



Submission: Current Scheme Implementation and Forecasting for the NDIS

This inquiry by the Joint Standing Committee comes at an important time. The ground-breaking National Disability Insurance Scheme has reached a difficult point in its evolution. Some design flaws are still evident but it is the diminished trust among stakeholders makes resolving challenges very difficult. Operational processes are convoluted, expensive and inefficient but they are not getting the attention they need to improve them. Providers—essential to participants receiving the supports they require—are excluded from much of the co-design work that is underway.

We need to put effort into erasing the battlelines that have been so firmly drawn over the past 18 months or so. If we don't, we risk losing the scheme's strong public support, which it has had since the commitment made by then Prime Minister, Julia Gillard, in 2012. So much of media commentary now discusses problems with the scheme rather than the great outcomes it helps many participants achieve.

NDS's comments and suggestions in this submission are made with a view to delivering a strong, sustainable scheme that supports people with disability create the lives they desire.

Our requests are:

- for the Commonwealth and state and territory governments to come to an agreement on what the NDIS is likely to cost and how those costs will be met
- when negotiating that agreement, consider the enormous benefits the NDIS is bringing to participants, their families and carers, and to the Australian economy
- evaluate and update the arrangements for the boundaries between the NDIS and other service systems to ensure good outcomes for people with disability accessing these systems
- have governments and other stakeholders to focus on how equity in the scheme can be improved
- give urgent attention to provider sustainability and intervene before increased market failure emerges as a problem in the scheme
- assess the benefits of introducing an independent price setting authority
- adjust processes to fully cover the cost of operating in a COVID-19 environment
- work with participants and providers to streamline administrative processes
- implement a Provider Guarantee
- include providers as co-design partners
- strengthen safeguards for participants

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Modelling, forecasting and funding

One aspect of the NDIS appearing regularly in the media and being discussed in political circles is the level of expenditure on the scheme and whether the growth in that expenditure needs to be contained. The debates can be complex and heated. We need to find a way to move beyond this as it risks losing public confidence in the scheme.

With this submission, NDS has included the report commissioned from Per Capita, 'False Economy: The economic benefits of the NDIS and the consequences of government cost-cutting'. It adds another dimension to the discussion by outlining the economic benefits of investing in better supports for people with significant disability. It is good for Australia, for people living with significant disability, for their families and informal carers and for the economy. The Joint Standing Committee has invited NDS and Per Capita to a hearing in March to discuss the 'False Economy' report.

Other substantial reports modelling the future size of the scheme including reports by the NDIA's Actuary, Taylor Fry and the Parliamentary Budget Office. These three reports paint a similar picture of the likely future expenditure, but it should be noted that the further forward the projection, the less reliable the expenditure forecast is likely to be.

The NDIS is ground-breaking reform and is a vast improvement on the fragmented, inequitable state and territory-based systems it replaced. NDS wants it to find widespread support. To achieve this, governments and the broader sector need to find agreement on the scheme's economic and other benefits, likely future expenditure, and the arrangements for sharing the costs between the Commonwealth and state and territory governments. The bilateral agreements between governments will be re-negotiated over the coming year. It is not in the interest of the scheme, and importantly, not in the interests of participants, for this to be a brutal media battle.

Boundaries and interfaces

The introduction of the NDIS resulted in a need for agreement between governments on what the funding and delivery responsibilities of the NDIS were and what belonged to other departments and other governments. These are outlined in the 'Applied Principles and Tables of Support to determine Responsibilities NDIS and other service' [sic] document, dated 27 November 2015¹.

Underpinning this document is a shared understanding that the vision for an inclusive society that enables all people with disability to be equal citizens involves all Australian governments, non-government organisations, business, and the wider community. The

¹ Viewed at https://www.dss.gov.au/sites/default/files/documents/09_2021/ndis-principles-determine-responsibilities-ndis-and-other-service-1.pdf on 17 February 2022

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NDIS, together with other service delivery systems, all have obligations to improve the lives of people with disability.

The interfaces between the NDIS and the health system are regularly in the news. People are unable to be discharged from hospital while negotiations as to what might or might not be an NDIS responsibility slowly get explored. There are cases where an NDIS participant who is aged over 65 years is in hospital but the NDIA and aged care struggle to agree whether or not the person can go home or should be admitted to aged care (thereby losing all their NDIS-funded supports).

A relatively small number of participants who are in hospital are able to use NDIS funding to ensure they have the level of support they require (they must meet limited criteria) but most won't be able to do so. For this group, a poor hospital experience can ensue as hospital staff generally do not provide the support they require.

Interfaces between the NDIS and education systems, mental health services and justice also expose cracks in the arrangements. It is time for the effectiveness of the arrangements spelled out in the Applied Principles document to be evaluated and updated.

Equity

A headline finding from the Productivity Commission's 2001 report into disability supports was:

Current disability support arrangements are inequitable, underfunded, fragmented, and inefficient and give people with a disability little choice. They provide no certainty that people will be able to access appropriate supports when needed.

...

