Chapter 2

The interface of NDIS and mainstream services

2.1 This chapter examines the boundaries and interface of NDIS service provision and mainstream services and discusses the transitional issues reported by those who contributed to the inquiry.

2.2 In particular, it explores the interface between the NDIS and the following services: health; aged care; education; transport; housing and justice.

Principles to Determine the Responsibilities of the NDIS and Other Service Systems

2.3 The interactions between the NDIS and mainstream services are guided by the *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* (the Principles) agreed by COAG in April 2013 and updated in November 2015. The Principles form part of the Bilateral Agreements for Transition to the NDIS, and Operational Plans commit jurisdictions to work with the NDIA to develop working arrangements for operationalising the Principles.[1]

2.4 However, the committee heard the Principles are subject to interpretation and lack clarity. This is resulting in boundary issues and funding disputes, which can lead to reduced or no access to services for both NDIS Participants and people with disability not eligible to the NDIS.

2.5 For example, the Queensland Government stated:

> During transition it has become evident that different interpretation of the Principles is resulting in individual plans not including supports that Queensland considers should be included. This is most evident in relation to health supports, but also transport assistance and education support.[2]

2.6 In its submission, the Tasmanian Government noted that 'the NDIA's operational documents for interpreting the COAG Principles have not yet been finalised, which contributes to the uncertainty in this area'.[3]

2.7 The ACT Government reported that 'over time the ACT has experienced a cost pressure associated with the fact that what is "in scope" for the NDIS has moved'.[4]

2.8 The NSW Government is of the view that 'extensive further work is required by the States and the Commonwealth to scope, agree and communicate service boundaries'.[5]

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1 Department of Social Services, *Submission 29*, pp. 3 and 4.

2 Queensland Government, *Submission 72*, p. 7.

3 Department of Premier and Cabinet, Tasmania, *Submission 75*, p. 7.

4 ACT Government, *Submission 58*, p. 5.

5 NSW Government , *Submission 27*, p. 1.

2.9 The need for improved clarity between the NDIS and other government services has also been identified by the NDIS Board as a priority area under the recently refreshed NDIS Corporate Plan for 2017-21.[6]

2.10 In its submission, the NDIA 'acknowledges the challenges associated with the operational application of the COAG Applied Principles'[7] and makes the following statement:

> The NDIA will continue to work with governments on operationalising the Applied Principles, and suggests consideration be given to additional clarification of these principles via a Rule, as well as the inclusion of tangible targets and outcomes to ensure accountability on all parties-potentially via the NDS.[8]

2.11 The current transition of Commonwealth, state and territory programs to the NDIS is discussed throughout the chapter as it is contributing to emerging service gaps and the lack of clear delineation of funding responsibility between the NDIS and state and territory services.

Health

2.12 Dr Adrienne McGhee, Principal Policy and Research Officer at Office of the Advocate (Queensland) described how 'health and disability are interconnected. Yet, for the purposes of determining which government agency pays for what, we're finding that they're being artificially separated out, which is adding complexity and delays transitioning of people with disability.'[9]

2.13 Many submitters found that the delineation between the services to be provided by the NDIS and those provided by mainstream health services has not been made sufficiently clear.[10]

2.14 Ms Ellen Dunne, Director at the Office for Disability with the ACT Government acknowledged the complexity of the interface between the NDIS and mainstream services:

> I think it's really important that we recognise that there is still a lot of complexity about the interface between eligible supports for the NDIS and mainstream services—in particular, with the health system.[11]

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6 NDIA, *Submission 41*, p. 2.

7 NDIA, *Submission 41*, p. 5.

8 NDIA, *Submission 41*, p. 4.

9 Dr Adrienne McGhee, Principal Policy and Research Officer, Office of the Advocate, *Committee Hansard,* 26 September 2017, p. 1.

10 See for example: Victorian Healthcare Association, *Submission 11*, p. 3; Mr Andrew Giles, National Policy Officer, Multiple Sclerosis Australia, *Committee Hansard,* 19 September 2017, p. 20; Occupational Therapy Australia, *Submission 26*, p. 8.

11 Ms Ellen Dunne, Director, Office for Disability, Community Services Directorate, Australian Capital Territory, *Committee Hansard,* 20 October 2017, p. 1.

2.15 As a result of the lack of clarity, Ms Dunne stated that 'there is still a lack of understanding about what should be paid for by the health directorate and the ACT government and what should be paid for by the Scheme.'[12]

2.16 The Victorian Healthcare Association is concerned 'that the poorly defined interface between the NDIS and health services may result in people losing access to community-based disability services and requiring more costly, acute health services leading to poorer outcomes for people with disability'.[13]

2.17 Mr Tom Symondson, CEO of Victorian Healthcare Association explained:

> There is a very, very disturbing lack of clarity of the interface between NDIS and health. As providers of both, we see that consistently and it is causing very perverse outcomes for individuals, and obviously services are having to navigate that as well. That also brings about the issue of who is responsible for what. When you are somebody who is receiving supports under the NDIS but you also have health issues, you tend to fall in this very, very large grey zone in between the two systems. It is the health provider or the NDIS provider who end up trying to work out who is going take that cost, and it is the individual who is receiving services that suffers.[14]

2.18 As a result of the poor interface between NDIS and mainstream health services, the Allied Health Professions Australia is of the view that 'there is significant scope for failures in the handover process between services and resulting in safety risks for Participants'.[15]

Discharge from hospital

2.19 Submitters reported that transition out of hospital into the community for patients with disability can be problematic.[16] Issues reported concerned people in the process of applying for a NDIS Plan as well as people with existing NDIS Plans.

2.20 Protracted hospital stays are a concern to the Victorian Government because of the timeframes associated with NDIS access, planning and plan implementation for people who require an NDIS Plan to support hospital discharge.[17]

2.21 Ms Kim Peake, Secretary at the Department of Health and Human Services, Victoria also raised this issue during a public hearing in Melbourne:

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12 Ms Ellen Dunne, Director, Office for Disability, Community Services Directorate, Australian Capital Territory, *Committee Hansard*, 20 October 2017, p. 2.

13 Victorian Healthcare Association, *Submission 11*, p. 4.

14 Mr Tom Symondson, CEO, Victorian Healthcare Association, *Committee Hansard*, 19 September 2017, p. 10.

15 Allied Health Professions Australia, *Submission 6*, p. 5.

16 See for example: Physical Disability Council of NSW, *Submission 56*, p. 3; Summer Foundation, *Submission 22*, p. 5.

17 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 12.

