



Submission by the
Commonwealth Ombudsman

Assistive Technology

Response to inquiry by the
Joint Standing Committee on the NDIS

13 September 2018

Introduction and summary

The Office of the Commonwealth Ombudsman (the Office) welcomes the opportunity to make a submission to the inquiry by the Joint Standing Committee on the National Disability Insurance Scheme into assistive technology.

As part of its broad oversight role of Commonwealth government administration, the Office has oversight responsibility for the actions of the National Disability Insurance Agency (NDIA). Our Office handles complaints about the NDIA's administrative actions and decisions. We can also consider complaints about organisations who are contracted to deliver services on behalf of the NDIA, such as local area co-ordinators.

In 2017-18, the Office received 1,528 complaints about the NDIA. Of these, 82 complaints (or 5 per cent) related to requests for assistive technology. The most common themes raised in complaints included:

- delays in making decisions
- lack of clear guidance about how to make a request and what information or evidence is required
- inconsistencies in advice about who can prepare assistive technology quotes and what they need to include; and
- poor communication leading to confusion about how and where assistive technology funds can be spent.

Background

Our Role

The purpose of the Office is to:

- provide assurance that the organisations we oversight act with integrity and treat people fairly
- influence systemic improvement in public administration in Australia and the region.

We seek to achieve our purpose through:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action; and
- providing assurance that Commonwealth, State and Territory law enforcement, integrity and regulatory agencies are complying with statutory requirements and have sound administrative practices in relation to certain covert, intrusive and coercive powers.

The Commonwealth Ombudsman's unique position in the Australian administrative law system provides this Office with an understanding of the individual experiences of members of the public, who are dissatisfied with the way government has dealt with their concerns. The Office has the power to investigate those complaints by obtaining records and information from the

agency that would not ordinarily be available to a person acting on their own behalf. Over time, through investigating complaints about the actions of a Commonwealth department or agency, the Ombudsman's Office can build up a detailed picture of an agency's operations.

Our Office is committed to working closely with the NDIA, the Department of Social Services, the National Disability Insurance Scheme Quality and Safeguards Commission, the community, service providers and people with disability and their families, to understand the way the National Disability Insurance Scheme is working in practice, and to point to ways in which its delivery can be improved.

Response to Terms of Reference

This submission is based on feedback given to our Office in the form of complaints and feedback from participants, families, carers, providers, advocates, community organisations and peak bodies.

We have raised the issues outlined in this submission with the NDIA, either through the investigation of complaints or by providing feedback following engagement activities.

Our submission responds to two of the Committee's terms of reference:

- the role of the NDIA in approving equipment requests; and
- the role of current state and territory programs in the assistive technology process.

Role of the NDIA in Approving Equipment Requests

Making decisions in a timely manner

In 2017-18, the most common issue raised in complaints about assistive technology to the Office related to the time taken by the NDIA to decide an assistive technology request. For example, some participants who had approached our Office had waited twelve months with no decision having been made by the NDIA on their request for particular equipment, such as power wheelchairs. Other participants who requested assistive technology, in the form of home modifications or prosthetics, waited 24 months for an outcome to their request.

Our investigations indicate there can be delays at two stages:

- an NDIA delegate requests advice from the NDIA Technical Advisory Team and has to wait for a response on whether the support is reasonable and necessary under s 34 of the *National Disability Insurance Scheme Act 2013* (the NDIS Act); and
- an NDIA delegate requests further information from a participant to demonstrate their need for a particular form of assistive technology.

We are aware of participants who have had to arrange new quotes or obtain a new needs assessment, because the quotes or assessment they initially submitted to the NDIA expired before the NDIA made a decision on their request.

Assistive technology is critical in enabling people to participate more fully, easily and safely in daily activities. We consider it is important for the NDIA to have processes in place to improve the timeliness for making decisions in relation to requests for assistive technology. We acknowledge the steps the NDIA is currently taking to address this issue. In May 2018, the NDIA

introduced changes to simplify and expedite its handling of non-complex assistive technology requests. Our Office will monitor these changes and assess whether they address the timeliness issues highlighted in complaints.

