



Subsequent Submissions to the
Community Affairs Legislation Committee

National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No 1) Bill 2024 and subsequent proposed amendments

9 July 2024

National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No 1) Bill 2024

About Us

Villamanta Disability Rights Legal Service Inc. (**Villamanta**) has been providing advocacy and legal services to people with disability since 1990. We are funded to provide advocacy under the National Disability Advocacy Program, NDIS Appeals and the National Legal Assistance Partnership Agreement.

Villamanta engages in the following activities which inform this submission:

- Telephone Information Service** – our intake team receives around 2,000 contacts per year from people with disability seeking assistance.
- Advice calls** – our legal team provide discrete advice to over 150 people with disability per year. Many of these are about NDIS Appeals, or else about their NDIS experience.
- NDIS Appeals** – our representation of clients at the AAT provides us ongoing insights into how the current legislation and rules are working for different participants.

Villamanta have been providing NDIS Appeals support since 2017. In this time, we have assisted over 1,600 people with their NDIS concerns, representing 309 people at the Administrative Appeals Tribunal.

We were involved in the following AAT decisions:

- [Uthenwoldt single occupancy SDA](#) (successful appeal)
- [Mowjood access](#) (unsuccessful appeal)
- [Boicovitis Single occupant SDA](#) (successful appeal)
- [CYHY autism assistance animal](#) (successful appeal)
- [Ray Access and Independent Expert](#) (successful appeal)
- [Castledine supports and NDIA internal advice](#) (successful appeal)
- [KLMN and other service systems - prism glasses](#) (successful appeal)

We have made the following submissions related to the NDIS:

- [April 2024 NDIS Registration Taskforce Submissions](#)
- [May 2023 NDIS QS Framework Submission](#)
- [March 2023 Briefing Paper for NDIS Review and Access and Planning Under the NDIS](#)
- [October 2022 NDIS culture and capacity](#)
- [June 2022 - Model litigant obligations and NDIS Appeals](#)
- [August 2021 Unreasonable and unnecessary harms](#)
- [October 2021 - Proposed NDIS legislative improvements and Participant Service Guarantee](#)
- [November 2021 Joint Standing Committee on the NDIS - general issues around implementation and performance](#)
- [2021 General Issues around the implementation and performance of the NDIS](#)
- [July 2020 - NDIS Quality and Safeguards Commission](#)

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Submissions post amendments

We thank the Community Affairs Legislation Committee for the opportunity to provide submissions on the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No 1) Bill 2024 (Bill)*.

The below includes a combination of thoughts, comments and particularly concerns from those involved in the disability community who are unhappy with the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024.

- [The NDIS] use impairments to mean conditions/diagnoses too, which its not. Impairments are the areas of functioning that combine to be your disability. The way they use “impairments” and “disabilities” removes them from their actual definition, so your reports lose their meaning too.
- Even if they pick up on the secondary [disabilities], if you are put in a class using your primary, then its possible it will exclude any support that would support your secondary even if you managed to get funding for it via the needs assessment.
- There needs to be a return to available supports outside of the NDIS, but that should not be coupled with shrinking the NDIS either, the government needs to stop trying to solve this with a one or the other approach.

- There is not enough detail on the needs assessment for the Senate to make an informed decision.
- The NDIS doesn't actually account for complex families.

- We are worried that ‘reasonable and necessary’ will no longer be about support, but a fixed dollar amount instead.
- I'm overly concerned at the direction of disability support as we had assistance and certainty before the NDIS. I don't believe passing legislation that enshrines in law yet to be determined and easily changed rules is in anyone's interest. All of this uncertainty has led to uncertainty for participants, their families, companies that provide support and even whole areas within the scheme like plan management, support coordination and LACs. No one should be expected to build their business on such shaky ground and if those providing support are not supported, what impact will that have on participants? Disability supports are become less personalised in their delivery, and this is leaving too many vulnerable, we need to go back to case management for some to try and ensure safety.

