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VCOSS response to NDIA consultation paper: Planning policy for personalised budgets and plan flexibility

Overview

The Victorian Council of Social Service (VCOSS) welcomes the opportunity to provide feedback on the National Disability Insurance Agency (NDIA) Planning Policy for Personalised Budgets and Plan Flexibility (the Planning Policy).

VCOSS is the peak body for social and community services in Victoria. As part of our sector leadership, VCOSS advocates for change to improve the lives of people with disability. VCOSS supports over 40 Victorian disability advocacy organisations to undertake collaborative systemic advocacy under the banner of the 'Empowered Lives' network.¹

VCOSS strongly supports the vision and goals of the National Disability Insurance Scheme (NDIS) to provide people with disability greater choice and control over their support services, and to improve social and economic inclusion. However, as identified in our previous submissions regarding the NDIS² and in our issues paper on independent assessments, VCOSS and our members are concerned that people experiencing multiple and intersecting forms of disadvantage continue to be the least resourced to understand, engage with and benefit from the NDIS.

The Planning Policy proposes wide-ranging changes to the way individual NDIS funding plans are developed and implemented. While some of these changes may provide greater flexibility and choice for people with disability, other aspects have potential to deepen inequitable experiences and outcomes.

¹ VCOSS, [Empowered Lives](#), accessed 8 February 2021.

² **VCOSS**, [Building choice, control and confidence: Submission to Support Coordination discussion paper](#), September 2020; [Delivering on the promise - a better and fairer NDIS: Submission to the Review of the NDIS Act and the new NDIS Participant Service Guarantee](#), October 2019; [Active market stewardship for the NDIS: Submission to the NDIS Thin Markets Project](#), July 2019; [Strengthening the NDIS: Submission to NDIS Joint Standing Committee inquiry into market readiness](#), March 2018.

Our members' experiences of NDIS planning suggests the quality of NDIS plans largely depends on participants' capacity to learn about and understand the system and to self-advocate for their rights and needs. The proposal to place planning conversations with participants after mandatory independent assessments relegates and devalues the expertise of people with disability, their families and carers.

There is a real risk participants' goals and aspirations will be bound by a pre-defined amount of funding, and that key context about people's lives and circumstances will be missed. This may contribute to higher rates of reviews and, for people unable to access review processes, the loss of vital funding and support.

The introduction of flexible plan funding will be a welcome relief for participants who understand the NDIS well and feel confident in using their funding. During COVID-19, flexible funding measures have worked well to support many participants to navigate a challenging time. However, the loss of the current plan format, which allocates funding to specific categories, may be difficult for some participants who are familiar with and appreciate the structure it provides. Having a pool of funding, without support and guidance for how it can be used, may lead to lower plan utilisation, particularly among participants who already find it hard to understand and engage with the NDIS.

Our members believe any changes to the NDIS Planning Policy should ensure processes remain participant-led and focused on getting things right the first time. Ensuring NDIS participants have choice, control and agency early in the planning process is key to avoiding costly and stressful mistakes. Plan implementation support will become even more important with the proposed flexible and fixed planning structure. NDIS participants, their family and carers should be supported to understand and use their funding and to step into their power as consumers, to ensure the opportunities presented by plan flexibility are available to all.

Preparing for planning

Clear communications and meaningful engagement

RECOMMENDATIONS

- Implement the recommendations of the Tune Review and the Joint Standing Committee NDIS Planning inquiry to:
 - Provide additional funding to support people with disability to navigate the NDIS
 - Communicate in accessible formats
 - Develop and publish a clear diagram about the planning process
 - Release a detailed checklist of documents that participants can provide to support the development of their plan.
- Work in partnership with people with disability, advocates, allies and communities to co-design and deliver tailored communications and engagement approaches to connect with people with disability.
- Ensure all participants can receive accessible information about the NDIS and their plan.

As explored in our issues paper on independent assessments, learning about the NDIS continues to be difficult for the very people it is intended to support. Accessing the NDIS and experiencing good outcomes relies on the literacy, self-advocacy skills and confidence of participants and their support networks.

Participants who face barriers in learning about and accessing the NDIS, including people who do not have a support network, or the social and financial capital to navigate the Scheme, are at a disadvantage.

NDIS literacy is a pre-requisite for NDIS planning, and while communications and resources have improved over time, many people find the process daunting. The level of preparation and administration is high, because the consequences of a poor plan can affect every area of a participant's life and future.