> […] on occasions, delays in the planning process are really impacting on discharge of people from health services, and that has a corollary in terms of the relationship with aged-care services in particular but also into access to housing in the community.[18]

2.22 Occupational Therapy Australia noted that 'hospitals cannot continue to care for people simply because their NDIS Plan has yet to be finalised and approved'.[19]

2.23 Inadequate supports in Plans are causing delays in release from hospital. For example, Mrs Carmel Curlewis, an NDIS provider and Accredited Practicing Dietitian reported:

> […] I found across the eastern seaboard that, after speaking to 200 dietitians mainly from hospitals, it wasn't uncommon to have NDIS Participants in hospital for six months, often 12 months—and, at the worst-case scenario, 18 months—waiting for enough money in their NDIS plans to get out of hospital. It's just a ridiculous situation. [20]

2.24 The Summer Foundation also found that inadequate supports in Plans and poor coordination between the health system and disability supports have also led to increased hospitalisation of people.[21]

Withdrawal of services and boundary issues

2.25 Submitters reported issues of withdrawal of services by the health system. For example, the Victorian Council of Social Services (VCOSS) reported the case of a patient who upon applying for an NDIS package saw the hospital withdrawing services on the basis that the NDIS would cover the supports he needed, including a wheelchair. This occurred before the patient received his Plan.[22]

2.26 Multiple Sclerosis Australia stated that there are now instances where health services are no longer accepting responsibility for supporting safe discharge from hospital back into the home if the person is an NDIS Participant.[23] For example, it reported the case of a hospital in Queensland refusing to provide any wound care once a Participant was discharged from hospital because the person had an NDIS Plan.[24]

2.27 At a public hearing in Canberra, Dr Ken Baker, CEO of National Disability Services, provided the example of a funding issue arising when an NDIS Participant with complex disability needs hospitalisation:

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18 Ms Kim Peake, Secretary, Department of Health and Human Services, Victoria, *Committee Hansard,* 19 September 2017, p. 5.

19 Occupational Therapy Australia, *Submission 26,* p. 9.

20 Mrs Carmel Curlewis, NDIS provider and Accredited Practising Dietitian, Dietitians Association of Australia, *Committee Hansard,* 20 October 2017, p. 24.

21 Summer Foundation, *Submission 22,* p. 9.

22 VCOSS, *Submission 65,* p. 26.

23 Occupational Therapy Australia, *Submission 31,* p. 4.

24 Occupational Therapy Australia, *Submission 31,* p. 5.

> […]an example from health is where a person with complex disability, who may be nonverbal, who may have a severe intellectual disability, needs hospitalisation. In practice it is traditionally the case that a support worker or a disability support worker would accompany that person into hospital and assist that person with disability to communicate with the health practitioners within the hospital. […] But under the NDIS it is a matter for dispute as to who should pay for that support worker, if that support worker is inside the hospital. I think it's not clear who should pay for that person.[25]

2.28 And, Dr Baker summarised the position of the NDIS:

> Essentially the position of the NDIS is that, once that support worker enters the hospital, the health system should be paying the support worker, or the support worker should stop at the door and hand over that person to the health practitioners.[26]

2.29 In answers to a question on notice on boundary disputes, National Disability Services provided a series of case studies illustrating the issue of responsibility and funding for support workers when a person with complex needs requires hospitalisation. In one case study, a non-verbal patient allegedly passed away due to his support worker not being present and unable to interpret the patient's non-verbal communication and explain the history of his condition.[27]

Equipment and services

2.30 In Appendix 1 of the *NDIA Operational Guidelines: Planning*, the NDIA states that the following supports may be funded by the NDIS:

> Where this is required because of the participant's functional impairment and integrally connected to the participant's support needs to live independently and to participate in education and employment (e.g. supervision of delegated care for ongoing high care needs, such as PEG feeding, catheter changes, skin integrity checks or tracheostomy tube changes).[28]

2.31 However, some submitters provided examples of NDIS Participants having reduced or no longer access to these types of services and equipment because of the NDIS arguing these supports should be met by the health system.[29]

2.32 For example, Miss Grace Poland, an NDIS Participant with cerebral palsy told the committee:

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25 Dr Ken Baker, CEO, National Disability Services, *Committee Hansard*, 20 October 2017, p. 14.

26 Dr Ken Baker, CEO, National Disability Services, *Committee Hansard*, 20 October 2017, p. 14.

27 National Disability Services, answers to question on notice, 20 October 2017 (received 14 November 2017), p. 4.

28 NDIA, *Operational Guidelines: Planning, Appendix 1, Health (excluding mental health),* https://www.ndis.gov.au/operational-guideline/planning/appendix.html#health (accessed 9 November 2017)

29 See for example: People With Disability Australia, *Submission 77,* p. 2; Carers NSW, *Submission 55,* p. 5; Multiple Sclerosis Australia, *Submission 31,* p. 4.

> So, since February 2016, my access to services and equipment has been limited. I have stopped receiving funding for orthotics, compression stockings, podiatry services and lymphatic drainage therapy, all of which I need to manage high muscle tone spasticity and chronic pain. Mercy Health, who used to provide my compression stockings, told me that the NDIS would be responsible for this funding in future, but this has not been the case.[30]

2.33 Carers NSW reported that the NDIA has refused to fund in Plans supports such as enteral and parenteral nutrition equipment and supplies; products to support the use of continence aids; and nursing support on the ground these supports are health specific. However, the health system has either disagreed with this judgment or not had the funding available to provide this support. As a result, this has left families 'in limbo, and often in crisis'.[31]

2.34 The question of whether 'equipment is disability related and funded under the NDIS' or 'medical and funded by the health system' was raised by Occupational Therapy Australia, who submitted that there is a grey area, particularly in terms of assistive technology.[32]

2.35 Multiple Sclerosis Australia reported the funding of supra-pubic catheters as an example of jurisdictional dispute between the NDIS and health services:

> Changes of supra-pubic catheters (SPC), by registered nurses, under the NDIS using 'Individual Assessment and Support by a Nurse is no longer being funded in a number of regions across NSW, Victoria and the ACT. Until earlier this year Participants in the Hunter and Barwon trial sites had received this funding across multiple plans. The message 'vaguely' being put out by some planners is that this support is to be funded by the relevant health service, however, a number of area health services are pulling out stating that they have had their HACC funding removed and are therefore no longer able to provide this service. This lack of clarity and consistency of message to Participants is creating stress and without appropriate and timely catheter changes, places Participants at a high risk of requiring hospitalisation due to complications from infections caused by retention of urine, and the triggering of an MS exacerbation due to such an infection increasing core body temperature.[33]

2.36 Similarly, in Queensland, with the transitioning of Queensland's Community Care program some people with NDIS Plans are no longer able to access wound care and catheter changing as neither the health system nor the NDIS believe it is their responsibility to fund such services.[34]

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30 Miss Grace Poland, Summer Foundation and NDIS participant, *Committee Hansard*, 19 September 2017, p. 11.

