

## Chapter 3

### Issues raised in evidence

#### Introduction

3.1 This chapter provides an overview of activities conducted during the year by the Joint Standing Committee on the National Disability Insurance Scheme (the committee). It also considers the main issues raised in evidence to date to the committee's inquiry into general issues around the implementation and performance of the National Disability Insurance Scheme (NDIS or the Scheme). The chapter concludes with the committee's view and recommendations.

3.2 Concerns focused on the National Disability Insurance Agency's (NDIA) planning process, lack of transparency and responsiveness, reductions to plan funding, development of non-contextual pricing for services, portal issues, transport market design, and the early childhood intervention pathway. The committee is pursuing early childhood intervention issues through a new inquiry that is scheduled to report in December 2017.

3.3 While the committee is concerned about the issues of pricing and workforce development, it will carefully review the Productivity Commission's final report before taking further action.

#### Committee activities

3.4 As part of its role to inquire into the implementation, administration, and expenditure of the NDIS, the committee agreed to inquire into and report on four specific NDIS-related issues:

- (1) the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition;
- (2) the provision of hearing services under the NDIS;
- (3) the provision of services under the NDIS Early Childhood Early Intervention (ECEI) Approach; and
- (4) the transitional arrangements for the NDIS.

3.5 An overview of each inquiry's terms of reference is as follows.

#### *Provision of services under the NDIS for people with psychosocial disabilities*

3.6 On 30 November 2016, the committee agreed to inquire into and report on the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition, with particular reference to:

- (a) the eligibility criteria for the NDIS for people with a psychosocial disability;
- (b) the transition to the NDIS of all current long and short term mental health Commonwealth Government funded services, including the

Personal Helpers and Mentors services and Partners in Recovery programs, and in particular;

- (i) whether these services will continue to be provided for people deemed ineligible for the NDIS;
- (c) the transition to the NDIS of all current long and short term mental health state and territory government funded services, and in particular;
  - (i) whether these services will continue to be provided for people deemed ineligible for the NDIS;
- (d) the scope and level of funding for mental health services under the Information, Linkages and Capacity building framework;
- (e) the planning process for people with a psychosocial disability, and the role of primary health networks in that process;
- (f) whether spending on services for people with a psychosocial disability is in line with projections;
- (g) the role and extent of outreach services to identify potential NDIS participants with a psychosocial disability; and
- (h) the provision, and continuation of services for NDIS participants in receipt of forensic disability services.

3.7 The committee received 131 submissions to the inquiry. The committee conducted four public hearings; one in Melbourne, two in Canberra, and one in Penrith. Submissions, details of hearings, and additional information received are available on the committee's website. The committee tabled its report in Parliament on 15 August 2017. A copy of the report is available on the committee's website.

#### ***Provision of hearing services under the NDIS***

3.8 On 30 November 2016, the committee agreed to inquire into and report on the provision of hearing services under the NDIS, with particular reference to:

- (a) the eligibility criteria for determining access to, and service needs of, deaf and hearing impaired people under the NDIS;
- (b) delays in receiving services, with particular emphasis on early intervention services;
- (c) the adequacy of funding for hearing services under the NDIS;
- (d) the accessibility of hearing services, including in rural and remote areas;
- (e) the principle of choice of hearing service provider;
- (f) the liaison with key stakeholders in the design of NDIS hearing services, particularly in the development of reference packages;
- (g) investment in research and innovation in hearing services; and
- (h) any other related matters.

3.9 The committee received 55 submissions to the inquiry. The committee conducted two public hearings in Melbourne on 20 February and 24 March 2017. Submissions, details of hearings, and additional information for this inquiry are available on the committee's website. The committee had intended to provide its report to Parliament by 22 June 2017; however, it agreed to extend the reporting date to September 2017.

***Provision of services under the NDIS Early Childhood Early Intervention Approach***

3.10 On 21 June 2017, the committee agreed to inquire into and report on the provision of services under the NDIS ECEI Approach, with particular reference to:

- (a) the eligibility criteria for determining access to the ECEI pathway;
- (b) the service needs of NDIS participants receiving support under the ECEI pathway;
- (c) the timeframe in receiving services under the ECEI pathway;
- (d) the adequacy of funding for services under the ECEI pathway;
- (e) the costs associated with ECEI services, including costs in relation to initial diagnosis and testing for potential ECEI participants;
- (f) the evidence of the effectiveness of the ECEI Approach;
- (g) the robustness of the data required to identify and deliver services to participants under the ECEI;
- (h) the adequacy of information for potential ECEI participants and other stakeholders;
- (i) the accessibility of the ECEI Approach, including in rural and remote areas;
- (j) the principle of choice of ECEI providers;
- (k) the application of current research and innovation in the identification of conditions covered by the ECEI Approach, and in the delivery of ECEI services; and
- (l) any other related matters.

3.11 The committee agreed to conduct public hearings across the country and to report to Parliament by 6 December 2017.

***Transitional arrangements for the NDIS***

3.12 On 21 June 2017, the committee agreed to inquire into and report on the transitional arrangements for the NDIS, with particular reference to:

- (a) the boundaries and interface of NDIS service provision, and other non-NDIS service provision, with particular reference to health, education and transport services;
- (b) the consistency of NDIS plans and delivery of NDIS and other services for people with disabilities across Australia;

- (c) the rollout of the Information, Linkages and Capacity Building Program; and
- (d) any other related matters.

In considering these issues, the committee will have regard to:

- (i) the Bilateral Agreements between the Commonwealth and State and Territory Governments;
- (ii) the Operational Plans between the Commonwealth and State and Territory Governments;
- (iii) the risks borne by the Commonwealth and State and Territory Governments in the rollout of the NDIS nationally;
- (iv) NDIS decision-making processes, particularly in relation to the Disability Reform Council and COAG; and
- (v) the impact on rural and remote areas, with particular reference to indigenous communities.

3.13 The committee agreed to conduct public hearings across Australia and provide its report to Parliament by 7 December 2017.

#### ***Private briefings***

3.14 In addition to conducting inquiries, the committee received private briefings from a number of relevant agencies during the year, including the:

- Department of Social Services (DSS);
- National Disability Insurance Agency;
- Scheme Actuaries; and
- Australian National Audit Office.

3.15 The Productivity Commission is expected to brief the committee in November 2017.

#### ***General issues***

3.16 From its inception, the committee received valuable evidence from a range of individuals and organisations which did not fall under the four specific areas of inquiry. The committee agreed to capture this material through an inquiry into general issues related to the implementation and performance of the NDIS.

3.17 The committee advertised its interest in receiving information and submissions from those involved in the Scheme on its website. The committee continues to welcome information from people in any capacity on their experiences of the implementation and performance of the NDIS to date. It is the committee's intention that future progress reports will consider the evidence on a rolling basis as the Scheme continues to expand.

3.18 As at 7 August 2017, the committee received 17 submissions for this inquiry. Submissions are listed at Appendix 1 and are available from the committee's

website: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/National\\_Disability\\_Insurance\\_Scheme/General\\_NDIS](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/General_NDIS).

3.19 The committee held three public hearings on 12 May, 17 May, and 28 July 2017. The first two hearings, held in Canberra and Penrith respectively, gathered varied evidence on general NDIS issues. At a final hearing in Melbourne, the committee heard from officials of the NDIA. A list of witnesses who appeared at the hearings and the *Hansard* transcripts is available at Appendix 2 and on the committee's website.

3.20 Responses to questions on notice and additional information were also received. This information is listed at Appendix 3 and is available on the committee's website.

### Acknowledgements

3.21 The committee thanks all those who contributed to the general issues inquiry by lodging submissions, providing additional information, or expressing their views through correspondence. The committee acknowledges those who gave their time to attend the public hearings and give evidence.

### Access to the Scheme

3.22 As noted in Chapter 2, plan approvals compared to bilateral estimates are significantly behind. In 2016–17 a total of 60 357 participants entered the Scheme and received an approved plan. In addition, there were 6134 children with a confirmed referral to the ECEI gateway. These figures represent 83 per cent of the cumulative bilateral estimates.<sup>1</sup> According to the NDIA's own report, only NSW and Victoria are meeting expectations.<sup>2</sup>

3.23 Furthermore, accessing the NDIS and accessing services under the Scheme appear to be two very different things. Across all the states and territories there are 25 857 participants waiting for a plan, with 14 152 in NSW alone.<sup>3</sup> Despite the urgency of individuals' circumstances, the committee heard various accounts of extensive delays between when a participant's Access Request is granted and their first planning meeting is scheduled:

Now that he has been approved as a participant we are waiting for the planning process to start. We are still waiting four months on, and we still have no notice of a planning meeting.<sup>4</sup>

3.24 Of particular concern to the committee is that a large number of submissions to the committee's Early Childhood Early Intervention and provision of hearing

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1 National Disability Insurance Scheme, *4<sup>th</sup> Quarterly Report*, 30 June 2017, p. 3.