“Planning determines so many things about my life and the NDIS has absolute control. This can never not be terrifying for anybody who is severely disabled. If anything goes really wrong – like a gap in my plan – my worst nightmare is that I lose my remaining independence and in the worst case would have to move into a hospital or aged care facility... Because everything is SO high stakes, the emotional toll planning takes on a person is enormous...”
Ricky Buchanan³

People with disability may be supported by important people in their lives to prepare for and go through the NDIS planning process – by family, friends, doctors and health professionals, support services and advocates – but these formal and informal supports are not available for everyone. Goal-focused language and other NDIS terminology, unless clearly explained, can present a barrier to people getting the support they need.

As recommended in the Tune Review and echoed by the Joint Standing Committee on the NDIS, further investments should be made to support people to understand and engage with the NDIS. Changes to the NDIS planning process are likely to generate additional demand for information, advice and advocacy. A comprehensive approach to addressing these challenges could include:

- Clarifying roles and responsibilities for NDIS information-sharing and pre-planning (explored further below)
- Increasing the investment in resources, assistance and advocacy to match community need
- Continuing or establishing initiatives or roles that bridge system interfaces and support people to understand, access and navigate the NDIS
- Leveraging peer-to-peer and partnership-based community engagement strategies to connect with individuals, families and communities
- Co-designing accessible communications and engagement strategies and resources with people with disability, advocates, allies and communities to ensure any changes to the NDIS are clearly communicated and well understood.

Every step of access and planning processes should be responsive to the access needs of the participant. Plain and Easy English information, translated information and accessible resources should be available to every participant who needs it. Information should be provided in writing, by voice message, by text, by email, on the NDIS portal or via the post depending on a participant’s needs and preferences.

³ Senate Joint Standing Committee on the NDIS, *NDIS Planning Final Report*, December 2020, p.3.

Defined and resourced roles and responsibilities

RECOMMENDATIONS

- In partnership with all stakeholders:
 - Clarify the roles, responsibilities and boundaries of Partners in the Community, advocacy organisations, service providers, community and mainstream organisations in relation to NDIS information, advice and pre-planning
 - Co-design and disseminate resources to ensure clear information is available to participants, families/carers, advocates and other stakeholders
 - Ensure pre-planning support is appropriately resourced to assist new participants to access the Scheme.
- Develop the NDIA Supported Decision Making Policy in consultation with people with disability, advocates and representative organisations and other key stakeholders.

Advocacy services and community organisations continue to deliver NDIS navigation and pre-planning support without, or with very little, targeted funding and training. Advocates report feeling overwhelmed by the demand from their local community for more information and support in relation to the NDIS. There are growing demands and increasing expectations that advocates can support participants who do not have informal supports, however this is not their role and nor are they adequately funded to undertake this role.

VCOSS, in collaboration with the Future Social Service Institute, is in the final stages of completing a research project exploring the impact of the NDIS on Victorian disability advocacy and self advocacy organisations. The research has found disability advocacy and self advocacy organisations are regularly asked to support people to navigate the NDIS access, pre-planning, implementation and plan review stages, even when this work is the responsibility of other parties. This sustained, increased demand on disability advocacy has not been met by reliable or sustainable funding – short-term grants and funding extensions have provided time-limited support, however our members report demand is still outstripping supply. The lack of stable funding also impedes organisations' ability to retain staff and plan for the future.

NDIS service providers have also provided un-funded NDIS pre-planning during the transition to the NDIS.⁴ Three-quarters of service providers surveyed say that helping people to understand and navigate the Scheme is taking them away from service provision.⁵ Close to 80 per cent of service providers have received requests for services they cannot meet.⁶

NDIA Planners and Partners in the Community, including Local Area Coordinators and Early Childhood Partners, play a crucial role. They are the 'face' of the NDIS for many participants, families, carers and supporters, and the experiences people have with Partners and Planners shape and impact their expectations and outcomes.

While the role of Partners in the Community was intended to include community development, capacity building and market connection activities, the scope and focus of their role shifted during transition to the Scheme. The capacity of Partners in the Community has been largely absorbed by planning processes and plan implementation.⁷ If action is not taken to revisit and resource the role of Partners in the Community, it may become challenging to introduce changes to their remit and broaden the focus beyond procedural aspects of the NDIS.⁸

There is no clear framework or dedicated resourcing to deliver supported decision-making for NDIS participants. The Access and Eligibility consultation paper notes the development of a Support for Decision Making Policy.⁹ This Policy must be designed and implemented in collaboration with all key stakeholders and supported by appropriate, sustained funding.