31 Carers NSW, *Submission 55*, p. 5.

32 Occupational Therapy Australia, *Submission 26*, p. 9.

33 Multiple Sclerosis Australia, *Submission 31*, p. 4.

34 Queensland Advocacy Incorporated, *Submission 21*, p. 6.

Dietetic services

2.37 The Dietitians Association of Australia (DAA) reported that planners are frequently denying the inclusion of dietetic services in Participant packages. Planners are directing Participants to seek access to dietetics services through the health system and Medicare CDM items. Allied Health Professions Australia (AHPA) believes this approach is inappropriate when the nutrition issues of Participants are grounded in their disability, and therefore access to Accredited Practicing Dietitian services is reasonable and necessary.[35]

2.38 Mrs Carmel Curlewis, an NDIS provider and Accredited Practicing Dietitian, told the committee that some NDIS Participants have to stay in hospital for extended periods of time because their Plans do not meet their needs for dietetic services:

> […] we've got Participants in the health system who cannot be discharged because they can't have enough dietitian hours and consumables funding in their NDIS packages to discharge them from hospital.[36]

2.39 Scope Australia, a not for profit organisation that supports children and adults with developmental delays and disabilities reported:

> We are aware of several instances where people with severe and multiple disabilities with dysphagia (swallowing difficulties), have had their request for funding to develop safe meal time profiles rejected by the NDIS as this is considered a health department responsibility. The health department in return, does not have the resources, capacity or expertise to provide this service and is not able to include it within their service provision.[37]

2.40 Similarly, Speech Pathology Australia (SPA) identified that 'the most problematic interface between mainstream health and NDIS services relates to the provision of speech pathology services to people with a swallowing disability and the provision of mealtime management supports'.[38] It reported:

> The National Disability Insurance Agency (NDIA) has recently informed Speech Pathology Australia that the NDIS will not fund meal time supports as part of individualise plans into the future – the rationale being that this support is primarily to prevent a health risk (pneumonia or choking) and therefore the Health sector should finance it.[39]
>
> […]
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> [T]his ignores the important role eating, drinking and sharing a meal play in family and social life for people with disability. It also fails to acknowledge the fact that day-to-day provision of supports for mealtimes is part of the

35 Allied Health Professions Australia, *Submission 6*, p. 4.

36 Mrs Carmel Curlewis, NDIS provider and Accredited Practising Dietitian, Dietitians Association of Australia, *Committee Hansard*, 20 October 2017, p. 24.

37 Scope Australia, *Submission 16*, p. 2.

38 Speech Pathology Australia, *Submission 62*, p. 8.

39 Speech Pathology Australia, *Submission 62*, p. 8.

> responsibility of disability support workers, often as part of provision of specialist disability supports.[40]

2.41 SPA also stated that 'there are currently no alternative funding streams for meal time support services provided by a speech pathologist (or multidisciplinary team) for people with disability through the health systems. Current MBS item numbers for speech pathology services are not structured appropriately or adequately to fund this service'.[41]

2.42 Having raised this issue with relevant federal, state and territory ministers, SPA reported that the general view of all governments, (except Victoria) is mealtime support 'should remain under Disability for funding and provision of supports i.e. funding should continue to be included in NDIS participant's individual plans'.[42]

2.43 The lack of clarity and delineation of supports and funding is also affecting other services such as sexual health. Ms Ee-lin Chang, Senior Health Promotion Officer at Family Planning NSW reported:

> We are concerned about the gap between Health and the NDIS in meeting the reproductive and sexual health needs of people with disability. In particular, we are concerned that people who have sexualised behaviours of concern or who require additional support to enable them to make decisions regarding their reproductive and sexual health will fall through the gap between NDIS and Health.[43]

Mental Health

2.44 Many submitters reiterated the concerns raised during the committee's inquiry into the *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*[44] about the transition of existing programs to the NDIS resulting in emerging gaps in services for people with psychosocial disability ineligible to the NDIS.[45]

2.45 For example, Mr Tom Symondson, CEO of Victorian Healthcare Association raised the issue of community-based mental health services transitioning to the NDIS in full and how this is affecting people not eligible to the NDIS and service providers:

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40 Speech Pathology Australia, *Submission 62,* p. 8.

41 Speech Pathology Australia, *Submission 62,* p. 8.

42 Speech Pathology Australia, Speech Pathology Australia briefing paper: mealtime support, additional information received 8 November 2017.

43 Ms Ee-lin Chang, Senior Health Promotion Officer, Family Planning NSW, *Committee Hansard,* 3 October 2017, p. 12.

44 Joint Standing Committee on the National Disability Insurance Scheme, *The provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition,* August 2017.

45 See for example, Australian Medical Association, *Submission 1*, pp. 2 and 3; Australian Psychological Society, *Submission 17*, pp. 2 and 3; Mental Health Council of Tasmania, *Submission 19,* p. 2; Catholic Social Services Australia (CSSA), *Submission 32*, p. 3.

> We have a Victorian specific issue—and we accept this—around community-based mental health. I think I'm right in saying, we're the only state that committed all of our community-based mental health funding to the NDIS. We didn't keep anything back. That means that, because of the differential eligibility for NDIS versus the existing state-based mental health system, there is the threat of a number of people—a swathe of people—who won't be eligible for NDIS funded community mental health, who currently are, and we're very concerned about what impact that will have on those individuals, and also on the rest of the service system trying to pick up that strain.[46]

2.46 Ms Elinor Heard, Sector Reform Lead at Mental Health Council of Tasmania also expressed the sector's concerns about the transition of services to the NDIS:

> Our sector remains concerned that the rolling over of Commonwealth funding to the NDIS and the resulting decrease in community-based services will lead to more episodes of crisis for individuals with a mental health condition and an increase in complex presentations to emergency departments and hospitals.[47]

2.47 Catholic Social Services Australia summarised the issue:

> As the committee has heard previously, the boundaries between NDIS and non-NDIS services are particularly unclear in the area of psychosocial disability support. There is confusion about which services are included in the NDIS and how the mental health and disability sectors interface. Clarity is needed as soon as possible on how mental health services for people who are not eligible for the NDIS will continue to be funded.[48]

Committee view

Interface between the NDIS and health services

2.48 The committee understands that people with disability may also experience a range of complex health support needs secondary to, but intertwined with, their disability. In some cases, it remains unclear where the line is, or should be, drawn between the health system and the NDIS for Participants. For example, the evidence received by the committee about issues regarding enteral and parenteral nutrition equipment and supplies; continence aids; and wound care demonstrates the lack of clarity and delineation of responsibilities between the NDIS and mainstream health systems. It appears that the quantum and types of supports to be provided for NDIS Participants by either the NDIS or health services are subject to interpretations and not consistently applied. It is impacting negatively on access, quality and delivery of services for NDIS Participants who require these supports. People are clearly missing out on necessary supports, which can lead to increased and longer costly

46 Mr Tom Symondson, CEO, Victorian Healthcare Association, *Committee Hansard*, 19 September 2017, p. 11.

47 Ms Elinor Heard, Sector Reform Lead, Mental Health Council of Tasmania, *Committee Hansard*, 4 October 2017, p. 13.

48 Catholic Social Services Australia (CSSA), *Submission 32*, p. 3.

hospitalisation. These issues are not new and must be resolved. Establishing clear and robust boundaries between the NDIS and health services is essential.

2.49 It has become apparent that the operationalisation of the COAG Applied Principles requires urgent work to clearly define roles and responsibilities of the NDIA and the state and territory health systems. The COAG Health Council in collaboration with the COAG Disability Reform Council should undertake work to address how health services interface with NDIS services. This works needs to focus on refining the COAG Applied Principles and agreeing on service boundaries.

Recommendation 1

2.50 The committee recommends the Council of Australian Government (COAG) Health Council in collaboration with the COAG Disability Reform Council urgently undertake work to address current boundary and interface issues between health and NDIS services.

