

Chapter 1

Introduction

Referral of inquiry and terms of reference

1.1 The Joint Standing Committee on the National Disability Insurance Scheme (NDIS) was established on 1 September 2016. The committee is composed of five Members and five Senators.

1.2 The committee is tasked with inquiring into:

- (a) the implementation, performance and governance of the NDIS;
- (b) the administration and expenditure of the NDIS; and
- (c) such other matters in relation to the NDIS as may be referred to it by either House of the Parliament.

1.3 After 30 June each year, the committee is required to present an annual report to the Parliament on the activities of the committee during the year, in addition to other reports on any other matters it considers relevant.

1.4 The committee is also able to inquire into specific aspects of the Scheme. On 21 June 2017, the committee decided to undertake an inquiry into the transitional arrangements for the NDIS.

1.5 The terms of reference for the inquiry are as follows:

As part of the committee's inquiry into the implementation, performance and governance of the NDIS, the committee will 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.

1.6 This report is comprised of four chapters, as follows:

- This chapter (chapter 1) outlines the context and administration of the inquiry and provides some background information about the transitional arrangements to full Scheme;
- Chapter 2 examines the boundaries and interface of NDIS service provision and mainstream services;
- Chapter 3 focuses on the impediments to delivery of appropriate and timely services and the rollout of the ILC to date; and
- Chapter 4 discusses the issues of thin markets and Provider of Last Resort arrangements as well as emerging gaps in services. The chapter also explores the challenges faced by people from CALD backgrounds and Aboriginal and Torres Strait Islanders in engaging with the NDIS.

Conduct of the inquiry

1.7 The committee received 82 submissions to the inquiry from individuals and organisations. These submissions are listed in Appendix 1.

1.8 The committee also conducted eight public hearings:

- 19 September 2017 in Melbourne;
- 21 September 2017 in Darwin;
- 26 September 2017 in Brisbane;
- 27 September 2017 in Adelaide;
- 3 October 2017 in Sydney;
- 4 October 2017 in Hobart;
- 20 October 2017 in Canberra; and
- 8 November 2017 in Melbourne.

1.9 Transcripts from these hearings, together with submissions and answers to questions on notice are available on the committee's website. Witnesses who appeared at the hearings are listed in Appendix 2.

Acknowledgments

1.10 The committee would like to thank the individuals and organisations that made written submissions to the inquiry, as well as those who gave evidence at the eight public hearings. We are grateful for their time and expertise.

Note on terminology and references

1.11 References to submissions in this report are to individual submissions received by the committee and published on the committee's website. References to Committee Hansard are to official transcripts.

Background information

Agreements between the Commonwealth and State and Territory governments

1.12 The Intergovernmental Agreement (IGA) for the NDIS Launch was signed by the Commonwealth and all states and territories at the Council of Australian Governments (COAG) meeting on 7 December 2012. The purpose of the IGA was to provide the foundation for governments to work together to develop and implement the first stage of an NDIS.¹

1.13 The IGA and its six annexes were the basis of a number of provisions in the *NDIS Act 2013* and for Bilateral Agreements for Transition to a NDIS.²

1.14 The full Scheme Heads of Agreement for each state and territory outlines the parameters for transition to full Scheme within specific timelines, full Scheme funding arrangements, and scope of the National Injury Insurance Scheme (NIIS). Heads of Agreements for full Scheme were signed bilaterally with each jurisdiction (except WA) during 2012 and 2013 to set out a commitment and broad parameters for full Scheme.

Bilateral agreements

1.15 On 16 September 2015, the Prime Minister, the Hon Malcom Turnbull, signed bilateral agreements with the NSW and Victorian Premiers for the transition to the NDIS. Transition began July 2016, with a geographical rollout moving from region to region, covering all eligible people under 65, over two years in NSW and over three years in Victoria. These agreements formed the basis for consistent arrangements with other states and territories.³

1.16 On 11 December 2015, the Prime Minister, the Hon Malcom Turnbull, signed bilateral agreements with the Tasmanian and South Australian Premiers for the transition to the NDIS. Transition began in both jurisdictions in July 2016 with an implementation on an age basis over three years for Tasmania⁴ and an implementation

1 *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*, 7 December 2012, https://www.ndis.gov.au/html/sites/default/files/Intergovernmental_Agreement_for_the_National_Disability_Insurance_Scheme_Launch-signed.pdf (accessed 3 November 2017).