2 National Disability Insurance Scheme, *4<sup>th</sup> Quarterly Report*, 30 June 2017, *Appendix B*, p. 48.

3 National Disability Insurance Scheme, *4<sup>th</sup> Quarterly Report*, 30 June 2017, *Appendix C*, p. 50.

4 For example: Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Giselle Burningham, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 47.

services under the NDIS inquiries raised similar concerns, as access to intervention services is crucial during a child's developmental years.

### **Planning issues**

3.25 A significant portion of evidence focused on the inefficiency of the Agency's planning process. Participants, their families, carers, and service providers expressed dissatisfaction with plans being developed over the phone; the skills and competence of planners; inconsistency of planning decisions; delays to plans and plan reviews; and the Agency's lack of transparency.

#### ***Plans being developed over the phone***

3.26 The committee repeatedly heard negative feedback from participants' whose plans had been developed or reviewed by NDIA planners over the phone. The committee agrees that this form of communication is inappropriate in the circumstances described by witnesses. For example, participants were unaware that their plan was being developed over the phone, called unexpectedly, or rushed during the conversation. Crucially, this method of communication does not allow for accurate information transfer during critical plan development.<sup>5</sup>

#### ***Skills and competence of planners***

3.27 The evidence received indicates that NDIA planners do not possess a sufficient level of disability knowledge to effectively carry out their roles and responsibilities. The committee heard suggestions that planners lack an understanding of the NDIS legislation and its objectives, and have disregarded advice from participants, carers, and medical professionals during key decision-making.<sup>6</sup>

3.28 Issues concerning the skills and competence of planners do not appear to be isolated occurrences. Repeatedly, the committee heard that planners had developed

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5 For example: Ms Pamela Rutledge, Chief Executive Officer, Flourish Australia, *Proof Committee Hansard*, 12 May 2017, p. 15; Ms Pamela Boyer, Director, Mental Health and Housing, Woden Community Service, *Proof Committee Hansard*, 12 May 2017, p. 33; Miss Michel Hansen, Partner and Social Worker, Making Connections Together, *Proof Committee Hansard*, 12 May 2017, p. 52; Dr Jim Hungerford, Chief Executive Officer, The Shepherd Centre, *Committee Hansard*, 17 May 2017, p. 25; Ms Grace Fava, Founder and Chief Executive Officer, Autism Advisory and Support Service, *Committee Hansard*, 17 May 2017, p. 29.

6 For example: Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Georgina Ovin, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 46; Mr Bob Buckley, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 55; Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, pp. 56–57; Ms Ruth Callaghan, General Manager, Stakeholder Relations, Northcott, *Committee Hansard*, 17 May 2017, p. 27; Ms Grace Fava, Founder and Chief Executive Officer, Autism Advisory and Support Service, *Committee Hansard*, 17 May 2017, p. 28; Ms Andrea Ingram, Private capacity, *Committee Hansard*, 17 May 2017, p. 37.

plans which were not representative of participants' needs.<sup>7</sup> While restrictions in the planning process—such as not being able to identify when a question is not applicable—were identified as potential causes of inappropriate plans, planner capability emerged as the primary concern.

3.29 Seemingly, planners and other Agency staff have not been trained to understand the different disabilities or needs of participants. The committee heard that employees were having difficulty understanding basic disabilities as well as complex ones. For example, staff were unable to assist a participant with vision impairment:

This lady is a blind person, like me, and has spoken of her experience: ...when talking to staff, the staff not treating her with respect, and not understanding simple things like that she wants documents in a readable format and not understanding things like giving her a document in Word format instead of RTF or PDF—not understanding those concepts.<sup>8</sup>

3.30 In Ms Georgina Ovin's case, the Agency was unable to provide her with routine information about orthotics:

...my son...needs orthotics for his feet and specialised shoes, which cost between \$285 and \$315. We could not get a direct yes or no answer as to: were the orthotics included under general funding or considered as assistive technology? That is a question that you would think would be quite simple.<sup>9</sup>

3.31 The NDIS Act sets out how a participant's individual, goal-based plan is prepared and reviewed and how the NDIA approves the funding of reasonable and necessary supports. However, the committee received reports that Agency staff may be failing to adhere to the legislative requirements contained in the Act. Mr Richard Goward, Director, Orthotist and Prosthetist, argued that planners appear to be dismissing the legislative terms of 'reasonable' and 'necessary' and replacing them with 'ordinary life'.<sup>10</sup> Mr Goward questioned how the criteria that defined an 'ordinary life' was developed and how it related to the terms 'reasonable and necessary'.<sup>11</sup> In further correspondence with the NDIA<sup>12</sup> he was directed to the Independent Advisory

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7 For example: Ms Lisa Kelly, Chief Executive Officer, Carers ACT, *Proof Committee Hansard*, 12 May 2017, p. 60; Ms Grace Fava, Founder and Chief Executive Officer, Autism Advisory and Support Service, *Committee Hansard*, 17 May 2017, pp. 28–29; Ms Narelle Dale, Executive Officer, EMPOWERability, *Committee Hansard*, 17 May 2017, p. 32.

8 Mr Robert Altamore, Executive Officer, People with Disabilities ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 51.

9 Ms Georgina Ovin, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 46.

10 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 57.

11 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 57.

12 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Supplementary Submission 8.1*, p. 2.

Council's paper<sup>13</sup> setting out the development of the term and how it would be used to determine what constitutes 'reasonable and necessary support'. However, the legislative status of the concept is not set out in that advice.

3.32 The Agency was criticised for not ensuring that planners are appropriately and consistently trained before being given the responsibility of creating plans that will affect the lives of participants and their families.<sup>14</sup> Mr Kevin Rangi, Director, Therapies for Kids, argued that the abilities and skills of planners can make a considerable difference to participants' outcomes:

When we have questioned the parents or caregivers about the process they experienced which resulted in what they have received in their approval, the answers we received indicate that it is dependent upon who they have allocated to assist them from the LAC pool and who they finally get as their NDIA planner. Where either of these persons have little or no clinical expertise, the ability to competently assess the ongoing and future clinical needs of the child is compromised.<sup>15</sup>

3.33 NDIS plans that do not meet the needs of participants can have serious consequences. Ms Kylie Wicks, General Manager Clinical Services, ParaQuad NSW and BrightSky Australia, raised the question of how the NDIA plans to address medical complications that have occurred as a direct result of poor care.<sup>16</sup>

3.34 The insensitivity of NDIA staff towards people with disability during the planning process was also the subject of criticism.<sup>17</sup> Participants recounted feeling threatened by planners, and observed that the process can feel hostile at times, rather than supportive:

In a system trying to improve people's wellbeing, I find being asked to focus on the negative aspects of my health distressing, depressing and counterintuitive. When my plan was recently reviewed in what I can only describe as a 2½-hour interrogation, I once again had to rehash everything to another planner, who was threatening and unsupportive. This is a hostile

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13 National Disability Insurance Agency, *IAC advice on reasonable and necessary support across the lifespan: An ordinary life for people with disability*. Available at:

<https://www.ndis.gov.au/about-us/governance/IAC/iac-reasonable-necessary-lifespan.html#exec> (accessed 17 August 2017).

14 Mr Bob Buckley, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 55.

15 Mr Kevin Rangi, Director, Therapies for Kids, *Committee Hansard*, 17 May 2017, p. 27.

16 For example: Mr Bob Buckley, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 55; Ms Kylie Wicks, General Manager Clinical Services, ParaQuad NSW and BrightSky Australia, additional information received 24 May 2017, p. 2.

17 For example: Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Emilia Della Torre, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 45; Mr Robert Altamore, Executive Officer, People with Disabilities ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 51; Mrs Clare Steve, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 59; and Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61.



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process, where the system requires you to prove your entitlement to services rather than offering empathy and support.<sup>18</sup>

### ***Disregard for medical assessments and carers***

3.35 The committee heard concerns that planners with little or no relevant training or knowledge are rejecting clear advice from clinicians and carers and making adverse decisions that they are not qualified to make.<sup>19</sup> Evidence indicated that, 'in the initial stages, the LACs and planners were discouraged from being influenced by clinical reports provided by service providers'.<sup>20</sup> Apparently, the medical assessments provided by treating health professionals, to assist in the creation of appropriate plans, are being disregarded during planning:

Many people have said today that it is very difficult for planners to understand the complexities across every disability. The participant group that I deal with is incredibly complex and has very unique roles. Even within the group not every amputee, not every child requiring a mobility device will be the same as the next. I understand this complexity. This is why I provide incredibly comprehensive reports to assist these assessments by planners. Yet agency decisions are ignoring or dismissing the assessments and recommendations of me as a treating health professional. Agency decisions are not reflecting the current best practice or promotion of high-quality and innovative supports, which is mentioned at multiple stages.<sup>21</sup>

3.36 An inefficient planning process can have serious effects on the participant as well as their community. According to Carers ACT, there has been an increase in carer hardship under the Scheme:

We have seen a significant increase in carer distress under the NDIS in carers who are no longer able to continue to achieve their goals, who have ended employment, who have increased suicidality and increased thoughts of murder towards the person they are caring for or of relinquishment. The carer is the absolute foundation to this system, and yet they are probably the most ignored in it.<sup>22</sup>

3.37 In a survey conducted by Carers ACT, carers expressed dissatisfaction with the planning process and indicated that they had been ignored during planning. Ms Lisa Kelly, Chief Executive Officer, Carers ACT presented the findings to the committee:

Twenty-three per cent of carers...felt their input was not respected or valued indicated that the NDIS participant plan was not aligned to the needs

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18 Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61.