We encourage the NDIA to collaborate with the Commonwealth, states and territories and all key stakeholders to ensure all roles in the NDIS eco-system are well defined and supported to deliver high-quality, responsive support.

⁴ National Disability Services, *State of the Disability Sector Report 2019*, November 2019, p.9

⁵ G Carey, M Weier, E Malbon, G Duff and H Dickinson, *How is the Disability sector faring? A report from National Disability Services Annual Market Survey*, CSI: Sydney, 2020, p.17.

⁶ National Disability Services, *State of the Disability Sector Report 2020*, December 2020, p.19.

⁷ D Tune, *Review of the National Disability Insurance Scheme Act 2013*, December 2019, p.41; Mavromaras et. al., *Evaluation of the NDIS: Final report*, National Institute of Labour Studies, February 2018, p.83; E Malbon and G Carey, 'Market stewardship of quasi-markets by street level bureaucrats: The role of local area coordinators in the Australian personalisation system', *Soc Policy Adm.* 2020;1–16, April 2020.

⁸ E Malbon and G Carey, 'Market stewardship of quasi-markets by street level bureaucrats: The role of local area coordinators in the Australian personalisation system', *Soc Policy Adm.* 2020;1–16, April 2020.

⁹ NDIA, *Consultation paper: Access and Eligibility Policy with independent assessments*, November 2020, p.19.

Plan development

Protect and promote a participant-led approach to planning

RECOMMENDATIONS

- Value and prioritise the expertise and agency of people with disability in the planning process.
- Remove the additional, mandatory hurdle of independent assessments and provide funding for assessments as needed to support plan development.
- Support participants to understand the goal setting process and how goals translate to support.
- Work in partnership with the Commonwealth Government, states and territories through the National Disability Strategy to improve employment opportunities and income support measures for people with disability to enable social and economic inclusion.
- Provide further detail about how eligibility and funding for high-cost supports, such as Specialist Disability Accommodation, complex assistive technology and home modifications, will be determined through the planning process.
- Implement the recommendations of the Tune Review and the Joint Standing Committee NDIS Planning inquiry to ensure:
 - Participants and their supporters have sufficient time to communicate their goals and needs in planning meetings
 - Families and carers are aware of the kinds of supports the NDIS can fund to sustain and support their caring role
 - The planning process takes into account any expert advice developed for participants about their support needs
 - Draft plans are provided to participants before they are finalised.

Under the proposed Planning Policy, participants will face the additional step of completing an independent assessment after meeting the eligibility requirements. The results of this assessment will then inform the development of a draft plan and budget, before any planning conversations with participants.

As outlined in detail in our issues paper on independent assessments, VCOSS members and allies hold a range of concerns about the mandatory introduction of independent assessments, including:

- the departure from the vision and principles of the NDIS, and a return to the medical model of disability and a deficits-focused approach
- the relegation and restriction of participants' goals and aspirations, which will be forced to fit within a pre-defined budget
- the risk that key contextual information about a participant's life and circumstances will be missed and with no opportunity for inclusion in their plan
- continued equity issues during assessment and planning conversations for people who do not feel confident or supported to self-advocate for their needs
- the limited avenues to review, appeal or re-do an assessment.

Independent assessments have not been comprehensively tested as a reliable tool for informing plan budgets, yet through the proposed Planning Policy, they will have a considerable impact on participants' plans. Our members fear the results of independent assessments will be used to generate an arbitrary amount of funding without genuine consideration of a participant's individual goals, needs and circumstances.

The full context of someone's life will only be revealed through thorough planning conversations. Two participants could present similarly 'on paper' but could be experiencing very different lives due to their living arrangements, work and income, family and social connections, culture and identity. An example shared by an advocate was where there may be two people with autism with similar function – one person who is more introverted and chooses to stay home and play video games most days, and one person who is extroverted and wants to socialise in their community every day. These two participants' goals may not be well supported under the assessment-based funding model, as they will both receive the same funding regardless of their goals, interests and life choices.

Social and community access supports are often out of reach for participants on low or fixed incomes. Going for coffees, joining community activities and other social outings are unaffordable for many participants, regardless of their NDIS support to engage in these activities.

