



Senate Standing Committees on Community Affairs
Department of the Senate
S.1.59, Parliament House
CANBERRA ACT 2600

20 October 2016

Dear Committee,

Re: Response to questions on notice regarding National Disability Insurance Scheme Savings Fund Special Account Bill 2016

Thank you for the opportunity to provide a response to questions taken on notice during the public hearing on Friday 14 November 2016 on the Bill referred to above. The questions, posed by Senator Siewert, pertain to issues around the Minister's discretion, including the discretion to spend funds on what is required for the NDIS and the measures that are put in place around decision-making, or the absence of such measures.

Queensland Advocacy Incorporated (QAI) responds to the questions raised as follows.

The Bill, and the Explanatory Memorandum to the Bill, provides for credits to and debits from the special account to be subject to the provisions of the Bill, and for the Minister for Social Services to be solely responsible for the day-to-day policy and management of the special account. In the second reading speech, the Minister for Social Services notes that he (the Minister for Social Services) will have responsibility for both policy and management of the special account.

QAI considers that this constitutes substantial interference with the powers of the National Disability Insurance Agency (NDIA). As an independent, statutory agency, the NDIA is tasked with implementing the NDIS. Giving the Minister full power and control over the operation of the Savings Fund Special Account would fetter the NDIA's power and independence whilst at the same time giving power to the Minister to determine how funds under the NDIS are to be allocated. It would also limit the NDIA's ability to engage in future planning for the scheme, whilst enhancing the Minister's relative power. The Bill therefore introduces ad hoc and discretionary considerations into the funding of the NDIS that are outside the scope of the bilateral funding agreements entered into by the Commonwealth and State governments. QAI does not consider this appropriate.

The independent management of NDIS funds is central to ensuring that the NDIS is independent and accountable. It is not appropriate to transfer control over the administration of the Commonwealth's portion of this funding to the discretion of a Minister. This is particularly so in circumstances where there has been a lack of consultation with relevant people and organisations and minimal information available as to how the proposed changes are to operate. The provision of disability services and support should not be subject to discretion. The underlying purpose of the NDIS is to insure (to protect) the right of people with disability to access core supports and services they require.

Further, considering that the Productivity Commission report recommended that the NDIS should not be 'prescriptive' about what was reasonable and necessary, it is important to consider types of other purchases a person may wish to make under a NDIS plan that are not outlined in the prescribed types of purchases. The NDIS was primarily initiated to give control and choice to people with disability, yet this vision has been substantially distorted over time.

QAI considers that it is appropriate that matters relating to the types of services covered by the NDIS fall for consideration to the NDIA, as initially intended, rather than within the discretion of the Minister.

Thank you for the opportunity to provide this further information.

Should you require further information or clarification, please do not hesitate to contact us.

Yours Faithfully,

Dr Emma Phillips

Systems Advocate, Queensland Advocacy Incorporated