People with similar levels of functionality get access to quite different levels of support, depending on their location, timing or the origin of their disability — what some call the 'lottery' of access to services.²

With the NDIS now fully implemented, we need an assessment of how we are going in terms of funding and supporting participants in an equitable manner. We need to evaluate whether participants with similar support needs, and with similar levels of informal support, can purchase similar levels of support.

² Disability Care and Support Inquiry report viewed at <https://www.pc.gov.au/inquiries/completed/disability-support/report>, pp. 5–6, viewed on 22/02/22

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Reports from providers generally indicate we are failing on this measure. They commonly report seeing inequity in the funding across participants with similar circumstances where there isn't an apparent explanation.

Like forecasting and sustainability, equity is another vexed issue associated with the scheme and it needs attention. The NDIS aimed to address the inequitable and unfair arrangements of the past, and while it is clearly an improvement on what came before, more attention is required.

Low package utilisation by participants living in remote and very remote areas is a serious failure of the scheme that needs urgent attention. Addressing inequity must include working with providers supporting participants in remote and very remote areas to find practical solutions to increasing the availability of supports.

Scheme reform

- **Provider sustainability**

The disability provider sector is at a critical juncture. Sustainability pressures on providers are mounting, with many forecasting this current financial year to be their most difficult since the NDIS began.

During the implementation of the NDIS, several measures underpinned the sustainability of providers. One of the earliest responses was a loading known as the Temporary Support for Overheads, which was replaced from July 2019 with the Temporary Transformation Payment (TTP). This conditional loading was initially set at 7.5 per cent, decreasing by 1.5 per cent per year (it is currently 4.5 per cent) and was introduced to “assist providers to continue transforming their businesses in the move towards a more competitive marketplace”.

Not all providers charge the TTP loading due to participants being unwilling to pay, or providers not charging it because participant plans were not indexed to include it (thus reducing the hours of support they can purchase). The TTP loading is only applicable to attendant care and community participation supports.

Over the past two years, JobKeeper payments have been critical in keeping so many providers afloat; the cessation of those payments will result in financial losses being announced for the 2021–2022 financial year. Many providers continue to be severely impacted by COVID-19, by reductions in revenue and/or by increasing to costs of supports.

And over the past 18 months, changes to pricing arrangements for Supported Independent Living (SIL) have had a substantial negative impact on providers of this class of support.

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NDS is particularly concerned that pricing pressures will begin to impact quality, most likely beginning with cost savings being made in the training and supervision of staff.

The sustainability problems primarily centre on inadequacies of the Disability Support Worker Cost Model (DSWCM). NDS is on the record as stating that the NDIA has been using settings/allowances for costs within the cost model to generate prices that will help it control the expenditure on the scheme. This cannot continue.

NDS commissioned research on the costs experienced by providers and used it to populate the DSWCM. This work obtained cost data from a number of NDS members that are delivering 5.5% of the NDIA's \$23.5 billion in annualised core expenditure. These providers varied in size, geography and support mix types.

The findings indicate the prices for attendant care, community participation and SIL need to be increased by about 10 per cent. Details are provided in the report accompanying this submission.

NDS urges the NDIA to increase the prices generated by the DSWCM by a magnitude of 10 per cent. Without this adjustment, there will be an increase in providers withdrawing from the NDIS market.

If the NDIA does not increase the prices generated by the DSWCM by the 10 per cent required to cover the cost of delivering supports, price setting should be transferred to an independent pricing authority (which operates for hospital pricing and is being established for aged care). A summary of how such an independent pricing authority could work is found in the box below.

An independent pricing authority for the NDIS?

Since the NDIS began in 2013, price caps set by the NDIA have not covered the full cost of delivering supports. Improvements were negotiated every year until 2019 but progress has now stalled. JobKeeper payments, a response over the past two years to assist organisations remain viable through the COVID-19 pandemic, have masked the looming financial pressures on the sector. Many providers are worried they will not be financially sustainable into the future.

The DSWCM is the most influential mechanism used by the NDIA to generate prices, with \$13.5b of the \$23.3b of supports purchased in 2020–21 being paid under price caps set by this Model. The elements within the Cost Model are undervalued, with some set at levels few providers can reach (often at the level achieved by only 25% of providers).

The quality of NDIS supports is dependent on the quality of the workforce. Worryingly, prices generated by the DSWCM are putting pressure on providers to reduce the training and supervision of their workers.

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If the sector is going to provide high quality and safe supports, this can't go on.

What is needed?

It is time prices for NDIA supports were determined by an independent body. Pricing in hospitals is set by the Independent Hospital Pricing Authority. A recommendation by the Aged Care Royal Commission will see this body expand and take on the function of undertaking an independent assessment of costs in aged care. This same body should be further expanded to independently assess the costs of delivering high quality and safe disability supports.

Why is this necessary?

Current arrangements, that have prices set by the NDIA, involve a conflict of interest. The NDIA should be trying to ensure there is a vibrant market for high quality supports but it also has a strong agenda—as evidenced by the public debate on the sustainability of the NDIS—on constraining costs.

