
Joint Standing Committee on the National Disability Insurance Scheme

General issues

December 2020

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List of Recommendations

Recommendation 1

3.83 The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission:

- **review and assess their responses to the COVID-19 pandemic to better understand how to respond to future emergencies, including pandemics; and**
- **in connection with the Commonwealth Government, ensure that appropriate preparations and plans are in place to support people with disability during future emergencies, including pandemics.**

Recommendation 2

3.84 The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission maintain, beyond the COVID-19 pandemic, beneficial changes that were implemented in response to the pandemic.

Recommendation 3

5.26 The committee recommends that the National Disability Insurance Agency regularly and systemically engage with people with psychosocial disability and representative organisations to better understand the needs of people with psychosocial disability and mental illness.

Recommendation 4

5.54 The committee recommends that the National Disability Insurance Agency establish an advisory committee, consisting of representative organisations of Aboriginal and Torres Strait Islander peoples with disability and Aboriginal Community Controlled Organisations, to provide input to national policy and program delivery.

Recommendation 5

5.57 The committee recommends that the Australian Government commit to long-term investment in Aboriginal community-led education programs to build individual and community knowledge, capacity and confidence around rights and entitlements associated with the National Disability Insurance Scheme and disability supports.

Recommendation 6

- 5.64** The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission develop, publish and implement cultural safety accreditation standards for providers, co-designed with Aboriginal and Torres Strait Islander representative organisations and Aboriginal Community Controlled Organisations.

Recommendation 7

- 5.126** The committee recommends that the National Disability Insurance Agency develop a strategy to engage with people with disability who are homeless and to work with this cohort or participants once their access requests have been approved.

Recommendation 8

- 5.127** The committee recommends that the National Disability Insurance Agency introduce Liaison Officers to work with homelessness organisations and related services to facilitate improved National Disability Insurance Scheme (NDIS) access and planning for people with disability who are homeless and eligible for the NDIS

Recommendation 9

- 6.55** The committee recommends that the National Disability Insurance Agency develop, publish and implement clear protocols for communicating with participants about matters relating to the National Disability Insurance Scheme.

Recommendation 10

- 6.96** The committee recommends that the National Disability Insurance Agency publish information about managing circumstances related to the death of a participant, including the support that is available to family members and carers, on the National Disability Insurance Scheme website.

Executive summary

This report of the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) relates to the committee's ongoing inquiry into general issues related to the implementation and performance of the NDIS (General Issues inquiry). This inquiry provides an opportunity for the public to present important evidence to the committee about the NDIS and how it could be improved. In particular, this inquiry is a chance for people with disability to share their experiences with the scheme.

This is the committee's first report of the 46th Parliament for the General Issues inquiry. The report reviews issues raised during the inquiry and provides an update on the committee's recent activities. The committee makes 10 recommendations to improve the NDIS for participants, providers and other key stakeholders.

Independent assessments

Chapter 2 of the report examines the National Disability Insurance Agency's (NDIA) proposal to introduce independent assessments as part of NDIS access and planning processes. According to the NDIA, the introduction of independent assessments will enhance equity and consistency in access and planning decisions.

The policy intent of independent assessments is to be commended, as is the decision to offer assessments free of charge. However, a substantial number of submitters advanced that independent assessments may result in stress and trauma for people with disability; may not be an accurate means of measuring functional capacity; and may not reflect adequate consultation with the disability and allied health sectors.

Independent assessments have not yet been implemented, and the committee does not make any recommendations about these assessments in this report. However, the committee appreciates that the introduction of independent assessments represents a major change to the NDIS, and is cognisant that there are significant concerns about this matter. The committee therefore proposes to conduct a dedicated inquiry into independent assessments. This will include seeking further evidence about this matter through submissions and public hearings.

The COVID-19 pandemic

The COVID-19 pandemic has had an extraordinary and disruptive effect on Australian society. This effect was particularly acute for people with disability, their families and friends. COVID-19 has also presented serious difficulties for NDIS providers, disability support workers, and others in the disability sector. Of course, the effects of the pandemic are still ongoing and will be with us for some time.

Chapter 3 examines evidence about the stress and anxiety felt by people with disability during the initial phase of the pandemic, difficulties accessing personal protective equipment, and challenges for NDIS providers continuing to offer disability supports. It also considers the government's planning and preparation for a pandemic, as well as how the NDIA and the NDIS Quality and Safeguards Commission (the Commission) responded to COVID-19.

The committee makes two recommendations on this matter. The first aims to ensure that we learn lessons from the COVID-19 pandemic and are better prepared to support people with disability in future emergencies. The second proposes that the NDIA and the Commission maintain, beyond the COVID-19 pandemic, beneficial changes that were implemented in response to the pandemic.

Other key issues

The remainder of this report gives voice to a number of other key issues related to the NDIS raised by participants, providers and other stakeholders. These include financial matters relating to the implementation and performance of the NDIS, and issues affecting particular cohorts of people with disability.

The committee makes eight recommendations intended to improve the operation of the NDIS in light of the issues raised, focused on the following matters:

- Systemic engagement with people with psychosocial disability.
- Ensuring cultural competency and investing in capacity-building for Aboriginal and Torres Strait Islander communities.
- Supporting people with disability experiencing homelessness.
- Improving the way in which the NDIA communicates with participants.
- Managing the circumstances associated with a participant's death.

Some of the issues reviewed in this report have been more thoroughly examined by the committee in its other inquiries, or have been considered in inquiries conducted by other bodies. Consequently, in a number of instances the committee proposes to maintain a watching brief and encourages the Government to give close consideration to the matters raised in this report.

Conclusion

Not all submissions to this inquiry are directly quoted in this report. However, the committee has given close consideration to all submissions and witness testimony. The committee thanks everyone who contributed to this inquiry by making submissions, expressing views through correspondence or providing testimony at public hearings. In particular, the committee thanks the NDIS participants who shared their experiences. The testimony of people with lived experience is crucial to identifying issues with the NDIS, and to improving the operation of the scheme.

Chapter 1

Introduction and background

- 1.1 The Joint Standing Committee on the National Disability Insurance Scheme (the committee) was appointed by resolution of the House of Representatives on 4 July 2019 and the Senate on 22 July 2019.¹ The committee is composed of five members and five senators. It is tasked with reviewing:
- (a) the implementation, performance and governance of the National Disability Insurance Scheme (NDIS);
 - (b) the administration and expenditure of the NDIS; and
 - (c) such other matters in relation to the NDIS as may be referred to it by either House of the Parliament.
- 1.2 The resolution establishing the committee requires the committee to present an annual report to the Parliament on the activities of the committee, in addition to reporting on any other matters it considers relevant.

Purpose of this report

- 1.3 The committee's inquiry into general issues related to the implementation and performance of the NDIS (General Issues inquiry) provides an ongoing opportunity for the public to present important evidence to the committee related to the NDIS, including its implementation, performance, governance, administration, and expenditure. From time to time, the committee also conducts inquiries into specific elements of the NDIS. These inquiries commence on a certain date and conclude with the tabling of a final report.
- 1.4 This is the committee's first report of the 46th Parliament for the General Issues inquiry. It examines issues raised in evidence to the General Issues inquiry and provides an update on the committee's recent activities.
- 1.5 This report pays specific attention to independent assessments, and to issues arising during the COVID-19 pandemic. It also considers matters relating to financial sustainability, funding and pricing; issues affecting specific cohorts of people with disability; and other key issues relating to the implementation and performance of the NDIS. The report makes 10 recommendations which aim to improve the operation of the NDIS for participants, providers and other key stakeholders.
- 1.6 The committee thanks all those who contributed to the inquiry by making submissions, providing additional information, or expressing views through

¹ *House of Representatives Votes and Proceedings*, No. 3, 4 July 2019, pp. 55–56; *Journals of the Senate*, No. 4, 22 July 2019, pp. 125–147.

correspondence. The committee is also grateful to those who gave their time to give evidence at hearings.

Structure of this report

1.7 This report outlines the committee's recent activities and reviews key issues raised in relation to the General Issues inquiry, as follows:

- Chapter 1 (this chapter) provides an overview of the committee's activities, outlines other relevant inquiries, and provides background information about the NDIS.
- Chapter 2 examines the proposed rollout of independent assessments for current and prospective NDIS participants.
- Chapter 3 examines the effect of the COVID-19 pandemic on people with disability and the NDIS.
- Chapter 4 examines key issues relating to financial sustainability, pricing and funding.
- Chapter 5 examines key issues affecting particular cohorts of people with disability.
- Chapter 6 examines other key issues related to the implementation and performance of the NDIS.

Committee activities

1.8 During the 46th Parliament the committee continued the work of committees in previous parliaments, overseeing the important work relating to the NDIS. As this is the committee's first general issues report since March 2019, there is a considerable amount of committee activity to report.

1.9 The committee published 66 submissions for its General Issues inquiry over the course of the current Parliament. These submissions are listed at Appendix 3. The number of submissions received for other inquiries is listed in the table below.

1.10 The committee has held 17 public hearings during the 46th Parliament, some of which focused on certain inquiries. Several were held via teleconference or videoconference in response to the COVID-19 pandemic, or in accordance with witness requests. The dates and locations of the hearings are as follows:

- 8 October 2019 in Brisbane.
- 9 October 2019 in Sydney.
- 28 October 2019 in Hobart.
- 7 November 2019 in Melbourne.
- 19 November 2019 in Adelaide.
- 21 November 2019 in Canberra.
- 13 February 2020 in Canberra.
- 23 June 2020 in Canberra (via teleconference).
- 30 June 2020 in Canberra (via teleconference).

- 14 July 2020 in Canberra (via teleconference).
 - 28 July 2020 in Canberra (via teleconference).
 - 18 August 2020 in Canberra (via teleconference).
 - 8 September 2020 in Canberra (via teleconference).
 - 29 September 2020 in Canberra (via teleconference).
 - 12 October 2020 in Canberra (via teleconference).
 - 13 October 2020 in Canberra (via teleconference).
 - 17 November 2020 in Canberra (via videoconference).
- 1.11 Transcripts from all the hearings listed above, together with submissions and answers to questions on notice, are available on the committee's website. Witnesses who appeared at the hearings are listed in Appendix 4.
- 1.12 The following table summarises the inquiries undertaken by the committee during the 46th Parliament.

Table 1.1 Committee inquiries during the 46th Parliament to date

Inquiry	Date inquiry commenced	Submissions	Reports
Supported Independent Living	1 August 2019	51 submissions	May 2020
NDIS Planning	1 August 2019	157 submissions	December 2019 (interim report); December 2020 (final report)
NDIS Workforce	6 February 2020	52 submissions	December 2020 (interim report)
NDIS Quality and Safeguards Commission	23 June 2020	71 submissions	Expected to report in 2021
General Issues	See resolution establishing the committee	66 submissions	December 2020 (this report)

- 1.13 The following sections briefly outline the committee's inquiries into Supported Independent Living; NDIS planning; and the NDIS workforce.

Inquiry into Supported Independent Living

- 1.14 Between August 2019 and May 2020 the committee undertook an inquiry into Supported Independent Living (SIL). Key issues examined in the committee's report included:

- the approval process for access to SIL;
 - living arrangements for SIL participants—including issues associated with choice and control and ensuring compatibility between residents;
 - concerns associated with vacancy management;
 - funding for SIL; and
 - other issues, including the provision of SIL and other supports in regional, rural and remote areas; provider of last resort arrangements; decision support and advocacy; service quality; and coordination between the NDIS and state and territory services.
- 1.15 The committee tabled a final report for its inquiry into SIL on 13 May 2020. The report made 45 recommendations to improve the SIL process. These focused on maximising choice and control for participants and reducing unnecessary financial burden for providers.
- 1.16 The Australian Government provided its response to the committee's report in August 2020. The Government supported, or supported in principle, 25 of the recommendations made by the committee. The Government noted the other 20 recommendations, drawing attention to 'ongoing reforms to the provision of SIL being progressed by the [National Disability Insurance Agency (NDIA)]'. It also stated that the NDIA is developing an overarching Home and Living policy, and will consult widely on changes to SIL and the wider policy over the coming months.² A table setting out the Government's response to recommendations in the SIL report is included in Appendix 1.

National Disability Insurance Agency actions since the committee's SIL report

- 1.17 In its submission to the General Issues inquiry, the NDIA stated that it has made a number of specific improvements to SIL since the committee's final report for the inquiry into SIL, including:
- strengthening guidance to planners on how to increase participants' involvement in the planning process, such as by including participants in developing and endorsing rosters of care before they are approved;
 - amending the quoting tool to address errors and simplify calculations; and
 - simplifying and clarifying internal and external guidance and operating procedures.³
- 1.18 The NDIA also stated that it is developing a new policy position on a future model for SIL, which seeks to increase clarity, transparency and understanding throughout the SIL process. This will include a formal external consultation process. The NDIA will also continue to develop the market and alternative

² Australian Government, *Australian Government response to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) report: Inquiry into Supported Independent Living*, August 2020, p. 2.

³ National Disability Insurance Agency, *Submission 37*, p. 17.

models of care, such as individual living options (ILOs), to provide participants with greater choice of living arrangements. The NDIA will take into consideration the recommendations of the committee's SIL inquiry as part of future improvements to SIL.⁴

- 1.19 In September 2020 the NDIA released a consultation paper on SIL, seeking submissions by 19 October 2020. The consultation focused on how the NDIA proposes to improve short-term operational, equity and cost challenges for participants receiving SIL. A second consultation paper, to be released at the end of 2020 or early 2021, will lay out the NDIA's long-term vision for home and living options, including how the NDIA proposes to strengthen support for participants to make independent decisions.⁵
- 1.20 The Supportive Families and Friends Association Inc provided the committee with a submission made to the NDIA's consultation paper on SIL. The submission outlined several concerns regarding the funding and delivery of SIL supports, drawing on the experiences of residents in group homes in Victoria. Key concerns included the following:
- Under the state-managed disability support framework, state governments had a duty of care for residents in SIL homes. As state governments progressively withdraw from disability support roles, duties of care are becoming 'blurred'.
 - Residents in SIL homes live in a 'confusing and complex environment', and are expected to negotiate agreements with NDIA staff, partners in the community, and various support providers.
 - People with complex needs often require a third party to advocate for them. However, funding for independent advocacy is often unavailable.
 - While NDIS documentation stresses the need for residents and families to be included in the development of the roster of care, this may not occur in practice.
 - SIL funding is often provided on a 'one size fits all' basis, and does not take into account the higher support needs of participants with a cognitive impairment or other severe disability.⁶
- 1.21 Noting that the committee tabled its report on SIL in May 2020, and that the NDIA is progressing a number of measures that aim to improve the operation of SIL for participants and providers, the committee proposes to maintain a watching brief in relation to SIL. If further evidence indicates that stakeholders

⁴ National Disability Insurance Agency, *Submission 37*, p. 17.

⁵ NDIS, *Improving outcomes for participants who require Supported Independent Living (SIL): Provider and sector consultation paper*, September 2020, p. 3.

⁶ Supportive Families and Friends Association Inc., *Submission 63*, [pp. 1–2].

continue to have concerns about the funding and delivery of SIL supports, the committee may consider this matter in more detail in the future.

Inquiry into NDIS planning

- 1.22 The committee recently conducted an inquiry into NDIS Planning. The interim report, tabled December 2019, contained 14 recommendations covering matters such as planner training, draft plans, plan reviews, plan gaps, and standardising terminology.
- 1.23 The Australian Government tabled its response to the committee's interim report in March 2020. The Government supported seven recommendations, supported five recommendations in principle, and noted two.⁷ A table setting out the Government's response to the recommendations in the *NDIS Planning Interim Report* is included in Appendix 2.
- 1.24 The committee tabled its final planning report in December 2020. The report contained 42 recommendations intended to bring greater transparency, consistency and accountability to how the NDIS is administered and implemented. It covered a broad range of issues related to planning, including:
 - plan funding;
 - informal supports and the role of families;
 - overlap with other systems;
 - the role of experts;
 - planner training and expertise;
 - planning for particular groups;
 - planning in rural and remote areas;
 - appeals in the Administrative Appeals Tribunal (AAT); and
 - communication, including by the NDIA, in relation to plans.
- 1.25 On 25 November 2020, just prior to the tabling of the final planning report, the NDIA announced potential changes to the planning process.⁸ The committee did not have an opportunity to thoroughly examine these potential changes, nor receive evidence from the NDIA about them.
- 1.26 Reflecting the connections between planning and other elements of the NDIS, there were various issues in evidence to the general issues inquiry that were examined in the planning report. These include:
 - funding for transport, particularly in rural and regional areas;⁹

⁷ See Australian Government, *Australian Government response to the Joint Standing Committee on the National Disability Insurance Scheme: NDIS planning interim report*, February 2020.

⁸ National Disability Insurance Agency, 'NDIA invites participants to have their say on NDIS reforms', *Media release*, 25 November 2020, <https://www.ndis.gov.au/news/5683-ndia-invites-participants-have-their-say-ndis-reforms> (accessed 27 November 2020).

⁹ Illawarra Disability Alliance, *Submission 11*, [p. 4].

- concerns for people with psychosocial disability with planning processes;¹⁰
- the role of local area coordinators;¹¹
- how NDIA delegates determine what is 'reasonable and necessary';¹²
- the NDIA not providing reasons for decisions;¹³
- the length of plan reviews, meaning participants may not have sufficient funding for services;¹⁴
- lack of published information about typical support packages;¹⁵
- flexibility to use plan funding across core, capacity-building and capital supports;¹⁶
- the interface between the NDIS and other service systems;¹⁷ and
- AAT processes.¹⁸

Inquiry into the NDIS Workforce

- 1.27 On 6 February 2020, the committee decided to undertake an inquiry into the NDIS Workforce. The committee tabled an interim report for this inquiry in December 2020. The report contained 14 recommendations covering NDIS pricing; worker training and accreditation; employment opportunities for people with disability; maldistribution of allied health professionals; growing the Aboriginal and Torres Strait Islander workforce; and securing reliable workforce data to support workforce planning and policy development.
- 1.28 Reflecting the connections between the NDIS workforce and other elements of the scheme, some issues raised in evidence to the General Issues inquiry were also examined in the interim report. These include ensuring the workforce is able to support participants with psychosocial disability, developing a lived experience workforce,¹⁹ and NDIS pricing.²⁰

¹⁰ Mind Australia, *Submission 23*, [p. 3].

¹¹ Ethnic Disability Advocacy Centre, *Submission 22*, p. 7.

¹² Mr James Wood, *Submission 26*, [pp. 1–2]; Queensland Law Society, *Submission 54*, p. 4.

¹³ Mr Mike Robinson, *Submission 29*, [p. 1].

¹⁴ Mr Mike Robinson, *Submission 29*, [p. 1].

¹⁵ Public Interest Advocacy Centre, *Submission 33*, pp. 5–6.

¹⁶ Mr Matthew Paul, *Submission 31*, pp. 1, 4.

¹⁷ Victoria Legal Aid, *Submission 49*, pp. 10–14; SECCA, *Submission 24*, [p. 3].

¹⁸ Public Interest Advocacy Centre, *Submission 33*, pp. 4–5, 9–11. See also Victoria Legal Aid, *Submission 49*, pp. 6–10. Victoria Legal Aid argued that there continue to be delays between an AAT decision and the NDIA implementing it, although it noted that the NDIA's Participant Service Charter now requires the NDIA to implement an AAT decision within 28 days. It called for these timeframes to be legislated, arguing that in a number of cases, delays had been 3–6 months.

¹⁹ Mental Illness Fellowship of Australia, *Submission 55*, pp. 14–15.

²⁰ Illawarra Disability Alliance, *Submission 11*, [pp. 5–6].

Inquiry into the NDIS Quality and Safeguards Commission

- 1.29 The committee's inquiry into the NDIS Quality and Safeguards Commission (the Commission) is ongoing. In addition to the 71 submissions published on the committee's website, three of the public hearings listed above (those on 29 September, 13 October and 17 November 2020) directly related to the inquiry into the Commission.
- 1.30 The committee expects to table a report for this inquiry in 2021.
- 1.31 Some issues raised in submissions to the General Issues inquiry also appeared in submissions to the committee's inquiry into the NDIS Quality and Safeguards Commission. These include:
- oversight of service quality and safety;²¹
 - the role of the Commission in providing advice and recommendations to the NDIA about matters impacting the health, safety and wellbeing of participants with psychosocial disability;²²
 - registration, auditing and reporting obligations for registered providers;²³
 - oversight of unregistered providers;²⁴
 - the application and operation of worker screening arrangements;²⁵ and
 - the application of the NDIS Code of Conduct.²⁶

Inquiries by other bodies

- 1.32 Various other bodies are conducting, or have recently conducted, inquiries that relate to the NDIS or people with disability. Some key inquiries are briefly summarised below. Evidence presented to these inquiries has been used to inform this report, as well as other work of the committee.

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

- 1.33 The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability (the Royal Commission) was established with the

²¹ Maurice Blackburn Lawyers, answers to questions on notice, 28 July 2020 (received 19 August 2020), p. 4.

²² Mental Illness Fellowship of Australia, *Submission 55*, pp. 12–15.

²³ Ms Alison Jacob, President, HOPES Inc, *Committee Hansard*, 28 October 2019, p. 8. See also Ms Pauline Stanton, Director, Access2Choice Tasmania Pty Ltd, *Committee Hansard*, 28 October 2019, pp. 20–22.

²⁴ Illawarra Disability Alliance, *Submission 11*, [pp. 7, 14].

²⁵ Mr Lloyd Williams, National Secretary, Health Services Union, *Proof Committee Hansard*, 8 September 2020, p. 29.

²⁶ Dr John Chesterman, Deputy Public Advocate, Office of the Public Advocate (Victoria), *Proof Committee Hansard*, 18 August 2020. See also Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 4.

issuance of letters patent on 4 April 2019.²⁷ The letters patent set out the terms of reference for the inquiry and appointed six commissioners. Amended letters patent were issued on 13 September 2019 to add one commissioner, bringing the total number to seven.²⁸

- 1.34 The Royal Commission released a first progress report in December 2019, a second progress report in August 2020, and an interim report in October 2020. The interim report provides a summary of the Royal Commission's work from its establishment to 31 July 2020.
- 1.35 The interim report identified a number of key issues of particular interest to this committee. These include: group homes and other living arrangements, health care, the NDIS, the justice system, and responses to the COVID-19 pandemic. The Royal Commission has also paid particular attention to matters relating to Aboriginal and Torres Strait Islander peoples and people from linguistically and culturally diverse backgrounds. Some key themes emerging from the evidence relate to the following matters:
 - Choice and control.
 - Attitudes towards disability.
 - Segregation and exclusion.
 - Restrictive practices.
 - Access to services and supports.
 - Advocacy and representation.
 - Oversight and complaints.
 - Funding.
- 1.36 The original letters patent required the Royal Commission to present its final report by 29 April 2022.²⁹ A media statement by the Royal Commission on 30 October 2020 (the date the interim report was published) stated that the Chair, Ronald Sackville AO QC, 'is expected to request a 17-month extension of time to present the Royal Commission's final report to September 29, 2023'.³⁰

²⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission), *Interim Report*, October 2020, 'Commonwealth letters patent – issued 4 April 2020', Appendix A, pp. 494–498.

²⁸ Royal Commission, *Interim Report*, October 2020, 'Commonwealth letters patent—amended 13 September 2019', Appendix A, pp. 499–500.

²⁹ Royal Commission, *Interim Report*, October 2020, p. 480.

³⁰ Royal Commission, 'Royal Commission details violence, abuse, neglect and exploitation of people with disability in Interim Report', *Media release*, 30 October 2020, <https://disability.royalcommission.gov.au/news-and-media/media-releases/royal-commission-details-violence-abuse-neglect-and-exploitation-people-disability-interim-report> (accessed 11 November 2020).

Review of the NDIS Act (Tune Review)

- 1.37 In June 2019 the Australian Government commissioned a review of the *National Disability Insurance Scheme Act 2013* (NDIS Act).³¹ The review was led by David Tune AO PSM, and is known as the Tune Review. The terms of reference for the review focused on 'removing legislative impediments to positive participant and provider experiences and supporting the implementation of the Participant Service Guarantee' (PSG).³² The review's report, released in December 2019, examined issues concerning consistency, transparency and timeliness in decision-making by the NDIA. It made 29 recommendations to address these issues.³³
- 1.38 The Government Response to the Tune Review was released in August 2020. The Australian Government supported or supported in principle all of these recommendations, noting that implementation of its response—including legislative amendments—had been delayed due to the COVID-19 pandemic. However, the Government stated that 'the NDIA has agreed to commence operationalising the [PSG] and public reporting against its timeframes and service standards...from 1 July 2020'.³⁴
- 1.39 The NDIA has published the PSG on its website. The PSG includes timeframes for a number of NDIS processes, including access decisions; approval of plans; plan reviews; and complaint resolution.³⁵

Australian National Audit Office report

- 1.40 The Australian National Audit Office (ANAO) undertook a performance audit in the NDIA and published a report on 29 October 2020 titled *Decision-making Controls for NDIS Participant Plans*.³⁶ The report concluded that the NDIA 'does not yet have appropriate controls to ensure supports in participant plans are reasonable and necessary'. It also found that:

While an appropriate control framework had been established, the effective implementation of the controls will provide the NDIA with

³¹ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 17.

³² David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 17.

³³ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing Red Tape and Implementing the NDIS Participant Service Guarantee*, December 2019, pp. 7, 17.

³⁴ See Australian Government, *Australian Government response to the 2019 Review of the National Disability Insurance Scheme Act 2013 report*, August 2020, p. 2.

³⁵ National Disability Insurance Scheme, *Participant Service Guarantee*, <https://www.ndis.gov.au/about-us/policies/service-charter/participant-service-guarantee> (accessed 20 October 2020).

³⁶ Australian National Audit Office (ANAO), *Decision-making controls for NDIS participant plans*, October 2020, p. 3.

greater assurance that the supports approved in participant plans are reasonable and necessary.³⁷

- 1.41 The ANAO made three recommendations to the NDIA relating to the NDIA's policies and processes. The NDIA agreed to each of the recommendations.³⁸

Inquiries relating to Ms Ann Marie Smith

- 1.42 On 6 April 2020, Ms Ann Marie Smith tragically died in her home in Adelaide, South Australia. Ms Smith was an NDIS participant. Reports have asserted that Ms Smith's death followed a prolonged period of neglect, and that Ms Smith had been left in 'squalid and appalling circumstances'.³⁹
- 1.43 The committee is aware of several inquiries that relate to Ms Smith, including the following:
- On 21 May 2020 the SA Minister for Human Services, the Hon Michelle Lensink MLC, established the Safeguarding Task Force 'with responsibility to examine and report quickly on gaps and areas that need strengthening in safeguarding arrangements for people with disabilities living in [South Australia]'.⁴⁰ The task force delivered an interim report to the minister on 15 June 2020 and a final report on 31 July 2020.⁴¹ The South Australian Government published the final report on 3 August 2020, and accepted all seven recommendations.⁴²
 - In May 2020 the Quality and Safeguards Commissioner, Mr Graeme Head, appointed the Hon Alan Robertson SC to review issues relating to Ms Smith's death.⁴³ Mr Robertson's report, dated 31 August 2020, was released by the Commission on 4 September 2020.⁴⁴

³⁷ ANAO, *Decision-making controls for NDIS participant plans*, October 2020, p. 8.

³⁸ ANAO, *Decision-making controls for NDIS participant plans*, October 2020, p. 10.

³⁹ The Hon Alan Robertson SC, *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020: Report to the Commissioner of the NDIS Quality and Safeguards Commission*, 31 August 2020, p. 4.

⁴⁰ Safeguarding Task Force, *Report*, 31 July 2020, p. 3.

⁴¹ Safeguarding Task Force, *Report*, 31 July 2020, p. 6.

⁴² The Hon Michelle Lensink MLC, 'Safeguarding gaps actioned as final report handed down', *Media release*, 3 August 2020, <https://www.premier.sa.gov.au/news/media-releases/news/safeguarding-gaps-actioned-as-final-report-handed-down> (accessed 12 November 2020).

⁴³ NDIS Quality and Safeguards Commission, 'Robertson Report released: Independent Review into NDIS Commission oversight and the death of Ann-Marie Smith', *Media release*, 4 September 2020, <https://www.ndiscommission.gov.au/media-release/2256> (accessed 12 November 2020).

⁴⁴ The Hon Alan Robertson SC, *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020: Report to the Commissioner of the NDIS Quality and Safeguards Commission*, 31 August 2020.

- The Minister for the National Disability Insurance Scheme, the Hon Stuart Robert MP, said in May 2020 that the circumstances of Ms Smith's death are being investigated by South Australian Police and the South Australian Coroner.⁴⁵ SafeWork SA also confirmed that it is 'making enquiries' in relation to Ms Smith's death with the NDIS provider responsible for Ms Smith's care.⁴⁶
- 1.44 The inquiries relating to Ms Smith's death identified a number of gaps in the policy and legal framework for NDIS supports and services. In particular, the Safeguarding Task Force identified 14 'safeguarding gaps' covering matters such as the scope of the NDIS quality and safeguarding framework and its application to unregistered providers; conflicts of interest where a support coordinator also delivers NDIS supports; and a lack investment in and access to advocacy to assist people with disability to navigate services systems.⁴⁷
- 1.45 The committee will give further consideration to quality and safety matters for NDIS participants as part of its inquiry into the NDIS Quality and Safeguards Commission.

Inquiries by the Commonwealth Ombudsman

- 1.46 The committee's work continues to be informed by the Commonwealth Ombudsman's inquiries and reports. Two recent reports should be mentioned here.
- 1.47 First, in February 2020 the Ombudsman reported on its investigation into the actions of the NDIA in relation to Mr C. The report considered matters relating to the provision of disability supports to Mr C upon his release from prison. The Ombudsman's report acknowledged that the NDIA had already made some improvements, but also included five recommendations for further work by the NDIA. The NDIA agreed with all these recommendations.⁴⁸
- 1.48 Second, in August 2020 the Ombudsman reported on the NDIA's handling of requests for assistive technology. The Ombudsman commenced its investigation to complement the committee's earlier inquiry into the provision of assistive technology under the NDIS, for which the committee tabled a final

⁴⁵ The minister also referred to investigations by the Commission. See the Hon Stuart Robert MP, Minister for the National Disability Insurance Scheme, 'Independent review into matters related to the death of Ann Marie Smith', *Media release*, 26 May 2020, <https://ministers.dss.gov.au/media-releases/5831> (accessed 12 November 2020).

⁴⁶ 'SafeWork SA investigating Ann Marie Smith's care provider following accreditation reports', *ABC News*, 18 July 2020, <https://www.abc.net.au/news/2020-07-18/safework-sa-investigating-ann-marie-smith-care-provider/12469554> (accessed 12 November 2020).

⁴⁷ Safeguarding Task Force, *Report*, 31 July 2020, pp. 23–24.

⁴⁸ Commonwealth Ombudsman, *Investigation into the actions of the National Disability Insurance Agency (NDIA) in relation to Mr C*, February 2020.

report in December 2018. The Ombudsman's report included 14 recommendations to the NDIA. The NDIA agreed with 12 of these recommendations and disagreed with two.⁴⁹

Queensland Productivity Commission inquiry into the NDIS market

1.49 In April 2020 the Queensland Government asked the Queensland Productivity Commission to inquire into issues related to the NDIS market in Queensland.⁵⁰ The inquiry will examine the transition to the NDIS and market development in Queensland, including:

- the efficiency and effectiveness of the NDIS market;
- structural, regulatory or other impediments to the efficient operation of the NDIS market;
- factors affecting specific markets or market segments, including in rural and remote areas; and
- options for improved policies and measures to ensure the NDIS market meets the needs of participants now and in the future.⁵¹

1.50 On 22 June 2020, the Queensland Productivity Commission released an issues paper to assist submitters. The Commission is due to provide a final report to government by 30 April 2021.⁵²

Productivity Commission review of the National Disability Agreement

1.51 The National Disability Agreement (NDA) was endorsed by the Council of Australian Governments in February 2011.⁵³ In January 2019 the Productivity Commission reported on its review of the NDA. It found that 'the disability policy landscape has changed markedly since the NDA commenced a decade ago, and much of what is in the NDA is now outdated'. In particular, the Commission found that the NDA does not reflect the NDIS.⁵⁴

⁴⁹ Commonwealth Ombudsman, *Administration of National Disability Insurance Scheme (NDIS) funded assistive technology: Report on the National Disability Insurance Agency's handling of assistive technology requests*, August 2020.

⁵⁰ Queensland Productivity Commission, *Issues paper: Inquiry into the National Disability Insurance Scheme market in Queensland*, June 2020, p. 1.

⁵¹ Queensland Productivity Commission, *Inquiry into the National Disability Insurance Scheme (NDIS) market in Queensland*, webpage not dated, <https://www.qpc.qld.gov.au/inquiries/ndis/> (accessed 12 November 2020).

⁵² Queensland Productivity Commission, *Issues paper: Inquiry into the National Disability Insurance Scheme market in Queensland*, June 2020, p. i.

⁵³ Productivity Commission, *Review of the National Disability Agreement—Productivity Commission Study Report*, January 2019, p. 47.

⁵⁴ Productivity Commission, *Review of the National Disability Agreement—Productivity Commission Study Report: Overview*, January 2019, p. 3.

- 1.52 The Productivity Commission also made a number of recommendations, including that Commonwealth, state and territory governments 'develop and enter into a new [NDA] by the beginning of 2020'.⁵⁵ While this has not yet occurred, work has commenced on a new strategy.⁵⁶

Update on the National Disability Insurance Scheme rollout

- 1.53 The NDIS is a model of funding and supports for people with disability, families and carers. It is insurance-based and moves from the previous state-based system of block funding to a 'fee-for-service', market-based approach. The scheme is based on the premise that people with disability each have different support needs, and should be able to exercise choice and control in relation to their supports. The main component of the NDIS is individualised packages of supports for eligible people with disability.
- 1.54 The NDIS was progressively rolled out on a geographic and age basis. It was first implemented in 2013 in seven trial sites across Australia. The NDIA has reported that at 30 June 2020 the scheme was available to all Australians, regardless of where they live.⁵⁷ All states and territories have completed transition to the NDIS except Western Australia, where transition is scheduled to conclude on 30 June 2023.⁵⁸
- 1.55 As set out in the table below, the NDIS currently supports 412,543 people with disability. It is projected to serve approximately 500,000 participants once the transition to full scheme is complete.⁵⁹
- 1.56 As at 30 September 2020, there were also 8,639 children in the Early Childhood Early Intervention (ECEI) gateway.⁶⁰

⁵⁵ Productivity Commission, *Review of the National Disability Agreement – Productivity Commission Study Report: Overview*, January 2019, p. 30.