19 Mr Bob Buckley, *Submission 11*, p. 4.

20 Mr Kevin Rangi, Director, Therapies for Kids, *Committee Hansard*, 17 May 2017, p. 27.

21 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, pp. 56–57.

22 Ms Lisa Kelly, Chief Executive Officer, *Proof Committee Hansard*, 12 May 2017, pp. 60–61.

of the person they cared for, compared to only four per cent who felt their input was valued and respected.<sup>23</sup>

### ***Opportunity to review plans before implementation***

3.38 The committee heard several accounts where participants and their families had not been given an opportunity to review their plans before implementation.<sup>24</sup> The current planning process requires participants to first sign off on their unsuitable plan before they are able to request a review. Evidence to the committee indicated that this is an inefficient process, as plan reviews can sometimes take months to occur, leaving the participant at risk of being unable to meet their daily needs. Similarly, participants reported that the NDIA had not provided enough time between the expiry of one plan and the implementation of the next for participants and their carers to provide feedback.<sup>25</sup>

### ***Inconsistencies in planning decisions***

3.39 The committee received evidence which indicated that NDIA staff do not have access to clear policy and procedure.<sup>26</sup> Participants and their carers expressed dissatisfaction at the inconsistency of decisions, capability and training, and highlighted the inefficiency of not pairing planners with a regular group of participants. Lack of case familiarity compounded with unclear guidelines for decision making appears to have placed considerable pressure on participants and providers who face uncertainty in essential funding, equipment, and services.<sup>27</sup> For example, in

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23 Ms Lisa Kelly, Chief Executive Officer, Carers ACT, *Proof Committee Hansard*, 12 May 2017, p. 60.

24 For example: Riverlink Interchange Inc, *Submission 4*, p. 2; Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Grace Fava, Founder and Chief Executive Officer, Autism Advisory and Support Service, *Proof Committee Hansard*, 17 May 2017, p. 28; Ms Caroline Cuddihy, Chief Executive Officer, Sunnyfield *Proof Committee Hansard*, 17 May 2017, p. 30.

25 Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44.

26 For example: Riverlink Interchange Inc, *Submission 4*, p. 3; Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Emilia Della Torre, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 45; Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, p. 25; Ms Susan Tame, Senior Manager, MS Care, MS Australia, *Committee Hansard*, 17 May 2017, p. 27; Mr Kevin Rangi, Director, Therapies for Kids, *Committee Hansard*, 17 May 2017, p. 27; Ms Grace Fava, Founder and Chief Executive Officer, Autism Advisory and Support Service, *Committee Hansard*, 17 May 2017, p. 28; Ms Sue Werner, Networks Manager, Community Connections Australia, *Committee Hansard*, 17 May 2017, p. 33; Ms Kylie Wicks, General Manager, ParaQuad New South Wales, ParaQuad Northern Territory, BrightSky Australia, *Proof Committee Hansard*, 17 May 2017, p. 35; Ms Cathy Milne, Team Leader, Autism Behavioural Intervention NSW, Assessments and Behaviour Interventions, *Committee Hansard*, 17 May 2017, p. 39.

27 Ms Melissa Way, General Manager, Community Connections Australia, *Committee Hansard*, 17 May 2017, p. 41.

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one case, identical information had been provided to the Agency yet staff members reached different decisions.<sup>28</sup>

3.40 The committee heard that participants in ostensibly similar circumstances received different funding in their plans:

...we have witnessed a number of inconsistencies where client patients who have the same condition and severity grade and who should receive the same intensity and regularity of treatment in fact receive marked differences in funding for the treatment.

We have been able to compare what one participant has had approved for a recommended treatment and frequency of treatment to what another participant who has been approved to achieve the same or substantially similar clinical outcomes, and there are obvious and large variances. With these client patients, the quantum of dollars approved in the participant's plan would appear to be of little relation to the patient's clinical needs. The only other variable factor is that the LAC personnel, the NDIA planner or both have little or no appreciation of the clinical requirements of the participant they are assessing.<sup>29</sup>

3.41 The unpredictability of decision making was experienced by clients of Ms Donna-Maree Law, NDIS Specialist, Disability, Ageing and Community Care Service, who argued that inconsistency causes unnecessary stress and confusion:

Participant 3 is a gentleman who was very fortunate. His equipment was approved and purchased in February of this year. On 7 May—last Sunday—he received quite a confusing email. I am just going to read out the wording for you so that it is on record: 'The request for the NDIS to fund the Raizer lifting chair will not be approved as it does not represent value for money compared to the cost of alternatives such as modified transfer techniques and utilising suitable transfer equipment to minimise falls. I understand that you are aware how to implement correct transfer techniques and minimise the risk of falls. The provision of the Raizer lifting chair may encourage risk-taking behaviour and non-adherence with correct transfer technique and safe mobility. If the current method of transfers and mobility is not safe, then corrections and modifications should be made to the techniques and methods to ensure that the wheelchair is able to be used safely.' This is three months after the gentleman was approved and has been using this vital equipment in his life. These are the confusions people are dealing with day in and day out. People are stressed and confused.<sup>30</sup>

3.42 Inconsistency between local and national NDIA decisions was also brought to the committee's attention. Mr Goward described how decisions made by the Agency during the trial period changed after the rollout:

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28 Mrs Clare Steve, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 59.

29 Mr Kevin Rangi, Director, Therapies for Kids, *Committee Hansard*, 17 May 2017, p. 27.

30 Ms Donna-Maree Law, NDIS Specialist, Disability, Ageing and Community Care Service, *Proof Committee Hansard*, 12 May 2017, p. 55.

We have a 16-year-old boy who was approved for a trial of a prosthetic device prior to the national rollout. He was approved for trial of a device by the local office. It was deemed reasonable and necessary to provide this for a trial. The trial was incredibly successful beyond anyone's wildest dreams. The amount of difference that this device made to this young boy's life was incredible. The outcome of the trial was resubmitted to recommend the final implementation of this device, and the review panel of the now national Scheme said it was not reasonable and necessary...The prescription guidelines and the legislation have not changed and yet the decision has been effectively reversed by the national review board.<sup>31</sup>

### ***Unacceptable delays***

3.43 A correlation between the commencement of the Scheme's national rollout and delays in the Agency's responsiveness emerged during the community sessions of the committee's hearings. In addition to the delay between access and service provision discussed earlier in this chapter, participants consistently reported lengthy delays in receiving plans, plan reviews, and other information from the NDIA.<sup>32</sup> Ms Tan highlighted that individuals are placed at an increased risk of delayed recovery, financial pressure, and emotional distress when delays occur:

In my husband's case, it is an illness. There is recovery that happens after an illness and there is momentum to that recovery, and any delay in this planning, which then gives us money to access services for him, delays his recovery, which then affects his mental health, which means he is a less productive member of society. We are waiting for car modifications for him, which we cannot do until we get that funding...<sup>33</sup>

3.44 Some argued that the Agency's staffing levels were not sufficient to implement the transition on 1 July 2016,<sup>34</sup> while others attributed declining responsiveness to a suspected lack of formal guidelines for staff to adhere to.<sup>35</sup>

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31 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 56.

32 Fox example: Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Giselle Burningham, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 47; Ms Donna-Maree Law, NDIS Specialist, Disability, Ageing and Community Care Service, *Proof Committee Hansard*, 12 May 2017, p. 55; Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 56 and Mr George Ayoub, Partner, Lifestyle Directions Pty Ltd and Private capacity, *Committee Hansard*, 17 May 2017, p. 26.

33 For example: Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Giselle Burningham, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 47.

34 For example: Anowah Community Living Inc, *Submission 5*, p. 4; Therapy 4 Kids, *Submission 12*, p. 1.

35 Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 57.

