



Australian Government

Australian Government response to the
Joint Standing Committee
on the National Disability Insurance Scheme:

NDIS Planning Interim Report

February 2020

Introduction

The Australian Government welcomes the Joint Standing Committee on the National Disability Insurance Scheme's (the Committee's) interim report on the Inquiry into National Disability Insurance Scheme (NDIS) Planning.

The Report contains 14 recommendations to the National Disability Insurance Agency (NDIA). The recommendations cover a number of areas, including:

- ways to engage and involve participants more in the planning process;
- adopting more standardised timeframes and approaches to planning, which may require legislative change;
- greater transparency of the outcomes of planning reviews and appeals;
- enhanced training of NDIA staff to support the planning processes;
- approaches to better support specific cohorts through the planning process such as those likely to benefit from early intervention, Aboriginal and Torres Strait Islander peoples, and those with complex needs; and
- more uniform approaches to the terminology and explanation used across resources, processes and tools delivered by the NDIA.

The Government is committed to working closely with people with disability, their families and carers, in order to ensure the NDIS delivers a quality service. While the NDIA has undertaken a significant program of work to improve the support offered to participants through planning processes, the Government also commissioned the recent Review of the *National Disability Insurance Scheme Act 2013* (NDIS Act), undertaken by Mr David Tune AO PSM, to consider further legislative and operational amendments that would enhance the participant experience and introduce a new Participant Service Guarantee from 1 July 2020.

The Minister for the National Disability Insurance Scheme, the Hon Stuart Robert MP, made announcements about the Australian Government's future work program for the NDIA at a speech to the National Press Club on 14 November 2019.

Recognising that many of these improvements are still in progress, and are likely to address the concerns raised by the Joint Standing Committee, the Government supports seven recommendations, supports five recommendations in principle, and notes two. The Government recognises that the Joint Standing Committee intends to release a final report during 2020 and welcomes any further recommendations arising from that report.

Inquiry into NDIS Planning

Recommendations made by the Committee

1. The committee recommends that fully costed, detailed draft plans be made available to participants at least one week prior to their meeting with the official with the authority to approve the plan, and that at the meeting the participant have the opportunity to rectify the plan.

Supported in principle

The Government recognises the need for NDIS participants and those who are important to them to have appropriate information in order to consider their plans and supports. This would ensure they are fully involved in the planning process and receive the supports that will help them reach their full potential.

A number of initiatives are underway that support the intention of providing full transparency around NDIS plan approval processes. These include the introduction of draft plan summaries, joint planning and the use of independent functional assessments in access and planning decisions. From April 2020, the NDIA will provide draft plan summaries to participants who engage in the joint planning process prior to the plan being finalised. These summaries will include participant details, their support networks and their stated goals. The intent of the draft plan summaries is to reassure participants that the information captured by the NDIA is accurate.

Joint planning meetings will enable the participant, Local Area Coordinator (LAC) and NDIA planner to collectively discuss a working version of the plan and included supports before it is approved. This will enable participants to have a greater understanding of their plan, how it was developed and how to use it.

The NDIA will evaluate these initiatives, noting that the NDIA has a statutory requirement to determine that the costed supports are reasonable and necessary, in line with each participant's stated goals and informal supports.

2. The committee recommends that the National Disability Insurance Agency ensure that participants are given the opportunity to meet face-to-face with an official with authority to approve a plan before the plan is approved.

Supported in principle

The Government supports the recommendation to enable participants to meet with an NDIA delegate prior to plan approval. As outlined above, from April 2020 the NDIA will be progressively rolling out joint planning meetings nationally. Joint planning meetings will enable the participant, LAC and NDIA planner to collectively discuss a working version of the plan and included supports before it is approved. This will enable participants to have a greater understanding of their plan, how it was developed and how to use it.

The NDIA already provides participants with a choice about how they would like to conduct their planning meetings. Most choose face-to-face meetings, but some choose telephone or alternatives such as Skype. The NDIA recognises that it should not be prescriptive in this matter, due to the different needs and circumstances of participants and their choices about how they engage with the NDIA. Some participants may find it difficult to travel to a local NDIA or LAC office to conduct this meeting due to geographic remoteness.

The NDIA will monitor the impact of the joint planning meetings on the participant experience and will assess all available opportunities to ensure the most appropriate implementation arrangements as the NDIS matures.

3. The committee recommends that the *National Disability Insurance Scheme Act 2013* be amended to enable participants to review only part of a plan, or to vary a plan, in appropriate circumstances.

Supported

The Government agrees with making plan review arrangements less burdensome for participants wherever possible, particularly where the change to be made to the plan, or the support to be added, is straightforward or simple. In such circumstances, it would be in keeping with the intent of improving the participant experience to allow the plan to be amended without requiring a plan review be completed or a new plan created.

The Government intends to introduce a new plan amendment power, as part of its response to the Tune Review of the NDIS Act.