⁵⁶ See Department of Social Services, 'Developing the new National Disability Strategy', last updated 13 December 2019, <https://www.dss.gov.au/disability-and-carers-a-new-national-disability-strategy/developing-the-new-national-disability-strategy> (accessed 23 November 2020).

⁵⁷ National Disability Insurance Agency, *Annual Report 2019–20*, p. 14.

⁵⁸ Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 37].

⁵⁹ National Disability Insurance Scheme, *Submission 37*, p. 32.

⁶⁰ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 97.

Table 1.2 Active NDIS participants compared to bilateral estimates as at 30 September 2020

Jurisdiction	Number of active participants as at 30 September 2020⁶¹	Anticipated number of active participants when NDIS is fully rolled out⁶²
NSW	130,118	141,957
VIC	111,210	105,324
QLD	78,811	91,217
SA	36,712	32,284
WA	34,751	39,097
TAS	9,358	10,587
ACT	7,909	5,075
NT	3,636	6,545
Other territories	34	-
National	412,543	432,086

- 1.57 According to the 2020–21 Budget, expenditure on the NDIS is expected to increase from \$18.7 billion in 2019–20 to \$23.4 billion in 2020–21. The budget papers state that this 'reflects a higher number of people with a disability entering the [NDIS] under transition arrangements with the states and territories'. Subsequent expenditure is approximately \$25.5 billion in 2021–22, \$25.6 billion in 2022–23, and \$25.7 billion in 2023–24.⁶³

Note on terminology and references

- 1.58 References to submissions in this report are to submissions accepted by the committee in relation to the general issues inquiry, unless otherwise stated.

⁶¹ Data sourced from National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, pp. 539–540. Data excludes children in the ECEI gateway. The NDIA has also indicated that data is 'missing' for <11 participants.

⁶² Data sourced from bilateral agreements between the Commonwealth and individual jurisdictions. See National Disability Insurance Agency, 'Intergovernmental agreements', current as of 9 September 2020, <https://www.ndis.gov.au/about-us/governance/intergovernmental-agreements> (accessed 30 November 2020).

⁶³ Australian Government, *Budget Paper No. 1 2020–21*, October 2020, pp. 6–23–6–24. According to the budget papers, the decrease of 2.6 per cent in real terms from 2020–21 to 2023–24 'largely reflects the payment profile from the DisabilityCare Australia Fund agreed through respective funding agreements'.

References to Committee Hansard are to official transcripts of this committee's hearings, unless otherwise stated.

- 1.59 The committee aims to use respectful terminology in this report. Consistent with the United Nations *Convention on the Rights of Persons with Disabilities*, this report generally uses person-first language such as 'people with disability'. The committee recognises that while some people with disability prefer this kind of terminology, others hold different preferences. When quoting a person who gave evidence to the committee, the committee endeavours to reproduce that person's preferred terminology.⁶⁴
- 1.60 The committee acknowledges that there are a variety of terms used to reflect the diversity of Aboriginal and Torres Strait Islander cultures and identities. In this report, the term 'Aboriginal and Torres Strait Islander peoples' is used, with respect. When quoting a person who gave evidence to the committee, the committee endeavours to reproduce that person's preferred terminology.⁶⁵

⁶⁴ A short discussion of these issues is available in Royal Commission, *Interim Report*, October 2020, pp. xx–xxii.

⁶⁵ A short discussion of these issues is available in Reconciliation Australia, *RAP good practice guide: Demonstrative inclusive and respectful language*, <https://www.reconciliation.org.au/wp-content/uploads/2018/05/language-guide.pdf> (accessed 23 November 2020).

Chapter 2

Independent assessments

- 2.1 The National Disability Insurance Agency (NDIA) will introduce independent assessments as part of National Disability Insurance Scheme (NDIS) access and planning processes, for all current and prospective NDIS participants aged seven years and over. In October 2020, the Chief Executive Officer (CEO) of the NDIA, Mr Martin Hoffman, told the committee that independent assessments will be used for the access process from February 2021, and for 'some planning decisions' from mid-2021.¹ Mr Hoffman stated that assessments will provide a 'simpler, faster and fairer' basis for access and planning decisions, and will be free — 'addressing a major source of complaints and costs for participants'.²
- 2.2 On 25 November 2020, the NDIA released consultation papers relating to independent assessments, which indicated that the implementation of independent assessments has been re-scheduled until later in 2021.³
- 2.3 The committee heard that a number of stakeholders—particularly in the disability and allied health sectors—have concerns about the proposal to introduce mandatory independent assessments. Concerns were raised that assessments will create stress and trauma for people with disability; will be of little utility in terms of understanding a person's support needs; and have been rolled out without effective consultation and engagement.
- 2.4 This chapter provides an overview of independent assessments, including:
- the rationale for introducing mandatory independent assessments;
 - the independent assessment process;
 - the tools used to conduct independent assessments;
 - the panel of independent assessors and associated tender process;
 - pilots of independent assessments; and
 - consultation on independent assessments.

¹ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 3. See also National Disability Insurance Scheme (NDIS), *Independent assessments*, <https://www.ndis.gov.au/participants/independent-assessments> (accessed 27 October 2020). The website states that during 2021 the NDIS will also consider how assessments will apply for participants aged under seven years.

² Mr Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 2.

³ NDIA, 'NDIS invites participants to have their say on NDIS reforms', *Media Release*, 25 November 2020, <https://www.ndis.gov.au/news/5683-ndia-invites-participants-have-their-say-ndis-reforms> (accessed 26 November 2020).

- 2.5 The chapter then considers concerns about independent assessments raised in evidence, and provides the committee's views.

Independent assessments — overview

Rationale for introducing mandatory independent assessments

- 2.6 To satisfy the disability requirements or early intervention requirements in the *National Disability Insurance Scheme Act 2013* (NDIS Act), information regarding a person's functional capacity is required.⁴ According to the NDIA, this information varies greatly between individuals, owing to various factors including the role and experience of the person giving the information; the assessment measures used; the design, purpose and level of detail of an assessment; how recently assessment results were obtained; and the interpretation of results.⁵
- 2.7 Independent assessments aim to address these inconsistencies by introducing standardised assessments of functional capacity. The NDIA has stated that functional capacity is a 'significant point of comparison' for participants. Moreover, information on a person's functional capacity is required by the NDIS Act and is a major component of NDIS decision-making processes.⁶
- 2.8 Independent assessments also represent a move away from using diagnosis or impairment as the basis for NDIS decision-making, towards decisions based on functional capacity which are more consistent with the objectives of the scheme.⁷ Using an independent assessor rather than a person's usual health professional is also intended to address real or perceived bias.⁸
- 2.9 Further, individuals are currently required to obtain evidence of functional capacity prior to scheme access—either through publically funded services or the private health sector. For many, obtaining this information via the private health sector is financially prohibitive, and waiting lists in the public sector can be extensive. According to the NDIA, independent assessments seek to 'level the playing field', such that financial, cultural, social, education and literacy factors do not contribute to delays or barriers to accessing the NDIS.⁹

⁴ See NDIS Act, sections 24 and 25.

⁵ NDIS, *Independent Assessment Framework*, August 2020, p. 7, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-framework> (accessed 30 October 2020).

⁶ NDIS, *Independent Assessment Framework*, August 2020, p. 7.

⁷ NDIS, *Independent Assessment Framework*, August 2020, p. 8.

⁸ NDIS, *Independent Assessment Framework*, August 2020, p. 7.

⁹ NDIS, *Independent Assessment Framework*, August 2020, p. 8. See also NDIS, *Independent assessment Q and A*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-q-and-a> (accessed 27 October 2020). The NDIA anticipates that independent assessments

2.10 As to why independent assessments will be mandatory, the NDIA stated that:

- all people, regardless of their situation, should have the same access to internationally recognised, evidence based assessments;
- having complete and consistent information will help the NDIA make sure the NDIS is fair and consistent for all participants;
- having everyone undergo the same assessment process will help the NDIA move from annual plan reviews to reviews based on life stages or when a person experiences significant changes in function; and
- independent assessments were recommended in the Productivity Commission's (PC) 2011 inquiry into disability care and support and the 2019 Review of the NDIS Act led by David Tune AO PSM (Tune Review).¹⁰

2.11 Regarding when the decision was made to implement mandatory independent assessments, the Department of Social Services (DSS) stated that:

- on 14 November 2019, the Minister for the NDIS announced the Government's intention to 'fully implement...independent functional assessments—fully paid for by the NDIA—in the access and planning pathways'; and
- on 28 August 2020, the Government publicly announced its decision to pursue amendments to the NDIS Act to provide the CEO of the NDIA with power to require a prospective participant or participant to undertake an assessment for the purposes of access, planning and plan review decisions.¹¹

The independent assessment process

2.12 The NDIS website states that an independent assessment is free, and provides a person with disability and the NDIA with an understanding of the person's functional capacity—including how well the person functions at home or in the community and the impact of the person's disability on their daily life.¹²

2.13 For new participants, independent assessments will form part of the access process. Where a person submits an access request and the NDIA determines that the person meets the basic access criteria for the NDIS, the NDIA will refer the person to an independent assessor in their area.¹³

will save participants between \$130 million and \$170 million that would otherwise be spent on obtaining assessments associated with access.

¹⁰ NDIS, *Independent assessment Q and A*.

¹¹ Department of Social Services (DSS), answers to questions on notice, 12 October 2020 (received 2 November 2020), [pp. 3, 16].

¹² NDIS, *The independent assessment process*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-process> (accessed 30 October 2020).

¹³ NDIS, *The independent assessment process*.

- 2.14 For NDIS participants with plans, independent assessments will form part of the plan review process. The NDIA will refer the participant to an assessor at 'important points', such as when the participant:
- enters a new life stage (for example, starting school or employment);
 - has a change of circumstances;
 - requests a plan review;
 - has stable supports and would like a longer plan;
 - has Supported Independent Living (SIL) supports in their plan;
 - is having their NDIS access reassessed; or
 - is preparing to transition out of the NDIS.¹⁴
- 2.15 Following a referral, the assessor and the person with disability will organise a time for the assessment. A person may choose the venue for their assessment, and may elect to conduct the assessment by video using a computer or tablet.¹⁵ According to the NDIA, an assessment will take between one and four hours, and can be undertaken on one day or over multiple days.¹⁶
- 2.16 The assessor will ask a series of questions of the person with disability about their life and 'what matters' to them. The assessor will also ask to see how the person approaches everyday tasks, and will work through some standardised assessment tools (below) based on the person's age and disability.¹⁷ The person undergoing the assessment may have another person with them—for example, a family member, support worker or health professional.¹⁸ However, as noted below, a person's current health professional will not perform the assessment.
- 2.17 For assessments related to the planning process, the results of the assessment will be sent to the NDIA and a planner or local area coordinator (LAC) will discuss the results at the person's planning meeting. Assessment outcomes will be used to identify supports and to inform the person's NDIS budget. A person may request a copy of their assessment. If a person does not agree with a decision the NDIA makes based on their independent assessment, they may request an internal review of the decision.¹⁹

¹⁴ NDIS, *The independent assessment process*. See also NDIA, *Independent assessments and your plan*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessments-and-your-plan> (accessed 30 October 2020).

¹⁵ NDIS, *The independent assessment process*.

¹⁶ NDIS, *The independent assessment process*.

¹⁷ NDIS, *The independent assessment process*.

¹⁸ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 2.

¹⁹ NDIS, *The independent assessment process*.

Independent assessment tools

2.18 The NDIS website states that the NDIA has identified six assessment tools. New and existing NDIS participants will be assessed using three or four of the tools, depending on age and disability type.²⁰ According to the NDIA, the tools were selected after speaking to academics, allied health professionals and the disability sector. Over 100 tools were considered, based on whether they:

- were disability-neutral (so could be used across all disability-types);
- assessed function, rather than impairment;
- were questionnaire-based, to avoid capturing a person's moment-in-time function, for example on a 'good day', or with an unfamiliar assessor; and
- were accurate and reliable.²¹

2.19 A description of the tools used for independent assessments is set out below.

Table 2.1 Tools used in independent assessments²²

Assessment tool	Age cohort	Description
Vineland 3	Child (7–17 years) Adult (18+ years)	Standardised tool that measures adaptive behaviour. Semi-structured interview format focused on discussion and gathering in-depth information.
Participation and Environment Measure for Children and Youth (PEM-CY)	Child (7–17 years)	Questionnaire that evaluates participation at home, school, and in the community. Used for children and youth between the ages of 5 to 17 years old, with or without disability.
Paediatric Evaluation of Disability Inventory Computer Adaptive Test (PEDI-CAT)	Child (7–17 years)	Measures abilities in four domains: Daily Activities; Mobility; Social and Cognitive; and Responsibility. It uses a questionnaire answered by the parent or carer. Designed for children and youth with a variety of conditions.
Lower Extremity Function Scale (LEFS)	Adult (18+ years)	Questionnaire measuring a person's difficulty in performing everyday tasks.

²⁰ NDIS, *The independent assessment toolkit* <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-toolkit> (accessed 30 October 2020).

²¹ NDIS, *Independent assessment: Selection of Assessment Tools*, September 2020, p. 5.

²² Source: NDIS, *The assessment tools in the toolkit*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-toolkit/assessment-tools-toolkit> (accessed 30 October 2020); NDIS, *Independent assessment: Selection of Assessment Tools*, September 2020, p. 5.

Craig Hospital Inventory of Environmental Factors (CHIEF)	Adult (18+ years)	Questionnaire rating environmental barriers for an adult participating in particular environments (e.g. home, work, community).
World Health Organisation Disability Assessment Schedule (WHO-DAS) 2.0 36	Adult (18+ years)	Generic assessment instrument for health and disability. Applicable across cultures and disability types, in all adult populations. Short, simple and easy to administer.

Independent assessors

2.20 According to the NDIA, independent assessors will be healthcare professionals from a range of areas including:

- occupational therapists;
- physiotherapists;
- speech pathologists;
- clinical and registered psychologists;
- rehabilitation counsellors; and
- social workers.²³

2.21 Independent assessors will not be employed directly by the NDIA. The NDIA has conducted an open tender process to find the organisation(s) that will deliver independent assessments.²⁴ The organisation(s) with successful tenders are appointed to a panel, from which participants and prospective participants will choose their assessor.²⁵

2.22 As regards the selection process for the panel, the NDIA has stated:

A Request for Tender (RFT) entitled Independent Assessment Panel...was published on AusTender on 13 March 2020 and closed on 25 June 2020. This was conducted as an open tender and the RFT was open for 68 business days (104 calendar days). Organisational size was not an RFT criteria or requirement.

...[T]he Panel will remain 'live', meaning that other organisations can be added in future, and providing opportunity to encourage partnerships among organisations who may not think they can provide the required services on their own.²⁶

²³ NDIS, *Independent assessors*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessors> (accessed 28 October 2020).

²⁴ NDIS, *Independent assessors*.

²⁵ NDIS, *Independent assessment Q and A*. According to the NDIA, a participant may select the gender of their assessor based on personal preference.

²⁶ National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 3]. The CEO of the NDIA told the committee that the NDIA expects to

- 2.23 Assessments must be performed by an allied health professional on the panel. However, a person's treating health professional will still be involved in NDIS access processes, as they will continue to be responsible for diagnoses and for providing information in relation to the person's disability. The NDIA has also emphasised that independent assessments are 'one piece' in a collection of evidence that the NDIA considers in access and planning decisions.²⁷
- 2.24 All independent assessors will be trained to use the same set of standardised assessment tools (listed above), to ensure that everyone is treated in a fair and consistent manner. Assessors will also be trained to work with children, in relation to assessments for individuals aged less than 18 years.²⁸

Pilots

- 2.25 Rollout of compulsory independent assessments follows two pilot programs conducted in 2018–19 and 2019–20.

First pilot

- 2.26 The first pilot was conducted between November 2018 and April 2019, in nine metropolitan areas in NSW. Assessments were offered on a voluntary, 'opt in' basis to current and prospective participants aged between 7 and 64 years. Volunteers for the first pilot had a primary disability of Autism Spectrum Disorder (ASD), intellectual disability or psychosocial disability. The first pilot included 513 participants.²⁹
- 2.27 As part of the pilot project, the NDIA worked with access delegates, planners, LACs and independent assessors to deliver face-to-face and webinar-based training. As a result, 105 planners and 300 LACs were trained.³⁰
- 2.28 The NDIA undertook surveys of pilot participants and their representatives to gauge satisfaction with the assessments process. Of the 513 participants in the first pilot, 145 completed a survey. Of the 145 survey respondents: 91 per cent reported being satisfied or very satisfied; 99 per cent considered their assessor to be professional; and 72 per cent felt that their assessor was familiar with

announce the successful tenderer before the end of 2020. See Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency (NDIA), *Proof Committee Hansard*, 12 October 2020, p. 4.

²⁷ NDIS, *Independent assessment Q and A*.

²⁸ NDIS, *Independent assessment Q and A*.

²⁹ NDIS, *Independent Assessments: Pilot learnings and ongoing evaluation plan*, p. 10 <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-pilot> (accessed 27 October 2020). These cohorts were chosen because they represent 63 per cent of all NDIS participants.

³⁰ NDIS, *Independent Assessment Pilot: Pilot results*, <https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-pilot/independent-assessment-pilot-iap-archived> (accessed 28 October 2020).

their disability. According to the NDIA, pilot participants were especially satisfied with the comprehensive nature of the assessment and the skills of the assessors.³¹

Second pilot

2.29 A second pilot launched in November 2019 in four NDIS service delivery areas in NSW. The second pilot planned to extend eligibility for independent assessments to all disability types. It was also intended that the second pilot would capture information about support provided by family and friends, and barriers to participation in home, school, work and community settings.³²

2.30 Due to the impacts of COVID-19, and in accordance with the Australian Government Emergency Response Plan, the NDIA postponed the second pilot in March 2020. At this stage, 99 assessments had been undertaken. As with the first pilot, the NDIA undertook surveys of participants and their representatives to gauge satisfaction with the assessments process. The NDIA received responses from 27 participants. Of those 27 participants:

- 100 per cent were satisfied with the length of the appointment;
- 92 per cent were comfortable talking to the assessor about their disability;
- 81 per cent agreed that the assessor understood their challenges;
- 71 per cent agreed that the assessor was familiar with their disability;
- 70 per cent agreed the assessor understood their strengths; and
- 63 per cent were satisfied with the decision to select an assessor for them.³³

2.31 The NDIA recommenced the second pilot on 23 October 2020.³⁴ According to the NDIA, independent assessments will be offered to up to 4,000 existing participants across all disability types. Results of the assessments conducted during the pilot will not be used for any agency decisions in relation to access or planning.³⁵ However, the tools in the assessments toolkit (outlined above) will be used to conduct the assessments. The results of the second pilot will be used to inform how independent assessments are implemented.³⁶

³¹ NDIS, *Independent Assessments: Pilot learnings and ongoing evaluation plan*, p. 15.

³² NDIS, *Independent Assessments: Pilot learnings and ongoing evaluation plan*, p. 10.

³³ NDIS, *Independent Assessments: Pilot learnings and ongoing evaluation plan*, pp. 15–16. The NDIA noted that as the number of responses in relation to the second pilot was low, findings should be interpreted cautiously when generalising to independent assessments more broadly.

³⁴ National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 6].

³⁵ NDIS, *Independent Assessments: Pilot learnings and ongoing evaluation plan*, p. 11.

³⁶ NDIS, *What happens with the information from the pilot*, <https://www.ndis.gov.au/participants/independent-assessments/second-independent-assessment-pilot/what-happens-information-pilot> (accessed 29 October 2020).

Consultation

- 2.32 DSS stated that, prior to the minister's announcement on 14 November 2019, the NDIA consulted with a range of representative organisations as part of the first independent assessments pilot. Consultation initially focused on bodies representing people with intellectual disability and ASD. DSS provided dates for 10 briefings with representative organisations; one briefing with state and territory officials; two meetings of the CEO Forum; and 15 meetings with individual members of the CEO Forum on the first pilot.³⁷
- 2.33 DSS also provided details of consultation undertaken after the 14 November announcement, including additional meetings with representative bodies, the CEO Forum, and the Independent Advisory Council.³⁸
- 2.34 Noting that the decision to introduce mandatory independent assessments followed the release of the Tune Review and the Government's response, DSS stated that the Tune Review was informed by widespread public consultation between July and November 2019. This included meetings with 17 peak and representative bodies; receipt of 201 written submissions; 15 community workshops; seven focus groups; and targeted workshops with Aboriginal and Torres Strait Islander communities.³⁹
- 2.35 The NDIA provided a list of 88 organisations with which it has consulted. Listed organisations cover all Australian jurisdictions, and capture a range of disability types and participant cohorts.⁴⁰
- 2.36 The NDIA noted that since August 2020, it has undertaken three CEO Forum meetings with a focus on independent assessments, and 30 meetings with Forum members outside of dedicated meetings.⁴¹ It also consulted with the participant reference group on 7 May and 30 October 2020.⁴²

³⁷ Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020), [pp. 18–19].

³⁸ Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 21].

³⁹ Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 20].

⁴⁰ Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020), [pp. 7–9].

⁴¹ National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 1].

⁴² National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020), [p. 5]. The CEO of the NDIA told the committee that the participant reference group is comprised of people with disability, and that there is ongoing engagement with this group. See Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 13.

2.37 The NDIA has stated that more consultation will occur over the coming months on how assessments will be used to inform access and planning decisions. The 'components' of the scheme on which consultation has been or will be undertaken are:

- independent assessment policy and design considerations;
- cohorts;
- access at full scheme; and
- planning and plan flexibility.⁴³

The Tune Review and independent assessments

2.38 As noted elsewhere in this report, in June 2019 the Australian Government commissioned a review of the NDIS Act, led by David Tune AO PSM. The Tune Review focused on removing impediments to positive participant and provider experiences and supporting implementation of a Participant Service Guarantee. The report of the Tune Review was released in December 2019.

2.39 One finding of the Tune Review was that standardised functional capacity assessments would improve the quality and consistency of NDIA decisions. Moreover, if undertaken at the point of access to the NDIS, such assessments would improve the participant experience by mitigating the need to provide further information about functional capacity later in their NDIS journey.⁴⁴

2.40 The Tune Review noted that the NDIA conducted a first pilot of independent assessments in late 2018, stating that the benefits arising from the first pilot indicate it is worth implementing nationally for every person with disability who would like to test their access to the NDIS or require further evidence to support decision-making about supports in their plan. It also noted that a second pilot would be conducted from December 2019, with a view to establishing a national panel of independent, appropriately skilled assessors. The Review noted that the program would roll out nationally from July 2020.⁴⁵

2.41 The Tune Review asserted that roll-out of the program would constitute a significant role change for the NDIA's Partners in the Community, requiring extensive consultation with participants, the disability sector, service providers and the NDIA workforce. It also noted that the success of the program will largely depend on:

⁴³ National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020), [pp. 7–9].

⁴⁴ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 59.

⁴⁵ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 66. As noted above, the NDIA postponed the second pilot in March 2020 due to the COVID-19 pandemic. It then recommended the second pilot on 23 October 2020.

- the willingness of participants and prospective participants to work with NDIA-approved functional assessors; and
 - assessors providing truly independent functional capacity assessments, so they are not perceived as agents of the NDIA or a tool designed to cut supports from participants.⁴⁶
- 2.42 The Tune Review stated that the NDIS Act should be amended to support the use of functional capacity assessments. However, it emphasised that there are key protections that need to be embedded as this approach rolls out, including:
- participants having the right to choose which NDIA-approved provider in their area undertakes the functional capacity assessment;
 - participants having the right to challenge the results of the functional capacity assessment, including the ability to undertake a second assessment or seek some form of arbitration if, for whatever reason, they are unsatisfied with the assessment;
 - NDIA-approved providers being subject to uniform accreditation requirements that are designed and implemented jointly by the NDIA and appropriate disability representative organisations; and
 - the NDIA providing clear and accessible publicly available information, including on the NDIS website, on the functional capacity assessments being used by the NDIA and the available panel of providers.⁴⁷
- 2.43 According to the Tune Review, one of the biggest risks in implementing the new assessment process will be disengagement—that is, people with disability refusing to interact with any NDIA-approved providers. As with the NDIS as a system more generally, this is a particular risk for Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse (CALD) backgrounds, and people with psychosocial disability.⁴⁸ The Review stated that the 'depth' of the panel of assessors must therefore be sufficient to mitigate any engagement risks for these cohorts, as well as any other issues relevant in specific locations, communities, or for particular disability types'.
- 2.44 Consequently, the Tune Review stated that the NDIA should not—at least in the short term—implement a 'closed or deliberately limited' panel of providers to conduct assessments. Rather, engagement issues should be closely monitored, and the panel of providers should be dynamic and evolve to ensure the new approach does not drive disengagement. If structural or localised engagement risks are identified, the NDIA should engage with

⁴⁶ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 66.

⁴⁷ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 66.

⁴⁸ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 67.

participants and the market to ensure the availability of appropriate providers.⁴⁹

2.45 The Tune Review also acknowledged that it may not always be possible to source appropriate providers, and that there may be circumstances where it is appropriate for non-NDIA approved providers to undertake assessments. In addition, independent assessments would not always be required—for instance if a participant's functional capacity is stable. The Review stated that the power to require the provision of a functional capacity assessment should be discretionary. It also stated that the NDIA will need to develop clear operational guidelines for decision-makers exercising this discretion.⁵⁰

2.46 Ultimately, the Tune Review made the following recommendation:

Recommendation 7: The NDIS Act is amended to:

- (a) allow evidence provided to the NDIA about a prospective participant or participant to be used for multiple purposes under the NDIS Act, including access, planning and plan review processes
- (b) provide discretionary powers for the NDIA to require a prospective participant or participant to undergo an assessment for the purposes of decision-making under the NDIS Act, using NDIA-approved providers and in a form set by the NDIA.⁵¹

2.47 In its response to the Tune Review, released in August 2020, the Government expressed support for Recommendation 7. It stated:

As announced by the Minister for the NDIS in November 2019, the NDIA will progressively roll out the use of independent functional capacity assessments nationally in access and planning. The NDIS Act currently contains provision to seek a functional capacity assessment. The intention is to expand the use of independent functional capacity assessments to deliver a more reliable, consistent and transparent approach to NDIS access, planning and plan review decisions. This shift will incorporate greater flexibility and choice and control for participants in implementing their plans.

The Government supports legislative amendments that would deliver a broader use of independent functional capacity assessment, noting the approach was recommended by the Productivity Commission in its 2011 Inquiry Report.

The process for implementing independent functional capacity assessments nationally will be determined based on the experience from

⁴⁹ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 67.

⁵⁰ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 67.

⁵¹ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 67.

recent trials and will occur in close consultation with participants and key stakeholders.⁵²

Concerns raised in relation to independent assessments

- 2.48 The committee heard that elements of the proposed independent assessments regime have been welcomed by some stakeholders. For example, Occupational Therapy Australia (OTA) commended the introduction of a free eligibility screening process, noting that an ongoing concern for the NDIS is inequity of access based on socioeconomic status.⁵³
- 2.49 However, the majority of submitters to the inquiry opposed the introduction of mandatory independent assessments as part of access and planning processes. In particular, submitters were concerned that assessments:
- will add complexity, stress and trauma for people with disability;
 - will be of little utility in terms of understanding a person's disability and support needs; and
 - have been rolled out without proper consultation with the disability sector.
- 2.50 These concerns were reflected in a statement by the Australian Autism Alliance,⁵⁴ and in an address by the National Manager, Government and Stakeholder Relations for OTA, to the 2020 OTA online conference.⁵⁵
- 2.51 Some submitters asserted that the rollout of mandatory independent assessments should be paused to allow time for deeper consultation with the sector and a more thorough investigation of the issues associated with the assessment framework.⁵⁶ Other submitters went further, asserting that the scheme should be discarded entirely. For example, the Victorian Mental Illness Awareness Council (VMIAC) stated:

The NDIA's proposed Independent Assessment process is conceptually flawed, unfit for purpose and needs to be scrapped and redesigned. It needs full collaboration and consultation with disabled people, their

⁵² Australian Government, *Australian Government response to the 2019 Review of the National Disability Insurance Scheme Act 2013 report*, August 2020, p. 7.

⁵³ Occupational Therapy Australia, *Submission 52*, p. 4.

⁵⁴ Australian Autism Alliance, *Statement on the proposed introduction of mandatory NDIA determined assessments in the NDIS*, October 2020 <https://australianautismalliance.org.au/wp-content/uploads/2020/10/Autism-Alliance-Statement-on-NDIA-Assessments-Oct-2020.pdf> (accessed 2 November 2020); also see, for example, Autism Aspergers Advocacy Australia, *Submission 64*, [p. 1].

⁵⁵ Mr Michael Barret, National Manager, Government and Stakeholder Relations, *Address to the OTA Virtual Exchange 2020*, 15 September 2020, <https://australianautismalliance.org.au/wp-content/uploads/2020/10/Autism-Alliance-Statement-on-NDIA-Assessments-Oct-2020.pdf> (accessed 3 November 2020).

⁵⁶ See, for example, Name Withheld, *Submission 65*, p. 2.

families, supporters and the disability sector, to ensure that confidence and safety in how the NDIS operates is restored.⁵⁷

Potential for stress and trauma

2.52 Some submitters raised concern that independent assessments will result in stress and trauma for people with disability, and will add complexity to the already onerous process of accessing the NDIS and obtaining funding for reasonable and necessary supports.⁵⁸

2.53 One submitter stated that independent assessments are likely to be 'incredibly dehumanising', noting that they require the repeated disclosure of personal information to unknown health professionals.⁵⁹ Another gave an example of the stress experienced by people with disability who must frequently explain their circumstances in order to obtain necessary supports:

Every single year (in fact for me, twice a year...) I need to explain my life to another stranger. Not once have I had the same planner, despite several requests. I have had to stop the car on the way to my plan reviews to vomit at the thought of once again explaining my circumstances to a stranger, preparing to fend off the usual questions such as 'and what about informal supports, don't you have anyone who helps you?' Or even more unsettling comments such as 'my goal for your children is to get them off plans permanently'. So privacy trade-offs, power imbalances and trauma triggers are what is required for my family to access their NDIS plans.⁶⁰

2.54 AusDoCC, a charity supporting people with disorders of the corpus callosum, raised similar concerns, noting that people with disability are already asked to repeatedly share their stories outside the NDIS to obtain supports, in the context of schools, workplaces and government programs.⁶¹

2.55 Ms Muriel Cummins, an occupational therapist, noted that studies of similar programs overseas have found that functional capacity assessments have the potential to cause significant harm to people with disability—particularly people with psychosocial disability experiencing socioeconomic disadvantage:

[In] England between 2010 and 2013, just over one million recipients of disability benefit had their eligibility reassessed using a new functional checklist. A...study concluded that the program of reassessing people on disability benefits using the checklist was independently associated with

⁵⁷ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 9]. The VMIAAC stated that if there is a decision to 'push ahead' with mandatory independent assessments, independent monitoring, oversight and review mechanisms should be put in place with the involvement of consumer and disability organisations.

⁵⁸ See, for example, Name Withheld, *Submission 41*, [p. 1]; Name Withheld, *Submission 60*, pp. 3–4; Name Withheld, *Submission 57*, p. 10.

⁵⁹ Name Withheld, *Submission 40*, [p. 1]. See also Name Withheld *Submission 39*, [pp. 1–2].

⁶⁰ Name Withheld, *Submission 47*, [p. 1].

⁶¹ AusDoCC, *Submission 43*, [p. 5].

an increase in suicides, self-reported mental health problems and antidepressant prescribing. The reassessment process was associated with the greatest increases in these adverse mental health outcomes in the most deprived areas of the country, widening health inequalities.⁶²

- 2.56 One submitter noted that the stress and trauma associated with the independent assessments process stems from the perceived need to 'prove' their disability to a stranger, who may at any time decide that the person is 'not disabled enough' and remove necessary supports. The submitter observed that this goes against the principles of choice and control that underpin the NDIS, recommending that assessments be provided on a voluntary, rather than mandatory, basis.⁶³
- 2.57 Another submitter asserted that, owing to the anxiety and trauma associated with independent assessments, demand for acute mental health services will increase. The submitter stated that there must be a duty of care by the NDIA to ensure that any trauma or worsening of mental health of any participant or applicant is minimised, and appropriate treatment and support is provided.⁶⁴
- 2.58 The VMIAC raised similar concerns, noting that participants with psychosocial disability have 'deep apprehension' about their safety and security in a scheme where their disability status is repeatedly questioned. The VMIAC stated that many participants experience this as a form of abuse and gaslighting.⁶⁵

The utility of independent assessments

- 2.59 As well as raising concerns about the potential for independent assessments to create stress and trauma for people with disability, submitters expressed doubt that independent assessments will be a reliable, accurate measure of a person's functional capacity. Consequently, submitters expressed concern that using the results of an assessment for access and planning decisions will lead to adverse outcomes for people with disability.
- 2.60 For example, a submitter noted that one of their children—who has complex disability—has a team of specialists providing assessments and support. The submitter stated that they have invested significant time and effort finding specialists with the necessary expertise, and expressed strong concerns about the consequences of the independent assessments process:

⁶² Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 3. Ms Cummins cited B Barr, D Taylor-Robinson, D Stuckler, R Loopstra and A Reeves, "'First, do no harm": are disability assessments associated with adverse trends in mental health? A longitudinal ecological study', *Journal of Epidemiology and Community Health*, Vol. 70, No. 4, 2015.

⁶³ Name Withheld, *Submission 39*, [p. 1]. See also Victorian Mental Illness Awareness Council, *Submission 56*, [p. 4].

⁶⁴ Name Withheld, *Submission 57*, p. 24.

⁶⁵ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 8].

Can the NDIS guarantee that the independent assessor they assign to my daughter will have sufficient training and understanding in her complex needs? Because if they can't then there is a reasonable chance my daughter will not be appropriately supported and that would risk not only her future to participate in society but her life.⁶⁶

2.61 OTA expressed similar concerns, noting that there appears to be little focus in the assessment process on getting to know the person with disability and their support needs.⁶⁷

2.62 As regards people with psychosocial disability, the VMIAC raised concern that a professional conducting an independent assessment will have no knowledge or experience of the disability they are assessing, stating:

[T]he NDIA has said that the assessment process will be 'disability agnostic' with capacity to assess any disability accurately. But the NDIS has presented no evidence that such a limited assessment process is fit for purpose, and capable of accurately assessing or measuring a person's level of disability or disability support needs.⁶⁸

2.63 AusDoCC expressed similar concerns, highlighting the following statement by Ms Naomi Anderson, a lawyer from Villamanta Disability Rights:

It is absurd to suggest that a stranger without appropriate qualifications can assess a person with complex disability in three hours and come to relevant and credible conclusions.⁶⁹

2.64 One submitter raised concern that the expertise of health professionals who are known to the person with disability will be disregarded in the independent assessments process, stating:

The usual reports provided by actual therapists who specialise in the areas of disability we experience and who work with us will be disregarded so yet another stranger with zero knowledge of my life can enter my home and decide, based on a single and short visit, how deserving I am.⁷⁰

2.65 The capacity for independent assessments to reliably measure the capacity of people with invisible, fluctuating or episodic disability was also a key concern. One submitter observed that people with invisible disability, and people who mask their disability around strangers, may be disadvantaged, stating:

⁶⁶ Name Withheld, *Submission 39*, [p. 1].