- **Cost of working in a COVID-19 environment**

Throughout the pandemic NDS has been working closely with providers to understand the impact of COVID-19 on their operations. Polling across the large number of forums and meetings that NDS has facilitated over the last two years indicate that sustainability and financial viability are among the top concerns identified by providers. Meeting the costs of Personal Protection Equipment (PPE)—which has increased as N95 and P2 masks have become recommended with Omicron—has been difficult for providers particularly in situations where they have not been able to claim these costs back from the NDIA.

Managing staffing has also been a significant cost. Through the Omicron stage of the pandemic, providers estimated that between 15% and 20% of their staff were furloughing either due to being COVID-19 positive or close contacts—for some providers this rose as high as 30%. The resulting increases in overtime and use of agency staff (to ensure that supports were able to be provided to participants) have resulted in substantially increased wage costs.

The above issues have been exacerbated by a reduction in income for some providers, particularly those offering day or community access supports or those with vacancies in their accommodation supports (as it was inappropriate to fill these during the pandemic). During 2021, Commonwealth and/or state and territory financial support.

A survey of a sample of providers is currently being undertaken to obtain estimates of the increased costs providers are experiencing over recent months. NDS will seek permission to share this with the Committee when it becomes available.

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- **Streamline administrative processes and Implement a Provider Guarantee**

It is hard to understand how a relatively new NDIS could have been designed in a way that is so administrative complex and expensive to administer. And despite being in operation for more than eight years, little has improved.

By way of an example, a survey of providers of Supported Independent Living providers late last year indicates that across 57 of them, there was a total debt outstanding for more than 30 days was more than \$35 million. This debt was for supports provided but where there was ongoing negotiation with the NDIA about participant plans. It is important to note that supports must be provided to the participants living in these SIL arrangements; the provider could not ask the participant to leave the residence, or cease providing supports, while negotiations with the NDIA are resolved.

Providers involved in the supply of assistive technology report very substantial delays resulting from poor and inefficient NDIS processes.

It is time for commitments to be agreed on timeframes and processes for engagement between providers and the NDIA.

The Queensland Productivity Commission recently released the Final Report on 'The NDIS market in Queensland'. It supports the recommendation NDS made in its response to the exposure draft that there is a need to establish something like the Participant Service Guarantee for engagement between providers and the NDIA.

Recommendation 12³ in the Report states:

To strengthen provider and investor confidence in the NDIS market by reducing policy and regulatory uncertainty and improve regulator performance standards, the Queensland Government should propose that the Australian Government introduce a provider Guarantee. The Provider Guarantee encompasses the activities of the NDIA, the NDIS Quality and Safeguards Commission and key policymaking bodies.

The Provider Guarantee should:

- be based around a set of principles to which NDIS regulator behaviour will adhere
- include a set of regulator service standards the NDIS regulators will be required to meet.

The accountability mechanism around the Provider Guarantee should:

- rely on public reporting and transparency as an enforcement mechanism

³ See <https://s3.treasury.qld.gov.au/files/NDIS-final-report-volume-1.pdf>, p. iv, viewed 5 November 2021

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- minimise compliance costs for the institutions involved by having service guarantees and performance indicators integrated within each institution's performance reporting framework
- include the regular publication of a single document showing performance against the full range of service guarantees, with the document discussing any reasons for performance shortfalls and actions to be undertaken

The Australian Government should develop the Provider Guarantee in partnership with NDIS providers and their peak representative groups.

NDS would like to see a commitment to the development of a Provider Guarantee work and for work on it commence as soon as possible.

- **Include providers in the principles as an important co-design partner**

NDS would like to see the principles in the NDIS Act amended to include one important addition: the critical role that service providers have in delivering the supports purchased by participants should be acknowledged by including them as a partner in co-design activities undertaken by the NDIS.

Too often, provider implications are not considered in decisions and policies of the NDIA to the detriment of participant choice and the efficient and effective operation of the scheme. Including providers in co-design activities will deliver better outcomes for participants, families and carers, the NDIA as well as providers.

- **Strengthen safeguards for participants**

Since before the NDIS began, NDS has been arguing the need to strengthen some of the safeguarding measures to protect participants. An important change should be implemented to require all workers engaged to support a participant in a risk assessed role to undergo an NDIS Worker Screening Check (at present, unregistered providers are not required to undertake NDIS Worker Screening Checks on their staff; and self-managed participants can use unscreened workers). There is no justifiable reason to not require this safeguarding measure for all relevant workers and not just those engaged by registered providers.

Similarly, it is time to restrict the delivery of some high risk supports to those providers that are registered. When the scheme began, all SIL funding was Agency-managed and thus only delivered by registered providers. SIL funding can now be managed by plan managers, meaning unregistered providers can be used. This loophole should be closed. All SIL, Short Term Accommodation and Medium Term Accommodation supports should only be delivered by registered providers.

NDS would like the legislation amended to require NDIS Worker Screening for all workers engaged in risk assessed roles. We would also like the Government to restrict the delivery of SIL, Short Term Accommodation and Medium Term Accommodation to registered providers.

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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 about 1200 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.