It is important, as the ALA emphasised in its 2013 submission, that there be a high degree of **certainty** provided for those seeking to be participants and who require hearing services under the NDIS
7. Term of Reference 1(c), dealing with adequacy of funding, follows on logically from that observation. Sections 3(3) and 4(15) of the Act refer to the requirement of **sustainability** in fulfilling its objects. This was another area of emphasis in the ALA's 2013 submission, as the Scheme has to deliver services to participants on a continuing basis, and government has to provide sufficient financial resources to ensure that services required by the Act are delivered. Sustainability should not be achieved by setting a bottom line which falls well short of providing reasonable and necessary support to participants. That would negate the clear intention of the Act.
8. Returning to Term of Reference 1(b) on delay, we understand this is a concern which arises from people who are currently receiving Department of Health supports and are to be transitioned to the NDIS. The anecdotal evidence from ALA members on their clients' experience with Australian Hearing is that often there are delays in obtaining an appointment, after-examination and assessment aids and supports are not provided on a timely basis, and that problems with aids and supports tend to be attributed to users. We acknowledge that we hear the complaints, which may skew the overall picture, but the matters of delay give cause for concern. In addition, delays in early intervention services may reduce their effectiveness in prevention or alleviation.
9. In relation to Term of Reference 1(d), the experience of delay has come from an author who has practised in regional and remote areas, and there is a clear perception that people in those locations are at a disadvantage when it comes to provision of the hearing services being considered.

10. On Term of Reference 1(e), relating to the principle of choice, the Committee will note from the summary of sections 3 and 5 of the Act above that autonomy, independence, choice and control are fundamental to the objectives of the Act. The 2013 ALA submission spoke of **empowerment**. We consider that these objectives should be at the heart of the Committee's recommendations.
11. We would be happy to engage further with the Senate Committee on Community Affairs if invited. We thank the Committee for the opportunity given to participate on this important subject and look forward to the Committee's Report.

Recommendation

The ALA recommends that the Senate Committee in its Report remind the Government of the key principles of the Act and take appropriate action to ensure certainty, sustainability and empowerment for NDIS participants requiring hearing services.