⁶⁷ Occupational Therapy Australia, *Submission 52*, p. 6. See also Name Withheld, *Submission 57*, p. 12.

⁶⁸ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 6].

⁶⁹ AusDoCC, *Submission 43*, [p. 4]. See also Villamanta Disability Rights Legal Service, 'AAT rejects NDIS Independent Assessment', *Media release*, 9 September 2020, <https://villamanta.org.au/news/aat-rejects-ndis-independent-assessment/> (accessed 24 November 2020).

⁷⁰ Name Withheld, *Submission 47*, [p. 3].

[W]ith evidence from my daughter's trusted health care providers who know her well, we have been able to access life changing NDIS support, however under this new service my daughter would be likely deemed ineligible, due to the fact that she has such high anxiety, she only has overt meltdowns and struggles when she feels safe, at home. Her mental disability is debilitating behind closed doors[;] however[,] to anyone who meets her, she's just a very clever little girl.⁷¹

- 2.66 AusDoCC similarly noted that the neuropsychological syndrome associated with disorders of the corpus callosum may not become evident in a single discussion. For those who experience this syndrome, functional impairment may only become evident over a period of continual engagement.⁷²
- 2.67 As to the length of time available to complete an assessment, one submitter asserted that making a decision about funding after an assessment taking as short a time as 20 minutes is 'absolutely appalling and completely unethical'—particularly if the assessor lacks knowledge about rare or complex disability.⁷³
- 2.68 Another submitter observed that the time available to complete an assessment is considerably shorter than the time taken by an occupational therapist to conduct a full functional capacity assessment:

The NDIA currently provides funds for participants to engage [occupational therapists (OTs)] to conduct [functional capacity assessments]. The funding allocation for this is for between 10–15 hours OT time. The proposed [independent assessments] are for 2.5–3 hours, including 'administering the standardised Functional Capacity Assessment Tools, undertaking the interaction/observation...and then completing the written observation Report.'...Even 4 hours is simply not long enough to appropriately assess an individual's full needs.⁷⁴

- 2.69 The First Peoples Disability Network (FPDN) raised concern that the independent assessments model, including the time allocated to an assessment, will not allow assessors to build trust in communities or gain sufficient knowledge of the circumstances of the person being assessed. This is of particular concern to Aboriginal and Torres Strait Islander peoples, noting the importance of trust and relationship-building to positive care and support outcomes. The FPDN also expressed concern that the assessments will not provide equitable access for Aboriginal and Torres Strait Islander peoples. In this respect, the FPDN noted that:

- there may be no access to the technology required to conduct the assessment or communicate with the NDIA—particularly in remote areas;

⁷¹ Name Withheld, *Submission 40*, [p. 1].

⁷² AusDoCC, *Submission 43*, [p. 5].

⁷³ Name Withheld, *Submission 41*, [p. 1].

⁷⁴ Name Withheld, *Submission 60*, p. 2. See also Name Withheld, *Submission 57*, pp. 16–17.

- without an established relationship of trust, Aboriginal and Torres Strait Islander peoples with disability are more likely to disengage from the assessments process, or to choose not to pursue access at the outset; and
- while the NDIA has advised that a person undergoing an independent assessment may have a support person present, this is not realistic for many Aboriginal and Torres Strait Islander peoples with disability.⁷⁵

The experience, independence and expertise of assessors

- 2.70 Another critical concern for submitters was the experience, independence and expertise of the professionals contracted by the NDIA to conduct assessments.
- 2.71 For example, OTA questioned the clinical competency of the assessors, stating that the assessment model proposed by the NDIA is unlikely to be a reliable or valid means of assessing a person's functional capacity unless carried out by an occupational therapist using specific professional reasoning, detailed task analysis, risk management and assessment tools.⁷⁶
- 2.72 Another submitter—an occupational therapist—expressed concern at the range of professions who may be called upon to conduct independent assessments, asserting that it is only occupational therapists and physiotherapists who have the practical training and clinical insight to successfully and safely assess the physical functioning of people with disability.⁷⁷
- 2.73 The independence of assessors was also questioned, with AusDoCC noting that assessors will be contracted by the NDIA, and will write reports for the NDIS that will not be accessible to participants.⁷⁸
- 2.74 Regarding the use of an open tender to select a panel of assessors, Mr Carlo Divita expressed concern that if the tender process aims to reduce costs, it will not promote recruitment of experienced professionals. Rather, it will attract newer graduates without the clinical expertise to deliver quality assessments.⁷⁹ Mr Divita also acknowledged that selecting independent assessors through a tender process aims to reduce actual or perceived bias (for example, 'sympathy bias' in favour of clients). However, he stated that this

⁷⁵ First Peoples Disability Network, *Submission 53*, p. 10. Other submitters similarly observed that independent assessments will create barriers to access for people from culturally and linguistically diverse (CALD) backgrounds, who may wish to choose their treating professional based on gender diversity, cultural awareness and sensitivity, or religious belief. See, for example, Name Withheld, *Submission 57*, p. 21.

⁷⁶ Occupational Therapy Australia, *Submission 52*, p. 6. See also Name Withheld, *Submission 61*, [p. 3].

⁷⁷ Name Withheld, *Submission 57*, p. 16.

⁷⁸ AusDoCC, *Submission 43*, [p. 6]. The committee acknowledges that the NDIA has stated that a participant may access a copy of their assessment for their records.

⁷⁹ Mr Carlo Divita, *Submission 45*, p. 3.

would not be necessary, noting that the allied health sector is subject to rigorous ethical standards.⁸⁰

- 2.75 These views were echoed by another submitter, who asserted that claiming allied health professionals suffer from 'sympathy bias' discredits the years of training in observation and objectivity required for practice.⁸¹ The committee also heard that the concept of 'sympathy bias' comes from a study involving just 29 people with disability surveyed by support workers.⁸²
- 2.76 OTA strongly opposed the appointment of a panel of approved providers, noting that such panels often comprise a small number of impersonal, multi-national companies. OTA expressed concern that such arrangements result in the termination of longstanding and 'hugely beneficial' clinical relationships between experienced practitioners and often very complex clients—leading to a reduction in work for smaller providers and reductions in choice and control for people with disability.⁸³
- 2.77 Concerns were also raised as to the qualifications and expertise of the NDIA delegates who will use the results of independent assessments to make access or planning decisions. For example, OTA stated:

[A]s the process is currently envisaged, an allied health professional will be expected to conduct an assessment using the generalist tools developed, but not drawing on their years of clinical experience or their powers of clinical reasoning – in effect ticking boxes. That person will then forward the raw data to an NDIA delegate who may or may not be a clinician – the NDIA does not intend sharing that detail, nor even the percentage of NDIA delegates who are clinicians. The NDIA delegate, who may have no clinical background and who has had no particular training, will then decide whether the client is eligible for the scheme, basing their decision on data collected (from tools not designed for this use), and without knowing or seeing the client.⁸⁴

Assessment tools

- 2.78 The committee also heard that there are concerns as to the appropriateness of the assessment tools selected by the NDIA. In particular, submitters expressed concern that using a single suite of tools for all assessments implies a 'one size fits all' approach to assessments, which does not capture the diversity of people with disability and their support needs.

⁸⁰ Mr Carlo Divita, *Submission 45*, p. 2.

⁸¹ Name Withheld, *Submission 57*, p. 16.

⁸² Name Withheld, *Submission 65*, p. 3.

⁸³ Occupational Therapy Australia, *Submission 52*, p. 8.

⁸⁴ Occupational Therapy Australia, *Submission 52*, p. 7. See also Name Withheld, *Submission 57*, p. 13.

- 2.79 Ms Muriel Cummins, an occupational therapist, noted that there is no evidence to confirm that disability can be measured by a suite of pre-selected, mandated assessment tools, in the absence of professional interpretation, historical and developmental context, or input from support providers.⁸⁵
- 2.80 FPDN similarly asserted that the use of standardised assessment tools suggests a 'one size fits all' approach which is not appropriate for Aboriginal and Torres Strait Islander peoples. FPDN stated that Aboriginal and Torres Strait Islander peoples are impacted by a range of factors such as poverty, lack of access to services, discrimination, and well-founded fear of authority, which should be taken into account as part of any assessment of disability.⁸⁶
- 2.81 Ms Linda Bruce, Director, Helpcentre Psychology and the Autism Assessment and Therapy Unit, raised specific concerns about the Vineland 3. Ms Bruce noted that people with disability and carers often answer Vineland questions in ways that do not reflect the reality of psychosocial disability and its impact on functional capacity, providing an illustrative example:
- [A] client's 83 [year old] mother said [the client] could shower, dress and use a knife and fork. Then after the Functional Analysis, I discovered that [the client] had not had a shower or changed his clothes for at least three years, and ate everything with his hands.
- There was a huge discrepancy between what [the client's] carer said and what he could actually do. There is also the fact that many carers will not relate a true picture when the client is in the same room listening. They hesitate to do this in case it exacerbates violence, or hurts the feelings of the person they are caring for.⁸⁷

Intersection with planning

- 2.82 The committee heard that there are a number of concerns associated with the application of independent assessments to planning decisions. Generally, these concerns reflected the fact that a planning decision involves allocating funds and determining whether particular supports are reasonable and necessary.
- 2.83 For example, one submitter raised concern that if independent assessments are used to determine funding under the NDIS as well as eligibility for the scheme, there is a risk that a person's disability and its impacts will be over- or under-estimated. As an example, the submitter noted that two people with the same intellectual disability and functional capacity can have different support needs based on factors which may only become apparent after observing a person's routine and how they interact with others. As an independent assessment is

⁸⁵ Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 3.

⁸⁶ First Peoples Disability Network, *Submission 53*, p. 10.

⁸⁷ Ms Linda Bruce, *Submission 44*, [p. 1].

effectively a point-in-time analysis, it is less likely to identify these factors. This may lead to a reduction in funding.⁸⁸

- 2.84 The VMIAC expressed concern that requiring a participant to undertake an assessment each time they request a plan review or appeal a decision will act as a deterrent to participants exercising their rights, stating:

If an NDIS Participant requests a plan review to access additional supports for a disability, there is no guarantee that the outcome of the Independent Assessment will not be used to reduce funding or supports in other areas of their plan.⁸⁹

- 2.85 OTA expressed concern that the disability sector was led to believe that independent assessments would only be used to inform access decisions, and would have no impact on a participant's plan or plan budget. OTA stated that since independent assessments are to be more than eligibility tests, they should take the form of genuine functional capacity assessments, conducted by fully qualified and registered allied health professionals operating within a strictly defined scope of practice.⁹⁰

Appealing decisions based on independent assessments

- 2.86 Some submitters expressed concern that flaws in the independent assessments process may result in increased requests for plan reviews, and appeals to the Administrative Appeals Tribunal (AAT). The committee heard that this may increase costs for both people with disability and the NDIA, and may widen existing inequities between those with the resources to challenge decisions, and socioeconomically disadvantaged people who may be forced to accept an adverse decision—up to and including being 'locked out' of the NDIS.
- 2.87 For example, the VMIAC raised concern that participants may need to secure additional evidence to challenge the validity or accuracy of an independent assessment. This may be financially out of reach for some participants. The VMIAC also noted that since the NDIA is unlikely to reverse a decision around the validity of an independent assessment, the only avenue of redress may be an appeal to the AAT. Feedback from participants with psychosocial disability is that AAT appeals are highly intimidating, with 'often insurmountable' barriers for many people with disability.⁹¹
- 2.88 Another submitter observed that independent assessments will in fact reduce equity of access, noting that those with the capacity will challenge a decision to

⁸⁸ Name withheld, *Submission 61*, [p. 2]. The submitter also noted that if a person's support needs are underestimated, and the person is not allocated sufficient supports, a service may resort to the use of restrictive practices (including psychotropic drugs) to manage challenging behaviours.

⁸⁹ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 7]

⁹⁰ Occupational Therapy Australia, *Submission 52*, p. 5.

⁹¹ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 8]

refuse access—including engaging advocates and seeking further assessments of their functional capacity. This will increase costs both for the person with disability and the NDIA. However, those without resources may be forced to accept a refusal decision based on an independent assessment.⁹²

- 2.89 Another submitter raised concern that participants or prospective participants may not be able to have a faulty or inaccurate assessment struck from their record—separately from appealing an NDIA decision based on an assessment. The submitter asserted that this will be 'extremely prejudicial' to people with disability, as faulty assessments will influence NDIA decisions on reasonable and necessary supports, as well as future assessments by health professionals. The submitter also expressed concern that a faulty assessment may be the only information on a person's record, noting that the NDIA has shown 'they are perfectly prepared to throw away the information from [a person's] treating medical team in favour of the information on the independent assessment'.⁹³

Consultation and engagement

- 2.90 The committee heard that the NDIA has not engaged in a meaningful way with the disability sector prior to the rollout of independent assessments. Some submitters noted that stakeholders were not engaged, or were only consulted in a perfunctory matter. Others observed that even where the NDIA conducted lengthier or more detailed consultation, concerns raised by stakeholders were not reflected in changes to the independent assessments framework.
- 2.91 OTA observed that since functional assessment is a core skill of occupational therapists, failure to engage with OTA and Allied Health Professions Australia (AHPA) in the development of the independent assessments model represents a 'remarkable oversight' by the NDIA.⁹⁴ Another submitter asserted that the NDIA did not adequately consult the allied health sector but only provided 'notice'. The submitter—an occupational therapist—stated that:

...we will not simply be placated by 'adequate notice'. We require extensive, sound reasoning before we are going to support any changes, and to date there is no sound reasoning to be found. We are not arguing or fighting against this for arguments sake. People's lives are on the line.⁹⁵

- 2.92 The submitter also asserted that the NDIA has failed to listen to questions by the disability sector. The submitter noted that, in answer to the question 'why should I have to tell my story again, to a stranger?', posted on the NDIA's Facebook page, the NDIA 'simply justified their plan'.⁹⁶

⁹² Name Withheld, *Submission 60*, p. 1. See also Name Withheld, *Submission 65*, p. 2.

⁹³ Name Withheld, *Submission 59*, pp [1 – 2].

⁹⁴ Occupational Therapy Australia, *Submission 52*, p. 4.

⁹⁵ Name Withheld, *Submission 57*, p. 15.

⁹⁶ Name Withheld, *Submission 57*, p. 19.

Evidentiary support for mandatory independent assessments

2.93 The committee also heard that there are concerns that mandatory independent assessments will be implemented without evidence of their effectiveness, and without evidence that they are supported by the disability sector.

Pilot programs

2.94 In particular, submitters expressed concern that the pilot programs did not collect reliable data, or give adequate consideration to certain cohorts of people with disability (such as those with psychosocial disability).⁹⁷ For example, the Hutt St. Centre, a specialist homelessness organisation that works with people with disability, stated:

It is unclear from NDIA announcements and data to what extent people from 'priority cohorts' and their needs were considered in the development of [independent assessments]. The publically available demographic data on the Independent Assessment Pilot (IAP) is ambiguous and it remains unclear to what extent that people with complex needs, additional vulnerabilities (e.g. homelessness) or limited support networks were included in the pilot.

Further to this, the IAP results show that a relatively small percentage of people with psychosocial disabilities were included in the pilot (7%) and that only 5% of participants completed an [independent assessment] in the access stage.⁹⁸

2.95 Ms Muriel Cummins similarly noted that since participants in the pilot were self-selected volunteers, they are unlikely to be representative of the broader psychosocial disability cohort—many of whom experience difficulty with self-advocacy and navigating systemic processes and have complex needs.⁹⁹

2.96 AusDoCC asserted that the surveys undertaken as part of the first pilot may not provide an accurate measure of participant satisfaction:

For many, feedback surveys are undertaken within planning meetings, before a participant has the opportunity to see their approved plan and is within a vulnerable position, being asked by the person preparing the plan, which biases the findings.¹⁰⁰

2.97 The FPDN raised concern that the pilot projects had no specific focus on Aboriginal and Torres Strait Islander communities. Moreover, the data

⁹⁷ See, for example, AusDoCC, *Submission 43*, [p. 5]; Occupational Therapy Australia, *Submission 52*, p. 3; Victorian Mental Illness Awareness Council, *Submission 56*, [p. 5]; Name Withheld, *Submission 60*, p. 2.

⁹⁸ Hutt St Centre, *Submission 42*, [p. 5].

⁹⁹ Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 2.

¹⁰⁰ AusDoCC, *Submission 43*, [p. 5].

released in relation to the pilots is incomplete, and in no way represents proof of effectiveness or demonstrates positive outcomes for participants.¹⁰¹

Tune Review and Productivity Commission report

- 2.98 Some submitters expressed concern that the independent assessments model proposed by the NDIA is not supported by the Tune Review or reports of the PC—despite assertions by the NDIA to this effect.¹⁰²
- 2.99 For example, one submitter observed that the Tune Review states that implementation of independent assessments requires extensive consultation with participants, the disability sector, service providers and the NDIA workforce, asserting that there has been no such consultation. The submitter also noted that the Tune Review states that the NDIA should not implement a closed or deliberately limited panel of providers to undertake functional capacity assessments. The submitter asserted that the NDIA has not followed this approach, and that 'the Scheme may be in peril as a result'.¹⁰³
- 2.100 The same submitter observed that it is 'a stretch' to cite the PC Report as 'recommending' the independent assessments model that has been proposed by the NDIA. The submitter stated that the Report identifies a number of inherent risks associated with 'contracting out' to independent assessors, and a need for constant monitoring. Moreover, the Report describes an assessment model that is 'significantly different' to that proposed by the NDIA.¹⁰⁴

Proposed alternatives

- 2.101 Some submitters suggested alternatives to the independent assessment model proposed by the NDIA. The committee heard that such models still allow the NDIA to offer assessments at no cost, while ensuring the clinical expertise of assessors and enabling choice and control for people with disability.
- 2.102 Ms Muriel Cummins, an occupational therapist, suggested implementing a functional assessor endorsement program. According to Ms Cummins, such a program would enable experienced allied health professionals to 'qualify' to

¹⁰¹ First Peoples Disability Network, *Submission xx*, p. 10. See also Name Withheld, *Submission 65*, pp. 5–6.

¹⁰² See, for example, Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 2; Name Withheld, *Submission 60*, p.2; Occupational Therapy Australia, *Submission 52*, p. 3.

¹⁰³ Name Withheld, *Submission 65*, pp. 7–8. See also David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, pp. 66–67.

¹⁰⁴ Name Withheld, *Submission 65*, pp. 7–8. See also Productivity Commission, *Disability care and support: Inquiry report*, August 2011, pp. 410–411.

offer assessments compatible with NDIS needs, while retaining professional judgement in the completion of individual assessments.¹⁰⁵

2.103 Mr Carlo Divita made a similar proposal, noting that the aims of the NDIA's independent assessment process could be achieved by:

- rolling out the NDIA's proposed framework to existing providers—including requiring these providers to select from a suite of assessment tools that best meet the needs of the relevant participant;
- introducing a functional capacity template, to ensure that reporting is consistent across providers and includes all the information required by the NDIA in its decision-making; and
- imposing compulsory training modules—created by the NDIA—on providers completing assessments, to ensure greater consistency of assessments and reporting.¹⁰⁶

2.104 Noting that occupational therapists are uniquely qualified to assess a person's functional capacity, OTA stated that an alternative assessment model could involve a preliminary interview by an independent assessor to identify a person's wants, needs and goals. The first assessor could then refer the person to a clinician working within their scope of practice for a more detailed, appropriate assessment.¹⁰⁷

2.105 The VMIAC expressed its support for using existing allied health professionals to conduct assessments, stating that the NDIA should provide funding for all people making applications to the NDIS and should continue to provide funding for ongoing assessments as required.¹⁰⁸ Another submitter expressed a similar view, stating that 'it would make far more sense for the NDIS to allow clinicians to bill the NDIA for the pre-access assessments [they] do for people in the process of applying'.¹⁰⁹

Committee view

2.106 The committee received a substantial amount of evidence concerning the proposal to introduce independent assessments as part of the NDIS access and planning processes. Relevantly, the committee heard from NDIS participants and other people with disability; allied health professionals; peak bodies; advocacy organisations; and researchers.

2.107 The committee considers that the policy intent of independent assessments—that is, increasing equity and consistency in access and planning processes—is

¹⁰⁵ Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 7.

¹⁰⁶ Mr Carlo Divita, *Submission 45*, p. 2.

¹⁰⁷ Occupational Therapy Australia, *Submission 52*, p. 8.

¹⁰⁸ Victorian Mental Illness Awareness Council, *Submission 56*, [p. 9].

¹⁰⁹ Name Withheld, *Submission 57*, p. 21.

to be commended, and welcomes the NDIA's decision to offer assessments free of charge. The committee notes that in its inquiry into Supported Independent Living (SIL), the committee recommended that the NDIA:

- ensure immediate access to funding for all assessments required to support applications for reasonable and necessary supports, and in particular to support applications for SIL; and
- clarify the assessments required to support an application for SIL funding.¹¹⁰

2.108 However, the committee also notes that stakeholders have raised a number of concerns with the NDIA's proposal to introduce independent assessments as a compulsory part of the NDIS access and planning process. These include the following:

- Independent assessments may result in stress and trauma for people with disability, who will be required to disclose sensitive information to unknown health professionals in order to 'prove' that they are eligible for the NDIS and require supports.
- Independent assessments may not be an accurate and reliable means of assessing a person's functional capacity or support needs.
- Challenging a decision based on an independent assessment could be difficult, as could having an inaccurate or faulty assessment struck from a person's record.

2.109 The committee also notes that while the Australian Government—largely via the NDIA—appears to have consulted with a range of stakeholders across all Australian jurisdictions, consultation on independent assessments may not have been sufficient to this point. In particular, the committee heard that the NDIA may not have given adequate consideration to certain key matters, and that the allied health sector may have been neglected in the consultation process.

2.110 In addition, while the Tune Review and the Productivity Commission's inquiry into disability support expressed qualified support for the introduction of functional capacity assessments, it is not clear that either of those reviews recommended the mandatory independent assessments model proposed by the NDIA. Further, it is not clear that the data obtained through the independent assessment pilots was sufficient to support the introduction of independent assessments as a compulsory part of the NDIS access and planning processes.

2.111 Noting that mandatory independent assessments have not yet commenced, the committee does not propose to make recommendations about independent assessments as part of this inquiry. However, the committee appreciates that

¹¹⁰ Joint Standing Committee on the National Disability Insurance Scheme, *Report into Supported Independent Living*, May 2020, p. vii.

the introduction of independent assessments is a significant change to the operation of the NDIS, and that stakeholders—particularly in the disability and allied health sectors—have significant concerns about the independent assessments regime.

- 2.112 Consequently, the committee proposes to conduct a dedicated inquiry into independent assessments. This will include seeking further evidence about this matter through submissions and public hearings.
- 2.113 The committee also notes that the NDIA is conducting a further pilot program to gather additional feedback on independent assessments process, to ensure that assessments can be tailored to the needs of the NDIS' diverse participants. The committee strongly encourages the NDIA to ensure that the pilot program captures the diversity of people with disability (for example, a full range of disability types and demographic backgrounds). The committee also strongly encourages the NDIS to ensure that feedback from pilot participants is actively considered in implementing the independent assessments regime—including making changes to the regime as appropriate.
- 2.114 The committee also notes that, just prior to the tabling of this report, the NDIA announced a consultation process relating to independent assessments.¹¹¹ The committee did not have an opportunity to thoroughly examine this announcement, nor receive evidence from the NDIA about it.

¹¹¹ See paragraph 2.2 of this report.

Chapter 3

The COVID-19 pandemic

- 3.1 The COVID-19 pandemic has had extraordinary ramifications for virtually every element of society. This chapter reviews material raised in evidence during the committee's General Issues inquiry.¹ It does not thoroughly examine all elements of the COVID-19 pandemic and its effect on people with disability. The committee is also conscious that other major inquiries are considering these issues, including:
- the Senate Select Committee on COVID-19, which has taken evidence from the National Disability Insurance Agency (NDIA), the NDIS Quality and Safeguards Commission (the Commission), and representative disability organisations;² and
 - the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission), which in August 2020 explicitly considered 'experiences of people with disability during the ongoing COVID-19 pandemic'.³
- 3.2 This chapter examines evidence regarding the effect of the pandemic, as follows:
- Planning and preparation for the disability sector.
 - The effect of the pandemic on people with disability and their families.
 - The effect of the pandemic on disability support providers and the associated workforce.
 - Access to personal protective equipment (PPE).
 - The responses of the NDIA and the Commission to the pandemic, and comments from inquiry participants about these responses.
- 3.3 The chapter concludes with the committee's view and recommendations.

¹ The chapter also cites evidence to other inquiries where relevant.

² See public hearings of the Senate Select Committee on COVID-19, including those on 30 April, 1 July, 18 August and 17 September 2020, and written submissions.

³ See Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission), *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 Pandemic*, <https://disability.royalcommission.gov.au/public-hearings/public-hearing-5> (accessed 9 November 2020).

Planning and preparation

3.4 During the initial phase of the pandemic there was considerable concern that people with disability and the disability sector were not being adequately considered in the pandemic response.⁴

3.5 On 18 February 2020 the Commonwealth Government published the *Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19)* (the COVID-19 Plan).⁵ As Ms Kate Eastman SC, Senior Counsel Assisting, later told the Royal Commission in August 2020:

There was no mention or reference in the COVID-19 Plan for people with disability. The Royal Commission will hear this week that people with disability and their advocates watched and waited to hear the Commonwealth government's plan for people with disability.⁶

3.6 On 26 March 2020 the Royal Commission issued a 'Statement of concern' regarding the response to the pandemic for people with disability. The Royal Commission said it 'is deeply concerned about the impact of the COVID-19 pandemic on people with disability'⁷ and called upon 'all governments to ensure that, in their responses, they include dedicated strategies to protect and support people with disability'.⁸

3.7 The Royal Commission's statement was 'strongly' endorsed in an open letter released on 3 April 2020 and signed by over 70 disability organisations. The signatories called on the government to take ten 'urgent actions to protect the lives of Australians with disability in the context of COVID-19', including in relation to continuity of supports for people with disability, the quality of public communications, and preventing discrimination against students with disability.⁹

⁴ See, for example, Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 2.

⁵ Department of Health, *Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19)*, <https://www.health.gov.au/resources/publications/australian-health-sector-emergency-response-plan-for-novel-coronavirus-covid-19> (accessed 3 November 2020).

⁶ Ms Kate Eastman SC, Senior Counsel Assisting, Royal Commission, *Transcript of Proceedings*, 18 August 2020, p. 7.

⁷ Royal Commission, *Statement of Concern: The response to the COVID-19 pandemic for people with disability*, 26 March 2020, p. 1, <https://disability.royalcommission.gov.au/publications/statement-concern-response-covid-19-pandemic-people-disability> (accessed 3 November 2020).

⁸ Royal Commission, *Statement of Concern: The response to the COVID-19 pandemic for people with disability*, 26 March 2020, p. 5.

⁹ Australian Federation of Disability Organisations, 'Now is the time to act on pandemic measures for people with disability', *Media release*, 3 April 2020 <https://www.afdo.org.au/now-is-the-time-to-act-on-pandemic-measures-for-people-with-disability/> (accessed 3 November 2020). A number of other signatories published a similar media release. Also see: *An open letter to the National Cabinet*:

- 3.8 On 3 April 2020 the Australian Government established an advisory group 'to guide development and implementation of a response plan focusing on the unique health needs of people with disability during the coronavirus pandemic'. The group included 'experts from the disability sector, academia, clinical practice, nursing, Australian government officials, and state and territory government representatives'.¹⁰
- 3.9 On 15 April 2020 relevant Commonwealth ministers wrote to the Royal Commission acknowledging the statement of concern and enclosing an outline of the government's actions in response to the pandemic in relation to people with disability.¹¹ The following day, National Cabinet approved the Management and Operational Plan for COVID-19 for People with Disability. The Government said this plan 'forms part of the national response developed by the Government' and 'is aligned with' the COVID-19 Plan.¹²
- 3.10 When asked why the initial COVID-19 Plan did not refer to people with disability, Ms Catherine Rule, Department of Social Services, acknowledged:

I think it's fair to say that, early in the pandemic, people with a disability were not specifically named in the high-level plans that existed around the response. It's not because thoughts weren't given to people with disability. Certainly, in the department, the commission and the agency, we had done a lot of work on planning what that operational response would look like. Subsequently, the [Australian Health Protection Principal Committee] agreed on a plan that was specifically about people with a disability.¹³

Immediate Actions Required for Australians with Disability in Response to Coronavirus (COVID19), 3 April 2020, p. 6.

- ¹⁰ The Hon Greg Hunt MP, Minister for Health and Minister Assisting the Prime Minister for the Public Service and Cabinet, Senator the Hon Anne Ruston, Minister for Families and Social Services, and the Hon Stuart Robert MP, Minister for the National Disability Insurance Scheme and Minister for Government Services, *Joint media release*, 'Immediate response plan to focus on people with disability during coronavirus', 3 April 2020, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7274193%22> (accessed 3 November 2020).
- ¹¹ Senator the Hon Anne Ruston, the Hon Stuart Robert MP and the Hon Greg Hunt MP, 'Letter to DRC from minister Ruston, Robert and Hunt', 15 April 2020, <https://disability.royalcommission.gov.au/publications/statement-concern-response-covid-19-pandemic-people-disability> (accessed 9 November 2020).
- ¹² The Hon Greg Hunt MP, Senator the Hon Anne Ruston, and the Hon Stuart Robert MP, *Joint media release*, 'Protecting the Lives of Australians with disability during coronavirus', 18 April 2020, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7303428%22> (accessed 27 August 2020).
- ¹³ Ms Catherine Rule, Deputy Secretary, COVID-19 Response for Disability, Department of Social Services, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, p. 39; see also p. 41.

Effect on people with disability and their families

3.11 A clear theme in evidence to the committee was that COVID-19 presented particularly difficult challenges for people with disability and their families. For instance, People with Disabilities Western Australia submitted:

The impact of [COVID-19] for people with disability has been huge in terms of sometimes loss of services, anxiety, difficulty accessing vital services such as food and medicines, isolation, and essential supplies such as gloves and gowns being hard to source.¹⁴

3.12 The Queensland Law Society stated that people with disability are at 'increased risk' during the pandemic, because in some cases 'their disability or health condition increases their vulnerability to illness', and because changes intended to reduce the spread of COVID-19 mean that 'accessibility issues for persons reliant on the NDIS have become even more acute'.¹⁵

3.13 Various submitters and witnesses reported that the pandemic increased stress and anxiety for people with disability and their families.¹⁶ Ms Chelsea McKinney of the Western Australian Association for Mental Health told the committee:

Some NDIS participants reported to us that the general anxiety around COVID, combined with issues of food insecurity, an inability to engage with remote options—not everybody has internet access or the data needed to engage with those supports—and the change in their supports, contributed to very significant heightened mental health issues for some consumers.¹⁷

3.14 Ms Romola Hollywood of People with Disability Australia reported that:

...many people have told us that it's been quite scary through the COVID-19 pandemic to have multiple workers potentially coming in and out of their home. Whilst there are measures that can be taken to reduce the risks, people feel that they would like to be able to build up a consistent, ongoing and long-term relationship with their support workers.¹⁸

¹⁴ People With Disabilities (WA) Inc, *Submission 32*, p. 2. See also Mrs Lana Thompson, Co-design Group Member, People with Disabilities Western Australia, *Proof Committee Hansard*, 30 June 2020, pp. 15–16; Australian CF Hub, *Submission 36*, p. 2; Submission for the inclusion of Cystic Fibrosis in the NDIS, *Submission 38*, Attachment 1, p. 3.

¹⁵ Queensland Law Society, *Submission 54*, p. 7. Also see Ms Claire Hewat, Chief Executive Officer, Allied Health Professions Australia, *Proof Committee Hansard*, 14 July 2020, p. 12.

¹⁶ See, for example, Ms Sue Crock, Consultant, Sexuality Education Counselling and Consultancy Agency, *Proof Committee Hansard*, 30 June 2020, p. 21; SECCA, *Submission 24*, [p. 4]; Name withheld, *Submission 46*, [p. 3].

¹⁷ Ms Chelsea McKinney, Manager, Advocacy and Sector Development, Western Australian Association for Mental Health, *Proof Committee Hansard*, 23 June 2020, p. 9.

¹⁸ Ms Romola Hollywood, Director, Policy and Advocacy, People with Disability Australia, *Proof Committee Hansard*, 8 September 2020, p. 11.

3.15 Mr Trevor Carroll stated that the advocates of his organisation, Disability Justice Australia, were unable to meet with any clients because 'disability advocates are not deemed to be essential workers'. This was particularly problematic because about 25 per cent of these clients are unable to use alternative means of communication without assistive technology and individual support.¹⁹

3.16 One submitter advanced that COVID-19 is likely to cause not only an economic recession, but also 'a so-called "social recession"'. Observing that social isolation is associated with increased health risks, the submitter stated:

No one quite knows how the social isolation enforced by the COVID-19 will affect people with disabilities, but even those who avoid the worst consequences will likely see their quality of life degrade.²⁰

3.17 The Supportive Families and Friends Association emphasised the effect of the pandemic and associated restrictions on people in Supported Independent Living (SIL) settings, stating:

SIL changes are being introduced as group homes in Melbourne are currently in crisis. Day services have been closed since March and residents have been at home 24/7 for months. Their routines have been severely disrupted. The residents are at a high-risk of catching the coronavirus, as mask wearing, good hygiene and social distancing are difficult to implement. Many residents have not seen their family in months, and have no social contacts outside their home.²¹

3.18 Ms El Gibbs of People with Disability Australia commissioned a report surveying over 200 people with disability about the pandemic. She discussed this report and shared her experience of four months 'on lockdown':

I'm also a person with disability and I'm one of those people who have been on lockdown since early March. I went for a walk recently, about two weeks ago, around my town very carefully. It was the first time I'd been outside since then. When I commissioned the report, I was reading the words of other people with disability who had had a very, very similar experience to my own. It was a time when it was really lonely and incredibly scary. I don't live in a particularly regional area, but I am about 100 kms outside of Sydney. It was an extremely difficult and stressful time. For me, all the systems that I used to live independently collapsed and disintegrated. It took me the first four, six or eight weeks to get systems back in place so that I could get groceries and I could get food. I have a huge advantage: I have a job; I have an income. I'm not living in poverty, so I could pay extra money to people so they could go and do things for me. I could pay extra money to rejig my disability supports. I could pay extra money to buy things from strange places on the internet,

¹⁹ Mr Trevor Carroll, International Coordinator, Australian Federation of Disability Organisations, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 17.