3.45 In some cases, poor responsiveness considerably impacted participants, their families, and carers, with several describing their distress at being disregarded by the Agency.<sup>36</sup> Excessive wait times also forced some participants to visit their local NDIS offices in person, which can be difficult for those with a disability:

Like other people here, I spent hours on the phone, trying to access the plan. On many occasions, this involved excessive waiting times. If the call connected, it was immediately disconnected. You try lodging a complaint and, again, it is ignored. You wait excessive times before you actually find any sort of resolution. To find a resolution, I needed to go into the office, which, as a person with a disability, was difficult and hard to do.<sup>37</sup>

### ***Lack of transparency***

3.46 Lack of transparency during the planning process was also the subject of criticisms.<sup>38</sup> According to witnesses, key aspects of the planning are not communicated in advance, making it difficult for participants to make informed decisions.

3.47 Participants reported being unsure how to request medical assessments during the formulation of their plans, while others were confused as to how certain decisions had been reached by their planners.<sup>39</sup> Dr Damien Palmer found it difficult to extract information from the Agency when he sought an explanation for his daughter's plan:

When we received a copy of my daughter's plan in early November, it was full of surprises...The statement of goals bore little resemblance to anything said in the planning meeting, and there was no clear explanation regarding the decision-making process that had led to the plan we had received. I sought clarification about the decision-making process, but, with no direct access to the planner, this proved to be a fruitless exercise...<sup>40</sup>

3.48 Contributors argued that people do not have access to necessary information as there is limited information publically available on the planning process or the role

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36 For example: Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Giselle Burningham, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 47; Mr Richard Goward, Director, Orthotist and Prosthetist, Momentum Sports and Rehabilitation Services, *Proof Committee Hansard*, 12 May 2017, p. 56.

37 Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61.

38 For example: Anowah Community Living Inc, *Submission 5*, p. 5; Mr Bob Buckley, *Submission 11*, p. 4; Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, pp. 25–26; Ms Sue Werner, Networks Manager, Community Connections Australia, *Proof Committee Hansard*, 17 May 2017, p. 33; Ms Kylie Wicks, General Manager Clinical Services, ParaQuad NSW and BrightSky Australia, additional information received 24 May 2017, p. 2.

39 For example: Mr Bob Buckley, *Submission 11*, p. 4; Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, pp. 25–26; Ms Kylie Wicks, General Manager Clinical Services, ParaQuad NSW and BrightSky Australia, additional information received 24 May 2017, p. 2.

40 Dr Damien Palmer, Private capacity, *Proof Committee Hansard*, 17 May 2017, pp. 25–26.

of planners.<sup>41</sup> Mr Buckley argued that there is no clear division of responsibilities between individuals, planners, and plan managers:

We cannot tell what a planner is meant to do in detail nor what processes planners use in developing individual plans: the NDIA does not describe publicly the planners' role or report on equity in planning. It is unclear what information NDIS planners need and how they turn information received about an NDIS participant into an NDIS plan for the individual. It is not clear what information belongs in a NDIS plan for an individual and what is really up to the individual or plan manager to decide.<sup>42</sup>

3.49 Participants observed that practical explanations and a breakdown of items were often missing from plans.<sup>43</sup> This has caused vital information to be missed as participants struggle to interpret their plans:

In previous years, under core supports, for example, we had a dollar value which did not include the in-kind support for education. My son goes to a mainstream school and goes to a learning support unit there. In-kind support was stated as zero in previous plans and in this plan it has been given a dollar amount. Unless I had gone through the switchboard and asked the relevant questions, I would have thought that funding was for core support and possibly would have committed to service plans et cetera that would have spent that money, which we have no access to, during the year. We also cannot see the breakdown of what we have been allocated for different therapies, capacity building and daily activities, which is also quite frustrating because, until the point where I got the breakdown, I did not realise that speech and OT were also missing.<sup>44</sup>

3.50 Impractical language and format has contributed to the indecipherability of plans. Some of the challenges were underscored in the evidence from Ms Sue Werner, Networks Manager, Community Connections Australia:

I can see a lot of people who look at their plans and go, 'This doesn't make sense to me.' I ran a workshop and I had a father who took a day off from his work. He is a barrister and he said: 'I've come here wearing shorts because I'm not working today. I read really complex documents all day and I cannot make sense of my daughter's plan.' I have looked at plans where we get lots of questions. There are things in there like, 'This will be funded, which is R&N.' What does R&N mean? The person asked me, and this person does not have an intellectual disability. 'Does that mean I have a

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41 For example: Mr Bob Buckley, *Submission 11*, p. 4; Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, p. 26.

42 Mr Bob Buckley, *Submission 11*, p. 4.

43 For example: Anowah Community Living Inc, *Submission 5*, p. 5; Mr Bob Buckley, *Submission 11*, p. 4; Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, pp. 25–26; Ms Sue Werner, Networks Manager, Community Connections Australia, *Committee Hansard*, 17 May 2017, p. 33.

44 Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44.

registered nurse that is going to be coming?' It was the shortening of 'reasonable and necessary'.<sup>45</sup>

3.51 The reluctance of NDIA staff to provide clear advice in writing was also the subject of criticism:

...when we ask for advice from the NDIA, they are more than happy to give their opinions or advice but they are not happy to put it in writing at all. I have a big issue with that. It is the same issue with guidelines for assistive technology; I do not think that they are terribly clear and they are changing all the time.<sup>46</sup>

3.52 Participants requested that the NDIA make publically available all necessary information for participants and providers in the Scheme to minimise the frustration borne by 'vague fact sheets, inconsistent advice, and a bewildering process'.<sup>47</sup>

### ***Decreases to plan funding***

3.53 A significant portion of evidence indicated that plan reviews had sparked unnecessary reductions in participant funding. In several cases brought to the committee's attention, funding had been reduced by the Agency without reason or had been reduced because the participant was deemed to have improved.<sup>48</sup> In one case, plan funding had been reduced by the Agency because all of the allocated funds had not been used within the year, and in another, funding had been reduced because the allocated monies had not been used within the period, despite the fact the participant had been unable to access their funds due to Agency error.<sup>49</sup>

3.54 Ms Cassandra Hanbridge, Partner and Social Worker, Making Connections Together, told the committee that several members of her organisation had similar experiences of funding being reduced regardless of circumstances or needs:

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45 Ms Sue Werner, Networks Manager, Community Connections Australia, *Committee Hansard*, 17 May 2017, p. 33.

46 Ms Sue Werner, Networks Manager, Community Connections Australia, *Committee Hansard*, 17 May 2017, pp. 33–34.

47 Dr Damien Palmer, Private capacity, *Committee Hansard*, 17 May 2017, p. 26.

48 For example: Ms Cassandra Hanbridge, Partner and Social Worker, Making Connections Together, *Proof Committee Hansard*, 12 May 2017, p. 48; Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Donna-Maree Law, NDIS Specialist, Disability, Ageing and Community Care Service, *Proof Committee Hansard*, 12 May 2017, p. 55; Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Dr Jim Hungerford, Chief Executive Office, The Shepherd Centre, *Proof Committee Hansard*, 12 May 2017, pp. 58–59; Mrs Clare Steve, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 59; and Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 63; Ms Narelle Dale, Executive Officer, EMPOWERability, *Committee Hansard*, 17 May 2017, p. 32.

49 For example: Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 48–49; Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 62; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 63.

The thing I am hearing as a coordinator when I go and support families at a lot of these meetings is: 'Your plan has to be less than last year. It has to be reduced. You have to have less funding. You have to have improved.' It takes a long time for people with disabilities to improve, and it takes a long time for a young kid with multiple disabilities—autism and mental health—to improve. It does not happen in 12 months. It is not going to happen in 12 months. You are talking three or four years before this guy's supports are going to reduce. The pressure on the families I am seeing, as a provider, makes me feel so sad for the families I am supporting. I hear them have the pressure of: 'Your plan has to be less. Your coordination hours have to be less. You have to be more self-dependent. You have to have less funding. We have to reduce this plan.'<sup>50</sup>

3.55 According to Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, the NDIA's Director of Services advised that plans were being reviewed and funding being reduced as the Agency had been overgenerous in the ACT.<sup>51</sup>

3.56 As the largest group that will transition people to the NDIS, the committee sought the NSW Government's input on whether it had received similar concerns on decreases in plan funding to those raised by participants in the ACT. Ms Samantha Taylor, Executive Director NDIS Implementation, NSW Department of Family and Community Services, advised that only a small portion of people in NSW had their funding decreased:

From a state perspective, we actually cannot see that data. So I just preface my response with that note. However, we have looked at where people have had a number of different iterations of their plan. We had a look at about 8,000 as a sample. Over the number of people who have had more than one plan in their participation in the Scheme in New South Wales, out of 8,000 people only 10, from what we could see, had had a financial adjustment downwards in their plans.<sup>52</sup>

3.57 The committee received suggestions that the Agency should review its current plan funding model and processes to provide participants with more stability and certainty in the future. Indeed, Ms Tan argued that funding should be provided for longer than one year at a time:

You need planning time and, with a disability, it takes time to improve. By the time you have got your plan and you have appealed it if it was not correct, you then have to find a provider who agrees to take you on. They accept and then make an assessment of what the person's needs are. By the time they have come in and done all that, there is not enough time to spend

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50 Ms Cassandra Hanbridge, Partner and Social Worker, Making Connections Together, *Proof Committee Hansard*, 12 May 2017, p. 48.