NDIS operational issues

2.51 Poor planning process and delays in Plan approval and implementation are also contributing to delays in hospital discharge. This situation needs to be addressed. The committee urges the NDIA to continue its work and effort in addressing planning issues and chronic delays, and gather and publish the numbers of Participants in this situation. The committee sees merit in establishing a unit to focus specifically on this cohort of Participants.

Recommendation 2

2.52 The committee recommends the NDIA establish an NDIA unit specialising in dealing with Participants who are hospitalised to ensure a smooth transition from hospital and avoid delays in hospital discharge and to avoid discharge to nursing homes.

Transition of Commonwealth, state and territory programs to the NDIS

2.53 As the provision of services to people with disability remains a shared responsibility between all levels of government, it is imperative that governments do not systematically and prematurely withdraw services during the transition period. The committee received compelling evidence that the transition of Commonwealth, state and territory disability support services to the NDIS is resulting in emerging service gaps for both NDIS Participants and people with disability ineligible for NDIS services. The committee has identified the need for a national audit and mapping of all Australian, state and territory disability support services transitioning to the NDIS to ensure service gaps are detected and addressed accordingly.

Recommendation 3

2.54 The committee recommends the Council of Australian Government (COAG) Disability Reform Council conduct immediately a national audit of all Australian, state and territory disability support services transitioning to the NDIS, to identify and address emerging service gaps.

Mental Health

2.55 The committee remains deeply concerned about the lack of clarity on how the Australian, state and territory governments intend to provide services and funding for people with psychosocial disability beyond the supports provided through the NDIS. The committee reiterates recommendation 13 of its report on the *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition.*[49]

Aged Care

2.56 A number of submitters raised concerns about the ability of the aged care sector to adequately support people over 65 years of age with disabilities.[50] Many consider aged care services unsuitable and inappropriate for people with a significant disability.

2.57 One of the issues is that aged care programs funding are capped. For example, Spinal Cord Injuries Australia reported:

> The most support anyone can expect through the My Aged Care Gateway is a level four Home Care package which is currently valued at less than $50,000. There are some small supplementary programs as add-ons to this but eligibility is for such things as dementia care as an example. This level of funding is woefully inadequate for anyone with a significant disability.[51]

2.58 The Australian Blindness Forum believes the aged care sector does not meet the specialised needs of people who are blind or vision impaired and over the age of 65:

> These people do not have the same generic aged care needs as others in the sector as their needs are specialised. The boundaries between disability services and aged care services are now blurred and there is no clarity around the promised continuity of support for all people with disability who are not eligible for the NDIS and who now are part of the aged care sector.[52]

2.59 The Macular Disease Foundation argued that 'the key area of inequity between the NDIS and the aged care system is that the aged care system provides limited and inconsistent access to specialist disability support services, whereas the NDIS provides full access to these services.[53]

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49 Joint Standing Committee on the National Disability Insurance Scheme, *The provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*, August 2017, p. 49.

50 See for example: Vision Australia, *Submission 24*, p. 3; Spinal Cord Injuries Australia, *Submission 48*, p. 1; Australian Red Cross, *Submission 67*, Attachment 1, p. 6; VCOSS, *Submission 65*, p. 21.

51 Spinal Cord Injuries Australia, *Submission 48*, p. 1.

52 Australian Blindness Forum, *Submission 13*, p. 2.

53 Macular Disease Foundation, *Submission 28*, p. 2.

2.60 AMIDA explained that people over 65 with disability are being moved in aged care accommodation despite their needs being better met in Specialist Disability Accommodation (SDA):

> In our experience people in SDA who turn 65 are often moved into aged care despite their needs being better met in Specialist Disability Accommodation. Ratio of staff to client in SDA is at most, 1 to 5 whereas in aged persons' accommodation it can be 1 to 30, which reduces the opportunity for specialist disability needs to be met.[54]

2.61 Spinal Cord Injuries Australia also reported that people are being discharged from hospital to aged care facilities due to 'an inability to find appropriate services to support people on discharge'.[55]

Committee view

2.62 The committee is concerned that people with disability over 65 years of age are not receiving adequate supports and are potentially disadvantaged compared to NDIS Participants. The committee believes that the Department of Health in collaboration with the Department of Social Services should undertake work to map the needs and gaps in funding and services for this cohort ineligible to NDIS services, with the view of developing a strategy to address current shortfalls in supports. The committee noted that the Productivity Commission also considered that these issues need to be addressed. The Productivity Commission did put forward some of the policy options it considers worth exploring, including removing the NDIS entry cut-off age altogether and better aligning the aged care and NDIS systems.[56]

Recommendation 4

2.63 The committee recommends the Department of Health in collaboration with the Department of Social Services undertake a review of current supports and funding available for people with disability over 65 years of age, with the view to developing a strategy to address current funding and support shortfalls.

Education

2.64 The allocation of roles is relatively straightforward when it comes to the education system. The NDIS funds 'supports that enable Participants to attend school education, where these supports are required by the participant to engage in a range of community activities'.[57] This includes assistance with self-care care at school, specialist transport, equipment and specialised support to transition between schools, or from school to post-school options.

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54 AMIDA, *Submission 39*, p. 4.

55 Spinal Cord Injuries Australia, *Submission 48*, p. 2.

56 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs, Study Report*, October 2017, p. 257.

57 NDIS, *Mainstream interface: School education*, January 2014, p. 1; https://www.ndis.gov.au/html/sites/default/files/documents/fact_sheet_supports_ndis_fund_education.pdf (accessed 13 November 2017).

2.65 The education system has responsibility for assisting students with their educational attainment, including through teaching and educational resources.[58]

2.66 The Department of Education and Training summarised responsibilities of the NDIS, the Commonwealth and state and territory governments:

> In summary, a student with a disability would use the NDIS for supports associated with the functional impact of the student's disability on their activities of daily living, such as personal care, transport to and from school. The NDIS will not be responsible for personalising either learning or support for students that primarily relate to their educational attainment (including teaching, learning assistance and aids, school building modifications and transport between school activities). (…) Australian Government funding informed by the NCCD is one element of the support made available for students with disability within the school setting. State and territory governments are the primary funders of students with disability in the government sector, and in the non-government sector schools and systems use resources from all sources to meet the needs of their students.[59]

2.67 However, many submitters raised concerns about the lack of clarity around the provision of supports in the school environment and how the implementation of the NDIS in educational settings is currently working.[60] For example, Allied Health Professions Australia is concerned that 'there is insufficient clarity around the split between NDIS and mainstream education services'.[61]

2.68 Prader-Willi Syndrome Australia is of the view that there are some 'grey areas' and 'a lack of clarity for who will be on the spot' to address risks for students with Prader-Willi Syndrome.[62]

2.69 Vision Australia and the Australian Blindness Forum argued that the interface between the NDIS and education 'is not always appropriate as it prevents families and communities from obtaining a holistic approach to a child's needs while they are of school age'.[63]

Personal Care in Schools (PCIS)

2.70 The Department of Premier and Cabinet, Victoria reported that COAG agreed that, under the NDIS, Personal Care in Schools (PCIS) will be funded by the NDIS

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58 NDIS, *Mainstream interface: School education*, January 2014, p. 1; https://www.ndis.gov.au/html/sites/default/files/documents/fact_sheet_supports_ndis_fund_education.pdf (accessed 13 November 2017).