²⁰ Name withheld, *Submission 30*, [p. 1].

²¹ Supportive Families and Friends Association Inc, *Submission 63*, [p. 2].

because I have the internet and I have money. I could do all of those things and I found it an incredibly difficult and stressful time. So, when I read in the survey where so many people with disability talked about having to make decisions between food and medication, feeling completely abandoned by everyone and feeling like they had no-one to turn to, it really broke my heart, but it made me feel that this experience was something that we shared across Australia.²²

- 3.19 Ms Mary Sayers of Children and Young People with Disability Australia emphasised that the pandemic has disrupted the education of young people with disability, and that '[o]ur members have reported a steep decline in mental health.' She advanced that the move to remote learning by schools for students with disability:

...reinforces the existing inequality and disadvantage they already face in their education. Outright discrimination, lack of reasonable adjustments and failing to include students with disability were prominent features.²³

- 3.20 Ms Liz Callaghan of Carers Australia emphasised that 'carers themselves have been under major stress'; she explained:

Large numbers of carers have needed to provide more intensive care in relation to a diversity of needs and to provide much longer hours of care, often without support from family and friends who are also in lockdown. Carers report high levels of financial stress, particularly in relation to the purchase of food and groceries, high costs of obtaining medicines and equipment, and higher transport costs, particularly for those previously reliant on public transport. To add to this stress, some carers have had to give up paid employment in order to provide full-time care during the lockdown.²⁴

Effect on disability support providers and the workforce

- 3.21 Like many elements of Australian society, disability support providers and their workers were seriously affected by COVID-19.

- 3.22 One mental health provider, the Mental Illness Fellowship of Western Australia, saw 100 of its 400 NDIS participants cancel their support 'overnight' when the pandemic emerged. Its Chief Executive Officer (CEO), Ms Monique Williamson, recounted that there was therefore:

...no work for their staff and no income revenue for us as an organisation. That was a real moral dilemma, because we knew that once COVID-19 settled down we would need those workers.

²² Ms El Gibbs, Director, Media and Communications, People with Disability Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 30.

²³ Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 19.

²⁴ Ms Liz Callaghan, Chief Executive Officer, Carers Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 18.

At MIFWA we drew around \$50,000 out of our reserves and we continue to underwrite the salaries of our staff and try and redirect them into some COVID-19 supports for other people. But it really highlighted for us how insecure the NDIS workforce and job security are.²⁵

3.23 The Australian Orthotic Prosthetic Association submitted that the pandemic was having a 'substantial effect' on the orthotic/prosthetic workforce, and estimated that 'the majority of orthotic/prosthetic service providers will experience financial hardship with many services reducing service capacity'. As a consequence of reduced staffing levels, the association expected that it will be 'difficult for NDIS participants to access immediate and timely orthotic/prosthetic services'.²⁶

3.24 The Western Australian Department of Communities reported feedback from the disability sector that government support could be greater:

One thing that came up with the COVID pandemic and was repeatedly mentioned by people in the disability sector was disappointment that the incentives provided to the aged-care sector during the pandemic—incentive payments to retain staff and ready access to PPE—were not afforded to the disability sector.²⁷

3.25 Ms Lisa Kelly of Carers ACT observed differences in the 'level and degree of information' from the Department of Health regarding aged care compared to information that 'came through NDIS or disability service supports'. The latter:

...was confusing and not clear. It was mostly driven through the NDIS and didn't take into account the fact that there are people with a disability and carers of people with a disability who are not on the NDIS.²⁸

3.26 Ms Emeline Gaske of the Australian Services Union highlighted the particular difficulties facing support workers assisting a person with an intellectual disability who might have COVID-19:

Training someone to put the PPE itself on and take it off is one thing, but there's so much more work that goes into supporting a client who is suspected of COVID-19—even more so in a group home environment. There's cleaning. There's the management of the emotions and reactions of the client, and perhaps trying to support someone with an intellectual disability to understand the rules around social distancing and any number of associated things.²⁹

²⁵ Ms Monique Williamson, Chief Executive Officer, Mental Illness Fellowship of Western Australia, *Proof Committee Hansard*, 23 June 2020, p. 11.

²⁶ Australian Orthotic Prosthetic Association, *Submission 22 (inquiry into NDIS Workforce)*, p. 13

²⁷ Ms Marion Hailes-MacDonald, Assistant Director-General, Department of Communities, Western Australia, *Proof Committee Hansard*, 14 July 2020, p. 4.

²⁸ Ms Lisa Kelly, Chief Executive Officer, Carers ACT, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 22.

²⁹ Ms Emeline Gaske, National Campaign Coordinator, Australian Services Union, *Proof Committee Hansard*, 8 September 2020, p. 28.

- 3.27 Some inquiry participants reflected on the higher unemployment rates caused by the pandemic and how this might interact with the disability sector. Ms Sayers of Children and Young People with Disability Australia asked:

When we look at how many workforce shortages we have, how can we shift the narrative to say that this work [in the disability sector] is really meaningful and valuable work that young people who have lost jobs in other sectors could be interested in entering? That requires a public campaign. It requires incentives, as I mentioned earlier, and the right environment.³⁰

- 3.28 Catholic Social Services Australia submitted that the NDIS workforce needed additional staff even before the pandemic. It stated:

Positioning the disability sector as an employer of choice needs to begin before the recovery of the rest of the economy. That is why CSSA is recommending that preparations for a strong awareness raising campaign to attract and retain employees in the disability sector should be done as matter of priority.³¹

- 3.29 Mr David Moody of National Disability Services told the committee that:

COVID-19 has resulted in a substantial growth in unemployment, which is expected, unfortunately, to be sustained. This tragedy may deliver more disability support workers as people seeking work consider new career options.³²

- 3.30 Mr Tim Wilson of the Community Accommodation and Respite Agency (Cara) suggested that consideration should be given to the type of staff being engaged in the future NDIS workforce:

The level of unemployment due to the COVID-19 pandemic may lead some to conclude that there's an abundance of people looking for work which will lead to all our employment vacancies being filled. However, people are needed who align with customer needs, organisational values and NDIS worker requirements, and none of these should be weakened. So, despite an increasing unemployment rate, this is not a solution to the supply of workers to disability service providers.³³

- 3.31 The Victorian Public Advocate, Dr Colleen Pearce AM, expressed concern that the disability and social service workforces 'will face novel challenges in attracting and retaining workers in the aftermath of the pandemic'. She added:

Like others, I fear that that people with disability will be disproportionately affected, and that enduring issues affecting the under

³⁰ Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 6.

³¹ Catholic Social Services Australia, *Submission 36 (inquiry into NDIS Workforce)*, p. 13.

³² Mr David Moody, Chief Executive Officer, National Disability Services, *Proof Committee Hansard*, 14 July 2020, p. 8.

³³ Mr Tim Wilson, Executive Manager, Workforce Development, Community Accommodation and Respite Agency Inc., *Proof Committee Hansard*, 28 July 2020, p. 13.

resourced, inadequately trained and poorly supported disability workforce will become even more critical.³⁴

- 3.32 Some inquiry participants advocated for the urgent implementation of paid pandemic leave in the disability sector. For instance, Ms Gaske of the Australian Services Union advanced that paid pandemic leave:

...is essential in the disability sector. We've seen the tragic situation in aged care, and that's driven by insecure work. This is a workforce that is precarious. It's one of the most casualised workforces in the country and they can't afford to miss a shift. Disability workers need the support of a safety net so they can isolate if they need to, without risking not being able to pay the rent or put food on the table.³⁵

- 3.33 Mr Lloyd Williams of the Health Services Union referred to unions' industrial relations proposals in March 2020, which included paid pandemic leave:

Disappointingly, the proposals received no support from the Commonwealth, and many employer groups devoted considerable resources to stopping these changes from happening. As a consequence, our members report feeling very much forgotten during the pandemic and describe feeling dangerously underprepared and unsupported throughout the pandemic.³⁶

Access to personal protective equipment

- 3.34 The onset of the COVID-19 pandemic placed considerable strain on the availability of PPE such as masks, gloves, goggles and gowns. While it seems that this issue has largely been addressed, it attracted significant public attention and concern during the initial phase of the pandemic.³⁷

- 3.35 A key finding of a University of New South Wales (UNSW) Social Policy Research Centre survey of 2,341 disability workers, conducted in March 2020, was as follows:

There is an urgent lack of personal protective equipment (PPE) being supplied to staff and clients, and many workers feel their organisation's safety protocols have been inadequate in the context of COVID-19.³⁸

³⁴ Office of the Public Advocate (Victoria), *Submission 2 (inquiry into NDIS Workforce)*, [p. 3].

³⁵ Ms Emeline Gaske, National Campaign Coordinator, Australian Services Union, *Proof Committee Hansard*, 8 September 2020, p. 29.

³⁶ Mr Lloyd Williams, National Secretary, Health Services Union, *Proof Committee Hansard*, 8 September 2020, p. 25.

³⁷ See, for example, Kathryn Bermingham, 'Adelaide quadriplegic turns to eBay after PPE suppliers run out of stock', *ABC News*, 27 April 2020, <https://www.abc.net.au/news/2020-04-27/quadruplegic-forced-to-turn-to-ebay-for-protective-equipment/12166496> (accessed 4 November 2020).

³⁸ While the paper was published on 21 April 2020, the survey was conducted in March 2020. See Dr Natasha Cortis and Dr Georgia van Toorn, UNSW Social Policy Research Centre, *The disability workforce and COVID-19: initial experiences of the outbreak*, 21 April 2020, p. 2. See also Australian Services Union, *Submission 44 (inquiry into NDIS Workforce)*, p. 3 and Attachment 1; Australian

- 3.36 The survey provided a range of comments by disability workers about the difficulty accessing PPE during initial phase of the pandemic, including:

Dangerously unprepared with lack of PPE. We had to ask other houses for hand sanitiser. No face masks or protective eye wear for personal care procedures. Made me feel very unsafe working with children and I don't want to go back to work and be put at risk.

...

*Since the arrival of COVID19...every time I head to work it feels like Russian Roulette. Knowing that we have not been supplied with basic safety equipment e.g. hand sanitizer, anti-bacterial hand wash, masks, shoe covers etc, does not make me feel safe. Knowing that there are no guidelines re: an outbreak of the disease in the houses, and knowing how vulnerable some of the clients (and staff are) is terrifying...*³⁹

- 3.37 Ms Claire Hewat of Allied Health Professions Australia referred to 'critical shortages' of PPE during the initial phase of the pandemic; stating in July:

The initial response to pandemic revealed significant issues in relation to provisions for people with disability and the allied health providers delivering support to them. At a time of critical shortages of personal protective equipment, the national stockpile was limited, with no access for allied health. Whilst that has actually improved a little bit, there are still significant issues in Victoria where allied health professionals working with people with disability in environments of very close contact still have to source their own supplies of PPE if they can.⁴⁰

- 3.38 Mr David Moody, CEO of National Disability Services, advised that from mid-to late-March until about June, his organisation was 'getting complaints from providers about their inability to access PPE from the National Medical Stockpile'. These complaints particularly arose where PPE was sought for the purpose of 'ensuring a belt-and-braces approach to worker and participant safety'; Mr Moody said that it 'was particularly difficult for providers doing the right thing to get access to PPE'. He explained that National Disability Services decided to set up its own hub to support supply:

These were issues that, at least in part, might have been resolved when the commissioner was able to get an email address inserted on the National Medical Stockpile website specifically for disability service providers. It is fair to say that the hoped-for outcome wasn't immediately delivered, because providers using that email address were still confronted with the reality that the criteria for accessing the National Medical Stockpile

Services Union, Health Services Union and United Workers Union, *Submission 43 (inquiry into NDIS Workforce)*, [pp. 1–2] and Attachment 2.

³⁹ Dr Natasha Cortis and Dr Georgia van Toorn, UNSW Social Policy Research Centre, *The disability workforce and COVID-19: initial experiences of the outbreak*, 21 April 2020, p. 4.

⁴⁰ Ms Claire Hewat, Chief Executive Officer, Allied Health Professions Australia, *Proof Committee Hansard*, 14 July 2020, p. 12. See also Catholic Social Services Australia, *Submission 36 (inquiry into NDIS Workforce)*, p. 9.

essentially limited access to PPE to those working in the health and aged-care sectors. That actually saw [National Disability Services] working with a number of providers of PPE to establish our own [National Disability Services] PPE hub, to ensure that our members at least were able to access PPE on a full cost-recovery basis during the pandemic, certainly during stage 1 of the pandemic.⁴¹

- 3.39 In August 2020 Dr Emma Campbell of the ACT Council of Social Service reported that the availability of PPE had improved over previous months, but nonetheless referred to a prior 'situation of crisis':

[W]e're not in a situation of crisis in the ACT, and I would suggest that the situation with PPE was resolved only after the situation of crisis had passed. So I think some of that frustration still remains, but, because we have no community transmission and also because the advice has changed to encourage people to wear masks, which was not the case previously, even though many people who were providing disability care or receiving disability care felt safer having proper PPE, I think there is a bit more certainty and confidence in the disability service sector at the moment.⁴²

Government response regarding access to personal protective equipment

- 3.40 In September 2020 a representative of the Department of Social Services, Ms Catherine Rule, acknowledged initial issues relating to PPE but said 'feedback from providers and participants is that those issues that existed early in the pandemic have been resolved and they have access to the equipment they need'. She also clarified:

When it became clear early on that there were supply issues nationally—not just for disability but nationally around PPE—we worked quickly with the National Medical Stockpile to make sure there was a specific process in place and allocations available for the disability sector.⁴³

- 3.41 The NDIA advised that requests from the disability sector for PPE are assessed by the Department of Health using criteria that 'take into account disability sector specific issues' but also reflect the criteria applied to aged care, so that 'access to the stockpile is consistent'. Where a registered NDIS provider is approved for supply from the national medical stockpile, that supply is provided through the NDIA.⁴⁴

⁴¹ Mr David Moody, Chief Executive Officer National Disability Services, *Proof Committee Hansard*, 13 October 2020, p. 20.

⁴² Dr Emma Campbell, Chief Executive Officer, ACT Council of Social Services, *Proof Committee Hansard*, 18 August 2020, pp. 12–13.

⁴³ Ms Catherine Rule, Deputy Secretary, COVID-19 Response for Disability, Department of Social Services, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, p. 40. See also Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, p. 27.

⁴⁴ National Disability Insurance Agency, *Submission 37*, p. 40.

3.42 Mr Graeme Head AO, the NDIS Quality and Safeguards Commissioner, stated that the Commission gave 'extensive advice to providers and participants about access to PPE', and there was also a dedicated 'hotline-style' email address established for providers or self-managing participants to contact the National Medical Stockpile. He explained:

The advice to people with disability is, in the first instance, to attempt to source PPE through their usual arrangements. But where there's a clinical basis—based on Health's advice—for a person to continue using PPE, they contact the National Medical Stockpile.⁴⁵

3.43 Mr Head also advised that the Commission gave providers access to 'the Commonwealth Health training on infection control and COVID-19 related issues', and this training was 'used extensively by disability workers along with our own training'.⁴⁶

3.44 As at the week commencing 27 July 2020, the NDIA had distributed 58,580 surgical masks from the stockpile to 'organisations delivering support to NDIS participants'.⁴⁷ By 7 September 2020 this figure was 193,000 masks.⁴⁸

Government response in the disability sector

3.45 This section reviews evidence regarding the responses of the NDIA and the Commission to the pandemic. Government representatives have indicated that it was largely the role of the NDIA to communicate with participants, and the role of the Commission to communicate with providers.⁴⁹

3.46 While not the focus of this section, the government's response in the disability sector was not limited to the actions of the NDIA and the Commission.⁵⁰

⁴⁵ Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, p. 9.

⁴⁶ Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, p. 9. See also Ms Samantha Taylor PSM, Registrar, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, p. 40.

⁴⁷ National Disability Insurance Agency, *Submission 37*, p. 40.

⁴⁸ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, pp 35–36.

⁴⁹ Ms Catherine Rule, Deputy Secretary, COVID-19 Response for Disability, Department of Social Services, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, pp. 36, 45.

⁵⁰ For example, the Department of Social Services allocated \$2 million to a 'dedicated disability information helpline' that, up to 14 August 2020, received 2,660 calls, conducted 61 counselling sessions and referred over 1,700 people to other services. See Ms Catherine Rule, Deputy Secretary, COVID-19 Response for Disability, Department of Social Services, *Committee Hansard*, Senate Select Committee on COVID-19, 18 August 2020, p. 67.

The National Disability Insurance Agency's response

3.47 The NDIA submitted that the pandemic 'highlighted the need for the NDIA to be agile and responsive to rapidly changing situations'.⁵¹ It assured the committee that it had:

...acted swiftly to address the potential impact of the COVID-19 pandemic on NDIS participants, families, carers and providers. The NDIA's absolute priority during the COVID-19 pandemic is participant health, safety, and ensuring participants can continue to access their essential supports.⁵²

3.48 The CEO of the NDIA, Mr Martin Hoffman, advised that even during the initial phase of the pandemic, 'the volume of services and supports provided has continued to increase'. Mr Hoffman explained:

In the June quarter, over \$5 billion worth of services and supports for people with disability in the scheme were provided, which was the biggest quarter ever. What we saw was a number of providers increasingly changing their delivery to make use of teledelivery of services, and that enabled a number of people to continue accessing services even during heavy lockdown times. I think that change in technology and approach is particularly important in rural and remote areas.⁵³

3.49 However, in late April 2020 Mr Hoffman also reported that physical distancing restrictions caused an overall decline in the amount of psychosocial supports being delivered, though some group supports had moved to one-on-one or telehealth.⁵⁴

3.50 Several of the NDIA's policy responses to the pandemic—discussed below—were announced by the Minister for the NDIS, the Hon Stuart Robert MP, on 21 March 2020.⁵⁵

Support for NDIS participants

3.51 The NDIA submitted that it implemented 'a number of changes and improvements to support participants during the COVID-19 pandemic'.⁵⁶ This section discusses some of these changes.

⁵¹ National Disability Insurance Agency, *Submission 37*, p. 3.

⁵² National Disability Insurance Agency, *Submission 37*, p. 34. See also Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 1.

⁵³ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 9.

⁵⁴ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, Select Committee on COVID-19, 30 April 2020, p. 20.

⁵⁵ The Hon Stuart Robert MP, Minister for the National Disability Insurance Scheme, 'New measures to support NDIS participants and providers through COVID-19', *Media release*, 21 March 2020, <https://ministers.dss.gov.au/media-releases/5661> (accessed 4 November 2020).

⁵⁶ National Disability Insurance Agency, *Submission 37*, p. 35.

3.52 To ensure that participants had access to funding, the NDIA automatically extended some plans beyond their expiry date. It explained:

Where a participant has an NDIS plan that is working for them, the NDIA is extending current plans by up to 12 months automatically where a plan is due to end, and approving new plans of up to 24 months upon review to make sure participants have the funding they need.⁵⁷

3.53 Between 27 March and 30 April 2020, 12,930 plans were 'auto extended'. The NDIA stated that it will 'explore options' to retain the capability for automatic 12 month extensions beyond the pandemic.⁵⁸

3.54 Other changes that relate to NDIS participants include the following:

- The NDIA 'proactively' contacted 'vulnerable participants to ensure they were continuing to receive and access their key NDIS supports'. Between the minister's announcement of this measure on 21 March and 1 July 2020, the NDIA made 62,188 outbound calls of which approximately five per cent were by email or letter. The NDIA submitted that, as a result of these calls, 2,212 plan amendments (including light touch reviews) were made prior to 30 June 2020.⁵⁹
- The NDIA provided greater flexibility for participants by allowing them:
 - ...to use their funding across the four categories of their core supports budget. Participants can decide how to use this funding for day-to-day assistance, to pay support workers to help with everyday tasks like grocery shopping or daily living tasks.⁶⁰
- Recognising that many services were being delivered online, the NDIA temporarily allowed participants to 'access low cost [assistive technology] items, such as smart devices and fitness equipment, in consultation with their existing support providers'. In practice, this enabled participants to spend up to \$1,500 on 'low cost [assistive technology] items from their existing Core - Consumables budgets' (although participants were not to spend more than \$750 on electronic devices needed for existing services).⁶¹
- The NDIA broadened the eligibility criteria for specialist disability accommodation to allow certain additional participants to access it upon discharge from hospital when required.⁶²

⁵⁷ National Disability Insurance Agency, *Submission 37*, p. 35; also see p. 21.

⁵⁸ National Disability Insurance Agency, *Submission 37*, p. 36; also see p. 43.

⁵⁹ National Disability Insurance Agency, *Submission 37*, p. 35.

⁶⁰ National Disability Insurance Agency, *Submission 37*, p. 36.

⁶¹ National Disability Insurance Agency, *Submission 37*, p. 36. Also see Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, p. 27.

⁶² National Disability Insurance Agency, *Submission 37*, p. 37.

- Certain forms were made available online so that it was not necessary to visit an NDIA office. Between 27 April and 5 May 2020, the Access Request Form was downloaded 4,985 times.⁶³
- The NDIA 'worked with' supermarkets so that, from 6 April 2020, participants were able to request priority when buying groceries online for delivery to their home.⁶⁴
- The NDIA 'prioritised the use of phone-based planning', but NDIA offices remained open for those who wished to visit an office in person.⁶⁵

Support for NDIS providers

3.55 In response to the pandemic, the NDIA also made a number of changes relating to providers, including the following:

- The NDIA provided financial assistance to NDIS providers:
 - From 30 March 2020 the NDIA offered an advance payment to 7,846 eligible providers. This payment was 'to support them with immediate cash flow to retain their staff and deliver supports to participants through the COVID-19 pandemic'. The NDIA is recovering these advance payments from 1 October 2020 over a period of six months.⁶⁶
 - From 25 March to 30 June 2020, a 10 per cent 'loading' was added to the price limits for core NDIS supports. This applied only to price controlled support items in certain categories and not to quotable supports.⁶⁷
- From 30 March to 1 July 2020 participants cancelling a service were required to give 10 business days' notice in order to avoid paying the full fee for the cancelled service. This was an increase from requiring two business days' notice to avoid paying 90 per cent of the service fee. The cancellation period has now reverted to two business days, but the amount providers can charge for a cancelled service will continue to be 100 per cent.⁶⁸
- The NDIA implemented several measures to support continuity of service, including:
 - clarifying arrangements for the time critical exchange of information between the NDIA and the NDIS Commission; and

⁶³ National Disability Insurance Agency, *Submission 37*, p. 37.

⁶⁴ National Disability Insurance Agency, *Submission 37*, p. 38.

⁶⁵ National Disability Insurance Agency, *Submission 37*, p. 38.

⁶⁶ National Disability Insurance Agency, *Submission 37*, p. 39.

⁶⁷ National Disability Insurance Agency, *Submission 37*, pp. 38–39.

⁶⁸ National Disability Insurance Agency, *Submission 37*, p. 39.

- tracking payments to service providers each day to identify any emerging service gaps.⁶⁹
- In collaboration with the Department of Social Services and the NDIS Commission, the NDIA launched 'a dedicated webpage...to help providers and participants find additional support workers during the pandemic'.⁷⁰

Effect on the work of the NDIA

3.56 Like many other organisations, some of the work planned by the NDIA was affected by COVID-19. This includes the following:

- The transition to independent assessments was delayed.⁷¹
- The National Community Connector Program was 'originally designed on a face-to-face basis', but the NDIA said that due to the pandemic:

...it is not possible to provide these services using an assertive outreach approach. The National Community Connector Program commenced roll out from 1 July 2020, utilising innovative delivery methods in the COVID-19 environment.⁷²
- The timeline for delivering Disability Reform Council initiatives relating to participants with psychosocial disability 'will extend into 2021 as a result of the impact of COVID-19 on operational priorities for all Australian governments'.⁷³
- Work by the NDIA to rollout a 'streamlined process' for the approval of assistive technology 'has been impacted by COVID-19'.⁷⁴
- In December 2019 the NDIA released a preliminary discussion paper in relation to a Digital Partnership Program that 'will manage controlled and secure access to some of the NDIA's data and systems'. Due to COVID-19, the period for responses to the discussion paper was extended from March to 14 April 2020.⁷⁵
- Work by the NDIA to reduce market gaps in certain locations has been affected by the pandemic; the NDIA submitted:

⁶⁹ National Disability Insurance Agency, *Submission 37*, pp. 40–41.

⁷⁰ National Disability Insurance Agency, *Submission 37*, p. 42.

⁷¹ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 3. See also AusDoCC, *Submission 43*, p. 5; Ms Muriel Cummins Occupational Therapist, *Submission 48*, p. 2.

⁷² National Disability Insurance Agency, *Submission 37*, p. 9.

⁷³ National Disability Insurance Agency, *Submission 37*, p. 12.

⁷⁴ National Disability Insurance Agency, *Submission 37*, p. 19.

⁷⁵ National Disability Insurance Agency, *Submission 37*, p. 29.

The COVID-19 pandemic has limited the face to face work that can be done to address market challenges in the NDIS, however 'thin markets' work continues.⁷⁶

The NDIS Quality and Safeguards Commission's response

3.57 This section briefly discusses the Commission's response to COVID-19, recognising that the committee is currently conducting another inquiry that is specifically focussed on the Commission.

3.58 The Commission advised the committee that it 'is, of course, heavily involved in responding to COVID-19'.⁷⁷ The Commission stated that its '[r]egulatory priorities for the current year are being adjusted to take account of the specific issues that have arisen through the management of the COVID-19 pandemic'.⁷⁸

3.59 Regarding the Commission's work during the pandemic Mr Graeme Head AO, Commissioner, stated that:

...a very significant part of our work during the pandemic has been communicating regularly and clearly about issues of concern to participants and also things that providers needed to know.⁷⁹

3.60 The first Provider Alert relating to COVID-19 was issued to registered providers by the Commission on 7 February 2020.⁸⁰ In August 2020 the Commission reported that it had issued 23 provider alerts and four fact sheets 'dealing with issues such as infection control training, access to and use of Personal Protective Equipment, and the use of restrictive practices'.⁸¹

3.61 Mr Head also confirmed that all registered providers have a general obligation to notify the Commission of matters that may affect the provision of supports. In mid-March 2020, Mr Head issued a notice to providers:

...reinforcing that obligation but also requiring specific notifications related to COVID-19. Those notifications relate to both things that will

⁷⁶ National Disability Insurance Agency, *Submission 37*, p. 28.

⁷⁷ NDIS Quality and Safeguards Commission, *Submission 42 (inquiry into the NDIS Quality and Safeguards Commission)*, p. 4.

⁷⁸ NDIS Quality and Safeguards Commission, *Submission 42 (inquiry into the NDIS Quality and Safeguards Commission)*, p. 17.

⁷⁹ Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, p. 33.

⁸⁰ Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, 'Statement of Mr Graeme Head AO dated 13 August 2020', *Exhibit 5.46, Public hearing 5, Sydney – Day 4*, Royal Commission, published 21 August 2020, <https://disability.royalcommission.gov.au/publications/exhibit-5-46-stat013400010001-statement-graeme-head-ao> (accessed 6 November 2020).

⁸¹ NDIS Commission, *Submission 42 (inquiry into the NDIS Quality and Safeguards Commission)*, pp. 40–41. See also Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, pp. 26–27.

affect the provision of supports and the extent to which there are known infections of workers or clients.⁸²

3.62 The Commission submitted that its budget was revised in recognition of the pandemic:

In the July 2020 Economic and Fiscal update, the NDIS Commission received \$2.6 million for 2019-20 and \$3.6 million for 2020-21 to recognise the NDIS Commission's additional support to individuals and service providers impacted by COVID-19.⁸³

3.63 The Commission's planned work was disrupted to an extent by the pandemic; it would have held another national advocacy workshop earlier in 2020 if the pandemic had not arisen.⁸⁴

Comments about the government's response in the disability sector

3.64 Some inquiry participants supported the continuation of certain changes enacted by the NDIA and the Commission in response to COVID-19.⁸⁵ For instance, measures supported by People with Disabilities Western Australia include:

- the ability to use 'the core flexible budget to purchase support coordination if needed';
- the ability for participants whose core budgets are plan or agency managed to spend their core funding flexibly across all four core categories;
- increased flexibility in the use of core funds for transport and low cost assistive technology; and
- the process by which plans could be extended by up to 24 months.⁸⁶

3.65 Evidence also indicated support for the continued availability of telehealth. For instance, Ms Callaghan of Carers Australia suggested:

Some of the adjustments and innovations made to support carers during COVID have had positive impacts and should be continued into the future. These include access to affordable telehealth.⁸⁷

⁸² Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, pp. 9–10. See also NDIS Quality and Safeguards Commission, *Submission 42 (inquiry into the NDIS Quality and Safeguards Commission)*, p. 27; Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, pp. 33–34.

⁸³ NDIS Quality and Safeguards Commission, *Submission 42 (inquiry into the NDIS Quality and Safeguards Commission)*, p. 41.

⁸⁴ Mr Graeme Head AO, Commissioner, NDIS Quality and Safeguards Commission, *Proof Committee Hansard*, 29 September 2020, pp. 29–30.

⁸⁵ See, for example, Victoria Legal Aid, *Submission 49*, p. 3.

⁸⁶ People With Disabilities (WA) Inc, *Submission 32*, pp. 2–3.

- 3.66 Ms Samantha Jenkinson of People with Disabilities Western Australia told the committee that plan reviews were processed more quickly during the pandemic:

During the main part of COVID, we were seeing that, if people were requesting reviews for things which were quite small, they were actually getting through very quickly. It was much better. There was a much clearer understanding of the need to be flexible about those things, which we hadn't seen previously.⁸⁸

- 3.67 More broadly, Mr Harry Lovelock of Mental Health Australia submitted that lessons learned during the pandemic about supporting people with psychosocial disability should be recorded so that they can be called upon in future.⁸⁹

- 3.68 The NDIA has recognised the potential benefits of continuing certain changes that were introduced in response to the pandemic. The NDIA advised that it will 'continue to monitor and review its response to the COVID-19 pandemic to ensure the safety and well-being of participants is placed at the centre of all decisions'.⁹⁰ As Mr Hoffman told the committee:

The COVID-19 pandemic has fundamentally changed how the agency interacts with participants and the way participants use their plans. Feedback indicates that some short-term initiatives put in place during the pandemic may provide ongoing benefit, such as participant check-ins, plan extensions and rollovers, and light-touch reviews. Based on this feedback, we've taken the opportunity to further develop the way we interact with participants beyond COVID and in our approach to planning.⁹¹

- 3.69 Notwithstanding these positive comments, the committee also heard concerns about the response of the NDIA and the Commission.
- 3.70 Mr Damian Griffis, CEO of the First Peoples Disability Network, recounted his organisation's decision to independently distribute care packages to First Peoples with disability:

⁸⁷ Ms Liz Callaghan, Chief Executive Officer, Carers Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 18; See also Ms El Gibbs, Director, Media and Communications, People with Disability Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 31.

⁸⁸ Ms Samantha Jenkinson, Executive Director, People with Disabilities Western Australia, *Proof Committee Hansard*, 30 June 2020, p. 19.

⁸⁹ Mr Harry Lovelock, Director, Policy and Research, Mental Health Australia, *Proof Committee Hansard*, 8 September 2020, p. 9. See also Royal Australian & New Zealand College of Psychiatrists, *Submission 21*, pp. 10–11.

⁹⁰ National Disability Insurance Agency, *Submission 37*, p. 3.

⁹¹ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 2.

We were frustrated by the bureaucratic way in which care packs appeared to be administered—for example, by such measures as online registration processes. We know such a process is largely inaccessible to many First Peoples with disability and their families. We felt we couldn't wait, so, when an opportunity to partner with the Al-Ihsan charity arose, we gratefully accepted the opportunity to partner with them. I'm very proud to say that, as of today, we've delivered, in partnership with the Al-Ihsan charity, a total of 1,458 care packages throughout New South Wales and the ACT. It is our understanding that this far exceeds the delivery numbers of any other mechanism currently being employed to distribute care packages to Aboriginal people.⁹²

- 3.71 People with Disabilities Western Australia expressed concern about the 10 per cent loading allowed for providers, submitting that it:

...is being absorbed by services rather than going to our employees and yet it comes from our plans. This 10% increase is not being automatically reimbursed to our plans, and this creates a situation where we are being sacrificed for the sake of the service providers.⁹³

- 3.72 Mr Hoffman sought to provide assurance that '[t]he money is coming from the scheme within the plan budget framework', and stated:

Utilisation rates of plans are running—it varies—at 60 to 70 per cent, so there is scope within the funded plan that the scheme provides to cover this time limited additional payment. Where there is not, or where in a particular case a plan may hit the limits, we have been very quick to make plan adjustments as required for a particular participant.⁹⁴

- 3.73 Ms Sayers, Children and Young People with Disability Australia, referred to a report by her organisation titled *Not even remotely fair: Experiences of students with disability during COVID-19*. She stated:

Whilst half of our respondents said that their NDIS needs changed with the onset of COVID-19, not many families, only five per cent, actually were able to secure changes. As one parent explained: 'I don't have capacity for that battle.'⁹⁵

- 3.74 Despite the need for some participants to amend their plan due to COVID-19, Victoria Legal Aid submitted that the NDIA 'has been reluctant and indeed has refused in several cases' to vary plans where the participant has an appeal on

⁹² Mr Damian Griffis, Chief Executive Officer, First Peoples Disability Network Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 26. See also Al-Ihsan Foundation, www.alihsan.org.au (accessed 18 November 2020).

⁹³ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 19. See also Ms El Gibbs, Director, Media and Communications, People with Disability Australia, *Committee Hansard*, Senate Select Committee on COVID-19, 1 July 2020, p. 29.

⁹⁴ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Committee Hansard*, Senate Select Committee on COVID-19, 30 April 2020, pp. 10–11.

⁹⁵ Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 3.

foot with the Administrative Appeals Tribunal (AAT). Victoria Legal Aid submitted that this issue relates to uncertainty about the AAT's jurisdiction and provided examples of affected participants, including:

In May 2020, a [Victoria Legal Aid] lawyer acting for an NDIS client received a call from the NDIA to do a "COVID welfare check" in relation to the client and to see whether the client needed any changes to his plan, but was then told that because there was an AAT appeal outstanding, no changes could actually be made to the plan.⁹⁶

3.75 Ms Kirsten Deane of Every Australian Counts acknowledged that the Commission published various fact sheets for participants about COVID-19, but expressed concern many participants might not be aware that information was available. She also raised concern that the Commission's advice to participants was delayed, recalling that her daughter (an NDIS participant) received advice in September 2020 about what to do in the face of a COVID-19 outbreak. By that time, her family had been in self-isolation since March and 'because we live in Melbourne we had been in stage 4 lockdown for about five weeks before we received that letter'.⁹⁷

3.76 Ms Hollywood of People with Disability Australia expressed concern about the way that the Commission oversaw providers during the pandemic:

During the COVID-19 pandemic, people with disability told us of NDIS service providers that ceased support, breaching their obligations to provide continuity of support. However, rather than launching its own motion investigations into these claims and reports, the commission generally encouraged individuals to make complaints.⁹⁸

Committee view

3.77 It is clear that the COVID-19 pandemic has had an extraordinary and disruptive effect on Australian society. This effect was particularly acute for people with disability and their families. As discussed in this chapter, people with disability may be particularly vulnerable to the health effects of COVID-19 or to the closures implemented to reduce physical contact.