51 Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64.

52 Ms Samantha Taylor, Executive Director NDIS Implementation, NSW Department of Family and Community Services, *Committee Hansard*, 17 May 2017, p. 21.



the money you have been allocated for that year and time has passed. So we need to seriously consider if we can make the funding a longer time, three years at least. A year is just long enough, with the delays in the process, to achieve anything with that money you have.<sup>53</sup>

### *Agency response to planning issues*

3.58 As previously discussed, the Agency has been working to improve its planning process by reviewing participant and provider pathways.<sup>54</sup> However, it has not indicated whether the results of its review would be published.

### *Reductions to plan funding*

3.59 In response to reports of gradual and unjustified reductions to participants' plan funding, the NDIA assured the committee that no direction was in place to reduce plan costs and that there is no mechanism for automatic decreases to plan funding each year.<sup>55</sup> It did, however, note that 'the evidence to date...indicates that opportunities for community inclusion are growing, thereby enabling participants to fulfil goals through connection to everyday activities rather than specialised supports'.<sup>56</sup>

3.60 With regards to cases where allocated funds were unable to be used by participants due to IT issues, the NDIA asserted that it 'considers utilisation of plans and the factors contributing to this as part of the plan review...planners work with participants to identify any IT specific barriers to plan utilisation and claiming to develop solutions to address these'.<sup>57</sup>

### *Planner training and quality assurance*

3.61 The NDIA addressed some of the quality assurance concerns raised by participants. The NDIA's Chief Operating Officer, Mr Grant Tidswell, provided an update on the progress of the Agency's participant and provider pathways review, which has connected with approximately 300 individuals to date:

We've identified over 300 pay points. We are well on the way to thinking our way through what we need to do about those pay points so we can come back and tell stakeholders more broadly about what we're doing about it. We haven't landed that yet. We're still in the process of working through options and thoughts and ideas, and then we'll come back to the board with a plan on how we will deliver that in the next little while. Our goal would

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53 Ms Giang Tan, Private capacity, *Proof Committee Hansard*, 12 May 2017, pp. 49.

54 National Disability Insurance Agency, *Letter to Registered NDIS Providers from CEO David Bowen*, <https://www.ndis.gov.au/news/letter-to-ndia-registered-providers.html> (accessed 5 July 2017).

55 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

56 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

57 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

be to finalise our thinking through August and then we'll come back with an approach for the rest of this financial year.<sup>58</sup>

3.62 The Agency was cognisant of general dissatisfaction with plans and the planning process, and advised that it had commenced revised refresher training for all staff in response to issues raised.<sup>59</sup> Ms Stephanie Gunn, Acting Deputy Chief Executive Officer—Participants and Planning Group, explained that the Agency conducts regular planner training on a monthly basis, but that the Agency is developing disability understanding across its network and that subject matter experts would be made available for staff to refer to if needed.<sup>60</sup> Ms Gunn spoke to the Agency's management of systemic quality assurance issues, noting that quality teams had not been fully operational at the commencement of the national rollout:

We've now instigated a quality management framework across all our sites, which basically looks at the identification of issues, uses all of the standard tools about peer based supports, draws examples out, uses case studies, uses both risk assessed and random sampling of decisions and actions both predecision and postdecision, explores that, and spreads those lessons out across our network to try and develop a much more consistent approach to the decisions. Where we see a systemic lack of understanding about the way in which a particular decision should be applied in a particular circumstance, we will pull that out and then develop a training module. Our quality teams within each of the regions, which were not fully operational in July of last year, are now up and running and their job is to take those training modules and wash that over all of our staff.<sup>61</sup>

3.63 Agency officials also pointed out that it seeks to retain experience and knowledge in the sector, and has in place a 'first offer' recruitment arrangement for staff from state and territory disability systems.<sup>62</sup> The NDIA reassured the committee that it has a sufficient number of planners, has filled all positions, and has been recruiting on time and ahead of schedule across all regions.<sup>63</sup>

3.64 The Agency discussed the criticism of its planning questionnaire, explaining that the Agency is using the information to build a base to guide its typical packages going forward, as well as enable consistent measuring of outcomes for the Scheme

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58 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 5.

59 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer—Participants and Planning Group, National Disability Insurance Agency, *Proof Committee Hansard*, 28 July 2017, p. 6.

60 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer—Participants and Planning Group, National Disability Insurance Agency, *Proof Committee Hansard*, 28 July 2017, p. 7.

61 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 6.

62 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 7.

63 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 7.

overall.<sup>64</sup> Ms Gunn advised that, as the Scheme evolves and engages with more people, the Agency would be able to refine the questionnaire for particular cohorts.<sup>65</sup> Mr Tidswell stressed that all material, such as guidelines and templates, are under active consideration.<sup>66</sup>

### *Trial phase vs rollout planning process*

3.65 Agency officials also addressed the alleged difference between quality of plans and service delivered pre 1 July 2016 and post national rollout of the Scheme. Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, explained that the Agency had introduced a new planning process from 1 July 2016 because the 'bottom-up' planning process used during trial phase would not have been feasible on a national scale.<sup>67</sup>

3.66 The original bottom-up process provided plans with line-by-line supports and was criticised as 'a very prescriptive way for a person to have to use their funds—for example, they only got X number of hours for therapy or X volume of time for house assistance'.<sup>68</sup> As a result, the Agency changed typical support packages by dividing them into three types of supports—core supports, capacity building and capital—to enable more flexibility:

The core supports are all the daily living types of assistance a person might need, and you can track that quite closely to a person's disability type. The planner's responsibility is to adjust that for the person's circumstances. Within the core supports, you have complete flexibility in the way in which you apply that in the volume and how you use those funds.<sup>69</sup>

3.67 Mr Tidswell argued that the updated process sets parameters to guide the planning conversation and ensures consistency across similar cases while still allowing plans to meet the needs of individuals.<sup>70</sup> The Agency noted that the support package framework would be adapted as evidence for the Scheme builds.<sup>71</sup>

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64 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 11.

65 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 11.

66 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 11.

67 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

68 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

69 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

70 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

71 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

### *Inconsistency of decisions*

3.68 In light of criticisms around inconsistent decision-making, the Agency sought to assure the committee that planners' decisions are carefully controlled. A customised ICT system supports the Agency's business assurance framework by regulating key decisions, such as those enabling access to the Scheme; approving plans; and granting provider registrations.<sup>72</sup> Ms Rundle explained that these decisions are tested against a sample of others for consistency and that 100 per cent of less-experienced planners' decisions are assessed by senior planners' before approval.<sup>73</sup>

### *Plan reviews*

3.69 The Agency addressed concerns that participants had lost access to services due to plan reviews. It explained that a plan review is usually scheduled as the plan end date approaches and are usually held once every 12 months. Once a plan review is initiated, the next cycle of pre-planning and planning tasks is commenced to develop the participant's new plan. Individual assessments and therapy reports are reviewed for evidence of outcomes and may be requested to inform the review if not available. The Agency conceded that, for a small cohort, a plan may expire before a review can be completed, and has been predominantly due to participants being unable to be contacted or a delay in receiving requested information. It explained the options available in these circumstances:

In instances where the NDIA is unable to complete a scheduled plan review prior to the end date of the current plan, a three month plan extension can be provided to allow time for a planning meeting to occur...If a participant is waiting for a plan review and their plan has expired, the NDIA will cover that expense for the provision of supports that are in line with what a person was previously receiving in their plan. The NDIA can also extend the old plans to the day before the start of the next plan to enable providers to receive payment under the previous plan for services they may have provided during the gap period.<sup>74</sup>

3.70 The Agency's plan review process is currently under consideration. Mr Tidswell advised that while the Agency wishes to provide participants the option to review plans and address any concerns, the process must be balanced against potentially constant changes and readjustments.<sup>75</sup> Ms Gunn reflected that the frequency of amendments to plans during the trial period had informed the Agency's updated approach:

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72 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 9.

73 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, pp. 9–10.

74 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

75 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, pp. 10–11.