59 Department of Education and Training, *Submission 64*, p. 10.

60 See for example: Allied Health Professions Australia, *Submission 6*, p. 6; Prader-Willi Syndrome Australia, *Submission 9*, p. 5; Australian Blindness Forum, *Submission 13*, p. 3; Vision Australia, *Submission 24*, p. 3.

61 Allied Health Professions Australia, *Submission 6*, p. 6.

62 Prader-Willi Syndrome Australia, *Submission 9*, p. 5.

63 Vision Australia, *Submission 24*, p. 3 and Australian Blindness Forum, *Submission 13*, p. 3.

when full scheme commences on 1 July 2019. However, some issues have yet to be resolved and include:

- reaching agreement on the 'in scope' personal care supports that will be funded by the NDIA versus 'reasonable adjustments' that schools will continue to fund; and
- identifying an agreed process for assessing, costing and delivering NDIA funded supports in schools.[64]

2.71 The ACT government listed the following key issues, which remain to be clarified around the scope of PCIS:

- how to measure and cost the provision of PCIS;
- whether it is viable for PCIS to be delivered through individualised NDIS funding packages; and
- how might NDIS funding of PCIS impact on school operations – will there be an expectation for families to exercise choice and control over who provides PCIS for their child? Will this mean external providers delivering PCIS? How does this affect a school legal responsibility for duty of care for students?[65]

2.72 In its submission, the Queensland Government pointed out that 'the section covering Personal Support in Schools remained unfinished when the Principles were approved by COAG in December 2015'.[66]

2.73 The Victorian Government Department of Education is currently leading a national project to provide a stronger evidence base around PCIS options and future operational arrangements.[67]

Access and provision of therapies in schools

2.74 Occupational Therapy Australia and other submitters[68] raised the issue of access to schools for provision of therapy services:

> Currently, the provision of therapy services is determined by a state or territory education department policy regarding access to its schools or by a given private school's willingness to allow access. It is important to note also that therapy can involve facilitating a student's work in the classroom and/or participation in extra-curricular activities.[69]

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64 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 13.

65 ACT Government, *Submission 58*, p. 14.

66 Queensland Government, *Submission 72*, p. 8.

67 See for example: Department of Premier and Cabinet, Victoria, *Submission 54*, p. 13 and ACT Government, *Submission 58*, p. 14.

68 See for example, Autism Spectrum Australia, *Submission 40*, p.2; Speech Pathology Australia, *Submission 62*, p. 8; VCOSS, *Submission 65*, p. 29; Queensland Government, *Submission 72*, p. 9.

69 Occupational Therapy Australia, *Submission 26*, p. 8.

2.75 Speech Pathology Australia stated that 'there is now widespread reports of schools across Australia restricting all access to NDIS providers to students during core learning times, school hours and in some cases on school premises'.[70]

2.76 Ms Heidi Limareff, Deputy Chief Executive at Can:Do Group explained the current lack of consistency to the committee:

> The role of school therapy is up in the air. Some schools don't allow any NDIS work. Some say it's okay, but then supply their own goals for us to work on when in the schools. Some schools have had no changes whatsoever. Some allow us in because they know us and other times they don't allow us in because they know us and want new people coming in to try new things.[71]

2.77 Occupational Therapy Australia pointed to inequities of access to therapies between jurisdictions:

> For example, children with a disability living in Queensland have vastly improved access to school based occupational therapy services compared with those living in Victoria. Such inequity needs to be addressed via a national disability scheme.[72]

2.78 As a result of reported confusion and difficulty surrounding whether or not NDIS funded supports can be accessed at school, Family Advocacy recommended that guidelines for access to therapies in school hours be produced between the NDIA and state education departments.[73]

Committee view

Personal Care in Schools (PCIS)

2.79 The committee understands that the Victorian Government is leading a national project on PCIS and future operational arrangements. The committee believes this should assist in finalising the Principles in relation to education.

Recommendation 5

2.80 The committee recommends the Australian, state and territory governments clarify and agree on the scope and process to deliver Personal Care in Schools (PCIS) under the NDIS.

Provision of therapies in schools

2.81 With the transition to individualised service provision, evidence suggests that decisions to allow NDIS service providers to deliver therapies in schools are made on a case by case basis and heavily rely on internal school policies. The committee is of the view that the NDIA should develop guidance on best practices for provision of

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70 Speech Pathology Australia, *Submission 62*, p. 8.

71 Ms Heidi Limareff, Deputy Chief Executive, Can:Do Group, *Committee Hansard*, 27 September 2017, p. 2.

72 Occupational Therapy Australia, *Submission 26*, p. 8.

73 Family Advocacy, *Submission 52*, p. 9.

therapies in school settings based on lessons learnt during NDIS trials and rollout to date.

Recommendation 6

2.82 The committee recommends the NDIA develop guidance on best practices for provision of therapies in school settings based on lessons learnt during NDIS trials and rollout to date.

Transport

2.83 The provision of transport services for NDIS Participants attracted substantial criticism from government, stakeholders and Participants.

2.84 National Disability Services stated that 'transport in the NDIS needs urgent attention'[74] and raised the following issues:

> Unresolved questions include: how much funding should be provided by the NDIS to assist Participants with transport if they cannot use public transport? What responsibility do state and territory governments have in providing accessible transport for residents with disability, including in regional areas? Should the transportation of children with disability to school be the responsibility of the NDIS? Where does the funding responsibility lie for transporting people with disability to and from medical appointments?[75]

2.85 The Department of Premier and Cabinet, Victoria reported that 'several states and territories share Victoria's concerns that NDIS Participants are not receiving adequate transport support'.[76]

2.86 The Department of Social Services reported that 'administrative differences between state and territory service systems pose a challenge to applying a consistent national approach to addressing some transport system issues, especially in developing a national approach to NDIS and mainstream funding for taxi and private transport costs for NDIS Participants not able to travel independently'.[77]

Taxi subsidy scheme

2.87 The Office of the Public advocate (Queensland) reported that the taxi subsidy scheme in Queensland ceased with the introduction of the NDIS but was reinstated in July 2017.[78]

2.88 Indeed, due to concerns raised by stakeholders about transport supports provided in NDIS Plans not meeting Participant needs, the Queensland Government

74 National Disability Services, *Submission 12*, p. 2.

75 National Disability Services, *Submission 12*, p. 2.

76 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 14.

77 Department of Social Services, *Submission 29*, p. 6.

78 Office of the Public Advocate, *Submission 37*, p. 5.

reinstated the taxi subsidy scheme for NDIS Participants until transition is completed in June 2019.[79]

2.89 Similarly, the Tasmanian and Victorian governments have decided to fund taxi subsidies to NDIS Participants to ensure people are not disadvantaged during the transition period.[80]

2.90 The Victorian Government 'holds concerns that the NDIS may not be providing adequate transport support to Participants'.[81] As a result, it is currently paying taxi subsidies to NDIS Participants as well as making its agreed contributions to the NDIS under its bilateral agreement with the Commonwealth.