3.78 The committee recognises the serious difficulties presented by the pandemic for people with disability, their families, providers, workers, and others in the disability sector. Many people put in a great deal of effort to support people with disability and themselves during the pandemic, and the committee is grateful for these endeavours.

⁹⁶ Victoria Legal Aid, *Submission 49*, p. 5.

⁹⁷ Ms Kirsten Deane, Campaign Director, Every Australian Counts, *Proof Committee Hansard*, 29 September 2020, p. 4.

⁹⁸ Ms Romola Hollywood, Director, Policy and Advocacy, People with Disability Australia, *Proof Committee Hansard*, 13 October 2020, p. 2. See also Ms Kirsten Deane, Campaign Director, Every Australian Counts, *Proof Committee Hansard*, 29 September 2020, p. 8.

- 3.79 During March and April 2020, when many in the community were very concerned about the consequences of COVID-19 for people with disability, including access to PPE, the committee sought and received confidential briefings from the Department of Social Services, the NDIA, and the Commission. Government representatives assured the committee that the government was endeavouring to resolve these issues as quickly as possible.
- 3.80 The evidence presented in this chapter shows that the government adopted a wide range of measures to support NDIS participants and providers during the pandemic. However, it would have been beneficial if relevant planning and preparation had been in place earlier. This is reflected, for example, in the problems with access to PPE during the initial outbreak of COVID-19—even though these problems were later addressed. Planning and preparation for future pandemics should reflect consultation with people with disability, NDIS participants, disability support providers, disability support workers, and other affected groups.
- 3.81 The committee is pleased that the NDIA and the Commission implemented various changes with particular regard to the challenges of COVID-19. It appears that several of these changes were beneficial and may continue to be beneficial beyond the pandemic. Serious consideration should be given to maintaining these changes, including access to telehealth, increased flexibility in budgets, and increased flexibility regarding plans. However, other elements of the response, discussed in the chapter above, could be improved.
- 3.82 The events of the COVID-19 pandemic, and the responses of the NDIA and the Commission, should be closely reviewed and assessed to improve the NDIS and support for people with disability in future emergencies. This process should be undertaken in consultation with people with disability and other relevant groups to ensure that the lessons learned from the pandemic are well-informed.

Recommendation 1

- 3.83 **The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission:**
- **review and assess their responses to the COVID-19 pandemic to better understand how to respond to future emergencies, including pandemics; and**
 - **in connection with the Commonwealth Government, ensure that appropriate preparations and plans are in place to support people with disability during future emergencies, including pandemics.**

Recommendation 2

- 3.84 The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission maintain, beyond the COVID-19 pandemic, beneficial changes that were implemented in response to the pandemic.**

Chapter 4

Financial sustainability, pricing and funding issues

- 4.1 This chapter examines financial matters associated with the implementation and performance of the National Disability Insurance Scheme (NDIS), including:
- financial sustainability considerations;
 - pricing of services and supports;
 - funding for transport;
 - funding for support coordination; and
 - paying family members for supports.
- 4.2 Committee views on each of the issues noted above appear throughout the chapter.

Financial sustainability considerations

- 4.3 The *National Disability Insurance Scheme Act 2013* (NDIS Act) requires regard to be had to 'the need to ensure the financial sustainability of the [NDIS]'. The National Disability Insurance Scheme (Supports for Participants) Rules 2013 require the Chief Executive Officer (CEO) of the National Disability Insurance Agency (NDIA), in 'administering the NDIS and approving each plan...[to] have regard to objects and principles of the Act, including the need to ensure the financial sustainability of the NDIS'.¹
- 4.4 The committee heard that there are concerns as to how the NDIA considers financial sustainability in making decisions about reasonable and necessary supports. In this respect, the Public Interest Advocacy Centre (PIAC) raised concern that there is no guidance from the NDIA about how it has 'regard to' financial sustainability in practice.²
- 4.5 The PIAC also argued that—based on the NDIA's approach to Administrative Appeals Tribunal (AAT) and Federal Court matters—the NDIA appears to be 'inappropriately relying on broad-based actuarial evidence' to determine that supports which would otherwise be considered reasonable and necessary would not be funded due to financial sustainability considerations for the NDIS as a whole. As an example, the PIAC noted that in one AAT case, the NDIA had:

¹ See NDIS Act s 3(b); National Disability Insurance Scheme (Supports for Participants) Rules 2013, para 2.5.

² Public Interest Advocacy Centre, *Submission 33*, p. 7.

...relied on actuarial evidence to show the 'worst case scenario' where 'every person, male or female, married or unmarried, who suffered from multiple sclerosis, and certain other disabling diseases, sought a sex worker'. The evidence did not refer to data as to the extent to which people with multiple sclerosis or other disabilities might wish to use a sex worker, [or] the frequency with which such requests would otherwise meet the criteria for 'reasonable and necessary support' under the NDIS Act.³

- 4.6 According to the PIAC, the NDIA also appears to be making a (new) argument that it has 'residual discretion' to refuse funding based on—among other matters—the need to ensure the financial sustainability of the NDIS. This is even where the support satisfies the reasonable and necessary criteria in the NDIS Act.⁴ According to the PIAC, this would make NDIA decisions 'even more opaque and less accountable than is already the case'.⁵
- 4.7 The PIAC recommended that the NDIA publish guidelines on how it considers the financial sustainability of the NDIS in funding decisions, and the way that financial sustainability is determined. According to the PIAC, these guidelines should be informed by the following principles:
- The preparation and approval of a participant's plan must take place through a 'participant-centric' decision-making approach.
 - The 'financial sustainability' of the NDIS should be given effect through the application of the reasonable and necessary supports criteria under section 34 of the NDIS Act, and not be a stand-alone ground on the basis of which the NDIA can refuse to fund a support.
 - Consideration of broader financial implications of funding a support in relation to other potential participants undermines the 'participant-centric' approach and should not be relevant to the assessment of 'reasonable and necessary' supports for an individual participant.⁶

NDIA position

- 4.8 In relation to how the NDIA considers financial sustainability when making decisions about reasonable and necessary supports, the *Planning Operational Guideline* states:

In applying the value for money criteria in the NDIS Act and Supports for Participants Rules, the NDIA will, to the extent is permissible under the NDIS Act and Rules, consider the cost of any available in-kind supports and the impact on the sustainability of the NDIS if supports which are already available in-kind are instead purchased by paying cash.

³ Public Interest Advocacy Centre, *Submission 33*, p. 7. The PIAC cited *WRMF and NDIA* [2019] AATA 1171. The PIAC also referred to *McPherson and NDIA* [2018] AAT 4303.

⁴ Public Interest Advocacy Centre, *Submission 33*, p. 8. See also *NDIA v WRMF* [2020] FCAFC 79.

⁵ Public Interest Advocacy Centre, *Submission 33*, p. 8.

⁶ Public Interest Advocacy Centre, *Submission 33*, p. 9.

The NDIA is considerate of the fact that funding supports that do *not* represent value for money has the potential to undermine the financial sustainability of the NDIS (section 3(3)(b))...

Importantly, whilst one of the objects of the NDIS Act is to promote the provision of high quality and innovative supports (section 3(g)), innovation, of itself, does not displace the requirement that a support must be effective and beneficial, having regard to current good practice...

This requirement also reflects the need to have regard to the financial sustainability of the NDIS which is likely to be undermined if funding for supports whose effectiveness and benefits are largely unknown.⁷

- 4.9 In its submission, the NDIA noted that a number of pressures may impact on the financial sustainability of the NDIS, including increased participant costs due to inflation and ageing; and NDIS coverage, with interface issues between the NDIS and other service systems 'testing the boundaries' of who can access the NDIS and what constitutes 'reasonable and necessary' supports. The NDIA asserted that it had implemented the following measures—among others—to monitor risks that could impact the financial sustainability of the scheme:

- Ongoing analysis of costs and quarterly reporting on financial sustainability by the NDIA Scheme Actuary.
- Operational responses to address identified cost pressures.⁸

Committee view

- 4.10 The committee notes that the Planning Operational Guideline already provides detail about how the NDIA considers the financial sustainability of the NDIS when making decisions on funding supports. This information appears to have been published as part of the NDIA's commitment to make its operational guidelines public.
- 4.11 The committee welcomes this action, and encourages the NDIA to take further steps to increase transparency in how its delegates make decisions that balance funding reasonable and necessary supports for participants with the need to ensure the financial sustainability of the NDIS. The committee otherwise proposes to maintain a watching brief in relation to this matter.

Pricing of services

- 4.12 Several submitters and witnesses raised concerns that NDIS pricing does not enable service providers to operate profitably, or to recruit and retain staff with the skills and qualifications to deliver safe, quality supports.

⁷ NDIS, *Planning Operational Guideline—Deciding to Include Supports in a Participant's Plan*, <https://www.ndis.gov.au/about-us/operational-guidelines/planning-operational-guideline/planning-operational-guideline-deciding-include-supports-participants-plan> (accessed 3 November 2020).

⁸ National Disability Insurance Agency, *Submission 37*, pp. 32–33.

4.13 For example, the Illawarra Disability Alliance (IDA) observed that price points for one-on-one supports, coupled with the 'transactional' nature of service delivery, mean that its members often have difficulty operating profitably. The IDA noted that many providers are seeking to leave the personal care market over time, or are reducing their service offerings. This limits support options for participants with higher or more complex needs. Compounding this issue is the difficulty in recovering payments for services (discussed below).⁹

4.14 Mind Australia asserted that the transactional nature of service delivery, coupled with low price caps, means that organisations must decide between providing a service at a financial loss or refusing to provide services at all. Mind Australia provided an example to illustrate its concerns:

The NDIS...requires Group Activities to be delivered at a cost of \$56.81 per group (i.e. if there are 10 people in a group, they would be charged \$5.68 each). Mind estimates the actual cost of providing this service is approximately a loss of \$150 per hour to the organisation, due to the administration of the pricing and the changes required to service agreements, effectively making the provision of this support unviable.

The loss of this service is of significant concern for Mind as we know the benefits that clients gain from talking and spending time among their peers in a safe space. Feedback from participants and carers is that they feel that relationships are monetised, rather than therapeutic.¹⁰

4.15 The Mental Illness Fellowship of Australia (MIFA) observed that psychosocial disability support does not fit into current pricing structures, stating:

The sector has developed responsive recovery-oriented models of support over many years and has developed a workforce that is appropriately qualified and skilled to deliver this support. However, there is a mismatch between the supports people with psychosocial disability need and the types of supports provided in NDIS packages, and between the pricing of the supports and the true cost of service delivery.¹¹

4.16 Mr Matthew Paul recommended that price caps be increased for all supports funded under the NDIS, noting that providers are 'inundated and running at a loss' despite growth in the sector. According to Mr Paul, providers also report that they are putting in 'countless hours' above billable hours to assist participants to navigate complex NDIS systems.¹² Yooralla similarly suggested that prices be increased to reflect the payment of superannuation on annual leave loading, increased penalty rates for casual staff, and the cost impact of portability of long service leave.¹³

⁹ Illawarra Disability Alliance, *Submission 11*, [p. 5].

¹⁰ Mind Australia, *Submission 23*, [p. 2].

¹¹ Mental Illness Fellowship of Australia, *Submission 55*, p. 10.

¹² Mr Matthew Paul *Submission 31*, p. 5.

¹³ Yooralla, *Submission 7*, p. 8.

- 4.17 The Queensland Law Society (QLS) stated that its many of its members have raised concerns about the NDIS Price Guide, asserting that an urgent review of the guide is required for 'transparency, improvement and accountability purposes'. According to QLS, the review should include markers for financial and social appraisal of the price guide in comparison to the Medicare price guide—including its formulation and auditing processes.¹⁴

Psychosocial recovery coach

- 4.18 A new item in the *NDIS Price Guide 2020–21* is the psychosocial recovery coach (recovery coach). This support has been developed in response to feedback on integrating recovery-oriented practice into the NDIS.¹⁵ A recovery coach is an NDIS-funded support worker with mental health knowledge, who may also have lived experience of disability.¹⁶ Responsibilities of the recovery coach include:

- developing recovery-enabling relationships, based on hope;
- supporting the person with their recovery planning;
- coaching to increase recovery skills and personal capacity, including motivation, strengths, resilience and decision-making;
- collaborating with the broader system of supports to ensure supports are recovery-oriented;
- supporting engagement with the NDIS, including support with plan implementation; and
- documentation and reporting.¹⁷

- 4.19 The recovery coach is billed at \$80.90 per hour during the day on weekdays.¹⁸

- 4.20 Submitters and witnesses expressed qualified support for the new recovery coach role. For example, Mind Australia welcomed the introduction of the recovery coach, noting that the support recognises the value of a lived experience workforce. However, Mind Australia expressed concern at the low pricing of the item relative to its specialist nature, noting that it will be difficult to deliver the supports at the current price once the cost of employing suitably qualified workers is taken into account.¹⁹

¹⁴ Queensland Law Society, *Submission 54*, p. 6.

¹⁵ NDIS, *Psychosocial Recovery Coach*, July 2020, p. 3 <https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis#psychosocial-recovery-coach> (accessed 9 November 2020).

¹⁶ NDIS, *Psychosocial recovery coach information*, <https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis#psychosocial-recovery-coach> (accessed 9 November 2020).

¹⁷ NDIS, *Psychosocial Recovery Coach*, July 2020, p. 3.

¹⁸ NDIS, *Psychosocial recovery coach information*. Under the Price Guide, weekend, evening and night loadings also apply.

¹⁹ Mind Australia, *Submission 23*, [p. 3].

- 4.21 Mr Bill Gye, Chief Executive Officer (CEO), Community Mental Health Australia (CMHA), expressed concern that the recovery coach may be seen as a replacement for support coordination, stating that:

...the recovery coach is a positive but a qualified positive at the same time. It is a positive in that it provides an opportunity for organisations to employ people at a slightly higher level than they do for their primary core supports. But organisations have historically been depending upon a proportion of support coordination pricing, which is a level II at about \$102 an hour. The recovery coach comes in at \$80 an hour, which is certainly better than the \$60 to \$65 an hour for the core supports there.

The problem is that the recovery coach is now being seen as a replacement for the support coordination level 2 role which means that the advantage that used to present in terms of the daily rate being offset by the fact that the recovery coach at \$80 an hour is lower. The offset of the offset is that there may be more hours that are contracted for the recovery coach.²⁰

- 4.22 Mr Gye also observed that the price cap for the recovery coach item is set too low, relative to the level of skill required to support people with psychosocial disability within a recovery-oriented framework.²¹
- 4.23 In its submission to the committee's inquiry into the NDIS Workforce, the Australian Psychological Society (APS) observed that it was not consulted in the development of the recovery coach item. It also stated that the roles and responsibilities of support coordinators, local area coordinators (LACs) and recovery coaches must be clearly defined. In addition, the APS emphasised that recovery coaches must not deliver interventions under the NDIS, as they do not possess the required qualifications, experience or capacities.²²

NDIA position

- 4.24 In its submission to the inquiry, the NDIA stated that 'setting price regulation is part of the NDIA's commitment to build confidence and certainty for the provider market, while balancing the need for NDIS participants to obtain reasonable value for money'.²³
- 4.25 The NDIA also noted that the Minister for the NDIS released the results of the *2020–21 NDIS Pricing Review* on 3 June 2020. The review examined, through research and consultation with industry, community and government stakeholders, whether the existing price control framework and other market

²⁰ Mr Bill Gye, Chief Executive Officer, Community Mental Health Australia, *Proof Committee Hansard*, 8 September 2020, p. 6.

²¹ Mr Bill Gye, Chief Executive Officer, Community Mental Health Australia, *Proof Committee Hansard*, 8 September 2020, p. 6.

²² Australian Psychological Society, *Submission 40 (inquiry into NDIS Workforce)*, p. 15.

²³ National Disability Insurance Agency, *Submission 37*, p. 29.

settings under the NDIS continue to be appropriate or should be modified. According to the NDIA, important updates arising out of the review include:

- introducing psychosocial recovery coaches to support participants with psychosocial disability;
- improving clarity on the way prices are set for Supported Independent Living (SIL);
- new features to provide opportunities for participants access to alternative living arrangements as part of independent living options (ILOs);
- driving innovative opportunities for participants in employment;
- improving the Disability Support Worker Cost Model (DSW Cost Model);
- clarifying definitions of time of day and day of the week (such as weekdays, evenings and public holidays);
- introducing Programs of Supports to improve choice and control for participants, and to provide more certainty for providers when delivering supports; and
- improving the definition of some locations throughout Australia to regional, remote or very remote to ensure continued service and reach by providers.²⁴

4.26 The NDIA also stated that it is 'committed to the continuous improvement of the methodologies underpinning the NDIS price regulation framework', and that it has recently commenced a review of the DSW Cost Model—particularly its applicability to supports delivered in SIL settings.²⁵

Committee view

4.27 As this committee has noted in previous inquiries, appropriate price controls for NDIS supports are vital to ensuring market growth and the sustainability of the sector.²⁶ The committee remains of the view that service providers must be able under NDIS pricing to deliver high quality services to participants without compromising their financial sustainability.

4.28 Throughout this inquiry, the committee continued to hear evidence that NDIS prices are set too low to enable providers to operate profitably, or to recruit, train and retain staff with the skills and qualifications to deliver safe, quality supports to people with disability.

4.29 The committee notes that it gave detailed consideration to the impact of NDIS price controls in its interim report on the NDIS Workforce, recommending that a comprehensive review of the funding model for the NDIS be undertaken, with a focus on ensuring that prices reflect the true cost of delivering safe,

²⁴ National Disability Insurance Agency, *Submission 37*, p. 30.

²⁵ National Disability Insurance Agency, *Submission 37*, p. 30.

²⁶ See, for example, Joint Standing Committee on the National Disability Insurance Scheme, *Market readiness for provision of services under the NDIS*, September 2018, p. 69.

quality supports to people with disability.²⁷ The committee will continue to consider the impacts of NDIS pricing as part of its ongoing inquiry into the NDIS Workforce. It will also consider NDIS pricing, as appropriate, as part of its other inquiry processes.

- 4.30 The committee welcomes the introduction of the psychosocial recovery coach item as a means of developing a lived experience workforce and integrating recovery-oriented care into the NDIS. However, the committee encourages the NDIA and its partners in the community to ensure that the item is not used as a replacement for support coordination or allied health expertise. The committee also encourages the NDIA to consider whether the price cap for the coach should be set at a higher level, to reflect the skill needed to deliver effective recovery-oriented support for people with psychosocial disability. Noting that the recovery coach is a new item which has not been fully tested, the committee proposes to maintain a watching brief in relation to this matter.

Funding for transport

- 4.31 Participants often require transport to access supports and services. Under the NDIS, participants may access funding for transport assistance if they cannot use public transport without substantial difficulty. Funding takes into account relevant taxi subsidy schemes, and does not cover assistance for carers to transport family members with disability for everyday commitments.²⁸
- 4.32 Through this inquiry, the committee continued to hear that transport funding may not be sufficient to enable participants to access the supports they need.²⁹ The committee notes that much of the evidence was provided to the committee in late 2019 to early 2020. Since then, the NDIA has taken steps to address concerns associated with transport funding (outlined below).
- 4.33 For example, the IDA noted that price controls in the *NDIS Price Guide 2019–20* effectively require participants to fund transport costs from 'Category 2' funding, provided such funding is included in their plan. Where there are insufficient Category 2 funds in a plan, the participant will not be able to access services or activities unless they can meet transport costs from their personal finances. This is a particular concern for participants in regional, rural and remote areas, where the costs of accessing services can be prohibitive.³⁰

²⁷ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020, in particular Chapter 5.

²⁸ NDIS, *Transport funding*, <https://www.ndis.gov.au/participants/creating-your-plan/plan-budget-and-rules/transport-funding> (accessed 28 October 2020).

²⁹ See, for example, Ms Marie Johnson, *Submission 17*, pp. 7–8; Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, p. 14; People With Disabilities (WA) Inc., *Submission 32*, p. 2.

³⁰ Illawarra Disability Alliance, *Submission 11*, [p. 4].

4.34 The IDA also expressed concern that the *NDIS Price Guide 2019–20* contradicts advice from senior NDIA officials that individuals are able to use their plans flexibly across core supports in relation to transport.³¹

4.35 One submitter raised concern that—at the time of the submission—transport was 'severely underfunded', noting that:

My daughter has to use a taxi for transport and the current level of funding for transport doesn't even cover half of that cost. I should also be able to use my core funding for transport if the current level of transport funding is inadequate.³²

4.36 Another submitter similarly stated funding for transport is insufficient, stating that transport funding 'doesn't allow me to do anything or go anywhere'.³³

4.37 Michael Hansen of Making Connections Together noted that thresholds for obtaining transport funding under the NDIS are higher than thresholds for obtaining Mobility Allowance, and raised concern that NDIS participants cannot access Mobility Allowance. Mr Hansen stated that:

If you have a car and don't use public transport you won't get transport allowance [under the NDIS] but would be eligible for Mobility Allowance —this is not fair especially if people have been on the mobility allowance and this has assisted with all types of transport.³⁴

4.38 A report from People with Disabilities (WA) (PwDWA Report) stated that funding for transport must be individually tailored to participants' circumstances, providing the following case example of:

...[a] participant who has visual impairment and lives in Perth's Northern suburbs being allocated a LAC who works at the Northam Office (approximately 100kms distance) and needing to use taxi service both ways.³⁵

4.39 The report also emphasised that safety must be paramount when considering travel allowances, expressing concern that 'taxi fares are being removed and/or reduced in plans and yet some participants do not have the confidence or feel safe to travel using public transport without a Support Worker'.³⁶

³¹ Illawarra Disability Alliance, *Submission 11*, [p. 4].

³² Name Withheld, *Submission 3*, p. 2.

³³ Name Withheld, *Submission 6*, [p. 1].

³⁴ Making Connections Together, *Submission 10.1*, [p. 1]. Mobility Allowance is a payment to help with travel costs for work, study or looking for work if a person has a disability, illness or injury that means the person cannot use public transport. See Australian Government, Services Australia, *Mobility Allowance*, <https://www.servicesaustralia.gov.au/individuals/services/centrelink/mobility-allowance> (accessed 10 November 2020).

³⁵ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 24.

³⁶ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 24.

NDIA position

- 4.40 In its submission, the NDIA stated that the NDIS can fund transport supports for a participant where it is reasonable and necessary, and the supports relate to the impact of their impairment(s) on their functional capacity. Generally, transport supports funded by the NDIS include:
- training and support to use public transport;
 - modification to private vehicles, driver assessment and training; and
 - some costs associated with the use of taxis, private transport or innovative transport options for participants who cannot travel independently or use public transport.³⁷
- 4.41 According to the NDIS website, there are three levels of funding for transport assistance, which are used to provide a transport budget for participants:
- **Level 1:** up to \$1,606 per year for participants who are not working, studying or attending day programs but are seeking to enhance their community access.
 - **Level 2:** up to \$2,472 per year for participants who are currently working or studying part-time (up to 15 hours a week), participating in day programs and for other social, recreational or leisure activities.
 - **Level 3:** up to \$3,456 per year for participants who are currently working, looking for work, or studying, at least 15 hours a week, and are unable to use public transport because of their disability.³⁸
- 4.42 Participants may also receive higher funding if they have either general or funded supports in their plan to enable their participation in employment.³⁹
- 4.43 In its submission, the NDIA indicated that it has made progress on initiatives to improve funding arrangements for transport. It stated that it has been working with the Department of Social Services (DSS) and states and territories through the Senior Officials Working Group (SOWG) Transport Working Group, to better understand how transport supports provided through the NDIS sit alongside other transport services. DSS and the NDIA are also working to develop a new long-term approach to planning for transport supports, to be considered by Ministers in December 2020.⁴⁰
- 4.44 Since 1 March 2020, participants have been able to use funds allocated to their core supports budget flexibly for transport costs.⁴¹ Further, the CEO of the

³⁷ National Disability Insurance Agency, *Submission 37*, p. 11.

³⁸ NDIS, *Transport funding*, <https://www.ndis.gov.au/participants/creating-your-plan/plan-budget-and-rules/transport-funding> (accessed 3 December 2020).

³⁹ NDIS, *Transport funding*.

⁴⁰ National Disability Insurance Agency, *Submission 37*, p. 11.

⁴¹ The Hon Stuart Robert MP, Minister for the NDIS, 'Delivering the NDIS Plan: Flexibility in transport funding for NDIS participants', *Media Release*, 3 February 2020,

NDIA told the committee in October 2020 that, under forthcoming changes to the NDIS planning process, 'most funds will be completely flexible for participants to use on the supports they need when they need them'.⁴²

Committee view

- 4.45 The committee heard evidence that transport funding may not be adequate to ensure that participants are able to access necessary supports and services. However, the committee notes that many of these concerns were raised in late 2019 and early 2020. Since that time, the NDIA has progressed a number of measures to enhance access to transport funding, increase funding amounts, and increase flexibility in how funding may be used.
- 4.46 The committee notes that it also considered issues related to transport funding in the interim report for its inquiry into the NDIS Workforce,⁴³ and the final report for its inquiry into NDIS Planning.⁴⁴
- 4.47 In light of these matters, the committee proposes to maintain a watching brief in relation to transport funding. If further evidence indicates that transport funding is of concern for participants or other stakeholders, the committee may consider the issue in more detail in a subsequent report.

Funding for support coordination

- 4.48 Support coordination is a funded item in a participant's plan. According to the NDIS website, support coordinators assist NDIS participants to understand and implement the funded supports in their plans, and link participants to community, mainstream and government services.⁴⁵
- 4.49 Concerns about the lack of funding for support coordination—particularly for participants with limited informal supports—were raised by a number of stakeholders. For example, one submitter outlined ongoing difficulties with accessing support coordination services that met her needs:

<https://ministers.dss.gov.au/media-releases/5471> (accessed 10 November 2020). See also NDIS, *Plan budget and rules*, <https://www.ndis.gov.au/participants/creating-your-plan/plan-budget-and-rules> (accessed 10 November 2020).

⁴² Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 2.

⁴³ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020, in particular Chapter 8.

⁴⁴ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020. See, in particular, pp. 62, 208–210.

⁴⁵ NDIS, *Support coordination*, <https://www.ndis.gov.au/participants/using-your-plan/who-can-help-start-your-plan/support-coordination#what-is-support-coordination> (accessed 23 November 2020). There are three levels of support coordination that may be included in a participant's plan, according to the participant's goals and support needs.

There should be very trusted, well trained Support Coordinators that are knowledgeable about the supports available in my area who can help put us in contact with immediate care. Or at least so people aren't waiting 6 weeks to go to the shops like I have been.⁴⁶

- 4.50 In a supplementary submission, the submitter noted that after 17 weeks on the NDIS, the only supports being provided were ones that the participant had put in place herself (plan manager, support coordinator and transport from a company that she had used previously). The submitter went on to argue that:

The NDIS needs to change the way that support coordinators are paid. If a SC [support coordinator] does badly and clients need to complain via email like me, the SC gets paid more for sorting things out. The longer they take to sort it out, the more they get paid.⁴⁷

- 4.51 The committee also heard that there are concerns about the conflict of interest that may arise where support coordination and plan management services—and sometimes also support services—are delivered by the same entity. For example, Support Management Solutions (SMS) stated that:

There have been occasions where participants are coerced into leaving a plan manager in order to join another plan manager that is associated with the support coordinator's organisation. The conflict of interest issue is not discussed with the participant, rather the dual activities are promoted as a benefit. There are also occasions where organisations offering both services charge participants against the support coordination budget for items that are the responsibility of the plan manager.⁴⁸

- 4.52 Another submitter stated that there are conflicts of interest where a support coordinator is also involved in the delivery of other supports, noting that this is of particular concern in SIL settings.⁴⁹ The submitter expressed concern that some support coordinators may be focussed on maximising plan budgets, rather than on helping the participant to achieve their goals.⁵⁰
- 4.53 Much of the evidence provided to this inquiry highlighted the importance of support coordination for specific cohorts, including participants who are homeless, Aboriginal and Torres Strait Islander participants, and participants from culturally and linguistically diverse (CALD) backgrounds. Other issues affecting these cohorts are also discussed in Chapter 5.

⁴⁶ Name withheld, *Submission 6*, [p. 2].

⁴⁷ Name withheld, *Supplementary Submission 6.2*, [p. 2].

⁴⁸ Support Management Solutions Pty Ltd, *Submission 58*, p. 6.

⁴⁹ Name Withheld, *Submission 66*, pp. 1–2. Conflicts of interest relating to SIL were also considered as part of the committee's inquiry into SIL.

⁵⁰ Name Withheld, *Submission 66*, p. 3. Also see related concerns in, for example, Name withheld, *Submission 62*, pp. 1–4.

Support coordination for participants who are homeless

4.54 The Hutt St Centre, a specialist homelessness organisation in South Australia, observed that while support coordination has been 'marketed' by the NDIS to support people with difficulties in self-management, communication and learning (among other challenges), it is often overlooked, underfunded, or not approved in final NDIS plans despite being advocated for in planning meetings. The Hutt St Centre also noted that inadequate funding for support coordination impacts the ability for people with disability experiencing homelessness to transition to the NDIS—despite their housing and case management goals being met.⁵¹

Support coordination for Aboriginal and Torres Strait Islander participants

4.55 The committee received evidence concerning support coordination for Aboriginal and Torres Strait Islander participants. For example, the First Peoples Disability Network (FPDN) asserted that support coordination must be funded in the first plans of all Aboriginal and Torres Strait Islander participants as an affirmative action by the NDIA, stating:

Dedicated funding should be earmarked to ensure...appropriate support coordinators can be identified, and involved with the development and finalisation of first plans. Appointing the support coordinator after a plan is approved does not provide the opportunity to build trust and better understand when and how support coordinators can contribute, as well as enabling participants to agree and be clear on their expectations of this role. Support coordinators should also have a proportion of funding earmarked to contribute to plan reviews.⁵²

4.56 The FPDN also stated that it supports the recommendation of the NDIA's Independent Advisory Council that support coordination must be separated from the provision of SIL supports. However, the FPDN observed that this is often 'extremely challenging' for Aboriginal and Torres Strait Islander peoples with disability due to the lack of culturally competent services—particularly in regional and remote areas. In addition, the FPDN observed that while 41 per cent of participants are currently receiving support coordination from a provider of other supports, there is no data on the proportion of these individuals who identify as Aboriginal and Torres Strait Islander.⁵³

4.57 The FPDN also expressed concern that artificial separation of the often overlapping LAC, support coordinator and planner roles creates confusion and distress for many Aboriginal and Torres Strait Islander peoples with

⁵¹ Hutt St Centre, *Submission 42*, [pp. 4–5].

⁵² First Peoples Disability Network, *Submission 53*, p. 7.

⁵³ First Peoples Disability Network, *Submission 53*, p. 7.

disability—particularly in remote areas where employees are limited and initiatives to develop a skilled workforce are ‘just beginning’.⁵⁴

- 4.58 The Senate Community Affairs References Committee heard that in some instances support coordination services carried out for remote Aboriginal and Torres Strait Islander communities in Western Australia may be inappropriate. For example, Dr Lauren Rice, Research Fellow, University of Sydney Brain and Mind Centre, stated that:

The support coordination is being done from Broome or Perth... The support coordinators come out. They are youngish people who turn up and knock on the door of a person who has an intellectual disability and other health problems and is going through extreme trauma. They aren't going to open the door to some random figure... The other issue is that the support coordinators are people who have no understanding of the culture.⁵⁵

Support coordination for participants from culturally and linguistically diverse backgrounds

- 4.59 The Ethnic Disability Advocacy Centre (EDAC) expressed concern that it continues to see cases where support coordination is not included in its clients' plans. It asserted that support coordination is vital for CALD participants—particularly those with refugee backgrounds or with low English proficiency—as this cohort often requires a significant level of long-term support to access services and implement plans. EDAC stated that failures to include support coordination in plans lead to its clients missing out on crucial services. EDAC provided the following illustrative example:

A single parent (Humanitarian Entrant) with six children, three of them with autism. Only one of the children was provided with Support Coordination in their NDIS plan, with an assumed expectation that the Support Coordination would be "bundled" and used for all three children, and that the level of funding allocated to one child would be sufficient to coordinate supports for all three children, who had significantly different support needs.⁵⁶

- 4.60 People with Disabilities (WA) Inc provided the committee with the report of a co-design project between people with of disability and service providers on improving experiences of the NDIS (PwDWA Report). The project involved engagement with people with disability from CALD communities. According to the Report, the WA Metropolitan Migrant Resource Centre (MMRC) indicated that there is insufficient or non-existent support coordination included in CaLD participants' plans. As a consequence:

⁵⁴ First Peoples Disability Network, *Submission 53*, p. 7.

⁵⁵ Dr Lauren Rice, Research Fellow, University of Sydney Brain and Mind Centre, *Proof Committee Hansard*, Senate Community Affairs References Committee, 14 October 2020, p. 38.

⁵⁶ Ethnic Disability Advocacy Centre, *Submission 22*, p. 7.

[T]here is no assistance available to help them unpack the NDIS plan or to choose service providers or assist in negotiating with service providers for fair charges on the services. There are indications that CaLD individuals with approved NDIS spend some weeks before starting to receive the services because they struggle to get into the market to search for the services.⁵⁷

Case management

- 4.61 Some submitters highlighted the absence of funding for case management—a service that existed in some jurisdictions before the introduction of the NDIS. For example, Ms Kim Barker, Public Guardian, Office of the Public Guardian Tasmania, argued:

Many NDIS participants for whom we act as guardian have multiple disabilities, sometimes on the back of past trauma, with significant intersecting impairments. Some of this cohort are included in the NDIS's complex planning pathway, and we want to acknowledge the improved service coordination and service provision for those participants involved in that pathway. However, the NDIS's failure to fund case management services for complex and challenging participants, who have numerous service providers plus multidisciplinary care and treatment teams, poses a real gap in coordination and communication between providers.⁵⁸

- 4.62 The Hutt St Centre observed that the importance of case management continues to be highlighted by difficulties its clients experience in accessing the NDIS and using their plans. It stated:

While homelessness services can undoubtedly provide short to medium term case management for clients with complex needs and disabilities, our service delivery with clients is often prioritised by meeting more immediate needs for safety and housing.