Under the proposed Planning Policy, funding for high-cost supports, such as Specialist Disability Accommodation, complex assistive technology and home modifications will be considered separately to draft budgets informed by independent assessments. It is not clear how eligibility and funding for these high-cost supports will be determined, and whether support will be provided for participants to seek additional assessments and reports. Home modifications support participants to maximise their independence and assist family

members and carers in their caring role. Home modifications are often necessary due to the poor accessibility of most Australian homes. Current processes for seeking home modification funding require extensive discussions, home visits and expert advice from occupational therapists, architects, consultants and builders. If participants and their support network do not have these reports in place for their planning meeting, or face barriers in advocating for their need for home modifications, there is a risk participants will miss out.

There is a high likelihood the new approach to planning, that prioritises the results of independent assessments over conversations with participants, could generate additional administrative demands on the NDIA, Partners in the Community and the Administrative Appeals Tribunal through reviews and appeals; and an equally high risk that people who find the review and appeal process too challenging will go without the support they need or disengage from the Scheme.

Inconsistencies in planning decisions, including which supports are reasonable and necessary, feature strongly in the final report of the NDIS Joint Standing Committee into NDIS Planning¹⁰ and in the Tune Review¹¹. Even where participants have very similar medical reports and needs, participants can receive vastly different plans and funding allocations.¹²

The mandatory introduction of independent assessments will not fully or fairly address NDIS equity issues. Where assessments are needed, they should be paid for by the NDIA – however, participants should have choice and control in which provider they engage for the assessment.

There are a range of other measures the NDIA could implement to improve plan consistency and quality, including many recommendations outlined in the Tune Review and the NDIS Joint Standing Committee NDIS Planning inquiry. At the heart of these recommendations is respect for the rights, expertise and agency of people with disability. Common-sense system and process changes which would provide a better planning experience – including allowing sufficient time for meetings, considering the needs of families and carers, and listening to expert evidence – should be implemented without delay.

¹⁰ Senate Joint Standing Committee on the NDIS, *NDIS Planning Final Report*, December 2020, p.50-53.

¹¹ D Tune, *Review of the National Disability Insurance Scheme Act 2013*, December 2019, p.64-65.

¹² Ibid.

Build the skills, capacity and expertise of Planners and Partners in the Community

RECOMMENDATIONS

- Employ more people with disability as NDIA Planners and Local Area Coordinators.
- Implement the recommendations of the NDIS Joint Standing Committee NDIS Planning inquiry to:
 - Develop and implement detailed guidance for Planners and delegates about how to engage participants and their supporters during planning meetings
 - Publish information about the training provided to Planners and Partners in the Community
 - Give greater preference to candidates with experience or qualifications in allied health or disability-related areas when recruiting for Planners.
- Provide ongoing, comprehensive training for NDIA Planners and Partners in the Community to build their knowledge and capacity in:
 - Different disabilities and functional impacts
 - Applying evidence and assessments to the development of a plan.

Planning meetings work best when all parties – including Local Area Coordinators and Planners – do their homework. Our members continue to report participants being asked inappropriate or insensitive questions about the duration or impact of their disability, which makes it difficult to build trust and rapport to develop plan.

NDIA Planners and Partners in the Community should be supported to do their job well through comprehensive, ongoing training. Enhancing workforce capability in communicating with people with disability and their support network, understanding different disabilities and functional impacts, and interpreting reports and assessments would improve plan quality and consistency.

The NDIA and Partners in the Community should also recruit more people with lived experience of disability as across all roles. People with lived experience would be well-placed to build trust and rapport with participants through their NDIS journey.

Provide participants with plan length options and targeted support

RECOMMENDATIONS

- Clearly communicate plan length options to all participants.
- Ensure shorter duration plans and more frequent check-ins are easily available for people with episodic, fluctuating and deteriorating conditions.
- Implement processes to ensure the NDIA or Partners in the Community re-engage participants with inactive or underutilised plans.
- Provide proactive plan check-ins for participants impacted by emergencies and disasters.

The proposal to introduce longer plans of up to five years will provide a level of certainty for some participants. It will reduce the administrative burden of annual or bi-annual planning for participants whose needs remain largely the same.