2.91 Similarly, Tasmania stated that 'this gap in support effectively means that the Tasmanian Government is paying twice for this cohort of NDIS Participants'.[82]

2.92 At a public hearing in Hobart, the Tasmanian Government further explained:

> In November 2016, in response to stakeholder concerns, the Tasmanian government established a temporary taxi subsidy safety net for approximately 130 NDIS Participants who were former members of the state's taxi subsidy program and who reported that their NDIS plans do not provide adequate funding for transport supports. That's 130 individuals who signed a form in which they declared that NDIS plans do not provide adequate funding for transport supports. I think it's significant that people were willing to actually make that declaration. The gap in support effectively means that the Tasmanian government is now contributing twice for this cohort of NDIS Participants.[83]

2.93 Given the lack of consistency in access and funding for taxi subsidies across jurisdictions, Spinal Cord Injuries Australia recommended that clear policy 'be put in place across the entire country on how taxi subsidies are to be applied to Participants to ensure continued equity and access for all people with disability'.[84]

2.94 At a public hearing in Canberra, Ms Jennifer Grimwade, Executive Officer of the Australian Blindness Forum raised the issue of the uncertainty of future funding:

> We are concerned that taxi subsidy schemes will be wound down in the future and that will also have a great impact on people who are blind or vision-impaired.[85]

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79 Queensland Government, *Submission 72*, p. 8.

80 Department of Premier and Cabinet, Tasmania, *Submission 75*, p. 6; Department of Premier and Cabinet, Victoria, *Submission 54*, p. 14.

81 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 14.

82 Department of Premier and Cabinet, Tasmania, *Submission 75*, pp. 6– 7.

83 Mr Andrew Rayner, Director, Intergovernmental Relations, Department of Premier and Cabinet, Tasmania, *Committee Hansard*, 4 October 2017, p. 3.

84 Spinal Cord Injuries Australia, *Submission 48*, p. 4.

85 Ms Jennifer Grimwade, Executive Officer, Australian Blindness Forum, *Committee Hansard*, 20 October 2017, p. 20.

2.95 The Australian Medical Association (AMA) is concerned that the growth of ridesharing platforms, such as Uber, may threaten the ongoing viability of mobility taxis and further restricts the availability of transport options for people with disabilities. It provided the example of San Francisco where the introduction of private ridesharing operations resulted in a significant drop of wheelchair accessible vehicles available in the city.[86]

Student transport

2.96 The provision of transport for Participants to and from school is an ongoing issue for the Scheme. COAG agreed that transport to and from school will be funded by the NDIA at full Scheme.[87]

2.97 To address risks of inadequate design of NDIS funded school transport, the Victorian Government is working in collaboration with the Commonwealth Government, the NDIA and other jurisdictions to develop a new model for NDIS funded student transport.[88]

2.98 The Queensland Government reported that it had not been able to agree with the NDIS 'on the administrative, operational or in-kind arrangements for the delivery of specialist school transport'.[89]

2.99 Mr Andrew Rayner from the Department of Premier and Cabinet, Tasmania, explained that on a number of service areas, including school transport, clear arrangements were not in place when transition commenced:

> In Tasmania, it's the status quo until the government is convinced that there's something developed that's workable and that will continue to provide that essential service for those children. That's an open-ended commitment. For school transport, a number of service areas and policy areas were still being worked on at the point that transition commenced. That's an artefact of the speed with which the NDIS is being built. School transport is one of those. We signed on the transition agreements in full knowledge that there wasn't a model for how school transport would work under the NDIS. I know that the NDIA is working on it.[90]

Committee view

2.100 The committee agrees with submitters that transport in the NDIS needs urgent attention. Transport issues have been consistently raised throughout this inquiry and

86 Australian Medical Association, *Submission 1*, p. 4.

87 See: Principles to Determine the Responsibilities of the NDIS and Other Service Systems, Section 5 –School education.

88 Department of Premier and Cabinet, Victoria, *Submission 54*, p. 13.

89 Queensland Government, *Submission 72*, p. 8.

90 Mr Andrew Rayner, Director, Intergovernmental Relations, Department of Premier and Cabinet, Tasmania, *Committee Hansard*, 4 October 2017, p. 10.

other inquiries conducted by the committee.[91] The committee has received substantial evidence over a long period that NDIS Participants tend not to receive adequate supports in their Plans.

Taxi subsidy scheme

2.101 The committee notes that the Queensland, Victorian and Tasmanian Governments have temporarily reinstated taxi subsidies for NDIS Participants to ensure people are not disadvantaged during the transition period. In effect, it means that these states are paying taxi subsidies to NDIS Participants as well as making their agreed contribution to the NDIS under their bilateral agreements.

2.102 The committee is concerned that the current NDIS funding levels for transport supports for adults is not meeting participants' needs, or matching funding supports accessible through state and territory taxi subsidy schemes. This is leaving Participants worse off under the Scheme. State governments have apparently recognised this disadvantage and have been forced to temporarily reinstate taxi subsidies but the future remains uncertain beyond transition. The committee recommends that the NDIA undertake a review of its current operational and funding guidelines for transport supports with the view of ensuring it meets Participants' needs.

Recommendation 7

2.103 The committee recommends the NDIA review its operational and funding guidelines for transport supports to ensure NDIS Participants' needs are met.

Student transport

2.104 The committee believes that there is still considerable work to be undertaken to achieve a suitable NDIS funded student transport model. The committee understands that the Commonwealth, state and territory governments and the NDIA have established a working group to develop a new model for NDIS funded student transport. The committee welcomes this initiative, but is of the view that ensuring choice and control for each individual student should not hamper efforts to provide a crucial service for all students to get to and from school.

Housing

2.105 AMIDA argued that there is a well-known shortage of housing options, especially for people with complex needs.[92] Accommodation was the subject of an inquiry by this committee in 2015-2016 and it remains a critical issue.[93]

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91 Joint Standing Committee on the NDIS, G*eneral issues around the implementation and performance of the NDIS,* ongoing inquiry; Joint Standing Committee on the NDIS, *Provision of services under the NDIS Early Childhood Early Intervention Approach,* December 2017.

92 AMIDA, *Submission 39,* p. 2.

93 Joint Standing Committee on the NDIS, *Accommodation for people with disabilities and the NDIS,* May 2016.

2.106 The NDIS is not responsible for the provision of housing. However, the NDIS can fund supports in relation to housing and independent living. The NDIS factsheet *Mainstream Interface-Housing* provides some information about the supports funded by the NDIS. Supports include:

- home modifications to the participant's own home or a private rental property and on a case-by-case basis in social housing;
- the NDIS may also contribute to the cost of accommodation in situations where the participant has a need for specialised housing due to their disability. The NDIS will only assist with this cost where it is higher than the standard rental cost that the participant would otherwise incur.[94]

2.107 Additionally, the NDIS can fund:

- support that builds people's capacity to live independently in the community;
- support with personal care and help around the home where the participant is unable to undertake these tasks due to their disability, such as assistance with cleaning and laundry.[95]

2.108 With the transition to the NDIS, new issues are emerging, including in relation to:

- Special Disability Accommodation;[96]
- residential aged care facilities;[97]
- short-term accommodation and respite;
- and crisis accommodation.[98]

Specialist Disability Accommodation

2.109 In July 2016, the NDIS started to include Specialist Disability Accommodation (SDA) funding in Participants' plan. SDA funding is for the dwelling

94 NDIS, *Mainstream Interface-Housing*, p. 1; https://www.ndis.gov.au/medias/documents/h0a/h10/8800552321054/Factsheet-MainstreamInterfaces-Housing.pdf (accessed 14 November 2017).