[C]ase management within the NDIS would be better placed to assist clients with high service needs to be adequately supported through the process of transitioning to the NDIS. Case management through the NDIS would...[also] provide a more streamlined approach to continuity of care, as well as greater opportunities for hand over between homelessness services and the NDIS.⁵⁹

Australian Government position

- 4.63 The 2019 Review of the NDIS Act led by David Tune AO PSM (Tune Review) recommended that the Australian Government amend the NDIS Rules to 'set out the factors the NDIA will consider in funding support coordination in a

⁵⁷ People wWth Disabilities (WA) Inc, *Submission 32*, Attachment 1, pp. 84–85.

⁵⁸ Ms Kim Barker, Public Guardian, Office of the Public Guardian Tasmania, *Committee Hansard*, 28 October 2019, p. 28.

⁵⁹ Hutt St Centre, *Submission 42*, [p. 5].

participant's plan'.⁶⁰ The Government supported this recommendation, stating that it 'supports reinforcing the active consideration of support coordination' when developing participants' plans.⁶¹

- 4.64 The NDIA in its submission noted that it has developed a Market Enablement Framework (MEF) 'to address market issues' and provide guidance on market interventions if needed, with the MEF examining markets by region and by support type (such as support coordination).⁶²

Committee view

- 4.65 The committee notes that the support coordination market is limited in some areas, and that—as the Tune Review recognised—increases in funding for support coordination would require market development to ensure that the market for support coordination is sufficient to meet participants' needs.⁶³
- 4.66 The committee echoes the Tune Review's call for the NDIA to build the support coordination market, and acknowledges that the NDIA has its MEF in place to examine issues related to thin markets. The committee encourages the NDIA to critically examine the support coordination market, to ensure that there are sufficient providers who offer a quality service.
- 4.67 The committee also encourages the NDIA to consider the issue of support coordination for particular cohorts, with particular regard to:
- offering support coordination in all first plans for Aboriginal and Torres Strait Islander participants and participants from CALD backgrounds;
 - increasing the cultural competence of support coordinators, and 'matching' support coordinators to participant cohorts so far as possible; and
 - increasing funding for support coordination as necessary and appropriate.

Paying family members for supports

- 4.68 Some evidence concerned how the NDIA makes decisions on whether family members should be paid to provide care and support services to participants.
- 4.69 At present, the NDIA's Operational Guideline on sustaining informal supports states that funding 'a family member to provide supports to a participant can be detrimental to family relationships'. Family members will only be funded to provide supports in 'exceptional circumstances', such as when:

⁶⁰ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, p. 121.

⁶¹ Australian Government, *Australian Government response to the 2019 Review of the National Disability Insurance Scheme Act 2013 report*, August 2020, p. 11.

⁶² National Disability Insurance Agency, *Submission 37*, pp. 27–28.

⁶³ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, pp. 45, 120.

- there is a risk of harm or neglect to the participant;
 - there are religious or cultural reasons for funding a family member to provide supports; or
 - the participant has strong personal views, for example in relation to their privacy or dignity.⁶⁴
- 4.70 The Operational Guideline also states that 'the NDIA will consider the circumstances of each case, any wishes expressed by the participant and also take into account what is reasonable to expect others to provide'.⁶⁵
- 4.71 Queensland Advocacy Incorporated argued that 'there have been instances of the NDIA making decisions in circumstances in which they do not have authority' under the NDIS Act to do so.⁶⁶
- 4.72 The QLS expressed concern about reports of participants who sought paid support for family members in accordance with the Operational Guideline, and who were advised by their plan manager or support coordinator that this is 'not permitted'. The QLS argued that the Operational Guideline 'do[es] not have the authority or operation of primary legislation', asserting that decision-makers relied on the guideline 'to assert decision-making authority on an issue which is not captured by the NDIS Act'.⁶⁷
- 4.73 Evidence provided to other Senate inquiries also indicated that NDIS funding arrangements may not be appropriate for certain cohorts—particularly for some Aboriginal and Torres Strait Islander peoples with disability. For example, Dr Lauren Rice, a Research Fellow from the University of Sydney's Brain and Mind Centre, told the Community Affairs Reference Committee that there 'are cultural reasons why Aboriginal people don't want to care for people outside their family'.⁶⁸
- 4.74 The Senate Select Committee on COVID-19 heard that the NDIA had in at least two instances allowed family members to be paid for supporting participants during the COVID-19 pandemic. The CEO of the NDIA, Mr Martin Hoffman, explained that:

⁶⁴ NDIS, *Including Specific Types of Supports in Plans Operational Guideline—Sustaining Informal Supports*, <https://www.ndis.gov.au/about-us/operational-guidelines/including-specific-types-supports-plans-operational-guideline/including-specific-types-supports-plans-operational-guideline-sustaining-informal-supports> (accessed 16 October 2020).

⁶⁵ NDIS, *Including Specific Types of Supports in Plans Operational Guideline—Sustaining Informal Supports*.

⁶⁶ Queensland Advocacy Incorporated, answers to questions on notice, 18 August 2020 (received 10 September 2020), p. 1.

⁶⁷ Queensland Law Society, *Submission 54*, p. 5.

⁶⁸ Dr Lauren Rice, Research Fellow, University of Sydney Brain and Mind Centre, *Proof Committee Hansard*, Senate Community Affairs References Committee, 14 October 2020, p. 38.

For family members caring for a person with disability, the more appropriate general system of service delivery or support is the various carer payments and carer allowances...

That is the approach for payment to family members providing care to people with disability... However, the basis of the NDIS is to attempt to be individualised and customised to particular circumstances. In the range of things that we consider, basically, is are there alternate options that can provide the support service, alternate providers who can provide the support service? If that is not the case, and there have been a couple of those, as I've mentioned, then, for a limited period, until those supports are available in this COVID period, we have agreed to it.⁶⁹

- 4.75 Mr Hoffman also noted that the decision to fund a family member to care for a participant 'depends upon the training capability of the family member' and whether them caring for a participant 'is going to be safer or in the best interests of the person'.⁷⁰ The operational guideline states that 'the NDIA will not fund a family member to provide...care or community access supports unless all other options to identify a suitable provider...have been exhausted'.⁷¹

Committee view

- 4.76 The committee notes that during the COVID-19 pandemic in particular, the question of whether a family member would be better placed to provide supports to a participant may be especially relevant if there is a health risk to a participant, paid services are unavailable because of movement or health restrictions, and family members have to take time off work to care for a participant because of the absence of safe alternatives.
- 4.77 The committee considers that the NDIA operational guidelines appear to provide clarity about the circumstances in which the NDIA will decide to fund family members to provide supports. However, the committee encourages the NDIA to provide participants with reasons for a decision not to pay family members to provide supports in writing (or another accessible format, as appropriate).

⁶⁹ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, pp. 36–37.

⁷⁰ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, Senate Select Committee on COVID-19, 17 September 2020, p. 37.

⁷¹ NDIS, *Including Specific Types of Supports in Plans Operational Guideline—Sustaining Informal Supports*.

Chapter 5

Issues affecting particular cohorts

- 5.1 This chapter considers issues facing current and prospective National Disability Insurance Scheme (NDIS) participants in the following cohorts:
- People with psychosocial disability.
 - Aboriginal and Torres Strait Islander peoples.
 - People from culturally and linguistically diverse (CALD) backgrounds.
 - People with disability in school settings.
 - People with disability in criminal justice settings.
 - People with disability experiencing homelessness.
 - Children in the Early Childhood Early Intervention (ECEI) cohort.
 - young people in residential aged care.
- 5.2 The chapter also outlines recent National Disability Insurance Agency (NDIA) initiatives to address some of these issues, and includes the committee's views and recommendations.

Psychosocial disability

- 5.3 According to the NDIA's most recent quarterly report, 12.8 per cent of participants who received a plan in the quarter to 30 September 2020 had a psychosocial disability. Further, as at 30 September 2020 there were 40 508 active participants with psychosocial disability. This represents approximately 10 per cent per cent of total NDIS participants.¹
- 5.4 Psychosocial disability differs from other types of disability in fundamental ways, and accordingly requires a unique approach in terms of NDIS policy and practice. The Mental Illness Fellowship of Australia (MIFA) stated that:

Psychosocial disability associated with a mental health condition 'is the result of the complex interactions between limitations in activity (related to impairments associated with usually severe mental health conditions) and the environment in which people live'...

[T]he uniqueness of psychosocial disability is that, rather than physical barriers, participants primarily experience cognitive, social and motivational barriers to activities of daily living, which can have a severe impact on daily functioning. These barriers can stop people with psychosocial disability from engaging in education, training, employment, cultural activities and social activities.²

¹ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, pp. 26, 102.

² Mental Illness Fellowship of Australia, *Submission 55*, pp. 6–7.

5.5 MIFA also noted that psychosocial disability correlates with complex support needs, stating that psychosocial support providers have the highest proportion of clients with complex behaviours (34.4 per cent, compared to 16.7 per cent for other providers), and people with psychosocial disability are more likely to:

- have multiple community, mainstream and health service system stakeholders at different times in their lives;
- experience greater isolation from the community as a result of their severe and complex mental health conditions and loss of connections to family, friends and loved ones;
- experience fluctuations in their mental health stability and heightened periods of crisis, which may result in an increased need to access wrap-around support services or be admitted to hospital;
- need a 'safety net' during periods of vulnerability, particularly where an individual has limited informal and/or formal supports in their life; and
- have changing support needs over time, with variations in the quantity and type of supports needed in an NDIS package from year to year.³

5.6 Evidence before the committee indicates that—despite recent improvements to the NDIS—people living with psychosocial disability continue to experience challenges accessing the scheme and obtaining supports.

5.7 For example, Making Connections Together (MCT) noted that the NDIS access and planning processes do not work well for people with psychosocial disability and mental illness, stating:

These participants are systematically disadvantaged by processes which present barriers to them and planners who don't understand mental health. People with co-morbidities or co-existing psychosocial and other disability are the worst affected, as the NDIS notion of a primary and secondary disability does not give a true picture of their situation.⁴

5.8 Mrs Marie Johnson provided a detailed account of the challenges faced by her daughter—who has a psychosocial disability—when seeking to access the NDIS. The account raised concerns about the conduct of NDIA staff processing Mrs Johnson's daughter's application; about the NDIA losing applications and associated medical documents; and about deficiencies in NDIS systems and processes.⁵ Mrs Johnson also asserted that the NDIS 'does not have the culture nor the capability to manage the psychosocial caseload', stating:

The complex needs and circumstances of people with psychosocial disability are being processed and examined by NDIS staff who have no experience or professional background in this area.

³ Mental Illness Fellowship of Australia, *Submission 55*, p. 8.

⁴ Making Connections Together, *Submission 10*, [p. 2].

⁵ Mrs Marie Johnson, *Submission 17*, pp. 2–4. These concerns were also reflected in the personal statement of Mrs Johnson's daughter, which forms part of Ms Johnson's submission.

Our family experience and evidence is that over a protracted period of time, the NDIS psychosocial support team and NDIS psychosocial pathway processes simply do not exist.⁶

- 5.9 Mr Tony Stevenson, Chief Executive Officer (CEO), MIFA, asserted that the NDIS is not meeting its targets as regards access to the scheme for people with psychosocial disability. Mr Stevenson queried whether the NDIS is reaching the 'right' people, noting that:

Ten thousand people who were participants of the previously funded Commonwealth programs are still in transition. They're still in limbo. Certainly the Department of Health is working on a process to continue that transition, but we're very concerned because those transitional programs are only in place until [June 2020].⁷

- 5.10 Mr Stevenson also noted that connecting people with psychosocial disability to the NDIS may involve engaging with people who have regular contact with this cohort—such as local police officers and hospital emergency departments.⁸
- 5.11 The committee also heard that people with psychosocial disability continue to experience service gaps between the NDIS and other sectors. For example, the Royal Australian and New Zealand College of Psychiatrists (RANZCP) stated that psychiatrists have reported 'instances where referrals to previous mental health services have been rejected as, with the advent of the NDIS, they are no longer available to people over 65'. The RANZCP argued that this gap 'is of significant concern to psychiatrists and should be addressed'.⁹
- 5.12 Advocacy for Inclusion (AFI) recommended that existing programs for people with psychosocial disability should not end 'until all clients have their plan enacted in the NDIS or have transitioned to another program'. AFI also stated that transitions from existing programs 'must be monitored to ensure [that] individuals are not left without community support' when they access support from clinical services or acute care.¹⁰
- 5.13 Submitters and witnesses recommended that additional steps be taken to address the needs of people with psychosocial disability in NDIS service design and delivery. For example, MIFA recommended that the unique needs of people with psychosocial disability be acknowledged and considered as

⁶ Mrs Marie Johnson, *Submission 17*, pp. 3–4.

⁷ Mr Tony Stevenson, Chief Executive Officer, Mental Illness Fellowship of Australia, *Committee Hansard*, 21 November 2019, p. 26. See also Western Australian Department of Communities, *Submission 1*, p. 5; Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, p. 6.

⁸ Mr Tony Stevenson, Chief Executive Officer, Mental Illness Fellowship of Australia, *Committee Hansard*, 21 November 2019, p. 28.

⁹ Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, p. 15.

¹⁰ Advocacy for Inclusion, *Submission 25*, p. 36.

part of NDIS service system design and development.¹¹ It also recommended that NDIS system design principles enable appropriate levels of flexibility in the type, range and length of supports offered to people with psychosocial disability, to address the fluctuating needs of individuals over their lifetime.¹²

5.14 In addition, MIFA noted that regular, genuine consultation between the NDIA, people with psychosocial disability and representative organisations is essential to understanding the unique needs of participants with psychosocial disability, understanding psychosocial disability in the NDIS context, and identifying areas for improvement within the scheme.¹³

5.15 The RANZCP asserted that NDIS processes must reflect the fluctuating nature of psychosocial disability and support a recovery-based service model. The RANZCP stated:

- Ensuring NDIS processes best reflect the fluctuating nature of psychosocial disability and support a model of recovery is essential for providing positive experiences for NDIS participants with mental health conditions.
- Providing medical professionals with dedicated communication resources could better assist streamlining access for people with disability especially given the important role medical professionals play in providing evidence and facilitating access to the NDIS.
- Acknowledging the intersection between health and disability is imperative in improving the experience of people with disability with the NDIS.
- Ensuring long term disability support services are available and easily accessible to vulnerable groups and to those who are not eligible for NDIS assistance.¹⁴

Australian Government position

5.16 The NDIS offers Temporary Transformation Payments (TPPs) to providers of attendant care and community access to help them with costs transitioning to the NDIS in the form of loading for items claimed.¹⁵

¹¹ Mental Illness Fellowship of Australia, *Submission 55*, p. 9.

¹² Mental Illness Fellowship of Australia, *Submission 55*, p. 10.

¹³ Mental Illness Fellowship of Australia, *Submission 55*, p. 5. MIFA recommended that this committee support broad ranging and regular opportunities for consultation with the NDIA; and support MIFA in joining the NDIA Mental Health Working Group to provide specialist advice on psychosocial disability and severe and complex mental illness.

¹⁴ Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, [p. 2].

¹⁵ NDIS, *Annual price review—Temporary Transformation Payment updates*, <https://www.ndis.gov.au/providers/price-guides-and-pricing/annual-price-review#temporary-transformation-payment-updates> (accessed 3 November 2020).

- 5.17 The Australian Government in March 2020 announced that from 1 July 2020 it would invest an additional \$28.4 million for remaining clients of the National Psychosocial Support—Transition measure to 30 June 2021. This program 'provides targeted support to people who were previously accessing...services through ceased Commonwealth community mental health programs...to test eligibility' for the NDIS. Clients in the program are able to access psychosocial supports during the process. Those found ineligible for the NDIS will be able to access support through the Continuity of Supports (CoS) program.¹⁶
- 5.18 The Department of Health website states that the CoS program provides continuity of support to older people with disability who previously received state-managed disability services when the program was implemented but are not eligible for the NDIS. The program will be replaced from 1 July 2021 by the Disability Support for Older Australians program.¹⁷
- 5.19 Since July 2020, the NDIA has made available psychosocial recovery coaches to support participants with psychosocial disabilities.¹⁸ It has also committed to developing a national framework for recovery-oriented psychosocial disability services in the NDIS, to be released in 2021.¹⁹ The NDIA stated that it has identified the following areas for improvement in the ways in which it addresses psychosocial disability:
- Improving the NDIS access process
 - Better responses to the episodic nature of psychosocial disability
 - The introduction of evidence-based psychosocial disability supports into the NDIS to improve social and economic participation for persons with psychosocial disability.²⁰
- 5.20 Chapter 4 also discusses the introduction of psychosocial recovery coaches in greater detail.

¹⁶ Department of Health, *National Psychosocial Support Transition*, 15 April 2020, <https://www.health.gov.au/internet/main/publishing.nsf/Content/national-psychosocial-support-transition> (accessed 2 November 2020).

¹⁷ Department of Health, *Commonwealth Continuity of Support (CoS) Programme*, <https://www.health.gov.au/initiatives-and-programs/commonwealth-continuity-of-support-cos-programme> (accessed 2 November 2020; Department of Health, *About the Commonwealth Continuity of Support Programme*, <https://www.health.gov.au/initiatives-and-programs/commonwealth-continuity-of-support-cos-programme/about-the-commonwealth-continuity-of-support-programme> (accessed 2 November 2020).

¹⁸ NDIS, *Mental health and the NDIS*, <https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis> (accessed 15 October 2020).

¹⁹ NDIS, *Psychosocial Recovery Coach*, July 2020, p. 3.

²⁰ NDIS, *Psychosocial Recovery Coach*, July 2020, p. 3.

Committee view

- 5.21 The committee heard that people with psychosocial disability continue to experience challenges accessing the NDIS and obtaining safe, quality services and supports. Evidence indicates that these issues may be driven by systemic deficiencies in the NDIS (such as the complexity of processes and the conduct of some NDIA personnel); gaps between the NDIS and mainstream service sectors; and a lack of understanding of psychosocial disability and mental health within the NDIA, partners in the community, and service providers.
- 5.22 The committee considered issues facing people with psychosocial disability in the final report for its inquiry into NDIS Planning. Among other matters, consideration was given to the use of expert reports; the skills and expertise of NDIA staff and community partners; and service gaps between the NDIS and the mental health sector.²¹
- 5.23 In addition, the committee considered issues facing people with psychosocial disability in the interim report for its inquiry into the NDIS Workforce. In particular, it considered training needs of disability support workers and allied health professionals; and whether NDIS prices are set at a level that enables the workforce to deliver safe, quality supports to people with psychosocial disability within a recovery-oriented model of care.²²
- 5.24 The committee also notes that the NDIA has progressed a number of initiatives to support people with psychosocial disability, including further investment in programs to support transitions to the NDIS and the introduction of the psychosocial recovery coach.
- 5.25 In light of the measures progressed by the NDIA, and the consideration given to relevant issues in the committee's other inquiries, the committee proposes to maintain a watching brief in relation to issues facing people with psychosocial disability. However, irrespective of these matters, the committee considers that the NDIA should regularly consult with the psychosocial disability sector, to better understand and address the issues facing people with psychosocial disability seeking to access the NDIS and obtain reasonable and necessary supports. The committee also strongly encourages the NDIA to incorporate any feedback from this engagement in policy and program design.

Recommendation 3

- 5.26 The committee recommends that the National Disability Insurance Agency regularly and systemically engage with people with psychosocial disability**

²¹ See Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020.

²² See Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020.

and representative organisations to better understand the needs of people with psychosocial disability and mental illness.

Aboriginal and Torres Strait Islander peoples with disability

- 5.27 According to the NDIA's most recent quarterly report, 9.1 per cent of participants who received a plan in the quarter to 30 September 2020 identified as Aboriginal and Torres Strait Islander. This is the highest percentage of any quarter. As at 30 September 2020 there were 27 112 active participants who identified as Aboriginal and Torres Strait Islander peoples. This represents 6.6 per cent of total NDIS participants.²³
- 5.28 A consistent theme of scrutiny by this committee has been access to, and the provision of, NDIS services to Aboriginal and Torres Strait Islander peoples, particularly in remote areas. The committee continued to hear evidence about the challenges facing Aboriginal and Torres Strait Islander peoples throughout the present inquiry. For example, some Aboriginal and Torres Strait Islander peoples may have little knowledge of the NDIS or the supports for which they may be eligible. Further, the NDIS is very complex for some Aboriginal and Torres Strait Islander peoples in remote and very remote communities, who do not speak English as a first language, do not have access to a computer, or have limited computer literacy.²⁴
- 5.29 This section outlines some of the major issues outlined in evidence that may arise for Aboriginal and Torres Strait Islander participants, including:
- investment in an Aboriginal Community Controlled service sector;
 - cultural competency; and
 - uptake of the NDIS in remote and very remote Aboriginal and Torres Strait Islander communities.

Investing in an Aboriginal Community Controlled service sector

- 5.30 Submitters and witnesses observed that greater investment is needed to create and develop an Aboriginal Community Controlled service sector and an Aboriginal and Torres Strait Islander workforce.
- 5.31 For example, Ms Polly Paerata, CQI and Policy Coordinator, Aboriginal Health Council of South Australia, asserted that service delivery in remote Aboriginal and Torres Strait Islander communities should be provided by organisations that are already embedded in the community. This is to ensure the cultural

²³ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 100.

²⁴ See First Peoples Disability Network, *Submission 53*, p. 4; Ms Kim McRae, Tjungu (Disability and Aged Care) Team Manager, NPY Women's Council, *Proof Committee Hansard*, 23 June 2020, p. 15.

competency of service provision and to build relationships of trust between community members and service providers.²⁵

- 5.32 Ms Paerata provided an example of a remote community in South Australia that had experienced difficulties providing services under the NDIS model:

The only service that they have there at the moment is a health service, and everyone else is a fly-in fly-out service. So, in those instances, the health services provide care for disability clients or disability participants under their aged care model. They do that because the community itself does not have the capacity to deliver disability services...[I]t doesn't have the capacity internally to build the business models to provide a sustainable NDIS service to its community.²⁶

- 5.33 The First Peoples Disability Network (FPDN) acknowledged that there have been some investments in building the Aboriginal Community Controlled sector and strengthening the Aboriginal and Torres Strait Islander workforce. However, the FPDN expressed concern that there appears to be an assumption in the NDIA and across Government that existing community controlled organisations have sufficient knowledge, skills and experience of the social model of disability and human rights. In this respect, the FPDN stated:

Whilst [Aboriginal Community Controlled] organisations (many of them health based) may be best placed to reach out and provide services and support in their local community, lived experience and knowledge of disability in an Aboriginal context must be acknowledged as expertise in and of itself. This expertise should be sought out, and resourced to work in partnership and build intersectional capacity and capability amongst the Aboriginal Community Controlled disability workforce.²⁷

- 5.34 The FPDN recommended that the NDIA:

- establish a formal First Peoples Advisory Committee consisting of representative organisations of First Peoples with disability, and Aboriginal Community Controlled organisations;
- work with this Advisory Committee to identify and fill data gaps in relation to agency functions and workforce, and the interactions with, and participation of Aboriginal and Torres Strait Islander peoples with disability within the NDIA;
- build an Aboriginal and Torres Strait Islander unit in the NDIA, to ensure that a cultural overlay is implemented in all procedures and policies; and

²⁵ Ms Polly Paerata, CQI and Policy Coordinator, Aboriginal Health Council of South Australia, *Committee Hansard*, 19 November 2019, pp. 29, 31–32.

²⁶ Ms Polly Paerata, CQI and Policy Coordinator, Aboriginal Health Council of South Australia, *Committee Hansard*, 19 November 2019, p. 29.

²⁷ First Peoples Disability Network, *Submission 53*, p. 4.

- support the provision of training for Aboriginal Community Controlled Organisations, to develop knowledge, skills and experience of the social model, human rights approach to disability.²⁸

5.35 The FPDN also recommended that the Government invest in Aboriginal community-led education programs that build individual and community knowledge, capacity and confidence around rights and entitlements.²⁹

Cultural competency

5.36 An ongoing concern for Aboriginal and Torres Strait Islander peoples with disability seeking to access the NDIS and obtain supports is a lack of cultural competency within the NDIA, its community partners, and service providers. The committee continued to hear evidence about this matter during the present inquiry. For example, the Australian National University's Law Reform and Social Justice Research Hub (LRSJ Research Hub) emphasised the importance of cultural competency, stating:

Where culturally competent practices are in place community engagement tends to be more effective. Aboriginal and Torres Strait Islander peoples are more likely to engage with programs where they know they will be treated respectfully, fairly and appropriately. Moreover, cultural competency can improve policy outcomes within the NDIS. By improving health workers awareness, knowledge and skills, we can better prepare workers to interact in complex, cross-cultural environments.³⁰

5.37 The LRSJ Research Hub also stated that the NDIS should update guidelines with respect to cultural competency and implement a process by which NDIA staff and contractors can have their cultural competency reviewed.³¹

5.38 The FPDN expressed concern that the intersection of Aboriginality and disability is not understood within the NDIS workforce, in addition to the compounding impact of racism and ableism over the course of a person's life. The FPDN stated that the NDIA should require all staff and contractors to undertake mandatory training in cultural awareness and disability rights, developed and delivered by First Peoples with disability and their representative organisations.³²

5.39 The FPDN also recommended the NDIA work with representative and community controlled organisations to establish cultural safety accreditation standards for service providers.³³

²⁸ First Peoples Disability Network, *Submission 53*, p. 3.

²⁹ First Peoples Disability Network, *Submission 53*, p. 3.

³⁰ ANU Law Reform and Social Justice Research Hub, *Submission 50*, p. 7.

³¹ ANU Law Reform and Social Justice Research Hub, *Submission 50*, p. 1.

³² First Peoples Disability Network, *Submission 53*, p. 6.

³³ First Peoples Disability Network, *Submission 53*, p. 3.

Uptake of the NDIS

- 5.40 The committee heard that low uptake of the NDIS in remote and very remote Aboriginal and Torres Strait Islander communities is often due to a focus on meeting basic needs such as food and shelter, which must take priority over disability supports. For example, Ms Kim McRae, Tjungu (Disability & Aged Care) Team Manager, NPY Women's Council, stated that:

People out bush are largely concerned about food, shelter and safety, and some items—things like swags and blankets—which are considered to be not reasonable and necessary under the NDIS, are the things that people want. So we find that our families often don't engage with the scheme because of that.³⁴

- 5.41 Ms McRae also observed that that NDIS is not properly adapted to how care is provided in Aboriginal and Torres Strait Islander communities, stating that:

That brings me to the other issue around individualised funding when people live very much communally out in community, where individuals in the family all contribute to the wellbeing of the family through the resources they have access to, so families often think that what's in that plan will benefit all of the family.

If...the family hasn't got access to food, then clearly, when there's a plan there with \$140,000 in it, it seems pretty counterintuitive to the family that they can't draw down on it, they can't access that money, for basic needs.³⁵

- 5.42 Similar matters were raised during the Senate Community Affairs References Committee's inquiry into effective approaches to prevention, diagnosis and support for Fetal Alcohol Spectrum Disorder. For example, Dr Lauren Rice, Research Fellow, University of Sydney Brain and Mind Centre, stated that:

The NDIS is designed for the Western world, not for an Aboriginal community. There are people out in Yakanarra who have a disability, and they have extended family members who aren't working so that they can care for them, but because they're related to the person they're not allowed to be funded.

So there are people in Yakanarra who have a \$150 000 plan that can't be used because a non-Aboriginal person or a non-family-member has to go into the community to provide the services. There are cultural reasons why Aboriginal people don't want to care for people outside their family, so you can't just say, 'Why doesn't someone from another community an hour and a half away come in and care for them?'³⁶

³⁴ Ms Kim McRae, Tjungu (Disability & Aged Care) Team Manager, NPY Women's Council, *Proof Committee Hansard*, 23 June 2020, p. 15.

³⁵ Ms Kim McRae, Tjungu (Disability & Aged Care) Team Manager, NPY Women's Council, *Proof Committee Hansard*, 23 June 2020, p. 15.

³⁶ Dr Lauren Rice, Research Fellow, University of Sydney: Brain and Mind Centre, *Proof Committee Hansard*, Senate Community Affairs References Committee, 14 October 2020, p. 38.

- 5.43 The issue of family members not being funded to care for a participant is discussed further in Chapter 4.

NDIA position

- 5.44 The NDIA stated that it is committed to ensuring Aboriginal and Torres Strait Islander peoples are supported to access the NDIS and utilise their plans. It stated that it is working closely with a range of stakeholders—particularly Aboriginal Community Controlled Organisations—to develop approaches to service delivery that are culturally appropriate and utilise local capacity and capability wherever possible.³⁷
- 5.45 Further, in 2019–20 the NDIA's Individual Capacity Building Program grant round committed over \$105 million to 105 organisations to facilitate access to peer support and other skill-building for people with disability, carers and families. Fourteen grants totalling \$14.6 million were provided to organisations that targeted Aboriginal and Torres Strait Islander peoples.³⁸
- 5.46 The NDIA held a series of roundtable discussions with representatives from the National Aboriginal Community Controlled Health Organisation, Aboriginal Medical Services and other stakeholders in WA, Queensland and the NT. Discussions focused on local issues regarding Aboriginal and Torres Strait Islander peoples accessing the NDIS, and the challenges organisations face when registering as NDIS providers.³⁹
- 5.47 The NDIA noted that in May 2019, the Government committed an additional \$20 million to expand the NDIA's Community Connectors Program to more locations to support four identified communities to navigate the NDIS: Aboriginal and Torres Strait Islander peoples; CALD communities; parents caring for children with disability; and people with psychosocial disability. According to the NDIA, from July 2020 a further 187 Community Connectors will be employed across Australia to support the four targeted communities.⁴⁰

Committee view

- 5.48 The committee heard that Aboriginal and Torres Strait Islander peoples continue to face challenges accessing the NDIS and obtaining reasonable and necessary supports. The committee heard that there is limited support to assist Aboriginal and Torres Strait Islander peoples to understand complex NDIS processes, and limited investment in building the capacity of Aboriginal and Torres Strait Islander communities and organisations.

³⁷ National Disability Insurance Agency, *Submission 37*, p. 6.

³⁸ National Disability Insurance Agency, *Submission 37*, p. 6.

³⁹ National Disability Insurance Agency, *Submission 37*, p. 6.

⁴⁰ National Disability Insurance Agency, *Submission 37*, p. 9.

- 5.49 The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission) also heard that the NDIS does not adequately cater to some Aboriginal and Torres Strait Islander peoples with disability:

First Nations people have told the Royal Commission they find the NDIS difficult to navigate and understand and, when they do, it lacks the flexibility to support their cultural wellbeing.⁴¹

- 5.50 Evidence before the committee indicates that a driver for some of the ongoing challenges experienced by Aboriginal and Torres Strait Islander peoples with disability is a lack of opportunity for input at the policy and service design level by Aboriginal and Torres Strait Islander communities and peak bodies. The committee supports the recommendation by the FPDN that the NDIA establish a First Peoples Advisory Committee, comprising representative organisations of First Peoples with disability and Community Controlled organisations. As noted by the FPDN, the NDIA should work with this committee to identify and fill data gaps in relation to agency functions and workforce, and the interactions with, and participation of, Aboriginal and Torres Strait Islander peoples with disability within the agency.
- 5.51 The committee acknowledges that the NDIA has established advisory groups within certain jurisdictions (for example, the Northern Territory), with broad representation from local stakeholders, Aboriginal and Torres Strait Islander organisations and consumer representatives.⁴² However, the committee considers that there would be merit in establishing an advisory committee within the NDIA, to provide input to national policy and program delivery.
- 5.52 The committee also considers that a First People's Advisory Committee may assist the NDIA to understand and address issues associated with the low uptake of NDIS services in remote communities, and to address service gaps between the NDIS and other service systems with a specific focus on Aboriginal and Torres Strait Islander peoples.
- 5.53 Further, the committee notes that in the interim report for its inquiry into the NDIS Workforce, it recommended that Government develop, publish and implement a strategy for the Aboriginal and Torres Strait Islander workforce, co-designed with Aboriginal and Torres Strait Islander peoples, community leaders, Community Controlled Organisations and other key stakeholders.⁴³

⁴¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Interim Report*, October 2020, p. 457.

⁴² National Disability Insurance Agency, *Aboriginal and Torres Strait Islander Engagement Strategy*, 2017, p. 23, <https://www.ndis.gov.au/about-us/strategies/aboriginal-and-torres-strait-islander-strategy> (accessed 12 November 2020).

⁴³ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020, p. 137.

The committee considers that establishment of a formal First Peoples Advisory Committee could form part of or sit alongside such a strategy.

Recommendation 4

- 5.54 The committee recommends that the National Disability Insurance Agency establish an advisory committee, consisting of representative organisations of Aboriginal and Torres Strait Islander peoples with disability and Aboriginal Community Controlled Organisations, to provide input to national policy and program delivery.**
- 5.55 The committee also appreciates the need for investment in the development of an Aboriginal Community Controlled disability sector—including the funding of peer-led initiatives to support Aboriginal and Torres Strait Islander peoples with disability build their capacity to navigate the NDIS, understand rights and entitlements, and ultimately obtain culturally safe, appropriate and high quality disability supports.
- 5.56 The committee supports the FPDN's recommendation that the Government—including via the information, linkages and capacity-building (ILC) program—invest in community-led programs that build individual and community knowledge, capacity and confidence around rights and entitlements. The committee agrees that this investment should be long term, and specifically targeted to Aboriginal and Torres Strait Islander community-led organisations.

Recommendation 5

- 5.57 The committee recommends that the Australian Government commit to long-term investment in Aboriginal community-led education programs to build individual and community knowledge, capacity and confidence around rights and entitlements associated with the National Disability Insurance Scheme and disability supports.**
- 5.58 The committee is also strongly of the view that all people working within the NDIS—including NDIA staff, community partners and service providers—should have a minimum level of cultural competency.
- 5.59 The committee notes that the *Aboriginal and Torres Strait Islander Engagement Strategy* (Engagement Strategy) states that the NDIA will provide cultural competency training to its staff and partners, informed by advice from the cultural competency expert reference group. According to the Strategy:

Training will be tailored with localised input to ensure responsiveness and reflect the uniqueness of the many Aboriginal and Torres Strait Islander peoples with disability, their families, carers and communities.⁴⁴

⁴⁴ National Disability Insurance Agency, *Aboriginal and Torres Strait Islander Engagement Strategy*, 2017, p. 11.