2 Department of Social Services, *Submission 29*, p. 9.

3 Department of Social Services, *Submission 29*, p. 9.

4 *Bilateral agreement between the Commonwealth and the Tasmanian governments on the NDIS*, 11 December 2015, schedule A, paragraph 8, p. 1.

through a mix of ages and geographic location, based on South Australian Disability regions for South Australia over two years.⁵

1.17 On 16 March the bilateral agreement was signed with Queensland with transition beginning in July 2016 on a geographical basis over three years.⁶

1.18 On 5 May 2016; the bilateral agreement with the Northern Territory (NT) was signed with transition beginning in July 2016 on a geographical basis over three years.⁷

Western Australia

1.19 Unlike other jurisdictions, Western Australia (WA) trialled two service delivery models (WA NDIS and NDIA NDIS) from July 2014 to June 2016. Following the trial, an independent evaluation of the two models was conducted by Stantons International. Subsequently, in January 2017, a more bespoke Bilateral Agreement was agreed by the Commonwealth and West Australian Governments which resolved that a nationally consistent but state-run NDIS would be implemented in WA with transition to commence from July 2017.⁸

1.20 More recently, on 12 December 2017, the Australian and Western Australian Governments reached agreement to bring Western Australia into the NDIS. The Agreement replaces the agreement signed in January 2017 by the previous Western Australian Government for a WA administered NDIS. From 1 July 2018, the National Disability Insurance Agency will assume responsibility for the delivery of the NDIS in WA. The NDIS will continue to roll out on a geographic basis and will be fully rolled out across Western Australia by 2020. The Australian and Western Australian governments will work closely with the National Disability Insurance Agency to implement the transition.⁹

Features of the bilateral agreements

1.21 The bilateral agreements set out the roles and responsibilities for the transition to full coverage of an NDIS. Schedules to the agreements include sections on: Participant Transition Arrangements; Financial Contributions; Cross billing and Budget Neutrality Arrangements; Continuity of Support Arrangements; Sector and

5 *Bilateral agreement between the Commonwealth and the South Australia governments on the NDIS*, 11 December 2015, schedule A, paragraph 8, p. 2.

6 *Bilateral agreement between the Commonwealth and the Queensland governments on the NDIS*, 5 May 2016, schedule A, paragraph 7, p. 2.

7 *Bilateral agreement between the Commonwealth and the Northern Territory governments on the NDIS*, 5 May 2016, schedule A, paragraphs 6-7, pp. 1–2.

8 The Hon. Christian Porter MP, Commonwealth Minister for Social Services, the Hon. Colin Barnett MLA, WA Premier, the Hon. Donna Faragher MLC, WA Minister for Planning, Disability Services, 'Governments sign bilateral agreement on local delivery of NDIS in WA', *Media release*, 1 February 2017.

9 The Hon. Malcom Turnbull MP, Prime Minister of Australia, *Media release*, 12 December 2017.

System Readiness; Quality and Safeguards; Performance reporting; Workforce; Mainstream Interfaces; and Supports for Specialist Disability Housing.

1.22 In the case of the NT the bilateral agreement also includes schedule K on the arrangements for a provider of last resort services during transition.¹⁰ This schedule was added because of the significant risk of service failure where there are thin or non-existent markets, including limited supply and very low demand for services. The NDIA is the responsible entity for ensuring provider of last resort services are in place for all Participants in the NT.

1.23 Under the agreements, the Commonwealth will fund 40.4 per cent of package costs for Participants aged 0-64 (0-50 years for Indigenous Australian Participants) in the Scheme, operational costs, Information Linkages and Capacity Building, and agreed overruns. States and Territories will fund 59.4 per cent of package costs for Participants aged 0-64 (0-50 for Indigenous Australian Participants).