95 NDIS, *Mainstream Interface-Housing*, p. 1; https://www.ndis.gov.au/medias/documents/h0a/h10/8800552321054/Factsheet-MainstreamInterfaces-Housing.pdf (accessed 14 November 2017).

96 See for example: Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard,* 19 September 2017, pp. 15–16; National Disability Services, *Submission 12,* Attachment 1; p. 10; Summer Foundation, *Submission 22,* p. 11.

97 Ms Kym Peake, Secretary, Department of Health and Human Services, Victorian Government, *Committee Hansard,* 19 September 2017, p. 6.

98 Office of the Public Advocate, *Submission 69,* p. 14.

itself, and is not intended to cover support costs (such as Supported Independent Living), which are assessed and funded separately by the NDIS.[99]

2.110 Submitters reported a shortage of Specialist Disability Accommodation (SDA).[100] The Summer Foundation acknowledges that 'there is a real promise in the SDA or specialist accommodation framework' but reported implementation issues.[101]

2.111 At a public hearing in Melbourne, Dr George Taleporos, Policy Manager at the Summer Foundation, further explained some of the current issues which impend on housing development:

> The issue, however, is that we are not seeing people receiving SDA payments in their plan. The only people who are receiving SDA payments in their plan are people who are currently in in-kind housing funded by the state governments. Developers, investors and people who want to build housing are not seeing that there's a market for this housing, because no-one has SDA in their plans. Our sister organisation, Summer Housing, is providing housing for eight people, and not even they have SDA in their plans.[102]

2.112 Dr Taleporos stressed that until payments start appearing in people's Plans, 'there will be very few developers who will actually take the risk and build housing'.[103]

2.113 The SDA pricing framework guarantees funding for five years. The Summer Foundation believes investors need a longer period of price certainty to feel confident about developing housing options.[104]

Residential Aged Care

2.114 As described by Dr George Taleporos, the lack of housing has resulted in people 'currently trapped in residential aged-care facilities'.[105] He also pointed out that

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99 NDIS, *Specialist Disability Accommodation*, https://www.ndis.gov.au/specialist-disability-accommodation.html (accessed 22 November 2017)

100 See for example: Prader-Willi Syndrome Australia, *Submission 9*, p. 9; National Disability Services, *Submission 12*, Attachment 1; p. 10; Summer Foundation, *Submission 22*, p. 11.

101 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard*, 19 September 2017, p. 12.

102 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard*, 19 September 2017, pp. 15 and 16.

103 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard*, 19 September 2017, p. 16.

104 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard*, 19 September 2017, p. 16.

105 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard*, 19 September 2017, p. 12.

with the withdrawal of state services, people are finding themselves in 'funding limbo', which is 'particularly concerning' for young people in residential aged care.[106]

2.115 At a public hearing in Melbourne, Ms Kym Peake, Secretary of Department of Health and Human Services with the Victorian Government acknowledged the increased number of young people in residential aged care facilities and advised the committee that the Victorian Government is undertaking some work in this area.[107]

2.116 Ms Peake reported that 'approximately 1569 young people are in residential aged care in Victoria, and in 2016 there was an increase of about 100 extra young people'.[108]

2.117 Dr George Taleporos told the committee that one of the reasons for the increase in people in residential aged care under the NDIS in Victoria is that when a person is in hospital, the state government is no longer taking responsibility for finding a suitable solution and the NDIS is yet to be more responsive.[109]

2.118 Ms Natalie Siegel-Brown, the Public Guardian in Queensland noted that a contributing factor to young people remaining in aged care is that nursing homes are failing to register people for the NDIS. Through an informal survey, the Office of the Public Guardian found that 'nursing homes have no idea that the young people in their homes are eligible for NDIS'.[110]

Short-term accommodation and respite

2.119 Mr James O'Brien, President of the Prader-Willi Syndrome Association of Australia reported that the NDIS pricing guide for special disability accommodation is ambiguous in relation to respite, emergency or temporary accommodation and this is resulting in short-term facilities closing down:

> My reading is that short-term stays are not funded under SDA. There is currently insufficient funds for short-term facilities to meet the demand and existing respite providers have indicated to me that they will be closing due to a lack of funding under the new system.[111]

106 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard,* 19 September 2017, p. 11.

107 Ms Kym Peake, Secretary, Department of Health and Human Services, Victorian Government, *Committee Hansard,* 19 September 2017, p. 6.

108 Ms Kym Peake, Secretary, Department of Health and Human Services, Victorian Government, *Committee Hansard,* 19 September 2017, p. 7.

109 Dr George Taleporos, Policy Manager, Summer Foundation, *Committee Hansard,* 19 September 2017, p. 17.

110 Ms Natalie Siegel-Brown, Public Guardian, Office of the Public Guardian, Queensland, *Committee Hansard,* 26 September 2017, p. 5.

111 Mr O'Brien, President, Prader-Willi Syndrome Association of Australia, *Committee Hansard,* 19 September 2017, p. 19.

2.120 National Disability Services reported that because NDIS funds the user cost of capital for long-term housing (SDA) but not for short-term accommodation, there is a risk of respite houses being converted to long-term accommodation.[112]

2.121 At a public hearing in Canberra, Dr Ken Baker acknowledged the work currently undertaken by the NDIA to respond to 'the looming crisis in short-term accommodation and respite services by announcing its intention to introduce a new pricing structure from the end of the month'.[113]

2.122 Following consultation and feedback from Participants and providers, the NDIA increased price limits for short term accommodation and the changes took effect on 30 October 2017.[114]

2.123 The new price limits per night for short-term accommodation now include increased price limits for weekend and public holidays, as well as for high intensity care.[115]

Crisis accommodation

2.124 Submitters drew the attention of the committee on the issue of some tenants with complex needs in group homes who are being given notice to vacate and are at risk of becoming homeless due to lack of Provider of Last Resort.[116]

2.125 The Office of the Public Advocate (OPA) in Victoria reported that 'in a pre-NDIS world, the Victorian Department of Health and Human Services (DHHS) could be relied upon to ensure that especially vulnerable people with disability (and complex needs that threatened tenancy arrangements) did not become homeless'.[117]

2.126 However, the OPA is of the view that, 'since the introduction of the NDIS, DHHS can no longer be depended on to provide this safety net in regions where the NDIS has been rolled out'.[118]

2.127 The OPA pointed out that 'the transitional arrangements are largely silent on who will provide and fund crisis accommodation for people whose behaviours threaten their tenancy. Neither the Victorian Bilateral Agreement nor the Operational Plan refer specifically to crisis or temporary accommodation or its provision to people with disability'.[119]

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112 National Disability Services, *Submission 12*, Attachment 1; p. 11.