- 5.60 The committee strongly encourages the NDIA to ensure cultural competency training is co-designed and delivered by Aboriginal and Torres Strait Islander peoples with disability, representative organisations and peak bodies.
- 5.61 The committee also acknowledges that the Engagement Strategy states that the NDIA will 'support the cultural competence expert reference group to develop a framework of cultural competency for use by NDIS funded services that provide reasonable and necessary supports to Aboriginal and Torres Strait Islander Scheme participants'.⁴⁵ However, the committee considers that there would be merit in developing clearer standards for cultural competency, co-designed with Aboriginal and Torres Strait Islander people with disability and representative organisations.
- 5.62 The committee therefore supports recommendations by the FPDN that the NDIA work with representative and community controlled organisations to establish standards for cultural safety accreditation. Noting the NDIS Quality and Safeguards Commission is generally responsible for ensuring the quality of services delivered by providers, the committee considers that the Commission should have an active role in the development of such standards.
- 5.63 The committee also notes that in the interim report for its inquiry into the NDIS Workforce, the committee recommended that the Government review options for a national registration and accreditation scheme for disability support workers—including national benchmarks for skills, qualifications and competencies reflecting the diversity of people with disability.⁴⁶ The committee considers that accredited cultural competency standards could sit within or complement such a scheme.

Recommendation 6

- 5.64 **The committee recommends that the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission develop, publish and implement cultural safety accreditation standards for providers, co-designed with Aboriginal and Torres Strait Islander representative organisations and Aboriginal Community Controlled Organisations.**
- 5.65 The committee also received evidence concerning provision of services for Aboriginal and Torres Strait Islander peoples during the COVID-19 pandemic. This evidence is discussed in further detail in Chapter 3.

⁴⁵ National Disability Insurance Agency, *Aboriginal and Torres Strait Islander Engagement Strategy*, 2017, p. 11.

⁴⁶ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020, p. 98.

Culturally and linguistically diverse people with disability

- 5.66 According to the NDIA's most recent quarterly report, 10.5 per cent of participants who received a plan in the quarter to 30 September 2020 were from CALD backgrounds. Further, as at 30 September 2020 there were 38 263 active participants from CALD backgrounds. This represents 9.3 per cent of total NDIS participants.⁴⁷
- 5.67 Evidence before the committee indicated that people with disability in CALD communities often face difficulties accessing the NDIS and obtaining supports. In some cases, these difficulties arise from cultural barriers that prevent people with disability from CALD background from accessing disability support. Further challenges are associated with systemic issues with the NDIS—such as complex language and bureaucratic processes—which are compounded by CALD-specific challenges such as language barriers and gaps in the cultural competency of serviced providers.⁴⁸

Cultural barriers

- 5.68 Evidence suggested that cultural attitudes to disability often prevent CALD communities from accessing the NDIS.
- 5.69 People with Disabilities (WA) Inc provided the committee with the report of a co-design project between people with of disability and service providers on improving experiences of the NDIS (the PwDWA Report). The project involved engagement with people with disability from CALD communities. The PwDWA Report noted that people from CALD backgrounds may conceal disability due to fears of discrimination or judgment. Psychosocial disability in particular is a sensitive matter for CALD communities.⁴⁹ It also noted that cultural norms may require family members to care for people with disability, and consequently CALD communities may be reluctant to accept government support. The PwDWA Report provided the following example:

A family originally from the Middle East indicated that accepting government funding/formal services is a sign that they have failed to take care of their child which is not a good feeling as a parent. 'My husband will work hard to raise the funds that we need for the therapy of our child, and my husband's family will also help with funds from their business'.⁵⁰

⁴⁷ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 24

⁴⁸ See, for example, ANU Law Reform and Social Justice Research Hub, *Submission 50*, p. 3.

⁴⁹ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 83.

⁵⁰ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 83.

Language barriers

5.70 Other evidence indicated that people with disability from CALD communities often face difficulties understanding the NDIS due to language barriers, and that there may be insufficient support available to support people from CALD communities to overcome these challenges.

5.71 For example, the Ethnic Disability Advocacy Centre (EDAC) noted that CALD families are often confused by NDIS terminology, stating that local area coordinators (LACs) and planners often fail to recognise the level of difficulty participants may face in navigating NDIS systems. EDAC also expressed concern that some clients are instructed to contact providers directly—without support—even though there may be literacy issues in both the clients' first language and English.⁵¹

5.72 The PwDWA Report noted that issues related to language barriers that participants from CALD backgrounds may experience include:

- the terminology used by the NDIS, including words such as 'goals';
- the NDIS not offering further explanation of particular terms; and
- words used in the NDIS having a different meaning to their use in previous state-funded disability support frameworks.⁵²

5.73 Submitters and witnesses also expressed concern at the lack of interpreting services available to CALD participants.⁵³ For example, Ms Christine Grace, Manager, Advocacy Services, EDAC, stated:

[O]ne of the most significant issues for EDAC in relation to advocacy and referrals received is the fact that accredited interpreters are not being used in the process of planning and implementing NDIS plans. I often find that bilingual local area coordinators or friends are being used as alternatives to accredited interpreters.

The impact of that for our clients is that they are missing out on supports that they really need, because the communication can't be guaranteed to be correct in relation to what is interpreted or what the client understands is being asked of them.⁵⁴

5.74 EDAC also argued the following points in relation to interpreters and how the NDIA, planners and LACs involve them:

⁵¹ Ethnic Disability Advocacy Centre, *Submission 22*, p. 2 For example, EDAC observed that a significant portion of its clients do not understand concepts and/or terms such as budgets, portals, and the differences between the NDIS and the health system. This is a particular challenge for emerging CALD communities without established links to mainstream systems.

⁵² People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 83.

⁵³ See, for example, Royal Australian and New Zealand College of Physicians, *Submission 21*, p. 13.

⁵⁴ Ms Christine Grace, Manager, Advocacy Services, Ethnic Disability Advocacy Centre, *Proof Committee Hansard*, 23 June 2020, p. 20.

- It is often assumed that interpreters are not needed where a participant has a working knowledge of English or has a friend or family member who can provide language support.
- There is little understanding that interpreting involves more than strict word for word translation, with some languages not having specific terms for medical conditions or therapies.
- Time should be built into planning meetings to allow interpreters to explain particular terms and situate concepts within a participant's cultural context.⁵⁵

- 5.75 Submitters expressed related concerns about translation of plans. For example, EDAC noted that translation is generally not offered unless requested, and it is not common knowledge among NDIA staff or partners in the community that plans can be made available in languages other than English. EDAC also suggested that there appears to be little awareness in the NDIS that there is a difference between interpreting and translating—with assumptions made that interpreters can simply read out a plan and the participant will understand.⁵⁶
- 5.76 Submitters and witnesses argued that translation of plans should be offered to all participants from CALD communities, including, where relevant, family members who are the primary decision-makers for a child.⁵⁷

Cultural competency

- 5.77 The committee heard that levels of cultural competency within the NDIS are insufficient, and that this negatively impacts on the ability of participants from CALD communities to obtain the supports they need.
- 5.78 EDAC asserted that the lack of cultural competency within the NDIS must be addressed as a matter of urgency, noting that lack of cultural knowledge manifests in a variety of ways. EDAC provided the following examples:

Example 1: A planner thought a Burmese client was Chinese and booked an interpreter for the wrong language. The planning meeting needed to be rescheduled; the delay meant the client had no access to supports.

Example 2: assumptions are made that all Muslims speak Arabic, all people from Myanmar speak Burmese.

Example 3: Carer asked can the client hold a knife and fork when these are not the implements used in their culture.⁵⁸

⁵⁵ Ethnic Disability Advocacy Centre, *Submission 22*, p. 3.

⁵⁶ Ethnic Disability Advocacy Centre, *Submission 22*, p. 6.

⁵⁷ Mr Wayne Press, NDIS Appeals Leader,, Ethnic Disability Advocacy Centre, *Proof Committee Hansard*, 23 June 2020, p. 21; Royal Australian and New Zealand College of Physicians, *Submission 21*, p. 13; Ms Christine Grace, Manager, Advocacy Services, Ethnic Disability Advocacy Centre, *Proof Committee Hansard*, 23 June 2020, p. 21.

⁵⁸ Ethnic Disability Advocacy Centre, *Submission 22*, pp. 3–4.

- 5.79 The LRSJ Research Hub stated that the lack of cultural competency training within the NDIS (including NDIA staff and partners in the community) is concerning, as is the lack of empirical metrics to measure cultural competency. It recommended that the NDIS update its guidelines with respect to cultural competency, and implement a process by which NDIA staff and contractors can have their cultural competency reviewed.⁵⁹

Other issues facing CALD communities

- 5.80 Other issues raised about issues facing participants from CALD communities included the following:

- Difficulty in obtaining the medical evidence needed to access the NDIS and appeal NDIA decisions due to cultural or linguistic barriers and high costs.⁶⁰
- The need for information provided to general practitioners to be designed to accommodate the experiences of people from CALD and non-English speaking backgrounds with disability, their families and carers.⁶¹
- Some participants not having access to a computer or the skills to use it, and as a consequence are unable to use the NDIS portal, send emails, or use the NDIS website as a resource.⁶²

NDIA position

- 5.81 The NDIA stated that it is committed to ensuring people with disability from CALD backgrounds are supported to access the NDIS and engage supports. The agency has implemented a number of improvements to facilitate access to the NDIS for people with disability from CALD backgrounds, and to ensure CALD people with disability achieve outcomes via the NDIS on an equal basis with the wider population. The NDIA has also introduced mandatory training for staff to increase their knowledge and understanding as to how to have respectful conversations with people from CALD backgrounds.⁶³

⁵⁹ ANU Law Reform and Social Justice Research Hub, *Submission 50*, pp. 7–8; According to the PwDWA Report, most services to which the Western Australian Metropolitan Migrant Resource Centre refers clients 'clearly lack cultural competence'. This negatively impacts the capacity of participants to reach their goals. See People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 85.

⁶⁰ The University of Notre Dame Australia & The Multicultural Disability Advocacy Association NSW, *Submission 27*, p. 5. EDAC similarly noted that people with disability from CALD communities may not have access to necessary medical records and identity documents, and must access these documents via Freedom of Information requests. According to EDAC, this results in lengthy delays to accessing the NDIS. See Ethnic Disability Advocacy Centre, *Submission 22*, p. 4.

⁶¹ The University of Notre Dame Australia & The Multicultural Disability Advocacy Association NSW, *Submission 27*, p. 5.

⁶² Ethnic Disability Advocacy Centre, *Submission 22*, pp. 6–7.

⁶³ National Disability Insurance Agency, *Submission 37*, p. 7.

- 5.82 The NDIA further noted that the Language Interpreting Services page on its website helps people understand the interpreter services the NDIA offers. This page also has translated resources in 12 languages other than English, and translations of the CALD Strategy and the NDIA Glossary in Easy English—to support registered providers and participants to implement NDIS plans.⁶⁴
- 5.83 The NDIA also commented that its CALD Strategy, released in 2018, was developed through extensive consultation with an external advisory group including peak bodies, advocates and service providers representing CALD communities and the disability sector. The Strategy sets priority areas for:
- engaging with communities and making information accessible;
 - increasing community capacity and broadening consumer choice; and
 - improving the NDIA's approach to monitoring, evaluating and enhancing cultural competency within the NDIA and its partners.⁶⁵
- 5.84 According to the NDIA, the Strategy will guide the agency's engagement with CALD communities and future initiatives to support diverse participants to access the NDIS and obtain supports.⁶⁶
- 5.85 The University of Notre Dame and the Multicultural Disability Advocacy Association NSW noted that, despite the CALD Strategy, research shows that people from CALD backgrounds experience difficulty accessing the NDIS.⁶⁷

Committee view

- 5.86 The committee heard that people with disability from CALD communities face a number of barriers to accessing the NDIS and obtaining reasonable and necessary supports. These include cultural barriers to accessing government services; systemic issues with the NDIS; and challenges specific to CALD communities such as language barriers and gaps in the cultural competency of NDIA staff, partners in the community and disability service providers.
- 5.87 The committee notes that the NDIA has developed and published a CALD Strategy, which includes principles and priority areas for engaging with CALD people with disability. The NDIA has also implemented measures to increase the cultural competency of staff and community partners. However, evidence suggests that these measures may be insufficient to address issues experienced by people with disability from CALD backgrounds seeking to access the NDIS.
- 5.88 In the final report for its inquiry into NDIS planning, the committee also noted that the CALD Strategy appears to be out of date, given that the goals of the

⁶⁴ National Disability Insurance Agency, *Submission 37*, p. 7.

⁶⁵ National Disability Insurance Agency, *Submission 37*, p. 7.

⁶⁶ National Disability Insurance Agency, *Submission 37*, p. 7.

⁶⁷ The University of Notre Dame Australia & The Multicultural Disability Advocacy Association NSW, *Submission 27*, p. 4.

Strategy were intended to be achieved by 2019. The committee recommended that the NDIA review the CALD Strategy, and update it to address the issues raised in the NDIS Planning final report.⁶⁸ The committee encourages the NDIA to implement that recommendation. The committee considers that, as part of this process, the NDIA should address the issues outlined above.

- 5.89 The committee otherwise proposes to maintain a watching brief in relation to issues facing CALD communities, and may consider these issues again in a subsequent report.

People with disability in school settings

- 5.90 Submitters and witnesses gave evidence that there are barriers facing people with disability—including NDIS participants—seeking to access a safe, quality and inclusive school education. Evidence indicated that these barriers may stem from a lack of appropriate strategies to support people with disability in school settings, and by a lack of clarity around the interface between the NDIS and the education system.

- 5.91 Ms Mary Sayers, CEO, Children and Young People with Disability Australia (CYDA), observed that:

[T]he NDIS should...work in concert with...education to really promote and ensure [an] inclusive environment. So all efforts and funding that are NDIS supports should be focussed on that inclusion rather than on taking children out of schools during hours to focus on individual therapy. The evidence is very clear that this is not the best-practice approach.⁶⁹

- 5.92 Ms Sayers also noted that there are inconsistencies across jurisdictions as to how the rights of people with disability are articulated in education, stating that state and territory education systems 'need to work much more closely to ensure rights are upheld'.⁷⁰

- 5.93 In answers to questions on notice, CYDA stated that greater support is needed around key transition points for students with disability—such as the move from primary to high school, or the final years of high school and transition out of school.⁷¹

⁶⁸ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020, p. 199.

⁶⁹ Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 3.

⁷⁰ Ms Mary Sayers, Chief Executive Officer, Children and Young People with Disability Australia, *Proof Committee Hansard*, 28 July 2020, p. 3.

⁷¹ Children and Young People with Disability Australia, answers to questions on notice, 28 July 2020 (received 21 August 2020), pp. 1–2. CYDA stated that a national inclusive education plan would create a framework through which stakeholders could design more streamlined and targeted support to assist children through the transition points.

- 5.94 The Queensland Law Society (QLS) expressed concern that the NDIS and 'school-generated support services' operate in silos and do not collaborate, noting that this leads to disadvantage for students with disability. QLS stated that strategies should be implemented in schools and government departments to improve the relationship between the NDIS and the state school system, and to streamline communications between schools, parents and NDIS providers.⁷²
- 5.95 In its submission to the committee's inquiry into the NDIS Workforce, the Disability Council NSW asserted that 'education is a huge area that needs to be overhauled'. The Disability Council NSW further stated that:

There are too many therapists in the schools that do not link in with the school or the child's learning in any way. The NDIS needs to re-think that therapists cannot support education (this is the main goal for children). Could be a limit of 2-3 of any type of therapists in a school...[who] should build a relationship with the school and be aware of the routine and the children in that setting. They should be required to communicate with the teacher and parents about what they are doing in the session at the school.

...If parents are not happy with the 2-3 therapists at the school, they can take the child to see any therapist they like - out of school hours - that is their choice.⁷³

- 5.96 The Tasmanian Government expressed some similar concerns, noting that it is aware of situations where external providers request access to students during school hours. According to the Tasmanian Government, this can result in students being away from school for significant periods.⁷⁴

Support workers on campus

- 5.97 In its submission to the committee's inquiry into the NDIS Workforce, the Australian Tertiary Education Network on Disability (ATEND) noted that the tertiary education sector has experienced an increase of support workers on campuses who lack the capacity to support students with disability.⁷⁵
- 5.98 During one of the committee's public hearings, Mr David Swayn, Committee Member, ATEND, noted that key issues in this space include:
- maintaining student independence in a tertiary education environment;
 - understanding campus life and academic integrity;
 - understanding health and safety rules on campus; and

⁷² Queensland Law Society, *Submission 54*, p. 6. QLS acknowledged that the onus of streamlining communication processes lies with the schools, as they bear the responsibility of supporting and educating children and young people. The NDIS must ensure that it is appropriately accessible to work with schools, and administrators must be trained to manage and assist in this integration.

⁷³ Disability Council NSW, *Submission 31 (inquiry into the NDIS Workforce)*, [pp. 3–4].

⁷⁴ Tasmanian Government, *Submission 52 (inquiry into the NDIS Workforce)*, p. 7.

⁷⁵ Australian Tertiary Education Network on Disability, *Submission 28 (inquiry into the NDIS Workforce)*, [p. 2].

- understanding the meaning of 'reasonable' in the education context.⁷⁶

Committee view

5.99 The committee has heard that there are a number of challenges facing people with disability in school settings. Evidence indicates that these challenges stem from a lack of understanding of disability, disability rights and social inclusion within school settings, and a 'siloing' of responsibility between the NDIS and the mainstream education system.

5.100 The committee notes that the Royal Commission has conducted a preliminary inquiry into the issue of education for people with disability, and has identified a number of areas of concern for further inquiry, including:

- gatekeeping practices (for example, refusals to enrol children with disability or offering only part-time enrolment or enrolment in segregated classes);
- mistreatment by school staff and other students, including bullying;
- the use of restrictive practices;
- a lack of adjustments, supports and individualised planning;
- low expectations of students with disability;
- misuse of disciplinary measures, including suspensions and exclusions;
- poor communication and complaint handling;
- funding complexities;
- insufficient teacher training for students with disability;
- the adequacy of data collection; and
- challenges faced by students with disability from Aboriginal and Torres Strait Islander and CALD communities.⁷⁷

5.101 The Royal Commission will continue to consider how education systems can contribute to, or reduce, violence, against, and abuse, neglect and exploitation of, students with disability, including in public and private education sectors, as well as in special/segregated education and mainstream settings.⁷⁸

5.102 In light of the issues outlined above and the work of the Royal Commission, the committee proposes to maintain a watching brief in relation to challenges facing people with disability in school settings, and may consider the issue in further detail in a subsequent report.

⁷⁶ Mr David Swain, Committee Member, Australian Tertiary Education Network on Disability, *Proof Committee Hansard*, 28 July 2020, p. 9.

⁷⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Interim Report*, October 2020, p. 233.

⁷⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Interim Report*, October 2020, p. 239.

People with disability in criminal justice settings

5.103 People with disability are overrepresented in the criminal justice system. For example, SECCA noted that people with disability account for 18 per cent of the Australian population, but almost 50 per cent of people entering prison.⁷⁹ This percentage is higher for people with disability experiencing intersectional disadvantage. For example, Aboriginal and Torres Strait Islander peoples with disability are approximately 14 times more likely to be imprisoned than the general population.⁸⁰

5.104 Evidence before the committee indicated that NDIS participants and other people with disability often fall into service gaps at the interface of the NDIS and the criminal justice system.⁸¹ Often, this is due to a lack of clarity at an operational level about divisions of responsibility. For example, according to the Public Interest Advocacy Centre:

[G]aps between the NDIA and mainstream service systems create situations where people with disability are either unable to get the support they need from the appropriate system, or unable to navigate the process to determine which system ought to provide the support.⁸²

5.105 The RANZCP stated that people with intellectual and developmental disability (IDD) in forensic services 'can often face...difficulties when attempting to access the NDIS', with the justice system 'expected to provide all necessary supports to those held in forensic and custodial facilities'. It called for mechanisms to prevent 'people with intellectual and developmental disability leaving forensic services without obtaining a...plan before release'. According to the RANZCP, these should include 'appropriate housing and ongoing, culturally safe mental health care and support'.⁸³

5.106 Victoria Legal Aid (VLA) observed that, despite some welcome initiatives to address gaps between the NDIS and mainstream service systems, there remain interface issues and lack of service coordination for clients in youth crime and criminal justice settings. As an example, VLA noted that due to the loss of NDIS-funded services when entering custody, one of its clients was denied bail because his accommodation and supports failed. This person also lost access to

⁷⁹ SECCA, *Submission 24*, [p. 5].

⁸⁰ See Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues paper: Criminal justice system*, January 2020, p. 1.

⁸¹ Similar issues have also been examined in other inquiries, such as Commonwealth Ombudsman, *Investigation into the actions of the National Disability Insurance Agency (NDIA) in relation to Mr C*, February 2020.

⁸² Public Interest Advocacy Centre, *Submission 33*, p. 13. See also Advocacy for Inclusion, *Submission 25*, p. 43.

⁸³ Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, p. 14.

his support workers when he entered custody, as the NDIA stated that the NDIS was not responsible for funding supports once he was remanded.⁸⁴

5.107 Evidence before the committee also indicated that criminal justice settings may not be equipped to support people with disability. The RANZCP stated that:

In Australia, when challenging behaviours for people with IDD result in involvement with the criminal justice system, there is a dearth of secure, therapeutic community options. Once in prison, people with IDD often struggle to receive the care they need due to a lack of staff awareness and training on disability and mental health.⁸⁵

5.108 AFI similarly noted a lack of supports for people with disability and mental health concerns in the criminal justice system, noting that this may lead to people with disability being 'trapped in a constant cycle of recidivism'.⁸⁶

5.109 SECCA stated that a major reason that people with disability become involved with the criminal justice system is lack of support and education—particularly for people with intellectual disability. SECCA called for funding for targeted programs that reduce interaction with the criminal justice system, including protective behaviours and other preventative education services.⁸⁷

NDIA position

5.110 According to the NDIS website, the NDIS funds reasonable and necessary supports for participants in custody 'on the same basis as all other people in relation to a person not in custody', while the justice system funds supports to ensure justice services are accessible for people with disability.⁸⁸

5.111 In its submission, the NDIA noted that it has introduced 17 Justice Liaison Officers (JLOs) for custodial settings in all jurisdictions, 'to improve understanding of the NDIA's operational processes and streamline pathways for prisoners with a disability into the NDIS'. The next stage of this program will focus on:

- developing a collaborative, best-practice approach to improve planning for release and transition of NDIS participants from justice settings;

⁸⁴ Victoria Legal Aid, *Submission 49*, pp. 10, 12. VLA also provided a detailed study of the client's circumstances and interaction with the criminal justice system.

⁸⁵ Royal Australian and New Zealand College of Psychiatrists, *Submission 21*, p. 14.

⁸⁶ Advocacy for Inclusion, *Submission 25*, p. 41. See also SECCA, *Submission 24*, [p. 5].

⁸⁷ SECCA, *Submission 24*, [pp. 2, 5]. SECCA observed that many cases where people with intellectual disability are in custodial settings are connected with sex-related offences. According to SECCA, people with intellectual disability often lack the cognitive capacity to understand the nature and consequences of their behaviour, and lack the education and support to make more appropriate, safer choices. See also Family Planning NSW, *Submission 19*, p. 3.

⁸⁸ NDIS, *Justice*, <https://www.ndis.gov.au/understanding/ndis-and-other-government-services/justice> (accessed 5 November 2020).

- providing clarity between offence-related' behaviour and behaviour that is a direct consequence of disability; and
- working with states and territories to develop formal data sharing arrangements to improve the experience for NDIS participants moving into and out of justice settings.⁸⁹

Committee view

5.112 The committee heard that people with disability often fall into gaps between the NDIS and the criminal justice system—often due to a lack of clarity around the division of responsibility between these service systems. In addition, the committee heard that people with disability are not adequately supported while in custodial settings, and continue to be overrepresented in the criminal justice system due to a lack of appropriate support and education.

5.113 Similar evidence was presented to the committee during its inquiry into NDIS Planning. In the final report for that inquiry, the committee recommended that the Commonwealth, states and territories 'consider the appropriate division of responsibility for the funding of supports for participants in the criminal justice system'. It also recommended that the NDIA develop a strategy for ways to engage with participants in custody.⁹⁰

5.114 In light of the recommendations in its NDIS Planning inquiry, the committee proposes to maintain a watching brief in relation to the issues facing people with disability in criminal justice settings. If further evidence indicates that this matter continues to be of concern for stakeholders, the committee may consider the issue in more detail in the future.

People with disability experiencing homelessness

5.115 According to the Hutt St Centre, a specialist homelessness organisation in SA, people with disability are a growing sub-population of people accessing homelessness services:

Since the full roll out of the NDIS in South Australia in 2018, there has been an increasing and emerging need for specialist homelessness agencies to assist and advocate with clients to access the NDIS and navigate its related processes.⁹¹

5.116 Other submitters and witnesses noted a number of challenges for people with disability experiencing homelessness, and called for measures to assist this cohort to access appropriate accommodation and disability supports.

⁸⁹ National Disability Insurance Agency, *Submission 37*, pp. 9–10.

⁹⁰ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020, p. 110.

⁹¹ Hutt St Centre, *Submission 42*, [p. 3].

5.117 Ms Paige Armstrong, CEO, Queenslanders with Disability Network (QDN) told the committee that people who are transient or homeless need a way to obtain necessary assessments to meet NDIS criteria, and 'some form of hands-on assistance to walk them through an access process'.⁹²

5.118 Ms Armstrong also highlighted the 'Getting on the Grid' project as an example of an initiative supporting people with disability who are transient, homeless, leaving the child safety, criminal justice or juvenile justice system, or from the LGBTQIA+ community, to access the NDIS. Ms Armstrong explained that:

Being a member driven organisation, our project was co-designed, co-led and facilitated with a group of peer leaders who were people who...have experienced homelessness, people who have been a part of the child safety system et cetera. So we had a group of 10 peers who worked with us and we tailored our approaches according to settings. We went into the hostels and boarding houses and did 'NDIS bingo' with lucky door prizes—because that was the way to get people in the room and have a conversation about the NDIS and what's in it for them without having the active conversation about 'this is the NDIS'.⁹³

5.119 Ms Kim Barker, Public Guardian, Tasmanian Office of the Public Guardian, stated that without stable, suitable accommodation, participants are unable to benefit from supports and services funded in their plans, which are aimed at building capacity and autonomy and realising personal goals'.⁹⁴

5.120 The RANZCP noted that the NDIA is 'looking at making inroads' in the area of homelessness, but the logistics of transience, poor health and difficulty accessing health care 'can make it difficult for this group to access appropriate services more generally'. It called for the Australian Government to provide further funding to the homeless sector, to ensure people who are homeless can access support to find housing, and to facilitate better access to the NDIS'.⁹⁵

5.121 The Hutt St Centre noted 'disproportionate systemic, environmental and personal barriers' to accessing the NDIS for people with disability who are homeless, stating that this cohort likely needs 'significant assistance, as well as

⁹² Ms Paige Armstrong, Chief Executive Officer, Queenslanders with Disability Network, *Committee Hansard*, 8 October 2019, p. 47.

⁹³ Ms Paige Armstrong, Chief Executive Officer, Queenslanders with Disability Network, *Committee Hansard*, 8 October 2019, p. 49. See also Queenslanders with Disability Network, *Getting on the NDIS Grid*, <https://qdn.org.au/our-work/getting-on-the-ndis-grid/> (accessed 5 November 2020). According to Ms Armstrong, feedback on the project indicated the project was successful in terms of encouraging people experiencing homelessness to consider the NDIS for their disability supports. However, Ms Armstrong noted that this was not sufficient, as community agencies did not have the capability or capacity to assist people to move through the NDIS access process.

⁹⁴ Ms Kim Barker, Public Guardian, Office of the Public Guardian, Tasmania, *Committee Hansard*, 28 October 2019, p. 28.

⁹⁵ Royal Australian & New Zealand College of Psychiatrists, *Submission 21*, p. 16. See also People with Disabilities (WA), *Submission 32*, Attachment 1, p. 16.

both individual and systemic advocacy...to achieve equitable outcomes'. Particular areas of concern that the Hutt St Centre noted in relation to people experiencing homelessness applying for the NDIS included:

- the need for high level self-management, literacy and self-advocacy skills;
- limited access to information about disability and healthcare;
- costs associated with assessments needed to access the NDIS;
- limited awareness or contact with LAC services, which may not be able to provide the level of support needed to assist this group;
- few, if any, informal supports;
- co-morbidities, such as brain injury, which are difficult to separate from disability in terms of their functional impact on daily life;
- limited or no funding for support coordination; and
- homelessness services prioritising immediate needs for safety and housing.⁹⁶

5.122 The Hutt St Centre called for the NDIS to fund case management to support people experiencing homelessness to transition to the NDIS, and for the NDIA to 'proactively consult with people with disability who have lived experience of homelessness' and homelessness services. It further proposed that the NDIA develop 'a Community Liaison Role for the Housing and Homelessness Sector' similar to current JLO and Health Liaison Officer roles, to:

- improve NDIS access for people experiencing homelessness;
- build relationships between homeless service workers and NDIA staff; and
- assist homelessness organisations to work with clients who are experiencing barriers to accessing the NDIS.⁹⁷

Government position

5.123 In November 2018, the (then) Assistant Minister for Social Services, Housing and Disability Services, the Hon Sarah Henderson, announced the rollout of the NDIS Complex Support Needs Pathway. This pathway is intended to provide support to participants who 'need a higher level of specialised supports in their plan', including because they experience other challenges because of homelessness and involvement in government service systems.⁹⁸

⁹⁶ Hutt St Centre, *Submission 42*, pp. [3–5].

⁹⁷ Hutt St Centre, *Submission 42*, p. [6].

⁹⁸ See NDIS, 'Improved NDIS Planning for People with Complex Support Needs', *Media Release*, 16 November 2018, <https://www.ndis.gov.au/news/1002-improved-ndis-planning-people-complex-support-needs> (accessed 5 November 2020); The Hon Sarah Henderson MP, 'Improved NDIS Planning for People with Complex Support Needs', *Media Release*, 16 November 2018; National Disability Insurance Agency, *Submission 20 – NDIS Planning inquiry*, p. 3.

Committee view

- 5.124 The evidence provided to this inquiry suggests that an unknown, but significant, number of people with disability experiencing homelessness may not be accessing the NDIS, or may be struggling to meet access requirements because of their lack of documentation, informal supports and involvement with the allied health sector which could provide evidence to support access requests. This group of people is especially marginalised, with limited existing supports to introduce them to the NDIS in the first instance, and to help them with an application and support them once they have been approved. Without access to housing and basic needs, there may be challenges for these participants in accessing and implementing supports.
- 5.125 The committee therefore considers that, at a minimum, the NDIA should develop a strategy to engage with people with disability who are homeless, and to work with them once their access requests have been approved. The NDIA should consult with the sector and with participants who have experienced homelessness in the development of this strategy. Further, the NDIA should introduce Homelessness Liaison Officers to help coordinate services for this group, modelled on existing JLOs. The committee recognises that the Complex Support Needs Pathway goes some way towards providing specialist planners for participants who are homeless, but liaison officers would take this initiative a step further by coordinating with existing homelessness services who may already have a pre-existing relationship with the participant and may be able to provide specialist advice.

Recommendation 7

- 5.126 The committee recommends that the National Disability Insurance Agency develop a strategy to engage with people with disability who are homeless and to work with this cohort or participants once their access requests have been approved.**

Recommendation 8

- 5.127 The committee recommends that the National Disability Insurance Agency introduce Liaison Officers to work with homelessness organisations and related services to facilitate improved National Disability Insurance Scheme (NDIS) access and planning for people with disability who are homeless and eligible for the NDIS**

The Early Childhood Early Education (ECEI) pathway

- 5.128 The NDIS offers an Early Childhood Early Intervention (ECEI) pathway for children under seven with developmental delay or disability. According to the NDIA, the ECEI pathway is 'designed to provide timely support' to this group of children, 'to improve their functional outcomes and build the capacity of

their family to support their child's development'. Further, the ECEI pathway 'focuses on family-centred practice, delivered in a child's natural settings, within the context of family and community life'.⁹⁹ The ECEI pathway does not guarantee automatic access to the NDIS once a child turns seven.

5.129 In the 45th Parliament, this committee tabled a report on the provision of services under ECEI pathway. The committee made 20 recommendations to address areas such as lack of clarity about access points and eligibility criteria, the limitations of assessment tools, and underfunding in plans for children with ASD.¹⁰⁰ The Australian Government agreed to 13 of the committee's 20 recommendations (noting that implementation for some was already underway); partly agreed to one; agreed in principle to four; and noted two.¹⁰¹

5.130 The committee has continued to hear concerns about the ECEI pathway in this inquiry. These concerns included:

- wait times;¹⁰²
- the need for the ECEI pathway to assist parents to support their children;¹⁰³
- the rigidity of the age requirement for children to transition from the ECEI pathway to the NDIS;¹⁰⁴
- lack of communication about how to transition from the ECEI pathway to the NDIS;¹⁰⁵
- early intervention plans not including funds for social or community support, capacity building, peer group learning or support for family members and carers;¹⁰⁶
- the need for a separate pathway for children until their mid-teens, with planners who have expertise in this area;¹⁰⁷ and
- hearing services (discussed separately below)

⁹⁹ National Disability Insurance Agency, *Submission 37*, p. 4.

¹⁰⁰ See Joint Standing Committee on the National Disability Insurance Scheme, *Provision of Services under the NDIS Early Childhood Early Intervention Approach*, December 2017.

¹⁰¹ See Australian Government, *Australian Government Response to the Joint Standing Committee on the National Disability Insurance Scheme Report: Provision of Services under the NDIS Early Childhood Early Intervention Approach*, May 2018.

¹⁰² Name Withheld, *Submission 14*, p. 1. See also Mr Jeremy Brown, Chief Operating Officer, Novita Children's Services, *Committee Hansard*, 19 November 2019, p. 11.

¹⁰³ Mr Chris McCarthy, Chief Executive Officer, Hear and Say, *Committee Hansard*, 8 October 2019, p. 63.

¹⁰⁴ Dr Liberty Gallus, Member, South Australian Child and Adolescent Health Community of Practice, *Committee Hansard*, 19 November 2019, pp. 39–40.

¹⁰⁵ Ms Elise Jeffery, Private capacity, *Committee Hansard*, 28 October 2019, p. 47.

¹⁰⁶ Playgroup Australia, *Submission 9*, pp. 2, 5, 7.

¹⁰⁷ Dr Liberty Gallus, Member, South Australian Child and Adolescent Health Community of Practice, *Committee Hansard*, 19 November 2019, p. 42.