However, people with episodic, fluctuating or deteriorating conditions may need a higher level of engagement and review with their plan. Regular check-ins can help to identify health, safety and quality issues earlier and act as a safeguarding mechanism. Participants with longer term plans who face barriers in understanding and implementing their plan may fall through the cracks without regular engagement. In addition, participants who have a negative experience with their independent assessment or planning process may disengage from the Scheme, or be reluctant to go through the process again when they are due for a check-in or plan reassessment.

The NDIA should ensure plan length and check-in options are clearly communicated so participants and their support network can choose the level of engagement that best meets their needs. Measures should also be in place to ensure participants with inactive plans or low plan utilisation are contacted by the NDIA or Partners in the Community to support their connection to and re-engagement with the Scheme. Emergencies and natural disasters can change participants' needs and circumstances overnight. Bushfire and COVID-19 measures to proactively contact participants to discuss what they need should be embedded as part of the NDIA's response to future emergencies and disasters.

Ensure funding structures meet participants' needs

RECOMMENDATION

- Provide participants with the choice of a flexible and fixed budget format, or a budget with more structured categories.

Changes to provide greater flexibility in the use of NDIS funding by removing the 15 support categories has great potential to offer more choice and control for participants, their families and carers. The current funding structure can sometimes prevent participants from using their plan to purchase what they need, when they need it. The price guide is long and confusing. The names of support categories do not clearly reflect types of services, and it can be hard to work out where different supports sit and how much funding is available. The administrative burden and delays caused by seeking quotes and approvals, particularly for low-cost and low-risk supports, adds unnecessary stress and work for participants and the NDIA.

While the transition to a flexible and fixed budget format will work for many participants, some participants may want more structure in their plan to assist with budgeting, goal alignment and achievement. Having a large pool of funding may make it harder for some people to use their plan, and to know whether their plan will be sufficient for their needs. For some participants, naming the supports needed and the frequency required will be necessary to ensure budgets are sufficient. Knowing the recommended hourly rates for different types of support will also help participants to make informed choices about providers. If participants are not assisted to understand and implement their plan, they may spend their funding on only specific service types or they could run out of funding too quickly.

Similarly to participants' options to choose how their funds are managed, participants should have a choice in how their funds are structured in their plan. The NDIA could conduct further engagement with stakeholders to determine how each option would work for participants, their families and carers, and providers.

Plan implementation

Clarify and resource plan implementation roles

RECOMMENDATIONS

- Provide NDIS participants with support and resources to understand and implement their flexible and fixed funding plan, aligned to their circumstances and needs.
- Clarify roles and responsibilities for plan implementation.
- Release the findings report for the Support Coordination discussion paper and outline the future direction of Support Coordination in relation to plan implementation.
- Ensure Partners in the Community are appropriately resourced and trained to deliver high-quality, ongoing plan implementation support.
- Explore options to expand the availability and reach of self advocacy and peer support groups, where people can share ideas, learn from and support each other.

Implementing a NDIS plan, by finding, purchasing and managing services, is challenging for many participants, their families and carers. After completing the NDIS planning process, 18 per cent of participants are unclear about what happens next.¹³ Understanding the connection between pursuing goals and purchasing supports can be difficult for many.

VCOSS members report participants and their families often feel alone and confused after receiving their funding plan. People with disability experiencing disadvantage, isolation and financial hardship may find it even more difficult to use their funding plans without guidance and support. First Nations NDIS participants use less of their funding and often face challenges in implementing their plan due to a lack of local and culturally safe services.¹⁴ The concept of 'choice' may also be unfamiliar for some culturally and linguistically diverse communities, who may need further support to explore what they need, understand what is available and make fully informed choices.¹⁵

¹³ NDIA, NDIA, *NDIS Quarterly Report to disability ministers Q2 2020-2021*, December 2020, p.36.

¹⁴ NDIA, Aboriginal and Torres Strait Islander participants, 30 June 2019, p.43; S Avery, [Indigenous people with disability have a double disadvantage and the NDIS can't handle that](#), The Conversation, 8 October 2018, accessed 22 January 2021.

¹⁴ Federation of Ethnic Communities' Councils of Australia et. al., *Barriers and exclusions: The support needs of newly arrived refugees with a disability*, February 2019, p.21-22.

¹⁵ Ibid.

