

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



Attn. Legislative Affairs Committee
Cc Hon Mark Bailey, Member for Miller
Cc Hon Charis Mullen

Friday 10th May 2024

To the Legislative Affairs Committee,

I am writing to you to express my concern about planned reforms to the National Disability Insurance Scheme (NDIS), as they articulated in *The National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024*. As an allied health professional, I ask for your support in making sure proposed reforms do not pass into law. These **reforms pose many risks** to people with disability in Australia. Changes to the NDIS Act, for example that amend or remove government responsibility to provide access to reasonable and necessary disability supports, will disadvantage many disabled Australians; and prove more expensive in the long term as disability needs are neglected.

I am concerned that:

- The Bill places essential Scheme architecture to the legislative instrument (the Rules), rather than placing essential architecture in the primary legislation; this means there will not be parliamentary oversight of the development of the future NDIS.
- The expected cost savings to reduce the rate of cost growth (targeting 8% p.a) will not eventuate, and participant outcomes, and potential safe access to essential disability support, could be compromised by the changes contained in the Bill proceed.
- As yet, there is no publicly available Bill Implementation plan (or formal acceptance of the NDIS Review recommendations), while implementation has clearly begun. This plan needs to be shared transparently and as a priority, so that the community, and parliament, can understand the vision and intention of the Bill.
- There are safety risks associated with rapid change management and access to support during transition periods, how have these been identified and mitigated?
- There is not enough detail and scaffolding in the Bill, regarding Needs Assessments. These will be mandatory assessments and will determine plan budgets. These must be delivered by qualified health professionals, as recommended by the NDIS Review. We must get the design right BEFORE legislation is changed. Appeal rights will need to be clarified.
- The Support Needs Assessment will directly inform plan budgets. The 'method' will for this will be determined by the Minister (subclause 32K(2)). – this should be detailed in the primary legislation. Without transparency principles outlined in the legislation, this process will not have parliamentary oversight, and we return to the issue of the method of budget-setting taking place in a 'black-box' i.e. utilising assessment scores in an unknown and potentially unproven manner. Key principles around this 'method' will need to be included in the NDIS legislation, for transparency, trust, sound fiscal management; and to protect the rights of NDIS participants.

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- NDIS supports will be more limited in future and will only include defined supports -people may miss out on essential disability supports.
- The Bill should not be passed until the foundational supports are in place, to prevent creating service gaps.
- Leading lawyers have indicated the APTOS table is not 'useable law' and should not be linked to the legislation. More work must be done with States and Territories to ensure there are no service gaps.
- The full impact of the Bill on the care economy has not been considered – what is known about the impact on access to supports? Employment of carers and people with disability? Loss of essential support providers? Access to allied health? Impact on small business and sole traders? Without detailed analysis, the Bill may lead to unintended or unconsidered consequences.
- Segregating groups of participants through a 'classes of participants' system determined by 'identifiable characteristics', are at risk of becoming discriminatory.
- The proposed changes will disproportionately impact and potentially exclude, people with psychosocial disability.
- Section 30 of the Bill grants enhanced Plan Revocation powers to the NDIS CEO -we suggest these may need to be reviewed, especially the 90-day non-response timeframe -where there is evidence that the delayed participant response is disability-related. There are risks here for high needs participants. We refer the reader to the case of David Harris for such an example. [David Harris was left to die alone after his NDIS payments were cut off \(smh.com.au\)](https://www.smh.com.au/national-disability-insurance-scheme-amendment-getting-the-ndis-back-on-track-no-1-bill-2024-provisions-submission-12)
- An amendment to Section 34 (item 46), means that only impairments identified at the point of NDIS access can have supports funded, which may disadvantage complex, acquired and progressive disability.
- The process to determine, and offer, defined NDIS Early Interventions would need to be described in the Bill, to ensure the scaffolding for effective, evidence-based, contemporary, and co-design of early intervention is in place.
- The structure of the flexible budget, should the budget be insufficient to meet basic 'core' support needs, may mean that capacity building is not possible due to participants needing to prioritise day-to-day living needs as a priority. This could mean participants cannot access capacity-building supports; allied health; or other supports that have potential to reduce longer-term needs. This could ultimately increase the cost of the Scheme.

Currently, I'm concerned the changes will impact the participants I work with who have complex psychosocial disabilities. The Participant Service Guarantee is currently on pause. There are unprecedented delays in plan reassessments, impacting access to supports, and causing enormous distress for participants and families. I am concerned these issues will only get worse, should the changes outlined in the Bill, proceed. More work must be done to ensure the scaffolding contained in the Bill is solid enough to set up an optimal NDIS 2.0, BEORE dissolving the current legislative framework through Bill ratification.

I am writing to ask you to **STOP** the changes to the *NDIS Act (2013)* going through until due diligence around Commonwealth government responsibility to disabled people, has occurred.

Regards,

Liz Fourie
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Positive Pathways Occupational Therapy Mental Health Services,

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