113 Dr Ken Baker, CEO, National Disability Services, *Committee Hansard*, 20 October 2017, p. 11.

114 NDIS, *Pricing and payment*, https://www.ndis.gov.au/providers/pricing-and-payment.html (accessed 20 November 2017)

115 NDIS, *NDIS Price Guide Victoria, New South Wales, Queensland, Tasmania*, version released on 30 October 2017.

116 See for example, AMIDA, *Submission 39*, pp. 2 and 3; Office of the Public Advocate, *Submission 69*, p. 14.

117 Office of the Public Advocate, *Submission 69*, p. 14.

118 Office of the Public Advocate, *Submission 69*, p. 14.

119 Office of the Public Advocate, *Submission 69*, p. 14.

2.128 The OPA noted:

> Under the NDIS there are no provisions available for alternative accommodation – no additional 'crisis' funding from the NDIA and no one responsible for providing a bed. This situation was recognised and addressed in the recently released Productivity Commission Position paper on NDIS Costs, and NDIA's response to that paper. NDIA has stated that they are currently developing a 'Market Intervention Strategy' and are prepared to ensure market supply and act as provider of last resort in cases of 'thin markets' and market failure including in crisis care and accommodation situations and service gaps for Participants with complex, specialised or high intensity needs, or very challenging behaviours.[120]

Committee view

Specialist Disability Accommodation

2.129 The committee is cognisant of the ongoing shortage of Specialist Disability Accommodation (SDA). The committee has received anecdotal evidence that Participants are not receiving SDA funding in their Plans. Because it has not been available for long, the committee believes it is too early to comment on the effectiveness of the introduction of SDA funding in Participants' Plans. The committee is aware that the Disability Reform Council has asked the NDIA to consider mechanisms through which private investment in SDA could be encouraged. The committee understands that the NDIA has engaged McKinsey & Co to progress this work and expects to publish new information on SDA by the end of March 2018.[121] The committee will undertake work in this area during the course of its new inquiry on market readiness.

2.130 The introduction of SDA payments in plans will not address the chronic lack of housing for people with disability. The committee acknowledges that housing remains the responsibility of mainstream services and believes that the Australian, state and territory governments need to develop and introduce new initiatives to address the shortage of accommodation for people with disability. This should include considering options of land release and adapting existing housing stock.

Recommendation 8

2.131 The committee recommends the Council of Australian Government (COAG) Disability Reform Council consider the provision of housing stock and infrastructure for people with disability.

Young people in residential aged care and crisis accommodation

2.132 The committee is concerned with the reported increase in young people in residential aged care facilities since the introduction of the NDIS. The committee

120 Office of the Public Advocate, *Submission 69*, p. 15.

121 NDIS, *SDA market information*, 9 February 2018, https://www.ndis.gov.au/news/sda-drc-response.html (accessed 9 February 2018).

noted that the Victorian Government is undertaking some work in this area to address the issue. The committee also noted that one of the reasons put forward for this increase is that state and territory governments are no longer responsible at time of hospital discharge to find a suitable accommodation solution. The committee is of the view that Provider of Last Resort arrangements should be put in place to ensure no Participants end up in residential aged care facilities when discharged from hospital. The issue of Provider of Last Resort is further discussed in chapter 4 of this report.

2.133 The committee is concerned with the lack of arrangements for provision of crisis accommodation. This is increasing the risk of people with complex needs becoming homeless. The committee agrees with the Productivity Commission's finding that it is unclear whether the NDIS or state and territory governments are responsible for funding emergency supports for accommodation.[122] In the committee's view this is because the responsibilities are omitted in the majority of bilateral agreements, and subsequent operational plans. The committee believes that the Australian, state and territory governments and the NDIA need to work together to clarify roles and responsibilities of the state and territory governments and the NDIA in relation to provision of crisis care and accommodation.

Recommendation 9

2.134 The committee recommends that the Australian, state and territory governments and the NDIA work together urgently to include crisis accommodation and Provider of Last Resort arrangements for housing in their respective bilateral agreements and operational plans.

Justice system

2.135 The lack of integration between the NDIS and the justice system was reported by inquiry Participants.[123] The committee reported on this issue in its recent inquiry into the *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition.*[124]

2.136 Issues raised by submitters relate to diminished access to supports under the NDIS; lack of and/or inability to find service providers and unresolved Provider of Last Resort arrangements.[125]

122 Productivity Commission, *National Disability Insurance Scheme (NDIS) Costs Study Report*, October 2017, p. 250.

123 See for example: Australian Red Cross, *Submission 67*, p. 4; VCOSS, *Submission 65*, p. 30; Australian Federation of Disability Organisations, *Submission 68*, p. 6; Victoria Legal Aid, *Submission 79*, p. 2.

124 Joint Standing Committee on the National Disability Insurance Scheme, *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*, August 2017, chapter 5, pp.51–62.

125 VCOSS, *Submission 65*, p. 30; Australian Federation of Disability Organisations, *Submission 68*, p. 6; Victoria Legal Aid, *Submission 79*, p. 2.

2.137 For example, VCOSS members reported two cases of NDIS Participants having support cut as a result of moving to the NDIS on the grounds that these supports were related to offending behaviour. VCOSS explained:

> In both cases, the individuals were receiving funding through their Victorian Individual Support Packages for psychological services to help reduce offending related behaviour and promote pro-social behaviour and broader life skills. The NDIA has ruled this support is not 'reasonable and necessary' on the grounds it relates to offending behaviour. However, the COAG principles states the NDIS will cover 'supports to address behaviours of concern (offence related causes) and reduce the risk of offending and reoffending such as social, communication and self-regulation skills…' Some service providers specialising in forensic support services to people with disability have also been informed they cannot provide this support under the NDIS. It is unclear if they will continue to receive state-based funding. Without these support these people risk becoming entrenched in the criminal justice system.[126]

2.138 Victoria Legal Aid reported cases of clients unable to be released from custody because they are not able to attract service providers.[127] Victoria Legal Aid is of the view that 'urgent and immediate solutions must be developed to address circumstances where the continued detention of our clients with complex disabilities is directly linked to the failure of the market to provide disability services under the NDIS'.[128] They called on the NDIA and the Victorian Government to 'urgently allocate clear and transparent responsibility for immediately providing services to his vulnerable cohort of clients'.[129]

2.139 In its submission, the NDIA stated it is working on a number of projects to improve interface issues at the jurisdictional level, including a project on 'improvements in criminal justice system intersection with the Victorian Government'.[130]

Committee view

2.140 The committee believes it is imperative that the interface between the NDIA and the criminal justice system works effectively. As discussed in Recommendation 23 in its report on the *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health,* the committee supports the

126 VCOSS, *Submission 65,* p. 31.

127 Victoria Legal Aid, *Submission 79,* p. 4.

128 Victoria Legal Aid, *Submission 79,* p. 8.

129 Victoria Legal Aid, *Submission 79,* p. 9.

130 NDIA, *Submission 41,* p. 5.

proposal of establishing an NDIA unit specialising in the interaction of the Scheme with the criminal justice system.[131]

131 Joint Standing Committee on the National Disability Insurance Scheme, *Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition*, August 2017, pp. 61–62.