Many of the issues we have observed in relation to assistive technology requests have raised similar themes to complaint issues affecting reviews under s 48 and s 100 of the NDIS Act. These issues were explored in our Office's recent report on the NDIA's administration of reviews under the NDIS Act.¹ In our report, we made 20 recommendations to improve the timeliness and processing of review requests. The recommendations were all accepted by the NDIA and implementation of these could also improve the timeliness and transparency of assistive technology requests for participants.

Clear guidance about the assistive technology process

A common aspect of many complaints to our Office is that participants find the assistive technology process unclear and confusing. Complaints have highlighted that participants are confused about what information the NDIA requires to decide their assistive technology request, who needs to provide the information, and what form the information must take. In our view, participants would benefit from clear guidance about this.

For example, in one complaint investigated by our Office, a disability advocate complained to us about the NDIA's handling of her client's request for home modifications. The advocate explained the NDIA had failed to provide clear information about who is able to provide home modification quotes and what information they must include in their quotes. She complained that, as a result, a decision on the participant's request for home modifications was unreasonably delayed. The NDIA refused to consider a quote submitted by the participant's occupational therapist as the therapist had not completed the required NDIA training. After submitting another two quotes from NDIA-trained therapists, NDIA staff told the participant they could not accept either quote as they were not itemised.

In response to feedback provided as a result of our investigation, the NDIA improved its training material and internal guidance documents for staff and its external communications material for providers and participants to make the requirements for home modification requests clearer. On 22 August 2018, the NDIA released new factsheets and Easy English guides for participants. We welcome this additional information and will continue to monitor its effectiveness.

Keeping participants informed

Another recurring theme in complaints is the difficulties encountered by participants in finding out about the progress of their assistive technology request, despite contacting the NDIS multiple times. Complainants have told us frontline staff were unable to give them any information because they did not have access to the relevant records or business systems. We have observed that this has exacerbated people's frustration with the process.

In one complaint investigation, the complainant had made an assistive technology request for a prosthetic arm in mid-2017. In March 2018, the NDIA accepted quotes for the prosthetic arm and added funding to the participant's plan at the time of conducting a scheduled plan review. However, the NDIA did not notify the participant of the outcome. In June 2018, the participant complained to our Office about the apparent delay in his assistive technology request being

¹ Commonwealth Ombudsman, [Administration of Reviews under the National Disability Insurance Scheme Act](#) (May 2018)

decided. Our investigation revealed a decision had been made, but that it had not been clearly communicated to the participant.

We are aware the NDIA has engaged Serco Citizen Services Pty Ltd to deliver contact centre services from June 2018, giving contact centre staff full access to the NDIA's customer records. Contact centre staff previously did not have this access. Our Office has monitored the transition and will continue to engage with the NDIA on whether the changes are improving its communication with participants about the progress of their assistive technology requests.

Role of current state and territory programs in the assistive technology process

In-kind supports provided by state and territory equipment providers

Some participants continue to receive supports that have already been paid for under Commonwealth or State/Territory government programs that were in place before the NDIS commenced. The NDIA refers to these prepaid supports as 'in-kind' supports.² The NDIA manages all in-kind financial arrangements in participant plans but sources the support, including assistive technology, from state and territory providers.

Under this arrangement, the NDIA refers assistive technology requests to the relevant state/territory provider for recommendations on appropriate equipment and, once the request has been approved, for ordering and purchasing equipment.

Complaints to our Office suggest some participants are confused about the role of state and territory providers and how this support relates to their NDIS plan. Many participants do not know their supports have to be provided by specific state and territory providers and spend time getting unnecessary quotes from other providers. In one complaint we investigated, the funding amount for in-kind support was not recorded in the participant's plan. We have observed that the administrative arrangements for in-kind support should be clarified and made more transparent, particularly regarding the respective roles of the NDIA and state/territory providers, participant choice in selecting providers, and the main points of contact for participants.

We acknowledge the NDIA has taken action to improve its administration of in-kind supports. In August 2018, the NDIA released new staff guidance material which has been provided to our Office. We intend to review this material and continue to monitor issues associated with the NDIA's administration and communication with participants about in kind supports.

² Defined as 'existing Commonwealth or State/Territory government programs delivered under existing block grant funding arrangements': NDIA, *Key Definitions*, <https://www.ndis.gov.au/key-definitions> [Accessed: 28 August 2018]. 'In-kind' does not refer to particular feature of the supports themselves but to how the supports are provided as part of the State, Territory or Commonwealth's contribution to the funding to the NDIS.