

HOW TO GET THE NDIS ON TRACK



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NDS National
Disability
Services

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The vision of the National Disability Insurance Scheme (NDIS) is compelling:

- choice and control for people with disability and their families;
- double the funding for disability support to respond to the high need for services and equipment;
- an insurance approach that invests in early intervention; and
- increased equity and life opportunities for people with disability across Australia.

The NDIS is the right reform for Australia; but the scale and complexity of implementation is placing enormous pressure on all stakeholders. Some of this pressure is an inevitable consequence of large-scale change, but some is avoidable. The road to the NDIS is rougher and riskier than it needs to be.

Critical to realising the vision of the NDIS is the growth of a dynamic, sustainable and values-driven disability sector. Without this, people with disability and their families will not have the choice and quality of support the NDIS promises. The risks facing the disability sector are risks to the scheme as a whole. They are substantial and require urgent mitigating action.

In this paper, NDS proposes practical measures to reduce the avoidable pressure and risk – and so improve the implementation and secure the future of the NDIS.

Disability service providers campaigned for the NDIS alongside people with disability, their families and carers. Their motive was to improve the life opportunities and well-being of people with disability. That same motive underpins this paper.

Recommendations

NDS recommends to government and the National Disability Insurance Agency that they take the following actions to get the NDIS on track:

Trial planning partnerships with specialist disability service providers, utilising their expertise and knowledge of their clients whilst managing potential conflict of interest

Commence plan development with an accurate description of current supports, sourced from the participant and his or her current providers

Allow participants the opportunity to comment on their plan before it is finalised

Include coordination of supports in the plans of participants with complex conditions

With consent, inform the current providers of a participant as soon as she or he has an approved plan

Reduce the high number of questions asked of participants during the assessment and planning process

Adopt a 'work first' approach in planning to increase the proportion of plans with employment supports

Commence access to School Leaver Employment Supports (SLES) as early as Year 10 and extend SLES beyond two years if a participant's employment is the probable outcome

Secure a viable future for jobs in Supported Employment Enterprises by resolving funding and wage assessment issues and promote the procurement of goods and services produced by people with disability

Establish an emergency response system by extending the NDIS 1800 phone line to 24 hours a day and forming response panels of disability support providers in all regions

Compensate providers when they incur a sudden escalation of support costs in responding to a natural disaster

Subject to certain conditions, streamline registration by provisionally approving disability service providers that meet quality requirements in one jurisdiction to operate in other jurisdictions and/or deliver new supports

Do not compel the future separation of Specialist Disability Accommodation and Supported Independent Living beyond separate service agreements (and the requirement that providers have sound processes for resolving conflicts)

Fund the user cost of capital for respite houses and day centres

Discontinue in-kind arrangements that limit participant choice and contradict the principle of competitive neutrality

Pending the deregulation of NDIS prices:

- set individual participant budgets based on reasonable and necessary supports, realistic costs (derived from real data) and evidence-based reference packages;
- allow participants (their representatives) and providers to negotiate prices for supports without exceeding the participant's budget;
- publish a price guide based on market information to enable participants (and their representatives) to compare and negotiate prices;
- base purchasing on hours or on deliverables

Revise the method for determining remote locations and price loadings to reflect the full cost impact of local conditions

Establish an industry advisory group to design and test ICT system changes before they are introduced

Use co-design to work out how participants with complex needs or who live in regional or remote areas can best be assisted to travel

Cease the requirement that providers must quote for all Supported Independent Living participants, not just for those whose support exceeds the benchmark price and work with the sector to improve the Supported Independent Living template

Establish a dedicated and responsive telephone service for providers and a state-wide point of contact familiar with issues in that jurisdiction who has the authority to resolve them

Fund and assist the development of an industry plan, led by the non-government sector

Expand the provision of market data to assist providers with their planning and investment decisions

Establish a national disability research entity, structured similar to the Australian Housing and Urban Research Institute

The pressure on the NDIS has four principal sources:

Speed: The NDIS is accelerating. In the six months to December 2016, the National Disability Insurance Agency (NDIA) approved as many participant plans as it had in the preceding three years. This demanding pace is being set by ambitious targets in inter-governmental agreements. While people with disability should not have to wait any longer than is necessary to access the NDIS, the haste in processing new entrants is affecting the quality of their plans.

Funding: Although the NDIS will achieve large economic and social returns over time, it is a substantial investment by Australian tax-payers. When fully implemented, it will cost \$22 billion a year. Ensuring the affordability of the scheme is a key focus for the NDIA and Federal Government. While the scheme currently operates within budget, the NDIA has identified several cost drivers which are testing the budget. For example, the relatively high numbers of children seeking to enter the scheme. Under fiscal pressure, the Federal Government has established a special account to quarantine savings for the NDIS. This is a welcome development. Finding savings, however, amidst the many claims on the Federal Budget, is an ongoing and difficult task.