As identified in a study of 'hard to reach' people, researchers reported:

“Oftentimes, it appeared that for many of our interviewees the notion of ‘choice and control’ over matters related to managing their disabilities was simply outside of their day-to-day considerations. Instead, many of our interviewees were concerned with basic needs such as of food, accommodation, safety, electricity bills, social inclusion, medicine and transport. In many instances, the idea of reaching for anything beyond day-to-day survival did not even occur to them.”¹⁶

This study also found that among people with NDIS plans who experienced disadvantage, many were not using their plans.¹⁷

Ensuring service connection roles are available and work well is central to a successful and fair transition to a market-based model of support. Research commissioned by VCROSS found that the roles and remit of Support Coordinators and the NDIA, Partners in the Community and disability advocates are not well understood or resourced in regard to plan implementation. This contributes to confusion, poor boundaries and attempts to handball tasks and responsibilities. For example:

- **Partners in the Community** are expected to undertake the dual roles of planning and coordination, however the pressure to bring participants into the Scheme has driven a higher focus on planning, potentially at the expense of plan implementation.¹⁸ Support from Partners in the Community is not always provided, or enough, for many participants and families. Time pressures on these workforces and high turnover rates also hamper the delivery of quality plan implementation support.
- High quality **Support Coordination** offers invaluable support for participants, their families and carers to navigate a complex system and find and choose services based on their goals and needs. Support Coordination is especially critical for people with complex needs, who need intensive and ongoing support to navigate the NDIS. Despite the value of Support Coordination, only 41 per cent of NDIS participants receive funding for this assistance.¹⁹

¹⁶ C Cortese, F Truscott, M Nikidehaghani & S Chapple, *Hard-to-reach: the NDIS, disability, and socio-economic disadvantage*, Disability & Society, June 2020, p.3.

¹⁷ Ibid.

¹⁸ D Tune, *Review of the NDIS Act: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p.41 and p.119.

¹⁹ NDIA, NDIA, *NDIS Quarterly Report to disability ministers Q2 2020-2021*, December 2020, p.134.

Even when participants are funded for Support Coordination, funded hours are not always sufficient to support participants' needs.²⁰ In September 2020, a discussion paper on Support Coordination was released for comment by the NDIA and received over 400 submissions²¹, however, the findings report has not yet been publicly released. VCOSS calls for this report to be published without further delay, and engagement with stakeholder to agree and prioritise areas identified for improvement.

- **Self advocacy and peer support groups** provide a space for participants to share how they have used their plan, talk about the supports they access and solve problems. They can play an important role in the NDIS eco-system alongside Partners in the Community and Support Coordinators. The NDIA should actively create the conditions for these groups to flourish through targeted and ongoing funding. Through the Information, Linkages and Capacity Building grants program, seed funding could be provided to establish, coordinate and facilitate peer support groups. Longer term funding is also crucial to support the sustainability of the self advocacy sector, which can be especially impacted and disrupted by short-term funding cycles and competitive grants processes.

NDIS participants will continue to need early and ongoing assistance to understand and use their plan and to step into their power as consumers. The need for plan implementation and capacity-building support may increase with the transition to flexible budgets, as participants adapt to the new structure and ways to use their funds.

Future iterations of the Planning Policy and related operational guidelines should provide clear guidance about the roles, responsibilities and resourcing for plan implementation support. Timely, quality plan implementation assistance and capacity-building supports should be available to support participants to build their consumer confidence and self-advocacy skills, and to confidently and independently exercise choice and control.

²⁰ VCOSS, *Building choice, control and confidence: VCOSS submission to Support Coordination Discussion Paper*, September 2020.

²¹ NDIA, *NDIS Provider Newsletter, November 2020*, accessed 18 January 2021

Support a diverse, thriving and sustainable market

RECOMMENDATIONS

- Support a sustainable, innovative and responsive market through market oversight and stewardship, fair pricing and strategic workforce development.
- Foster connections and collaboration between NDIS providers and community organisations to increase the coverage, capability, capacity and diversity of service offerings.
- Release and implement the National NDIS Workforce Plan.

Participants' access to services, and choice over which services they engage, is a fundamental tenet of the NDIS. While there are over 15,000 registered NDIS providers across Australia²², people with disability, their families and carers continue to face barriers in accessing services.

The NDIS market for services remains immature and thin in many regions across Victoria and Australia, particularly in rural, regional and high-growth areas. Even when participants have funding and are ready to purchase their services, the market may not be available or adequate to meet their needs. A lack of services or long waitlists are problematic for many NDIS participants who require timely support, including children with disability and developmental delay.