We ended up with individuals, within a year, having 12, 13 or 14 amendments to their plan just as they played with it and thought about it. That's why we went away from this line-by-line process and lumped the funding into core, capacity and capital. It's designed to give people a lot more flexibility in the way they use their funds. What we have discovered in the kind of volume of people that we've brought in is that people don't understand how they can use the funds in their plan. So being able to have that conversation—that one would be relatively easily fixed, to say: 'You actually can use your funds in these ways. Here are your other options.' But it would be making ourselves available for that person to ring up, find us easily and chew it over. Our LACs, local area coordinators, on the ground have to be a source of that guidance and information for a person.<sup>76</sup>

3.71 Mr Tidswell advised that the Agency was having difficulty contacting people for reviews and speculated whether negative media stories about plan reviews had impacted participants' willingness to make contact.<sup>77</sup>

#### *Communication and transparency*

3.72 The NDIA acknowledged that it needed to improve its communication and transparency during planning. Mr Tidswell informed the committee that the Agency is currently testing hypotheses for better approaches, and considering ways to simplify language and process:

We had a workshop last Friday in Penrith where we talked about this directly with participants. We are talking to our planners and staff as well to think through how we actually ensure that when that planning conversation is finished you are pretty clear about what is going to be available in your plan and why...That's the key thing that we're looking at—to improve the plain English, simplifying it, not having our jargon that we understand. Sometimes it's challenging, because it might be in the act, but we need to think through how we actually provide that...There was an expo a month or two ago in May in Ipswich, ahead of time just before we rolled Ipswich. It went really well because people knew what they had to do and the system worked much better. But we've got a lot of work to do there to demystify what is effectively a fairly complex Scheme.<sup>78</sup>

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76 Ms Stephanie Gunn, Acting Deputy Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 11.

77 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 8.

78 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 15.

## Communication issues

3.73 Poor communication and engagement with participants and providers was repeatedly raised by those involved in the Scheme. Several individuals described their experience of dealing with the Agency as a 'battle'.<sup>79</sup>

3.74 According to witnesses, the Agency's quality of service has significantly deteriorated since the national rollout. Previously, people had been able to call local officers and had the direct phone lines of staff, but from 1 July 2016, all calls were routed through one central phone line. The Agency's central email system provided equally unsatisfying results as staff frequently did not respond to requests.<sup>80</sup> Issues raised focused on NDIA planners and call centre staff and included:

- being placed on hold for excessive wait times;
- not receiving responses to email or phone call requests;
- not being informed of changes to plans;
- not being able to speak with the same person each time or someone familiar with their case;
- not being able to speak to staff with disability knowledge; and
- instances of threatening or hostile planners.<sup>81</sup>

3.75 Contributors suggested that the Agency implement better call centre practices, such as calling people back when it is their place in the queue.<sup>82</sup>

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79 For example: Ms Emilia Della Torre, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 45; Mrs Trish Reeve, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 49; Ms Karna O'Dea, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 54; Mr Stephen Fox, ACT Manager, National Disability Services, *Proof Committee Hansard*, 12 May 2017, p. 60; Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61.

80 For example: Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Burningham *Proof Committee Hansard*, 12 May 2017, pp. 60–61; Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61. Ms Roslyn Emerick, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 61; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 63.

81 For example: Ms Fiona Keary, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 44; Ms Emilia Della Torre, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 45; Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 63; Mrs Rachel Hodson, Treasurer, ACT Branch Australian Psychological Society, pp. 63–64; Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64; Ms Ruth Callaghan, General Manager, Stakeholder Relations, Northcott, *Committee Hansard*, 17 May 2017, p. 28; Ms Caroline Cuddihy, Chief Executive Officer, Sunnyfield *Committee Hansard*, 17 May 2017, p. 31.

82 Mr Robert Altamore, Executive Officer, People with Disabilities ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 51.

### ***Agency response to communication issues***

3.76 The Agency acknowledged that the participant experience during transition 'has not resulted in a consistently high standard to which the NDIA aspires'.<sup>83</sup> It cited challenges with systems and processes; building consistency; detailed understanding of the Scheme; and processes in a rapidly growing workforce.<sup>84</sup>

3.77 In relation to the centralised phone line, the NDIA reassured the committee that it has provided intensive training to its call centre operators to increase the rate of first contact resolution where possible, and reduced the wait time to less than 1 minute by July 2017. Furthermore, contact centre opening hours were extended to 8.00am to 11.00pm. The Agency continues to explore options to improve, including examination of the contact centre's staffing, processes, and technology.<sup>85</sup>

### **Service provider issues**

3.78 The period between the trial phase and the rollout has been tumultuous for service providers involved in the Scheme. Two important issues were consistently raised with the committee: that the NDIA has developed non-contextual pricing which has placed significant cost pressures on service providers; and that working within the NDIS is cumbersome. The committee heard that providers involved in the Scheme have been inadequately funded for services; unable to claim for services due to portal or planning issues; and forced to hire additional staff to deal with the issues and complexities of the Scheme.

### ***Non-contextual pricing***

3.79 Several providers<sup>86</sup> expressed their concern at the inadequacy and unsustainability of the Scheme's non-contextual pricing. It was argued that the level of

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83 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

84 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

85 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

86 For example: Richmond Fellowship, *Submission 1*, p. 1; Riverlink Interchange Inc, *Submission 4*, pp. 1–2; Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 62; Mrs Rachel Hodson, Treasurer, ACT Branch Australian Psychological Society, pp. 63–64; Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64; Mr Craig Moore, Chief Executive Officer, Interaction Disability Services, *Committee Hansard*, 17 May 2017, p. 24; Mr Bart Cavalletto, Director, Services, Royal Institute for Deaf and Blind Children, *Committee Hansard*, 17 May 2017, p. 27; Ms Ruth Callaghan, General Manager, Stakeholder Relations, Northcott, *Committee Hansard*, 17 May 2017, p. 28; Ms Caroline Cuddihy, Chief Executive Officer, Sunnyfield, *Committee Hansard*, 17 May 2017, p. 31; Ms Narelle Dale, Executive Officer, EMPOWERability, *Committee Hansard*, 17 May 2017, p. 32; Ms Cathy Milne, Team Leader, Autism Behavioural Intervention NSW, Assessments and Behaviour Interventions, *Committee Hansard*, 17 May 2017, p. 39.

pricing set by the NDIA does not accurately reflect the cost of service delivery and overheads incurred by providers working within the disability market, and has resulted in organisations carrying considerable gaps in funding.

3.80 The committee is concerned about reports that providers are not receiving sufficient funds to cover the cost of providing critical support services, particularly in the cases of people with complex behaviours. The committee heard compelling evidence from Ms Cathy Milne, Team Leader, Autism Behavioural Intervention NSW, Assessments and Behaviour Interventions, during its hearing in Penrith regarding cases of people with complex behaviours placing those around them at potential risk of harm:

...I received a call from my senior consultant and another behaviour therapist, who were in the home. We cannot safely allow our team in that home without two staff. I got a call from my team at seven o'clock at night—the session was meant to finish at 5 pm—to say they were still there because the eight-year-old boy was trying to strangle his mother and they were trying to keep the three-year-old sister, who has a severe and degenerative vision problem, safe from the violent incident.

After that incident, when my staff left the house finally confident that the three-year-old was safe and that the seven-year-old brother, who was hiding in his room, was safe and that the mother was not going to be any further physically harmed and that the child had had his PRN medication, I then spent a further two hours with my staff calling DOCS, because this is a mandatory reporting issue. We are legally obliged to report risk of significant harm. So we did this. Even if we were not legally obliged to report risk of significant harm to children, my senior behaviour clinician is a registered psychologist and she has professional obligations.<sup>87</sup>

3.81 In addition to unforeseen hours of support provision, Ms Milne described the related reporting and professional obligations required in such circumstances, arguing that providers' are accumulating hours of unfunded support:

My team does a huge number of hours of work for these families, and we cannot claim it under NDIS because NDIS does not recognise that behaviour support plans need formatting, that a child may not be able to buy a standard resource off the shelf but needs someone who has skills, expertise and knowledge of their situation to customise. I have speech pathologists that will spend hours researching just the right way to help that child communicate and then design a tailored resource. If I was to charge for that, that child would have no therapy budget left. If I was to charge my intensive family support families for the family support, case coordination and advocacy that we had been able to provide for them, their child would get no therapy, no respite, nothing.<sup>88</sup>

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87 Ms Cathy Milne, Team Leader, Autism Behavioural Intervention NSW, Assessments and Behaviour Interventions, *Committee Hansard*, 17 May 2017, p. 39.

88 Ms Cathy Milne, Team Leader, Autism Behavioural Intervention NSW, Assessments and Behaviour Interventions, *Committee Hansard*, 17 May 2017, p. 40.