Systems: Independent reports over recent months have raised concerns about the capacity of NDIS systems to function at the scale required for the scheme's full implementation. In its 2016 review of the NDIS MyPlace Portal, PwC stated: "there is real risk that the NDIA operating model will not be able to cope...when the full scheme is expected to be operating". While the flow of payments through the Portal has improved, using the Portal remains cumbersome and slow at a time when efficiency is imperative. The quality of participant plans is inconsistent and there has been a back-log of registration requests: of 8,000 registration requests from providers at the end of December 2016, 3,000 had not been processed.

Supply: The government-commissioned report from Robyn Kruk, 'Independent Review of the Readiness of NDIS for transition to Full Scheme', states:

In relation to the market and provider readiness, all documentation reviewed and interviewees highlighted high risk in this area. The reviewer recommends both immediate and short-term actions to strengthen mitigation and responses in relation to potential market failure or provider collapse; and to support provider readiness and market development.

The Australian National Audit Office reinforced this view in its November 2016 report on the Transition of the Disability Services Market, which

concluded that the scheme's implementation is outpacing the preparatory work needed.

The growth in demand for NDIS services will severely test the capacity of the market. Research by Curtin University and NDS suggests that many non-government disability service providers lack the capacity to invest in major growth¹; two-thirds report that they are worried about their capacity to provide services with NDIS prices.² New providers are also hesitant to invest. Unless the non-government sector has the capacity and confidence to grow substantially, the gap between demand and supply will increase.

The recommendations which follow are guided by the need to be **pragmatic, flexible** and less bureaucratic; to re-invigorate the principle of **co-design**, to improve **communication**; and to boost **sector development**.

Not all the pressures and problems with the NDIS can be resolved overnight. NDS is proposing practical responses to immediate problems.

- **Partner with specialist providers to undertake planning**

The quality of participant plans is inconsistent. Some are excellent; others are poor and absorb substantial effort by participants, their families and providers to rectify.

The quality of plans is impaired by three structural factors:

- ambitious NDIS implementation targets are driving rapid high-volume processing of participant plans;
- planners lack direct visibility of the supports people transitioning into the NDIS currently receive, causing them at times to omit essential supports from plans inadvertently; and
- newly-recruited planners often lack experience and knowledge of disability services. The NDIA mandates that Local Area Co-ordinators (LACs) which undertake most of the planning generally cannot be disability service organisations, arguing that such organisations would have a conflict of interest.

The quality of planning would improve if disability service organisations were involved. Providers of specialist supports have deep knowledge of disability – and they know their clients. Using this knowledge to inform planning would make sense. This is particularly true for people with complex needs.

The NDIA recognises the value of expert provider input in limited

1 National Disability Services and Curtin University, Australia's Disability Services Sector 2016, Report 1: Financial Sustainability summary of key findings

2 National Disability Services, State of the Disability Sector Report 2016

circumstances. For example, it has issued guidance to NDIS planners – developed with providers – specifying the supports that should be in a basic plan for people with Motor Neurone Disease.

Planning partnerships between the NDIA and specialist providers should be extended.

The NDIA is reluctant to involve providers in planning because of the potential for conflict of interest. Conflict of interest could be managed without excluding providers' expertise. Other human services systems, such as health, achieve this balance.

The NDIA could manage conflict of interest by:

- maintaining the authority to approve individual budgets;
- continuing to develop evidence-based reference packages; and
- supporting participants to exercise informed choice of provider.

The management of conflict of interest should extend to government providers as well as non-government providers.

- **Use providers' knowledge of existing supports to inform plans**

To prevent inadvertent gaps in participant plans, planning should commence with an accurate description of current supports, sourced from the participant and his or her current providers. The approved plan should maintain or build on these supports, omitting any only when the participant makes a deliberate decision to do so or the support is clearly no longer relevant.

- **Always allow a participant to respond to a draft plan before it's approved**

During the trial phase of the NDIS, participants were invited to comment on their draft plan before it was finalised. That practice has largely ceased. The consequence is that participants can end up with a plan that doesn't reflect their needs and goals. Some participants receive plans they don't recognise. Consistent with the NDIS's focus on choice and control, participants should always have the opportunity to comment on their plan before it is finalised.

People with complex conditions should have coordination of supports in their plan. This includes people with progressive neurodegenerative diseases whose condition is changing and who have to combine NDIS supports with health services.