While the number of registered providers continues to grow, providers have mixed experiences of operating in the NDIS market. A survey by the NDIA found less than 60 per cent of NDIS providers are optimistic about the health of the NDIS market.²³

²² NDIA, NDIA, *NDIS Quarterly Report to disability ministers Q2 2020-2021*, December 2020, p.59.

²³ NDIA, *Provider sentiment and satisfaction survey: Fourth national collection*, November 2020, p.15.

Sector surveys show larger providers report faring better financially than smaller providers, who report breaking even or making a loss.²⁴ Close to 70 per cent of providers report receiving requests for services they were not able to meet, due to their capacity, service offering and funding availability.²⁵ Conversely, 42 per cent of registered providers were inactive over the past quarter.²⁶

In tandem with work to improve planning experiences, the NDIA should take a more active role in market oversight and stewardship to ensure the supply of services adequately meets demand – including which services are offered, where they are delivered, and protecting their quality. Partnerships between NDIS providers and community organisations could also be supported and strengthened, to increase the diversity, capacity and cultural competency of services and staff.

NDIS pricing should be reviewed to reflect the true costs of service delivery, promote access to best-practice, evidence-based support and improve provider sustainability.

The National NDIS Workforce Plan should also be finalised, released and actioned to build a skilled workforce to meet current and future demand.

²⁴ National Disability Services, *State of the Sector Report 2020*, December 2020, p.12-13.

²⁵ *Ibid.*, p.19.

²⁶ NDIA, NDIA, *NDIS Quarterly Report to disability ministers Q2 2020-2021*, December 2020, p.59.

Plan reviews

Provide fair and transparent avenues to review or appeal decisions

RECOMMENDATIONS

- Improve the quality of planning experiences to reduce the need for reviews and appeals.
- Ensure plan review and appeal processes respect and uphold the rights of people with disability to access justice.
- Provide clear, accessible information about review and appeal processes, including timelines and support services.
- Increase funding for independent disability advocacy and legal assistance to enable participants to exercise (and be supported to exercise) their rights.
- Ensure check-ins and plan variations are flexible to participants' needs and circumstances, and responsive to plan utilisation triggers.
- Implement the recommendations of the NDIS Joint Standing Committee NDIS Planning inquiry to:
 - Reduce the time it takes to resolve Administrative Appeals Tribunal (AAT) appeals
 - Review the amount of funding provided to advocacy organisations through the NDIS Appeals program and ensure organisations are sufficiently funded to support participants through AAT processes
 - Develop and publish de-identified summaries of key themes arising from AAT settlement outcomes.

Making changes to NDIS plans has been a source of stress, frustration and delays for many participants since the start of the Scheme. Current NDIS review and appeal processes are inaccessible and overly bureaucratic. Making even a minor change to an NDIS plan takes considerable effort and commitment from participants and their support network.

Administrative Appeal Tribunal (AAT) appeals for access and planning issues increased by almost 50 per cent over the past year.²⁷ If a review is escalated to the AAT, participants find themselves up against a team of lawyers engaged by the NDIA, often without legal representation themselves.

Demand for independent disability advocacy and legal assistance to pursue an appeal also continues to increase – demand that is not matched by increased resourcing.

The best way to reduce the need for plan changes is to deliver high quality, participant-led planning experiences from the very beginning. Ensuring participants have fair opportunity to share their goals, interests and needs through the planning process respects their expertise and improves the quality of plans.

Check-ins, plan variations, reassessments, reviews and appeals must be designed to respect the rights of people with disability to access justice. As described in the principles of the *NDIS Act 2013*, “People with disability have the same right as other members of Australian society to pursue any grievance”.

The proposed introduction of check-ins and plan variations will go some way to alleviating bottlenecks in current review processes. To provide confidence in this new process, specific timeframes for plan variations should be included in the NDIS Participant Guarantee and the steps for seeking a plan variation should be clearly communicated to all participants.

Participants should have the opportunity to request check-ins and plan variations as needed and when their circumstances change. Triggers should be in place to initiate a check-in where plans are underspent or on track for being overspent.

There will continue to be reviews that require referral to the AAT. Participants should be supported to engage in this process on equal footing with the NDIA through free and timely access to experienced appeals advocates and legal representation.

²⁷ Administrative Appeals Tribunal, *Annual Report 2019–20*, p.37.

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