3.82 Despite providers submitting that they had improved efficiencies and implemented internal reforms, they still considered pricing to be insufficient for surplus and reinvestment in service or innovation.<sup>89</sup> The sustainability of the sector was repeatedly questioned by providers.<sup>90</sup> Ms Kirwan, from CatholicCare Canberra and Goulburn, told the committee that the Agency had reported that '42 per cent of ACT providers reported a loss or broke even last year under the NDIS'.<sup>91</sup> Providers argued that the NDIA has placed unreasonable limitations on the types of hours that can be claimed as part of services:

Interaction has a large team of psychologists. They provide assessment, behaviour intervention support plans, skills training and therapeutic support to people who experience challenging and/or other behaviours, their families and our staff...the pricing is confusing and mainly limited to face-to-face hours. This limitation means that essential and required tasks—such as report writing, service formatting of behaviour intervention support plans, individualised pre-reading and research, coaching of staff, coaching of families and so on—is not covered. Interaction's psychologists require 44 claimable hours per fortnight to support their role within the organisation. That 44 hours requires another hour or two besides that to actually do the task, which means they do not have enough time per fortnight to actually do the job that they are supposed to do.<sup>92</sup>

3.83 One provider pointed out that the NDIS pricing structure excludes training costs in its design and should consider a long-term approach to investment in professional training to improve clinical practices and outcomes for people with disability.<sup>93</sup> Mr Craig Moore, from Interaction Disability Services, warned the committee that, 'the NDIS pricing structure reduces the ability of organisations to attract and induct the expected injection of new staff into the sector. In that regard, skills atrophy has been observed in overseas jurisdictions that have implemented initiatives similar to the NDIS'.<sup>94</sup>

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89 Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, pp. 57–58.

90 For example: Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 62; Mrs Rachel Hodson, Treasurer, ACT Branch Australian Psychological Society, p. 64; and Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64.

91 Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64.

92 Mr Craig Moore, Chief Executive Officer, Interaction Disability Services, *Committee Hansard*, 17 May 2017, p. 24.

93 Mr Craig Moore, Chief Executive Officer, Interaction Disability Services, *Committee Hansard*, 17 May 2017, p. 25.

94 Mr Craig Moore, Chief Executive Officer, Interaction Disability Services, *Committee Hansard*, 17 May 2017, p. 25.

3.84 According to Mr Moore, 'this has happened because of what we believe is a failure to engage wholly with service providers on planning and pricing'.<sup>95</sup> Indeed, the NDIA only conducted its first provider feedback forum in April 2017.<sup>96</sup> Ms Kirwan raised an important point in relation to sustainability:

I was at a meeting with the ACT and Commonwealth ombudsmen. There were over 40 providers in the room. Every provider put their hand in the air to say they were owed money by the NDIA...one of the challenges for us as providers is: when the money is not being provided, do we continue to provide the level of care that is required and needed and expected by families, with the risk that, if the money is not provided, we are then out of pocket? We have been told by the NDIA that the risk sits with us as providers. They do not take responsibility.<sup>97</sup>

3.85 Providers endorsed the recommendations in a paper prepared by the National Disability Service titled 'How to get the NDIS on track', which was released on 4 May 2017. The report makes 24 recommendations, including for disability service organisations to be involved in the planning process.<sup>98</sup>

### ***Portal and IT issues***

3.86 Concerns were also raised with the MyPlace portal and NDIS IT systems. Participants reported difficulties operating the portal and drew attention to the website's lack of accessibility, while providers found that it does not meet all of their business needs.<sup>99</sup>

3.87 The committee heard that the unnecessary complexities of working within the NDIS had increased administrative workloads.<sup>100</sup> Some providers hired additional staff to handle the administrative burden of the Scheme, while stress from the

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95 Mr Craig Moore, Chief Executive Officer, Interaction Disability Services, *Committee Hansard*, 17 May 2017, p. 24.

96 Ms Caroline Cuddihy, Chief Executive Officer, Sunnyfield, *Committee Hansard*, 17 May 2017, p. 31.

97 Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64.

98 National Disability Service, *How to get the NDIS on track*, May 2017, pp. 3–4.

99 For example: Ms Nerida Richters, Private capacity, *Proof Committee Hansard*, 12 May 2017, p. 48; Mr Robert Jeffrey Altamore, Executive Officer, People with Disabilities ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 51; Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58.

100 For example: Richmond Fellowship, *Submission 1*, p. 1; Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 62; Mrs Rachel Hodson, Treasurer, ACT Branch Australian Psychological Society, p. 64; and Ms Anne Kirwan, Chief Executive Officer, CatholicCare Canberra and Goulburn, *Proof Committee Hansard*, 12 May 2017, p. 64; Ms Stephanie Cusack, Accountant, Autism Advisory and Support Service, *Committee Hansard*, 17 May 2017, p. 34.

arrangements had caused at least one to consider deregistering.<sup>101</sup> Ms Pollard from DUO Services noted, 'it has cost us in the vicinity of another \$200-odd thousand for this current financial year, which is roughly equivalent to four additional staff to ensure that we can action the cleaning'.<sup>102</sup> Ms Pollard explained how portal and IT inefficiencies could potentially threaten the viability of some organisations:

[The portal] prevents claims from being made until a new service agreement is in place with the participant and the subsequent service bookings aligning with the new plan have been implemented...we are continuing to provide services in good faith, and families are continuing to have services, only to find out that a new plan has been issued unbeknownst to any of us. We do not have a service agreement in place, so we cannot set up the service booking to make the claim. In fact, we cannot claim because the item numbers have changed—and so there is a loss of income. NDIA's messaging is very clear now that it is 'our business decision'. So I think there is a great deal of concern around that...<sup>103</sup>

### ***Unclear quote process***

3.88 Submitters also expressed concerns regarding the Agency's lack of guidance on correct procedures for providers to follow. For example, according to providers, information on how to submit quotes was not available online or communicated by the Agency to providers at information sessions. Absence of clear information has caused delays to billing cycles, sometimes up to four weeks. Submitters suggested that the Agency agree on a single process, and ensure training and guidance on the process for quotes is made available on its website.<sup>104</sup>

### ***Agency response to service provider issues***

3.89 In response to concerns regarding non-contextual pricing, the NDIA highlighted the difficulty of running a national Scheme, and variability across jurisdictions.<sup>105</sup> The Agency's price guide is currently an east and west price guide with loading for remote and very remote. Currently, the Agency sets prices only in areas where the market is not developed enough and participants could be at risk of being taken advantage of.<sup>106</sup> However, Agency officials expected that eventually,

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101 For example: Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58; Ms Jennifer Merriman, Executive Director, Technical Aid to the Disabled ACT Inc, *Proof Committee Hansard*, 12 May 2017, p. 62.

102 Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58.

103 Ms Cheryl Pollard, Chief Executive Officer, DUO Services Australia Ltd, *Proof Committee Hansard*, 12 May 2017, p. 58.

104 For example: Richmond Fellowship, *Submission 1*, p. 4; Anowah Community Living Inc, *Submission 5*, p. 6.

105 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 16.

106 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 16.

pricing would not have to be set at all because a competitive market would be in place. Mr Tidswell noted that the hourly rate is actually higher in some jurisdictions than it was previously, and that this is a tension point in creating a uniform and standard approach.<sup>107</sup> The Agency reassured the committee that it was aware of some issues with providers claiming against supports but usually resolved them.<sup>108</sup>

3.90 With regards to portal and IT issues, the Agency conceded that there have been cases where providers have temporarily picked up the cost of services for participants. It provided three scenarios where this could occur and the options available to providers:

- (1) Where a plan expires without a new plan in place and providers have continued to provide services to participant in 'good faith', the NDIA has updated its business system to cover the period up to the beginning of a new plan.<sup>109</sup>
- (2) Where there are delays in assessment and acceptance of quotes and providers have continued to provide daily services to participants in group homes, providers can claim through the plan after the quote is accepted. If a provider still has difficulty in claiming, one of the NDIA's regional finance teams can organise payment for services.<sup>110</sup>
- (3) When there is an omission or error in the participant's initial plan preventing the payment of a service, the participant's plan is reviewed and corrected, and the provider can then claim for services provided.<sup>111</sup>

3.91 As previously discussed, the NDIA is currently conducting an internal review of its service provider pathways and investigating ways to improve, and has commissioned an Independent Pricing Review by McKinsey & Company to report by the end of 2017. According to the NDIA, the participant and provider pathway transformation plan will include specific projects to enhance functionality of the MyPlace portals and user experience. To date, the NDIA has implemented a number of initiatives to assist users to access and use the MyPlace Portal, including comprehensive user guides, FAQs, improved staff training, targeted communication and email, and 1800 contact centre support line channels.

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107 Mr Grant Tidswell, Chief Operating Officer, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 16.

108 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 17.