- It would be superhuman of any practitioner, much less a bureaucrat, to determine whether a given impairment/disability/whatever they'd like to call it is causing X “symptom”, and therefore eligible for NDIS funding, when disability is not a mathematical construct.
- So the cost “blowouts” are at least in part driven not by participants but by the NDIA ignoring participants. Let's get that into the submission - not that it hasn't been said plenty of times already.
- And these overly technical and not even internally logical or sensible requirements depend upon people having the energy/intellect/resources to pick apart the arguments and hit up the NDIA and argue their logic... which is where I am concerned that people with cognitive disability and hey, even people without a damn law degree or legal analysis skill, will be even worse off than they are now.

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- And autism, and any other disability, affects everyone differently. If supports are individualized, there shouldn't BE a standard package that is automatically applied?

- There is also the issue that for complex intersectional disability someone who is supposedly expert to assess the impact of one of those may not have any understanding of the other conditions and how they intersect. Especially where those things are not necessarily commonly comorbid. Or one or both are very rare
- Something I am very concerned about is that people who have used their funding in good faith against understanding of current rules having "debts" claimed for misuse based on new rules/interpretation
- There also needs to be an acknowledgement that medical conditions can also be disabilities. There are already multiple conditions that the general public understand as disabling (ie MS, Parkinsons, ALS). A significant majority of disabilities will inherently come with significantly higher healthcare needs than the general population. This is inherent in requiring doctors reports... So any definition of disability needs to include an understanding that some "medical" issues are also simultaneously disabilities. There needs to be a process to interrupt "that's medical" denials of actual disability aspects. And the health service does not address the disability aspects.

- I am an old lady now and I no longer menstruate. But I have endo and shark week was like a Tarantino film. A disability need for me was when stuck in an airline chair for an hour between flights, or sitting on a plane, to have to be able to use period pants because not everyone likes Tarantino. The agency's arguments are the equivalent of saying that the health system should pay for period pants. Or Qantas. Or the Womanhood Department. It makes no sense.
- This is what it is, 'whole of person'. We are not women one day and disabled the next. Ditto multiple impairments <3
- This is the NDIS of the future. Given that they have decided to 'collapse' this program and given that the program manual has been updated squillions of times - welcome to our future.
- Think rolling in veterans, aged care and disability. It's a step forward for aged care but fifty back for us. And the harmonization of all of it means the feds get to wash their hands, largely, of aged care, while they live in their homes in the same way we do (except the few with higher support needs). That's my firm view and I have fuck loads of evidence to support this view.

- One little spoken of issue is the relative privilege of people making these decisions. Usually they are employed, and middle class, and have family, neighbours and friends they can safely interact with. Many of us live on a different planet, feels like an alternative universe. How can they possibly understand what the impacts are for us, let alone within a simplistic cookie cutter approach the agency and govt are determined to pursue.
- Health conditions can actually BE disabling!

- Costs also blowout because we have to have an OT record the same things over and over again. Additionally, people sitting at a desk then think they know more than an OT and reports can be worthless. So much waste of money that is not necessary to waste.

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- Honestly, we are keeping people employed and many wealthy people are benefitting from what we need.

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- It took 4 years and numerous complaints to have my physical disability added. I was initially only approved for autism also, despite my physical disability having the most impact. The NDIA eventually apologised to me, saying that they'd never seen so much consistent evidence, & that every person who touched my file made critical errors or failed to act on information supplied.
- Our daughter has the same disabilities as me. She was initially approved for the physical disability, but at some point during her last plan that approval was removed. We're currently trying again to get it approved, and expect to end up at AAT.

- This concerns me. I'm deafblind and in planning meetings it is routinely split between being blind and being hard of hearing but realistically they intersect, it is deafblindness.

- A question about 'impact' – Will they now say “we think 70% of the support needs come directly from the primary impairment, and 30% comes from the non-supported impairment, so we will only fund 70% of the support needs even though it could all indeed come from the primary impairment and there is no way to measure between them?
- The ability to provide evidence on your own behalf is essential for procedural fairness.