4. The committee recommends that the *National Disability Insurance Scheme Act 2013* be amended to require the National Disability Insurance Agency to complete an unscheduled plan review within 45 days of receiving a request from the participant.

Supported in principle

The Government recognises the long wait times that participants and prospective participants have experienced when engaging with the NDIA. The need to address this issue was the core reason for commissioning the Tune Review and for proposing the implementation of a Participant Service Guarantee.

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards for how the NDIA is to engage with and work alongside people with disability in delivering the NDIS and timeframes for the NDIA to make decisions or undertake administrative processes, including planning, plan approval and review.

The Government intends to introduce a timeframe for unscheduled plan reviews as part of its response to the Tune Review of the NDIS Act.

5. The committee recommends that the *National Disability Insurance Scheme Act 2013* be amended to require the National Disability Insurance Agency to complete internal reviews of decisions within 45 days of receiving a request to conduct the internal review.

Supported in principle

The Government supports the recommendation that internal reviews be conducted within a reasonable timeframe and is committed to ensuring that NDIA processes are efficient and that high quality decisions are reached in a timely manner. The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards for how the NDIA is to engage with and work alongside people with disability in delivering the NDIS and timeframes for the NDIA to make decisions or undertake administrative processes, including planning, plan approval and review.

The Government intends to introduce a timeframe for internal plan reviews as part of its response to the Tune Review of the NDIS Act.

6. The committee recommends that the National Disability Insurance Agency publish settlement outcomes relating to external review by the Administrative Appeals Tribunal, in de-identified form.

Noted

Publishing Administrative Appeals Tribunal (AAT) settlement outcomes would impose a significant administrative burden on resources and would pose privacy issues, even if published in a de-identified form. Further, as AAT settlements are not precedent-setting and all cases are considered on their individual merits, publishing settlements could contribute to the misconception that the particular terms of agreement reached between the NDIA and an applicant could be generalised to other applicants with a similar disability.

7. The committee recommends that the National Disability Insurance Agency standardise the terminology it uses to refer to persons, processes and other matters associated with the NDIS.

Supported

NDIS participants and those who are important to them have clearly expressed through various forms of consultation that information about the NDIS can be hard to access and difficult to understand.

In order to empower NDIS participants and prospective participants to increase their independence and reach their full potential, the Government recognises the need for information about the NDIS to be accessible and easy to understand. The NDIA is currently reviewing all communication products to ensure there is consistent, plain English language across all products and systems.

8. The committee recommends that the National Disability Insurance Agency (NDIA) clearly define key terms associated with the NDIS, and with the planning process in particular. Where a term refers to a person, organisation or other body, the committee recommends that the NDIA clearly define that entity's role, functions, responsibilities, limitations and accountability.

Supported

The Government is committed to increasing participants' and prospective participants' choice and control by ensuring that information about the NDIS is complete, accessible and easy to understand. As stated above, the NDIA is currently reviewing all communication products to ensure there is consistent, plain English language across all products and systems. Where appropriate, this will include defining an entity's role, functions, responsibilities, limitations and accountability.

9. The committee recommends that the National Disability Insurance Agency (NDIA) ensure that additional training and skills development is provided to all persons involved in the planning process (particularly NDIA officers and LACs), to ensure that all such persons:
- are familiar with a range of disabilities experienced by participants, and develop specialisation in particular disability areas;
 - are familiar with allied health expertise;
 - understand the specific needs of Aboriginal and Torres Strait Islander participants, and participants from culturally and linguistically diverse backgrounds, to ensure that they are able to deliver culturally appropriate services; and
 - receive training in domestic violence awareness.

Supported

The Government recognises the need for NDIA staff and Partners in the Community to have high levels of training in disability-related matters and cultural awareness. Feedback on this issue has been received from participants and those who are important to them.

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards for how the NDIA is to engage with and work alongside people with disability in delivering the NDIS, including the need for staff to have high levels of training, empathy and respect for the diverse experiences, values and beliefs of participants.

The NDIA has a thorough onboarding and training program for both its internal staff and Partners in the Community and has invested heavily in training recently as the pathway reforms have been rolling out. NDIA planners and Partners undertake a range of training programs prior to supporting participants. The current training includes a comprehensive new starter induction program, mandatory learning modules, and disability specific and targeted service delivery training programs. Additionally, ongoing training is provided to maintain and build the specialised skillset of planners and Partners, key aspects of which include:

- the national roll out of Service Improvement and Psychosocial Awareness training for the NDIA and Partner planning workforce (completed in June 2019);
- delivery of specialist training for Early Childhood Early Intervention (ECEI) partners and hearing stream planners and providers; and
- development of joint planning training material to support a national deployment.

