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ABN: 61 099 972 399

Attn. Legislative Affairs Committee

Cc Ms Libby Coker
Cc Hon Lizzie Blandthorn

Date: 09/05/2024

Dear Legislative Affairs Committee,

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

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 experienced Occupational Therapist of over 35 years, I ask for your support in making sure proposed reforms do not pass into law. These **reforms pose significant risks** to people with disability in Australia. The changes to the NDIS Act will remove the individual's rights to reasonable and necessary disability specific supports and will further marginalise this group of Australians. Subsequently their long term disability needs will be neglected thus causing further long term costs and removing their ability to participate in society.

As a Therapist who has worked over many insurance schemes over decade, I am concerned that the architecture of this Bill is moving towards an Insurance framework, where participants are marginalised, need to continually "prove" their disability, and are not treated with basic human rights and respect. Our current Workers Compensation Schemes, Life Insurance Schemes and CTP Schemes do not actively focus on the individual's needs, but rather around processes and "Insurance policies" that meet the needs of the insurer more than the recipient of services. In these schemes the recipient has limited to no voice.

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 will result no parliamentary oversight of the development of the future NDIS. There is lack of current information around what these instruments will include.
- There is no publicly available Bill implementation plan, while it is obvious to those of us in the industry that implementation has clearly begun. This is confusing for all parties involved as there is no understanding of these new procedures, policies, or rules. Transparency, consultation, and collaboration has been promised, along with co-design, however there are obvious changes that are being implemented without this occurring.
- The expected cost savings predicted by the government will not eventuate, and participant outcomes, and potential safe access to essential disability support, will be compromised by the changes contained in the Bill proceed.
- The rapid change without appropriate consultation, creates safety risks when there is no access to transition period information. How will these risks be identified and addressed?
- 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.

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- The Support Needs Assessment will directly inform plan budgets. The ‘method’ for this should be detailed in the primary legislation. 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.
- 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. This involves ongoing access to supports, loss of key support providers, allied health and the impact on small business and sole traders. Without detailed analysis, the Bill is highly likely to 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.
- 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. This is critically important in the Autistic space, as there is strong emerging evidence that “traditional ABA” supports are in fact very harmful. This Bill and subsequent policy must integrate with the National Autism Strategy.
- 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 Autistic and neurodivergent participants I work with. I am already seeing significant risks and decline in function due to the current extensive delays we are seeing with access and plan reviews by NDIA. NDIA are not currently adhering to their own guidelines around what participants can expect, and this is causing enormous distress for participants and their informal supports. I am concerned these issues will only get worse should the changes outline in the Bill proceed.

More work is required to ensure appropriate scaffolding, consultation and co-design occurs to preserve the world first NDIS design. The current Bill is not foundationally solid enough and further work is required to safeguard the participants it was designed to support.

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

Your Sincerely

Occupational Therapist and Director – Pathways 2 Independence Pty Ltd