Risks borne by the Commonwealth, State and Territory governments in the rollout of the NDIS

1.24 The Commonwealth funds 100 per cent of the risk of any increase in costs associated with higher participant numbers and / or higher average per person care and support costs, and 100 per cent of the NDIA's cash flow risk, during transition period.¹¹¹²

Arrangements at Full Scheme

1.25 The Commonwealth will assume 100 per cent of the risk for full Scheme subject to the review of Scheme costs by the Productivity Commission in 2017.

1.26 The Heads of Agreements state the Productivity Commission would undertake a review of Scheme Costs in 2017. This review is intended to inform the final design of the Full Scheme, prior its commencement.

1.27 Early 2017, the Productivity Commission started the NDIS Costs review and released its final report on 19 October 2017.¹³

1.28 In its media release dated 19 October 2017, the Government stated:

(...)The Government will work with the National Disability Insurance Agency (NDIA), States and Territories to consider and respond to the findings and recommendations of the Report.

The Government notes the Commission's findings that Scheme costs are broadly on track compared to the NDIA's long term modelling and the

10 *Bilateral agreement between the Commonwealth and the Northern Territory governments on the NDIS*, 5 May 2016, schedule K.

11 Department of Social Services, *Submission 29*, p. 11.

12 *Bilateral agreement between the Commonwealth and Western Australia for the transition to a NDIS in Western Australia*, 12 December 2017, schedule B, p.23.

13 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, 19 October 2017.

support offered by the Commission for the NDIA's approach to projecting Scheme costs. The Government also acknowledges there are emerging cost pressures, which are being appropriately monitored and addressed.

The Government acknowledges the number of people entering the NDIS is less than originally estimated. This experience has been absolutely consistent during the NDIS trials and since commencement of transition to full Scheme on 1 July 2016.¹⁴

National rollout of the NDIS, participant intake and plan activation

1.29 The Australian Capital Territory was the first jurisdiction to complete transition to the Scheme, and this was largely achieved by the end of the second quarter in 2016–17.¹⁵

1.30 The rollout is expected to be completed progressively, with New South Wales and South Australia by July 2018; Victoria, Queensland, Northern Territory, and Tasmania to be completed by July 2019 and Western Australia by 2020.

1.31 As at 30 September 2017, 111 188 Participants had an approved plan and a further 29 315 people were eligible with no approved plan.

Table 1.1—NDIS state and territory Participants with approved plans compared to bilateral agreement estimates of Participant intake with approved plans at 30 September 2017

State/Territory	NSW	VIC	QLD	SA	TAS	NT	ACT	WA
Participants with approved plans¹⁶	58 367	18 826	9237	12 991	2534	547	6301	3982
Bilateral agreement estimates¹⁷	72 483	23 686	18463	13 969	2853	898	5126	8716

14 *Turnbull Government committed to NDIS rollout schedule*, Media release, 19 October 2017. <https://christianporter.dss.gov.au/media-releases/turnbull-government-committed-to-ndis-rollout-schedule> (accessed 6 November 2017).

15 ACT Government, *Submission 58*, p. 3.

16 NDIA, *NDIS Quarterly Report for the period 1 July to 30 September 2017*, Media release, <https://www.ndis.gov.au/news/media-releases/quarterly-report-firstqtr-1718.html> (accessed 23 January 2018).