- **Inform providers when participants have an approved NDIS plan**

The NDIA states Privacy Law prevents it from informing providers when a participant has an approved plan. This poses a financial risk for providers.

Many providers only become aware that a transitioning participant whom they are supporting has an approved NDIS plan when state or territory funding for that participant ceases. Some governments cease payment from the day an NDIS plan is approved. Unaware of the approved plan, the provider will continue to provide services which may no longer be funded.

Service providers need to know when a participant has an approved NDIS plan so they can bill the NDIA and align the supports they are providing with the plan. Consent from participants to inform their current providers should be sought during the planning process.

- **Reduce the number of assessment and planning questions**

The planning and assessment process requires participants to answer 126 questions. The intention of some of the questions can be easily misunderstood. For example, ‘what is your household income?’ The questionnaire imposes too great a burden on participants, particularly when they are interviewed over the phone. The number of questions should be reduced substantially.

- **Strengthen the focus on employment**

Employment – open and supported – must become an easy and attractive choice for NDIS participants. In its 2011 report on ‘Disability Care and Support’, the Productivity Commission argued that the NDIS would deliver substantial economic benefits to Australia through “increased economic participation for people with disabilities (against a background of Australia’s low performance in this area compared with most other developed countries) and their informal carers.”³

To date, the proportion of NDIS plans with employment supports is disturbingly low. In the first two quarters of 2016-17, only 2% of committed supports were for employment⁴ and in the Outcomes Framework pilot only 13% of respondents reported that the NDIS had helped with work, the lowest of any domain.⁵

A broad spectrum of employment options should be open to people with disability, including Supported Employment Enterprises. Securing a viable future for Supported Employment Enterprises and the thousands of jobs they create requires satisfactorily resolving wage assessment and funding issues and promoting (across public and private sectors) the procurement of goods and services produced by people with disability.

Building employment aspirations and engagement begins at school.

3 Productivity Commission, Disability Care and Support, July 2011 Overview and Recommendations pp 54-55.

4 NDIS, January 2017, COAG Disability Reform Council Quarterly Report, p. 70

5 NDIS Annual Report 2015-16, p. 60

International evidence points to the importance of work experience and part-time employment in building work confidence among young people with disability during their secondary school years, beginning in Year 10. The NDIA has introduced School Leaver Employment Support (SLES) – a welcome initiative. However, access to SLES should be able to commence earlier than Year 12 and an option introduced to extend the program beyond two years if employment is the probable outcome.

More must be done to boost demand for, and access to, NDIS employment supports. NDIS planners and LACs should adopt a ‘work first’ approach which motivates and assists an increased proportion of NDIS participants to connect with work.

- **Establish an emergency response**

Inevitably, events occur which a person’s plan cannot anticipate: a family carer is injured or feels over-burdened by their caring responsibilities; a person’s challenging behaviours escalate unexpectedly; the participant needs additional personal care or household assistance.

State and territory governments have processes to implement emergency responses (mostly using non-government disability service providers), but these will cease as the NDIS is implemented.

It is essential that the NDIA establish arrangements for responding to emergencies. It should extend the NDIS 1800 phone line to 24 hours a day and form emergency response panels of disability support providers in all regions across the country.

When natural disasters strike, providers can incur a sudden escalation of support costs. Floods, for example, may force providers to staff their group homes for many additional hours. In these circumstances, the NDIA should compensate providers.

- **Streamline registration for approved providers**

To register as a provider of NDIS supports requires the NDIA’s approval. This applies to existing registered providers wanting to extend their services, as well as to new providers. If the registration process is slow, market supply won’t keep pace with the expanding demand for services.

Registration sometimes requires complex negotiations between the NDIA and state and territory governments which administer the quality standards that apply to service providers. Adding to the complexity, quality accreditation differs across jurisdictions.

To streamline registration, any specialist disability service provider meeting the quality requirements in one jurisdiction should, on completion of a statement of intent, be approved provisionally to operate in other

jurisdictions to deliver like supports. The provision of these new supports should be checked when the provider is next scheduled for quality auditing. The same provisional accreditation should apply to some service types, although not to higher-risk supports such as Supported Independent Living (SIL).

- **Do not prescribe the separation of housing and support beyond separate service agreements**

The welcome introduction of Specialist Disability Accommodation (SDA) payments will stimulate housing construction and help cover the cost of maintaining specialist housing for about 6% of NDIS participants. SDA is in addition to accommodation support or SIL.

Over time, participants with both SDA and SIL in their plan will exercise increased choice about where they live, with whom and which organisation supports them.