109 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

110 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

111 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

## Transport market design

3.92 During its public hearing in Canberra on 12 May 2017, the committee heard concerns from representatives of the Australian bus industry in relation to a market-based trial for school transport options for disabled children. The trial is scheduled to be conducted by the Centre for Market Design (CMD) in 2017.<sup>112</sup>

3.93 According to Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, the NDIA is seeking to introduce an online, real-time market place, where providers would list their transport services and NDIS participants would choose an option.<sup>113</sup>

3.94 Presently, State and Territory Governments negotiate with and enter into agreements with bus operators for services, based on the requirements and numbers of the children and the particular school. The arrangements have developed over a period of time and function well in Victoria and Tasmania according to the industry. Mr Kavanagh pointed out that the bus industry is required to fulfil strict accreditation requirements and demonstrate compliance to a range of regulatory, safety and quality standards.<sup>114</sup>

3.95 The committee heard concerns that if the NDIA opened up the market to other operators it could run the risk of putting mature players out of business and leave participants with a potentially less-regulated, less-equipped group of operators:

..if they start to perform these services without showing any particular skill or competence in the area then that obviously represents an unlevel playing field for other providers in the space. More importantly than that, it could lead to a race to the bottom, price-wise, in some geographical markets...And the quality of service and safety could be impacted, if...those providers did not have the necessary safety and quality of service assurances that bus services can provide and have provided for many decades.<sup>115</sup>

3.96 Mr Kavanagh explained that, as bus operators significantly invest in their operations and equipment in advance in order to meet contract demands, the sustainability of the sector may be at risk.<sup>116</sup> The bus industry expressed concerns that there has been no communication from the NDIA on the transport market design trial, and there was anxiety as to how the trial would work, how the online platform would

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112 Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, *Proof Committee Hansard*, 12 May 2017, p. 37.

113 Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, *Proof Committee Hansard*, 12 May 2017, p. 37.

114 Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, *Proof Committee Hansard*, 12 May 2017, pp. 37–38.

115 Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, *Proof Committee Hansard*, 12 May 2017, p. 37.

116 Mr Peter Kavanagh, Government Relations Manager, Bus Association Victoria, *Proof Committee Hansard*, 12 May 2017, p. 37.

operate, how it would be regulated, and when the trial would occur. Despite requests for information from industry, the Agency had not provided any response.

### ***Agency response to transport market design trial***

3.97 The Agency acknowledged the complexity of issues around broader transport market design and the risk of potentially undermining the market, but reassured the committee that a working group of the Disability Reform Council was considering the situation.<sup>117</sup>

3.98 The NDIA explained that the CMD was commissioned to design a pilot concept that would allow eligible participants and their parents to find appropriate transport to school through the use of emerging online market matching technology. It emphasised that the pilot may or may not provide a practicable basis for a NDIS approach.<sup>118</sup> The market matching mechanism was scheduled for pilot during term two of the Victorian school year in 2017, however the project has been placed on hold while the Victorian Department of Education and Training explores how quality and safeguards will be managed. The online platform would be monitored by a Project Steering Committee, including representatives from the Victorian Department of Education and Training, Commonwealth Treasury, CMD and the NDIA.<sup>119</sup>

3.99 In terms of regulation, the NDIA advised that the Project Steering Committee—subject to the key issue of the pilot's quality and safeguard provisions being clarified—will endorse the pilot to proceed. The Victorian Department of Education and Training is required to provide assurance of the provision of suitable quality and safeguards during the pilot in accordance with the agreed roles and responsibilities of states and territories to continue this function during transition.<sup>120</sup> The Agency highlighted that the Quality and Safeguards Commission would be available from July 2018 for both NSW and South Australia, with other jurisdictions to transition in the following year.<sup>121</sup>

3.100 In parallel with this pilot, the NDIA is working with states and territories to plan for the transition of specialist school transport to the NDIS by the end of the transition period. This work is occurring through the Transport Working Group, a sub-group of the Senior Officials Working Group of the Council of Australian

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117 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 18.

118 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

119 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

120 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

121 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 19.

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Governments.<sup>122</sup> NDIA officials noted that the aim for the wider transport market picture would be to maintain arrangements and access for people, but were unable to provide the bus industry any comfort:

At the moment, as you know, states and territories provide all of these services, and many of them are through bus contracts—we have bus fleets. These are big endeavours and they are often linked to state government transport systems, as well as education systems and so on. When you think about converting that, as you've rightly pointed out, into an individual package, it's very tricky, because a provider has to have some guarantee of economy of scale to be able to make a future investment in a fleet. Yet there is no way any real guarantee can be given, because they have to know that they're going to get that volume... We're trying to work through this, but the aim, though, is that all states and territories and us are trying to get to a point where people get the support they need and they get it when they need it—kids can get to school appropriately, in a safe way, and we do that in the most affordable, efficient and effective way. How that plays out at the end of the day, we don't know.<sup>123</sup>

### **Committee view**

3.101 The NDIA is under considerable pressure to meet bilateral estimates and ensure the Scheme remains within budget. Nevertheless, the fact that it is still running almost 20 per cent behind estimates for participants is deeply concerning, particularly in the Early Childhood Early Intervention cohort.

3.102 As the Scheme ramps up and substantially increases in complexity and size, the committee is concerned that quality and individualisation of plans may be compromised. In conjunction with a reduction in satisfaction ratings, the litany of issues raised by participants, providers, families, and carers with respect to how the planning process is being experienced by those the Scheme is supposed to help, is evidence of a downwards trend. The committee accepts that some of these are process and administration issues which will be worked through and remedied in time. However, evidence received during the committee's recent public hearings seems to be indicative of a culture developing in the NDIA that is not placing the participant, and those who support them, at the centre of the Scheme.

3.103 People with disability should not be facing delays in accessing services under the NDIS, yet the time taken between when an Access Request is granted and a planning meeting is scheduled can be several months long. The committee finds this unacceptable and considers that the delays in access to services are attributed to early issues faced by the NDIA at commencement of the rollout which affected the Agency's ability to meet its bilateral estimates.

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122 National Disability Insurance Agency, answers to questions on notice, 1 August 2017 (received 4 August 2017).

123 Ms Vicki Rundle, Acting Deputy Chief Executive Officer—Markets and Supports, National Disability Insurance Agency, *Committee Hansard*, 28 July 2017, p. 18.

3.104 The overall communication ethos underpinning the planning process appears to exclude participants and those who support them at crucial stages. The option for a participant to view, and comment on their plan before it is finalised is, in the committee's view, a procedure that could alleviate concerns and stress. It could also serve to avoid potentially resource intensive reviews for relatively minor adjustments, allowing the NDIA to focus their efforts elsewhere.

### **Recommendation 1**

**3.105 The committee recommends that the National Disability Insurance Agency provide an opportunity for participants, and those who support them, to view, comment, and rectify any errors in their plan in advance of it being finalised and implemented.**

3.106 The committee acknowledges that the Agency is currently investigating the ways in which it can improve its participant and provider experience. In light of communication issues raised and the Agency's pledge to improve its performance, the committee expects that the pathways review currently being undertaken will be published and made accessible to all those involved in the Scheme. Areas identified as requiring improvement should be incorporated into the Agency's Quarterly Reports and progress against targets tracked over time.

### **Recommendation 2**

**3.107 The committee recommends that the National Disability Insurance Agency publish the results of its participants and providers pathways review, specifically the areas identified for improvement, and the strategies in place to achieve improved outcomes.**

### **Recommendation 3**

**3.108 The committee recommends that the National Disability Insurance Agency include progress on issues identified in the participant and provider pathways review in future Quarterly Reports.**

3.109 With regard to the issue of transport, particularly in relation to the provision of transport to and from school, the committee suggests that the NDIA strongly engage with transport providers, participants, parents and the disability sector on transport market issues to prevent the potential danger that participants of the Scheme will be left with reduced transport options.

3.110 As discussed in previous committee progress reports, it is very difficult for the committee, and any other stakeholders, to properly assess the effectiveness and progress of the Scheme if the same measures of performance are not carried through each Quarterly and Annual report.

3.111 Furthermore, the committee is concerned that changes in terminology cover substantial policy shifts such as the apparent decision not to continue with the 'First Plan' approach. There has been no official announcement that the NDIA have changed their policy, and the change is only evidenced by the change in terminology in the most recent Quarterly Report from 'First Plan' to 'Initial Plan'. If this is indicative of a



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policy change, all stakeholders deserve to be made aware of it, rather than a simple change of wording from one Quarterly Report to the next.

3.112 A further example of terminology being altered, thereby increasing confusion in the sector, is the introduction of the term 'ordinary life' alongside the criteria of 'reasonable and necessary' to assess the provision of supports. While the committee acknowledges that there is documentation available to stakeholders that explains the term, it does not have the same legislative basis as the term 'reasonable and necessary'. The committee is therefore frustrated that the use of the term 'ordinary life' in decision-making has introduced unnecessary confusion for stakeholders.

#### **Recommendation 4**

**3.113 The committee recommends that the National Disability Insurance Agency review its quarterly reporting terminology and metrics to ensure consistency, and apply this to all future reports.**

#### **Recommendation 5**

**3.114 The committee recommends that the NDIA ensure that only criteria underpinned by terminology set out in the NDIS Act and associated Rules is used in the assessment of appropriate supports.**

3.115 The committee withholds further detailed recommendations in relation to planning until the results of the pathways review are available.

**Hon Kevin Andrews MP**  
**Chair**

**Senator Alex Gallacher**  
**Deputy Chair**