1.32 The Productivity Commission found that the current timetable for participant intake will not be met.¹⁸ It further explained:

The intake of Participants with approved plans is already falling behind the expected pace. If the trend of delivering about 80 per cent of the bilateral estimates continues, it will take an additional year before all eligible Participants are in the Scheme. (And this delay could be longer if the Scheme falls further behind when the participant intake ramps up in 2017–18.).¹⁹

1.33 In its submission to this inquiry, the Queensland Government noted:

Unfortunately, the NDIA has transitioned significantly fewer Queenslanders to the NDIS than the bilateral agreement's estimates.²⁰

1.34 Similarly, the Victorian Government stated:

Victoria has experienced significant delays in bringing Victorian Participants, particularly existing state clients, into the Scheme against bilateral agreement estimates.²¹

1.35 The Productivity Commission recommended that 'the Australian, State and Territory Governments should immediately start planning for a changed timetable for participant intake for the NDIS' and added:

In doing so, the Australian, State and Territory Governments should ensure that adequate continuity of support arrangements are in place and assess whether additional resources are required to ensure the scheme meets its objectives. The issue of resourcing disability services under the changed timetable should be dealt with by the Treasurers and Ministers responsible

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- 17 *Bilateral agreement between the Commonwealth and the NSW governments on the NDIS*, 16 September 2015, schedule A, p. 4; *Bilateral agreement between the Commonwealth and the Victorian governments on the NDIS*, 16 September 2015, schedule A, p. 3; *Bilateral agreement between the Commonwealth and the Queensland governments on the NDIS*, 5 May 2016, schedule A, p.3; *Bilateral agreement between the Commonwealth and the South Australia governments on the NDIS*, 11 December 2015, schedule A, p. 4; *Bilateral agreement between the Commonwealth and the Tasmanian governments on the NDIS*, 11 December 2015, schedule A, p. 3; *Bilateral agreement between the Commonwealth and the Northern Territory governments on the NDIS*, 5 May 2016, schedule A, p. 3; *Head of Agreement between the Commonwealth and the Australian Capital Territory governments on the NDIS*, 19 April 2013, paragraph 13; *Bilateral agreement between the Commonwealth and Western Australia for the transition to a NDIS in Western Australia*, 12 December 2017, schedule A, p. 17.
- 18 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 2.
- 19 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 11.
- 20 Queensland Government, *Submission 72*, p. 4.
- 21 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 5.

for the disability portfolio in each jurisdiction, at the next COAG Disability Reform Council meeting.²²

1.36 The NDIA reported that 'approximately 71% of plans approved in 2016-17 have been activated within 90 days of plan approval'.²³

1.37 The NDIA, as part of the Participant Pathway Review, is undertaking work to accelerate plan activations, with the view to reduce the length of time between plan approval and the commencement of support.²⁴

Scheme costs

1.38 The Productivity Commission found that 'based on trial and transition data, NDIS costs are broadly on track with the NDIA's long-term modelling, but this is in large part because not all committed supports are used'.²⁵

1.39 The Productivity Commission reported that the NDIA has identified five early cost pressures that need to be managed for the full Scheme going forward. They are:

- The number of children entering the Scheme is higher than expected.
- The number of people approaching the Scheme in trial sites that have been operating the longest (since 2013) is higher than would be expected if only people with newly acquired conditions were approaching the Scheme.
- The number of Participants exiting the Scheme is lower than expected (particularly for children entering under the early intervention requirements).
- Levels of committed support tend to increase as Participants move to their second and third plans (over and above the impacts of inflation and ageing).
- There is greater than expected variability in package costs for Participants with similar conditions and levels of function (suggesting inconsistencies in planners' decisions).²⁶

1.40 The NDIA's two main responses to emerging cost pressures are the Early Childhood Early Intervention (ECEI) approach for children aged 0-6 years and the use

22 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 62.

23 National Disability Insurance Scheme, *COAG Disability Reform Council, Quarterly Report*, 30 September 2017, p. 26.

24 National Disability Insurance Scheme, *COAG Disability Reform Council, Quarterly Report*, 30 September 2017, p. 26.

25 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 2.

26 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 18.

of reference package data in the planning process to reduce variability in the level of support provided to Participants.²⁷

1.41 The Productivity Commission concluded:

While it is too early to conclusively assess the effectiveness of these initiatives, there are some signs from 2016-17 data that the new planning process may be helping to alleviate cost pressures related to package costs.²⁸

27 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 19.

28 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 19.