The NDIA is also progressively rolling out training programs focused on disability and cultural awareness to improve the service experience for Aboriginal and Torres Strait Islander peoples, people who identify as LGBTIQ+, and people from Culturally and Linguistically Diverse (CALD) backgrounds.

In addition, the NDIA has collaborated with the Disability Advocacy Network of Australia (DANA) to raise disability awareness amongst staff and help improve the participant experience. Through DANA, the NDIA worked with groups such as Australian Autism Alliance, Prader-Willi Syndrome Australia and Down Syndrome Australia to build knowledge and real life stories. As a result of this project, the NDIA has produced 12 videos and snapshots on specific disabilities, and an eLearning module for staff.

With respect to training in domestic violence awareness and support, the NDIA has a mandatory eLearning module on Family and Gender Based Family Violence Prevention for all staff and will consider further options.

Notwithstanding these improvements, the Government recognises that there is always room to do more to improve the knowledge and capability of the workforce. The views and guidance provided by the Committee and other stakeholders will continue to be invaluable in assisting with this continued improvement.

10. The committee recommends—in circumstances where a new plan has not been approved at the plan review date—that:
- the National Disability Insurance Agency continue to provide funding under the existing plan until the new plan is approved; and
 - ensure that a plan review is carried out within 45 days of the review date set out in the existing plan.

Supported in principle

Delays in scheduled plan reviews can leave participants in a state of uncertainty. The Tune Review notes that there is no legislative reason for why participants should have their access to NDIS supports stalled because of plan review delays.

In September 2019, the NDIA launched a new process that identifies participants with plan review dates within seven days, and, in certain circumstances, automatically extends the end date of their plan for 28 days. Where a plan is extended additional pro-rated funding is applied. This enables participants to continue to access supports until a plan review occurs and the new plan is approved.

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards for how the NDIA is to engage with and work alongside people with disability in delivering the NDIS and timeframes for the NDIA to make decisions or undertake administrative processes, including planning, plan approval and review.

11. The committee recommends, where a plan is not approved within 45 days of receipt by a National Disability Insurance Agency (NDIA) delegate, that:
- the NDIA immediately approve a typical supports package (TSP) for the participant as an interim measure; and
 - the NDIA replace the TSP with an individualised plan no later than 45 days after the TSP is approved.

Noted

The Government recognises that timely access to plan supports is crucial to positive participant outcomes. Through the initiation of ECEI interim plans, the Government has taken steps to ensure that those most in need of timely NDIS access are supported.

A move towards utilising standardised typical support packages as a matter of course would move the NDIS away from the stated intent of an independent understanding of the individual's goals and support needs. Putting in place a 'standard plan' without the participant's engagement may only create further issues into the future.

Under the current legislation, an NDIS plan can only be approved by an NDIA delegate. When approving an NDIS plan the delegate must confirm that the supports in the plan are reasonable and necessary. A TSP plan can only be developed based on information gathered in relation to functional impairment, participant goals and individual personal circumstances.

As this information is gathered to develop an NDIS plan in the usual planning process, there are limited efficiencies to be gained by developing initial TSP plans followed by individualised plans. The NDIA focus remains on developing individualised plans in a timely manner.

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards for how the NDIA is to engage with and work alongside people with disability in delivering the NDIS and timeframes for the NDIA to make decisions or undertake administrative processes, including planning, plan approval and review.

12. The committee recommends that all participants with complex support needs be immediately streamed to a National Disability Insurance Agency delegate to develop their plan and appropriate funding package.

Supported

The Government is committed to ensuring that participants and prospective participants with complex needs get appropriate support to access the NDIS. To assist, the NDIA has developed a new Complex Support Needs (CSN) pathway. People who are in the CSN pathway receive additional, tailored support in all aspects of their NDIS experience, including access, planning, plan implementation and review. Participants in the CSN pathway complete their planning meetings with an NDIA delegate.

13. The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to prioritise access decisions, plan meetings and plan approvals for children with complex needs and/or an acquired disability.

Supported

The Government is aware of the unique challenges faced by children with complex needs and acquired disabilities. Ensuring appropriate escalation of, and support for, these cohorts in need is part of the roll out of the CSN pathway.

14. The committee recommends that the National Disability Insurance Agency immediately implement a mechanism to allow participants to pay for transport out of core funding.

Supported

The Government recognises that current transport arrangements under the NDIS do not always meet the needs of participants and is committed to remedying this situation in the longer term.

The Disability Reform Council, in October 2019, endorsed an approach to improve the provision of transport supports, including interim measures to increase transport funds for participants who are significant users of taxi subsidy schemes.

In line with the introduction of independent functional capacity assessments from 1 July 2020, the Government and the NDIA have also committed to providing greater NDIS plan flexibility between core and capacity building supports to ensure participants are able to access their supports and participate fully in the community.

In line with this long term approach to plan flexibility, the NDIA will introduce greater flexibility to access core supports funding for use on transport during the intervening period.