Investors and providers need policy clarity to make decisions. At present, there is uncertainty about the NDIA's future policy on whether housing and support must be provided by separate organisations. At present, organisations that provide both housing and support to a participant are required to have separate agreements for each.

In several documents the NDIA states that it will “promote the separability, and ultimately separation, of provision of SDA and SIL.” However, in December 2016 NDIA CEO David Bowen told an NDS conference that the Agency would not insist on a complete separation of housing and support. This would mean a participant could choose to live in a house owned by the organisation that provided their support.

The NDIA should publish a clear statement confirming that it will not require the future separation of SDA and SIL beyond separate service agreements. It should require providers to have sound processes for resolving conflicts if they arise.

There is an under-supply of disability housing and demand is increasing. If full separation of housing and support were compulsory, non-government providers would reduce their investment in housing for people with significant disability, thus exacerbating the under-supply.

- **Fund the user cost of capital for respite houses and day centres**

The NDIS funds the user cost of capital for long-term housing (SDA) but not for short-term accommodation. The latter provides essential respite for families, enabling them to continue their provision of informal support. The restriction of SDA to long-term housing could see respite houses converted to long-term accommodation. Without access to respite services, more families would seek SIL, a more expensive option for the NDIS.

NDIS prices don't cover the cost of maintaining a day centre. Attendance at a day centre, including as a base from which to embark on community activities, is an essential means of community access for some people with disability. It enables them to be away from home during the day (being alone at home while parents work is not safe for some people with disability; others may live in a group home which is not staffed during the day). A day centre may be the only building in the local community that offers fully accessible toilets with change tables and hoists. The capital cost of using a day centre should be funded.

- **Discontinue in-kind arrangements that restrict choice**

Most Australian adults expect to choose with whom they live, but an NDIS Rule prevents residents of government-run group homes from choosing an alternative provider during scheme transition. The Rule requires that where an in-kind support is provided, the participant's plan "must specifically identify that the support will be provided by the relevant provider of that in-kind support."

In-kind arrangements outlined in bilateral agreements allow governments to fund their group homes at a higher rate than the NDIA pays non-government providers, perpetuating a disparity in public funding between government providers and non-government providers.⁶ In-kind arrangements limit participant choice and contradict the principle of competitive neutrality. They should be phased out quickly.

- **Allow flexibility in pricing**

The inadequacy of some NDIS prices poses a substantial risk to service providers and thus to the capacity of the disability support market to meet the growing demand for services.

Currently, the NDIA sets maximum prices (except for the 5% of participants who self-manage) and is committed to imposing a uniform price regime across most of Australia. Some of the assumptions that underpin the hourly price are unrealistic and, unless adjusted, will erode the quality of support. The assumption that 95% of a support worker's hours of employment are billable underestimates the impact of paperwork, training, personal leave and travel. Similarly, the assumed supervision ratio of 1:15 FTE is untenable when the high proportion of part-time and casual workers is factored in; and it doesn't allow the level of supervision necessary for quality and safeguarding.

In the long run, the NDIA says prices will be deregulated; but as the economist John Maynard Keynes famously remarked, "In the long run we

⁶ According to the Productivity Commission's 2017 Report on Government Services, state and territory governments fund their group homes, on average, at \$32,510 per resident more than they fund non-government group homes.

are all dead ...” The question is: what should be done now?

The NDIA could make pricing more flexible without jeopardising the financial sustainability of the NDIS, in the following way:

- set individual participant budgets based on reasonable and necessary supports, realistic costs (derived from real data) and evidence-based reference packages;
- allow participants (their representatives) and providers to negotiate prices for supports without exceeding the participant’s budget;
- publish a price guide based on market information to enable participants (and their representatives) to compare and negotiate prices;
- base purchasing on hours or on deliverables. Rather than specify a number of hours of support, a service agreement could specify the tasks that the participant wants completed. For example, the participant agrees to pay an amount equivalent to 10 hours of support each week, as long as each weekday morning the provider assists the participant to shower, dress and prepare a meal. If the provider completes the tasks in 9 hours to the satisfaction of the participant, the provider still receives the agreed amount.
- **Revise the method for determining remote prices**

The NDIA applies modest loadings to prices in regions which the Modified Monash Model determines are remote. The loadings do not adequately reflect the costs of service provision in some regions of Australia, including Darwin. Providers have no control over many of the factors determining costs in areas where distances are large and suitable workers are in short supply. The general NDIS problems of pricing travel appropriately and accessing transport are magnified in rural and remote regions. The method for funding supports in these parts of Australia should be revised to reflect the full impact of local conditions.

- **Work with disability providers as co-design partners**

In the haste to implement the NDIS, the NDIA’s use of co-design has diminished. Service providers are omitted when co-design is mentioned in the NDIA’s corporate plan and absent from the Agency’s Annual Report 2015-16 when it says: “The Scheme is built on a co-design approach involving collaboration between many people (participants, community, NDIS Planners, Agency partners).”

While co-design can add time to the development and testing phase of an initiative, over the longer-term it produces a better outcome. This is a key lesson from the July 2016 launch of the NDIS MyPlace Portal. While the flow of payments through the portal has improved since July, poor functionality continues to impose costs on users. The NDIA and relevant

Commonwealth departments should establish an industry advisory group to design and test ICT system changes before they are introduced.

Participant transport is emerging as a problem for the NDIS, with taxi costs rising and a growing number of providers considering disposing of their transport fleets. A co-design approach would explore options about how participants with complex needs or who live in regional or remote areas could be assisted to travel.

- **Change the approach to quoting for Supported Independent Living**

In a change of policy, the NDIA is requiring non-government providers to quote for all participants who receive SIL funding. The Agency believes that quoting gives participants a clearer understanding of the service offering from providers.

If a provider believes that a SIL participant needs funding above the benchmark price, the provider should submit a quote; but not if the provider is prepared to accept the benchmark price. The change of policy imposes additional unpaid work on providers and is contrary to the Australian Government's stated aim of minimising the burden of regulation on community organisations.

The NDIA is testing a draft quoting template with a number of SIL providers. Feedback to NDS indicates that the template requires further work. There is confusion about the scope of activities that a quote should cover and the draft template provides only a partial picture. The NDIA should work with NDS and the sector to improve the template and clarify that SIL is more than attendant care.

- **Establish new points of contact to resolve transition problems**

During times of great change, frequent and effective communication is essential.

Callers to the NDIS 1800 telephone number (operated by the Department of Human Services) often experience long delays, no resolution of a problem and find themselves repeating their story. A dedicated number for providers should be established and staff responding to these calls should be able to provide immediate advice and be capable of rectifying an array of portal and payment claim issues.

NDS hears complaints from state-wide or multi-regional providers (in NSW, for example) that the absence of a state manager makes it difficult to resolve inconsistent practices (or interpretations of policy) among LACs and across NDIA regions. While the Agency has created new General Manager operational roles, they are each responsible for four states and territories. Providers would welcome a state-wide point of contact who is familiar with

the issues in that state and has the authority to resolve them.

- **Develop and implement an Industry Plan**

The ‘Independent Review of the Readiness of NDIS for Transition to Full Scheme’ (written by Robyn Kruk) flagged high risks for the NDIS market, and highlighted the need for “both immediate and short term actions to strengthen mitigation and responses in relation to potential market failure or provider collapse; and to support provider readiness and market development.”

A clear and coherent national industry plan is required to support the sector’s development and transition to the NDIS market. Government funding should be provided to enable the non-government sector to lead the development of such a plan. The plan should include a strong focus on workforce growth and development. It should outline actions, timeframes, accountabilities and monitoring arrangements. An industry plan should build on the commitments some governments have already made to workforce development projects (often with a funding contribution from the Sector Development Fund).

- **Inform the market to assist planning and investment**

Providers need information to make investment and planning decisions as the NDIS expands. The NDIA is to be commended for its publication of Market Position Statements; however, there is more that the Agency should publish. For example, data on patterns and trends in participant demand for supports. It should continue to expand its publication of data analysis.

- **Create a national disability research entity**

Competition alone is insufficient to develop an effective and efficient market for disability supports. Research and data analysis are needed to assist market stewardship to answer critical policy questions about social capital, market risks and workforce trends and explore questions such as how technology will shape the demand for supports.

Current disability research funding is inadequate and research is poorly coordinated⁷. Existing funding mechanisms for disability research such as the National Health and Medical Research Council (NHMRC) and the Australian Research Council (ARC) have not assigned disability research a high priority and are under pressure from other research demands.

A collaborative research structure is needed, similar to the successful Australian Housing and Urban Research Institute (AHURI). Its objectives would be:

⁷ Centre for Disability Research and Policy, 2014, Audit of Disability Research in Australia, University of Sydney, Lidcombe

- efficient co-ordination of disability research activities, expertise and spending;
- applied research to inform market stewardship;
- build capacity and capability of research end-users; and
- facilitate system-wide innovation.

The establishment of a national disability research entity would require a partnership approach with universities and others and funding contribution from government.

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National Disability Services is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-quality supports and life opportunities for people with disability. Its Australia-wide membership includes over 1100 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services - from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.