NDIA position

- 5.131 The NDIA acknowledged that wait times for the ECEI pathway have 'presented a challenge' to the agency and its 18 Early Childhood Partners, due to the volume of children presenting to the scheme and the thin markets for ECEI specialists currently available. However, it argued that because of recent initiatives, 'wait times for access for all participants have been significantly reduced and issues relating to plan gaps have been largely eliminated'. Further, 'the NDIA has supported more children than ever through the Early Childhood Early Intervention Gateway'.¹⁰⁸
- 5.132 The NDIA also highlighted its ECEI Remediation Program, announced in June 2019, which includes six month \$10,000 NDIS plans 'to children who were experiencing, or likely to experience, wait times of greater than 50 days between access and having a plan approved'. As a result, there had been a '56 per cent reduction in wait times for children and families to receive ECEI supports from 1 April 2019 to 31 March 2020'. The NDIA further emphasised that the average wait time for children to meet NDIS access, as at 31 May 2020, was three days, and the average wait time for children awaiting a plan had reduced from 104 days in June 2019 to 44 days by 31 March 2020.¹⁰⁹
- 5.133 The NDIA stated that it reviewed its ECEI Partner agreements in early 2020, with these 'being adjusted to reflect volumes for next financial year to ensure ECEI Partners have appropriate funding to meet...demand'. It also noted that recommendations from this committee in its report in the 45th Parliament into the ECEI pathway had 'been central to the ongoing enhancements being delivered by the NDIA to strengthen the delivery of ECEI supports', with these recommendations being included in the NDIA's review of the pathway.¹¹⁰
- 5.134 On 25 November 2020 the NDIA announced various potential changes related to the ECEI pathway.¹¹¹ The committee did not have an opportunity to thoroughly examine these potential changes, nor receive evidence from the NDIA about them.

Committee view

- 5.135 The committee notes that a number of the concerns outlined above about the ECEI pathway were raised in evidence in late 2019 and early 2020. Since then, the NDIA has progressed several initiatives to ensure that children in the ECEI pathway are able to obtain funding for reasonable and necessary supports in a

¹⁰⁸ National Disability Insurance Agency, *Submission 37*, p. 3.

¹⁰⁹ National Disability Insurance Agency, *Submission 37*, pp. 3–5.

¹¹⁰ National Disability Insurance Agency, *Submission 37*, p. 5.

¹¹¹ National Disability Insurance Agency, 'NDIA invites participants to have their say on NDIS reforms', *Media release*, 25 November 2020, <https://www.ndis.gov.au/news/5683-ndia-invites-participants-have-their-say-ndis-reforms> (accessed 27 November 2020).

timely manner. According to the NDIA, wait times for participants in the ECEI pathway have been significantly reduced, and issues relating to plan gaps have been largely eliminated.

- 5.136 In addition, the committee notes that in its final report on NDIS Planning, it recommended that the NDIA 'improve its wait times for children, particularly the time taken to produce a plan following an access decision and to approve assistive technology'. The committee also recommended the NDIA develop 'templates or guidelines to ensure that plans for children and young people take into account key developmental stages and life transition points'.¹¹²
- 5.137 The committee proposes to maintain a watching brief in relation to issues concerning the ECEI pathway, noting that in late November 2020 the NDIA announced potential changes and a public consultation process relating to the ECEI pathway. If the committee receives further evidence indicating that concerns about the ECEI pathway persist, it will consider these concerns in a future report.

Hearing services in the ECEI pathway

- 5.138 The ECEI approach streamlines applications to help children receive supports earlier. The Hearing Support Program (HSP) funds hearing services for children with a confirmed hearing loss including the testing and fitting of hearing devices, and will support them to connect with the NDIS. Hearing Australia is the sole HSP provider for the under seven age group. The NDIS also funds additional supports, which may include early childhood intervention or other assistive technology that is not funded under the HSP.¹¹³
- 5.139 In the 45th Parliament, this committee tabled a report on the provision of hearing services under the NDIS. The report recommended that the NDIA contract Australian Hearing as the national ECEI Partner for early intervention hearing services for families of deaf and hard-of-hearing children.¹¹⁴ The government partially supported this recommendation.¹¹⁵
- 5.140 During this inquiry, the committee learned that some submitters and witnesses were concerned about the possibility that Hearing Australia would no longer

¹¹² Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020, p. 197.

¹¹³ National Disability Insurance Scheme, *The future of hearing services*, 4 June 2020, <https://www.ndis.gov.au/news/4838-securing-future-hearing-services> (accessed 3 November 2020).

¹¹⁴ Joint Standing Committee on the National Disability Insurance Scheme, *The provision of hearing services under the National Disability Insurance Scheme (NDIS)*, June 2018.

¹¹⁵ Australian Government, *Australian Government response to the Joint Standing Committee on the National Disability Insurance Scheme final report: Inquiry into the provision of hearing services under the national Disability Insurance Scheme*, June 2018, pp 4-5.

be the exclusive provider of Hearing Services for children under seven. For example, at the hearing in Adelaide in November 2019, Dr Jim Hungerford from First Voice expressed concern that Hearing Australia was likely to lose exclusive role as provider of paediatric audiology services for young people from July 2020. He argued that the lack of a structured system that ensures children with hearing loss received an appropriate plan would negatively impact their outcomes. Audiology Australia raised similar concerns.¹¹⁶

5.141 Deafness Forum of Australia, Deafblind Australia, Audiology Australia, Able Australia, Senses Australia and Neurosensory raised concerns about Hearing Australia potentially losing exclusivity for referrals, including that:

- it is unclear how the process would be managed after July 2020 when the NDIS was due to cease the in-kind arrangements with Hearing Australia;
- these changes could impact the timeliness of audiological services, with concerns that any delay in the hearing rehabilitation program would be likely to have an adverse impact on a child's development; and
- the market would be unable to offer the same level of service especially to those who live in rural and remote areas.¹¹⁷

NDIA position

5.142 The NDIS website states the future of hearing services in Australia is assured due to an approach adopted by the NDIS and HSP, which 'will work together to ensure that high quality hearing services continue to be available to people of all ages'. The NDIA has also announced that from 1 July 2020:

Hearing Australia will continue to be the sole provider of HSP services for eligible children and young people under 26. This ensures that quality safeguards remain in place for this age group.¹¹⁸

Committee view

5.143 The committee welcomes the decision of the NDIA to continue to use Hearing Australia as the sole provider of HSP services for eligible children, noting that this appears to be the position the committee suggested in its communication with the NDIA to address issues raised in evidence. The committee proposes to maintain a watching brief in relation to this matter.

¹¹⁶ Dr Jim Hungerford, First Voice, *Committee Hansard*, 19 November 2019, pp. 24–28; Audiology Australia, *Submission 92 (inquiry into NDIS Planning)*, p. 4.

¹¹⁷ Joint submission, Deafness Forum of Australia, Deafblind Australia, Audiology Australia, Able Australia, Senses Australia and Neurosensory, *Submission 10, NDIS Planning*, pp. 3–4.

¹¹⁸ NDIS, *The future of hearing services*, 4 June 2020, <https://www.ndis.gov.au/news/4838-securing-future-hearing-services> (accessed 17 November 2020).

Younger people in residential aged care

5.144 In its submission to this inquiry, the NDIA stated that it is committed to supporting younger people in residential aged care to live in a setting of their choice. It also noted that the number of people in residential aged care under the age of 65 has decreased in recent quarters, and that less people under the age of 65 are entering aged care.¹¹⁹ This is supported by the NDIA's most recent quarterly report, which states that:

The number of people in residential aged care under the age of 65 years has decreased in recent quarters from 6,243 at 30 June 2017 to 4,860 at 30 June 2020 (a 22% decrease).

Also, less people under the age of 65 years are entering residential aged care—536 people under the age of 65 years entered in the June 2017 quarter, compared with 247 in the June 2020 quarter (a 54% decrease).¹²⁰

5.145 The NDIA's submission notes that in March 2019, the Australian Government announced an Action Plan to reduce the number of young people in residential aged care. In November 2019, the Government announced new targets for the Action Plan and the establishment of a Joint Agency Taskforce (JATF)—in response to the interim report of the Royal Commission into Aged Care Quality and Safety. The revised targets seek to ensure there are:

- no people under the age of 65 entering residential aged care by 2022;
- no people under the age of 45 living in residential aged care by 2022; and
- no people under the age of 65 living in residential aged care by 2025.¹²¹

5.146 The JATF has been established between DSS, the Department of Health and the NDIA to develop a new strategy that builds on the YPIRAC Action Plan and to take action to ensure these new targets are met. Actions include:

- investigating the reasons why individuals under the age of 65 continue to enter residential aged care;
- building a team of 80 specialised NDIA planners to support NDIS participants in aged care, or at risk of entering aged care, to find age-appropriate accommodation, if this is their goal;
- working with industry to identify all available Specialist Disability Accommodation across the country to develop a database of existing and new housing options available now and in the future; and
- developing an implementation plan that commits to further actions to meet the goals set out in the new strategy.¹²²

¹¹⁹ National Disability Insurance Agency, *Submission 37*, p. 17.

¹²⁰ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 27.

¹²¹ National Disability Insurance Agency, *Submission 37*, p. 18.

¹²² National Disability Insurance Agency, *Submission 37*, p. 18.

5.147 In September 2020, the Australian Government released the *Younger People in Residential Aged Care Strategy 2020-25* (YPIRAC Strategy). The strategy includes four priority areas: understanding younger people and systems; improving the system; creating options; and supporting change. The YPIRAC Strategy will:

...guide concrete actions to reduce the number of younger people entering residential aged care and support those already living in residential aged care to move into age-appropriate accommodation with the supports they need. The Strategy builds on the 2019 YPIRAC Action Plan and will extend and improve upon previous initiatives.¹²³

5.148 The NDIA's most recent quarterly report also states that in September 2020, the NDIA published a new Operational Guideline for YPIRAC, providing greater transparency on how the NDIA supports younger people in residential aged care. In addition, the NDIA is completing streamlined assessments of housing supports for younger participants in residential aged care, to enable those participants to access alternative accommodation sooner.¹²⁴

Committee view

5.149 The issue of younger people in residential aged care continues to be an area of concern for the committee. The committee strongly believes that people aged under 65 years should not enter or remain in residential aged care settings unless they choose to do so.

5.150 The committee notes that Government has implemented a number of measures to support younger people to exit aged care settings if they choose to do so, and to ensure people exiting residential aged care can access NDIS supports. Some of these measures have been announced in recent months. In addition, the committee notes that the number of younger people in residential aged care settings continues to decrease.

5.151 The committee encourages the Government to continue to progress measures to support younger people to exit residential aged care settings, with a view to meeting the current targets in the YPIRAC Strategy. The committee otherwise proposes to maintain a watching brief in relation to this matter.

¹²³ Australian Government, Department of Social Services, *Younger People in Residential Aged Care Strategy 2020-25*, p. 5, <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-younger-people-with-disability-in-residential-aged-care-initiative/younger-people-in-residential-aged-care-strategy-2020-25> (accessed 3 November 2020).

¹²⁴ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 26.

Chapter 6

Other key issues

- 6.1 This chapter examines other key issues related to the implementation and performance of the National Disability Insurance Scheme (NDIS), including:
- access issues;
 - thin markets for services and supports;
 - portal issues;
 - National Disability Insurance Agency (NDIA) communication with participants and providers;
 - recovering payments for services;
 - privacy and the use of personal information; and
 - end of life issues.
- 6.2 The issues noted above have been included in this chapter because they do not appear to relate thematically to issues in other chapters—for example, because they do not relate to financial matters or have a disproportionate impact on a particular cohort. However, the committee emphasises that the issues included in this chapter are no less significant than the issues examined elsewhere in the report.
- 6.3 Committee views on each of the issues above appear throughout the chapter, along with recommendations. The chapter concludes by noting some issues on which the committee received a small amount of evidence, and which the committee may consider in more detail in the future.

Access issues

- 6.4 A number of submitters raised concerns relating to NDIS access processes, and eligibility for the scheme. In particular, submitters were concerned about the definition of 'permanent' impairment, and about access to the NDIS for people with certain types of disability. These matters are discussed in more detail below.

Definition of 'permanent' impairment

- 6.5 A key concern relating to access to the NDIS is the definition of 'permanent' in the NDIS eligibility criteria. The *National Disability Insurance Scheme Act 2013* (NDIS Act) provides that for a person to be eligible for the scheme, they must have an impairment that is, or impairments that are, permanent or likely to be permanent.¹ The NDIS (Becoming a Participant) Rules 2016 provide that an impairment is or is likely to be permanent where 'there are no known,

¹ NDIS Act, paragraph 24(1)(b).

available and appropriate evidence-based clinical, medical or other treatments that would be likely to remedy the impairment'.²

- 6.6 The Public Interest Advocacy Centre (PIAC) stated that the permanence criteria may not be suitable for people with psychosocial disability, due to the episodic, fluctuating nature of mental health conditions. It also expressed concern that the NDIS Act and Rules leave the question of whether a treatment is 'available' and 'appropriate' to the NDIA's discretion, noting that the NDIA and the Administrative Appeals Tribunal (AAT) have considered treatment to be 'available' and 'appropriate' even if it poses a risk to a person's health. The PIAC provided an example to illustrate these concerns:

[O]ne stakeholder told PIAC of a client – 'Emma' – who was denied entry to the NDIS in part because her impairment was not permanent. The NDIA considered there was 'available and appropriate' treatment for the impairment, being brain surgery.

Emma advised the NDIA that she had made an informed decision, based on specialists' advice, that surgery was not suitable for her. Despite this, the NDIA defended its decision. The NDIA stated in its internal review decision that, because Emma had 'declined surgery as an option', Emma did not meet the permanence requirements because 'all treatment options have not been explored'.³

- 6.7 The PIAC recommended that the NDIS Act and Rules be amended to clarify the meaning of 'permanent' in the NDIS access process. It also recommended that, in line with the criteria that apply to the Disability Support Pension (DSP), the NDIS Act and Rules should be amended to clarify that 'available and appropriate' treatment means treatment that:

- is available at a location reasonably accessible to the person;
- is at a reasonable cost;
- can reliably be expected to result in a substantial improvement in functional capacity;
- is regularly undertaken or performed;
- has a high success rate; and
- carries a low risk to the person.⁴

² National Disability Insurance Scheme (Becoming a Participant) Rules 2016, paras 5.4–5.7.

³ Public Interest Advocacy Centre, *Submission 33*, pp. 11–12. The PIAC noted that 'Emma' was ultimately granted access to the NDIS some 1 120 days after the initial request, and only after a second neurosurgeon's report was provided to clearly state that surgery was not suitable.

⁴ Public Interest Advocacy Centre, *Submission 33*, p. 12. See also Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011, s 6(4). The PIAC noted that some organisations have expressed concerns around the DSP criteria, and have recommended amendments to them. However, while the DSP criteria remain operative, the definition of 'reasonable treatment' provides a useful baseline for what could be considered 'available and appropriate' in the context of NDIS access decisions.

Eligibility for people with particular disability types

- 6.8 Some submitters expressed concern that the access to the NDIS is difficult for people with certain conditions, impairments and disability types. Moreover, even when access is granted, individuals in these cohorts may have difficulty obtaining safe, quality services and supports.
- 6.9 For example, the Queensland Law Society (QLS) expressed concerns about access and eligibility for people living with conditions such as Multiple Sclerosis (MS), stating that:
- [A] member reported cases where persons with multiple sclerosis were being refused reasonable NDIS service costs on the basis that their condition at the time of approval was relatively stable. However, this did not consider the fluctuating nature of the condition, and as such, the likelihood that support would be necessary when relapsing-remitting episodes occur.⁵
- 6.10 Several submitters raised concern that people with cystic fibrosis (CF) have difficulty accessing the NDIS and securing reasonable and necessary supports. One of these submitters—the Australian CF Hub—stated that of the few people with CF who have applied for access to the NDIS, the majority have been denied access. Reasons provided for rejecting applications have included the following:
- CF is a health condition not a disability, where supports related to health are the responsibility of the state and territory run public health systems.
 - The early intervention services are available elsewhere.
 - CF is not a lifelong disability.⁶
- 6.11 The Australian CF Hub asserted that these reasons are all factually incorrect, and stated that comments by NDIA assessors in relation to access decisions reflect a 'concerning lack of understanding' of the impact of CF. According to the Australian CF Hub, NDIA assessors 'view CF as a treatable disease, which implies a cure'.⁷
- 6.12 The Cystic Fibrosis Federation expressed similar concerns, noting that while people who live with CF experience permanent functional impairment as a result of their condition, they remain excluded from the NDIS. According to the Cystic Fibrosis Federation, this is despite the fact that many people with CF answer 'yes' to all the eligibility questions on the NDIS checklist.⁸
- 6.13 Both the Cystic Fibrosis Federation and the Australian CF Hub raised concern that without access to the NDIS, many people living with CF are left without

⁵ Queensland Law Society, *Submission 54*, pp. 3–4.

⁶ Australian CF Hub, *Submission 36*, p. 4.

⁷ Australian CF Hub, *Submission 36*, p. 5.

⁸ Cystic Fibrosis Federation members, *Submission 35*, [p. 3].

the support needed to effectively manage their condition. Both organisations noted that while the mainstream health system is effective in providing medical interventions, it does not provide the supports needed for meaningful social and economic participation.⁹ For example, the Australian CF Hub stated:

What [the health system] does well is 1) prescribing medications and 2) providing reactive care when we experience episodic 'exacerbations'. For example, we receive intravenous antibiotics during hospitalisations of 2–4 week duration with each exacerbation. What the health system does not do well is 1) provide early intervention supports to allow us to proactively manage our disability the rest of the time as well as allow us to maintain more normal and productive lives 2) assist with the significant out-of-pocket costs borne by us to adhere to our treatment regime 3) help us mitigate the debilitating consequences of CF.¹⁰

6.14 These concerns were echoed in several individual submissions by people with lived experience of CF. These submissions emphasised the need for and the value of NDIS supports for people with CF, who often have little or no support in managing the impact of CF on their lives. The submissions also highlighted the need to recognise CF as a disability for the purposes of the NDIS, rather than only as a health condition. For example, one submitter stated:

People living with Cystic Fibrosis need long-term support; they're not getting better. They have a permanent and significant disability affecting their ability to take part in everyday activities. Their condition is only ever getting worse with time but with proper management and NDIS support, decline could be slowed and provide people living with CF with the opportunity to lead a more fulfilling life.¹¹

6.15 In light of the concerns outlined above, submitters representing people with lived experience of CF called for the committee to:

- agree to include CF on the list of disability types eligible for NDIS-funded support; and
- note and discuss the gap between mainstream related supports and the eligibility for NDIS funded health related supports for people with CF.¹²

6.16 Migraine Australia raised similar concerns regarding access to NDIS supports for people living with migraine. It stated that the NDIA does not appear to consider forms of migraine to be permanent or a disability. This is despite 'the

⁹ Cystic Fibrosis Federation members, *Submission 35*, [p. 4]; Australian CF Hub, *Submission 36*, p. 2.

¹⁰ Australian CF Hub, *Submission 36*, p. 2.

¹¹ Submission for the inclusion of Cystic Fibrosis in the NDIS, *Submission 38*, Attachment 1, [p. 17].

¹² Cystic Fibrosis Federation members, *Submission 35*, [p. 1]; Australian CF Hub, *Submission 36*, p. 1; Submission for the inclusion of Cystic Fibrosis in the NDIS, *Submission 38*, [p. 1]. The Australian CF Hub also recommended that this committee note and discuss the frequent rejections of NDIS applications by people with CF-related disability; and agree to create a 'Rare and Chronic Disease Specialist Assessor' role, so those assessing applications from people with CF (and other chronic diseases) have sufficient knowledge to provide fair and equitable assessments.

obvious physical limitations and genetic nature' of the condition.¹³ Migraine Australia observed that this view of migraine has led the NDIA to deny access requests from applicants living with migraine. It suggested that, in such circumstances, people living with migraine are often left without any support, due to the withdrawal of state disability supports following rollout of the NDIS and the decision not to list medications which assist with the management of migraine on the Pharmaceutical Benefits Scheme (PBS).¹⁴

6.17 In light of these concerns, Migraine Australia recommended that:

- a definition of migraine be developed for use within government, which acknowledges migraine as a permanent, genetic and serious neurological spectrum disorder;
- migraine be added to the 'List B' and 'List D' conditions for the NDIS, to remove any dispute about whether migraine is a disability and to assist with eligibility for early intervention supports; and
- all rejected NDIS applications by people with migraine be reviewed.¹⁵

6.18 Huntington's NSW ACT stated that the NDIS is not meeting the needs of people with progressive neurological conditions, noting that many people in this cohort have expressed concern that they cannot access suitable services or qualified staff, and cannot persuade mainstream service providers or support coordinators to deliver services that meet their needs. In light of these issues, Huntington's NSW ACT recommended that the NDIS ascertain the proportion of participants with disability caused by progressive neurological conditions, and allocate an equivalent proportion of resources to supporting this cohort.¹⁶

Committee view

6.19 The committee heard that there are a number of concerns relating to how the definition of 'permanent' impairment is applied in access processes. Evidence also indicated that people living with particular disability types are experiencing difficulties accessing the scheme, as the NDIA considers that their condition requires medical intervention, not disability support.

6.20 The committee notes that the 2019 Review of the NDIS Act led by David Tune AO PSM (Tune Review) found there is significant confusion around eligibility criteria, particularly as to the application of 'permanency' for psychosocial impairment(s) and whether a diagnosis is sufficient evidence of functional impairment. It recommended amending the NDIS Act and Rules to:

¹³ Migraine Australia, *Submission 20*, [p. 4].

¹⁴ Migraine Australia, *Submission 20*, [pp. 6–7].

¹⁵ Migraine Australia, *Submission 20*, [pp. 7–8].

¹⁶ Huntington's NSW ACT, *Submission 34*, [p. 1].

- provide clearer guidance for the NDIA in considering whether a psychosocial impairment is permanent, recognising that some conditions may be episodic or fluctuating; and
 - remove references to psychiatric conditions when determining eligibility, and replace those references with 'psychosocial disability'.¹⁷
- 6.21 The Government supported this recommendation, noting that greater clarity on the definition of 'permanency' for psychosocial disability would improve responsiveness and provide certainty about eligibility for people with mental health conditions, service providers and health professionals. The Government also noted that Disability Ministers had agreed to improve access to the NDIS for people with psychosocial disability through a range of strategies, priority areas for improvement to access processes; and establishing of a Psychosocial Disability Recovery Framework by mid-2021, in consultation with states and territories and peak bodies.¹⁸
- 6.22 The committee encourages the Government to implement this recommendation of the Tune Review as a matter of urgency. As part of this process, the committee encourages the Government to consider whether the NDIS Act and Rules should also be amended to align the meaning of 'available and appropriate' treatment with the criteria which apply to the DSP.
- 6.23 Noting concerns raised by submitters representing particular disability types, the committee also encourages the NDIA to review available medical literature and consult with people with disability and peak bodies, to determine whether CF, migraine and progressive neurological impairment should be included on the NDIA's List A or List B conditions.
- 6.24 The committee otherwise proposes to maintain a watching brief in relation to these matters.

Thin markets

- 6.25 The term 'thin markets' refers to a lack of services for participants. During this inquiry, the committee heard that thin markets may particularly affect participants with high or complex support needs, participants from culturally and linguistically diverse (CALD) backgrounds¹⁹, Aboriginal and Torres Strait Islander participants²⁰, and participants in regional, rural and remote areas. Key issues concerning thin markets include:

¹⁷ David Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee*, December 2019, pp. 71, 76.

¹⁸ Australian Government, *Australian Government response to the 2019 Review of the National Disability Insurance Scheme Act 2013 report*, August 2020, p. 7.

¹⁹ See Chapter 5 of this report for further discussion of issues affecting this cohort.

²⁰ See Chapter 5 of this report for further discussion of issues affecting this cohort.

- inability to implement NDIS plans because of a lack of services;²¹
- lack of consistency in services within an area;²²
- the need for greater levels of support coordination;²³
- limited numbers of NDIA staff and partners in the community;²⁴ and
- pricing which is not appropriately adapted to service delivery in regional, rural and remote areas.²⁵

6.26 Issues around providers of last resort were also raised. For example, Advocacy for Inclusion (AFI) highlighted a 'thin market' for Providers of Last Resort, pointing to ongoing confusion about who is responsible for services of last resort. It called for the NDIA to 'revaluate what "last resort" means and, if there is no market in this area, 'one needs to be created to provide basic crisis intervention and basic services and supports alongside advocacy organisations in each jurisdiction'.²⁶

Australian Government position

6.27 The Department of Social Services (DSS) and the NDIA in 2019 consulted on the *NDIS Thin Markets Project*. Key outputs of the project were a framework for addressing thin market challenges, including for rural and remote areas, and a roadmap for developing and delivering practical trial projects. The categories that the project considered included:

- geographically rural and remote areas;
- support type (for supply specialised supports with insufficient supply or low demand);
- supports for people with complex needs, such as early childhood, behaviour intervention, and specialist disability accommodation;
- support for Aboriginal and Torres Strait Island participants; and
- support for CALD participants.²⁷

²¹ Ethnic Disability Advocacy Centre, *Submission 22*, p. 4; People With Disabilities (WA) Inc, *Submission 32*, p. 2; Ms Michelle O'Flynn, Director, Queensland Advocacy Incorporated, *Committee Hansard*, 8 October 2019, p. 40. See also Dr Andrew Webster, Head of Clinical Governance, Danila Dilba Health Service, *Proof Committee Hansard*, Senate Community Affairs References Committee, 14 October 2020, p. 7. The NDIS Planning Final Report also noted similar evidence in the context of that inquiry. See Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020.

²² Ethnic Disability Advocacy Centre, *Submission 22*, p. 4.

²³ Mr Max Wise, Assistant Director-General, Department of Communities, Disability Services and Seniors, Queensland, *Committee Hansard*, 8 October 2020, p. 59.

²⁴ Advocacy for Inclusion, *Submission 25*, p. 45.

²⁵ Illawarra Disability Alliance, *Submission 11*, [p. 5].

²⁶ Advocacy for Inclusion, *Submission 25*, pp. 4, 42, 43.

²⁷ Department of Social Services, *NDIS Thin Markets Project*, <https://engage.dss.gov.au/ndis-thin-markets-project/> (accessed 9 November 2020).

- 6.28 In its submission, the NDIA stated that the Council of Australian Governments (COAG) Disability Reform Council—which includes Commonwealth, state and territory disability ministers—recognised that a 'one-size-fits-all' approach is not suitable to address market failure for certain geographic locations or cohorts of people with disability.
- 6.29 The NDIA submitted that, subject to restrictions associated with the COVID-19 pandemic, trial projects are currently being implemented in partnership with state and territory governments to address thin market challenges. These trials 'will address specific thin market challenges while testing a range of market interventions, including types of commissioning arrangements'.²⁸ According to the NDIA's most recent quarterly report:
- Trials are already achieving positive results. Strong local networks have been developed, including with state government representatives, and market facilitation has provided support for NDIS participants to receive the services they need and support a more connected local market.
- Insights from the trials are informing NDIA's business-as-usual approach to monitoring, identifying, prioritising and intervening in markets. The NDIA approach to delivering market monitoring and intervention will be provided to State and Territory governments later this year.²⁹
- 6.30 The NDIA has also noted that the Price Guide provides higher prices for some supports in remote areas as a response to higher costs. The NDIA is also reviewing the *NDIS Rural and Remote Strategy 2016–2019* to assess progress and to provide direction for 2020 and beyond.³⁰

Committee view

- 6.31 The committee recognises that a number of the issues concerning thin markets have continued beyond full NDIS implementation. The recent decision by the NDIA to carry out trial projects in thin market areas identified by the states and territories is to be commended, and the committee encourages the NDIA to implement the successful outcomes of these trials.
- 6.32 The committee has also considered the issue of thin markets in other inquiries undertaken during the current Parliament. For example:
- as part of its inquiry into Supported Independent Living (SIL), the committee recommended that the NDIA actively work to address thin markets, and ensure that work to address thin markets in regional, rural

²⁸ National Disability Insurance Agency, *Submission 37*, pp. 28–29.

²⁹ National Disability Insurance Agency, *Quarterly Report to disability ministers*, 30 September 2020, p. 72.

³⁰ National Disability Insurance Agency, *Submission 37*, p. 8.

and remote areas captures both SIL and Specialist Disability Accommodation;³¹

- in its interim report on the NDIS Workforce, the committee considered a number of matters associated with thin markets, including local workforce development, the maldistribution of allied health services; and workforce concerns for Aboriginal and Torres Strait Islander peoples;³² and
- in its final report on NDIS Planning, the committee considered planning for participants in rural and remote areas, and planning concerns for Aboriginal and Torres Strait Islander peoples.³³

6.33 The committee will maintain a watching brief in relation to thin market issues, pending further development of the *NDIS Thin Markets Project* and actions taken in response to the committee's recent inquiries. The committee is likely to consider issues related to thin markets in more detail in subsequent reports.

Portal issues

6.34 Participants use the MyPlace participant portal to access their plans, while providers use the MyPlace provider portal to claim for payments. Participants who self-manage their plans pay providers directly for services, with providers invoicing the participants. If a participant has a plan manager, providers send invoices to the plan manager, who then processes payments through the portal. For participants who are managed by the NDIA, registered providers submit payment requests through the MyPlace portal once a support has been delivered or provided. The provider must create a service booking before providing the support—otherwise they will not be reimbursed.³⁴

6.35 Some evidence indicated that the portal is too complex for participants to use. For example, Ms Kirsten Deane, Campaign Director, Every Australian Counts, stated that the portal 'continues to be a frustration'. Ms Deane acknowledged 'that the NDIA is putting a lot of effort into updating the portal', but stated that the portal 'is one area that needs to have a bit more emphasis'.³⁵

³¹ Joint Standing Committee on the National Disability Insurance Scheme, *Report into Supported Independent Living*, May 2020, pp. 129–130.

³² Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Workforce Interim Report*, December 2020, in particular Chapter 8.

³³ Joint Standing Committee on the National Disability Insurance Scheme, *NDIS Planning Final Report*, December 2020, in particular Chapter 8 and Chapter 9.

³⁴ NDIS, *Getting paid*, <https://www.ndis.gov.au/providers/working-provider/getting-paid> (accessed 29 October 2020). Some submitters noted argued that people from culturally and linguistically diverse and refugee backgrounds are unable to use the portal as they do not have the computer literacy or English language skills to do so. See, for example, Ethnic Disability Advocacy Centre *Submission* 22 pp. 2, 6–7; People with Disabilities (WA), *Submission* 32, Attachment 1, p. 85.

³⁵ Ms Kirsten Deane, Campaign Director, Every Australian Counts, *Committee Hansard*, 8 October 2019, p. 17.

- 6.36 The father of a participant noted that accessing the portal 'requires a high level of computer literacy and a stable internet access with provision to upload documents (that requires a camera and the ability to use it)'.³⁶ People with Disabilities (WA) Inc provided the committee with the report of a co-design project between people with of disability and service providers on improving experiences of the NDIS (PwDWA Report). The PwDWA Report included a statement from the mother of a participant, outlining the impact of being unable to access the portal:

I had to wait 6 weeks before I was able to access it to pay my providers. That was after around a dozen absolutely frustrating calls to the call centre... Still nothing changed, only the story as to why it was not working each time. Despite the complex care planner being aware of it, her response was I'll get back to you...The financial stress that put us under as we were unable to pay carers that we desperately needed cannot be underestimated, and if I did not have a strong relationship with Sadie's respite provider, they would have been quite within their right to have refused us service.³⁷

- 6.37 Ms Caitlin McMorro, National Operations Lead for NDIS, Vision Australia, highlighted issues associated with the accessibility of the portal, stating that 'really simple things, like the date fields in the portal, aren't accessible to someone who's using screen-reading technology'. Ms McMorro noted that this means 'fairly straightforward tasks', like make a service booking or searching for a plan, are challenging.³⁸
- 6.38 The committee also heard that the portal is creating difficulties for providers. For example, the Illawarra Disability Alliance (IDA) observed that providers have invested heavily in IT systems and resources to operate within the NDIS, noting that leveraging applications and software for rostering and claiming can deliver efficiencies. However, the IDA expressed concern that these efficiencies have not been realised due to inadequacies in the portal, and to 'upgrading and constant changes' to the portal. According to the IDA, it is now common for service providers to employ fulltime staff just to manage portal claim errors.³⁹ In addition, the IDA noted that:
- providers are unable to access reports of service bookings, their status, and the amount remaining;

³⁶ Name Withheld, *Submission 18*, p. [1]. See also Ms Lyn McHugh, Private capacity, *Committee Hansard*, 7 November 2019, pp. 53–54. Ms McHugh, who is the mother of a participant who is agency-managed, emphasised that the portal was too 'high level' in the information it provided.

³⁷ See People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 65.

³⁸ Ms Caitlin McMorro, National Operations Lead for NDIS, Vision Australia, *Committee Hansard*, 8 October 2019, p. 26.

³⁹ Illawarra Disability Alliance, *Submission 11*, [p. 7].

- providers do not have the ability to generate 'exceptions reports', showing where the NDIA has adjusted booking amounts or cancelled bookings; and
 - changes are often made to the portal without prior communications to providers or software vendors.⁴⁰
- 6.39 The IDA recommended a series of improvements to the portal and associated ICT systems, including:
- enhancing portal functionality to provide alerts when plans are ended prior to their intended expiration date;
 - implementing a ticketing system to manage technical enquiries and record and respond to provider or participant support needs in a timely manner;
 - establishing an environment for providers to test their systems interface when upgrading or changing their own software;
 - developing portal functionality for the generation of useful reports by providers, LAC and NDIA staff, thus removing the burden of continual extraction of data from provider CRMs;
 - developing web services or API technology that would facilitate live linkages to disability service providers' CRM;
 - collaboration and consultation with software providers to find ways to make the NDIA Portal work more efficiently and effectively; and
 - the NDIA consider transactional complexity when designing business solutions and implementing changes that are intended to be favourable.⁴¹
- 6.40 Yooralla, a service provider in Victoria, noted that the NDIA is looking at integrating the Provider Digital Access (ProDA) portal with providers' systems. However, as part of the integration process, the NDIA 'has proposed extra compliance requirements' which 'probably outweigh the benefits'. Yooralla advocated for the compliance requirements to be reconsidered, and suggested that any requirements should be proportional to the data shared between the provider and the NDIA.⁴²
- 6.41 AFI proposed that the NDIA 'continue to develop the portal in consultation with providers, participants and informal supports, to ensure that the site is user-centred and easily navigated'.⁴³

NDIA position

- 6.42 The NDIA advised that it has developed a Digital Partnership Program to manage controlled and secure access to some of its data and systems, with access managed via Application Programming Interfaces (APIs). The NDIA

⁴⁰ Illawarra Disability Alliance, *Submission 11*, [p. 8].

⁴¹ Illawarra Disability Alliance, *Submission 11*, [pp. 9–10].

⁴² Yooralla, *Submission 7*, p. 7.

⁴³ Advocacy for Inclusion, *Submission 25*, p. 13.

stated that the APIs are being created 'so providers and software developers can create tools, apps and digital marketplaces to improve how participants, providers and the NDIA' connect and work together. According to the NDIA, in March 2020 the APIs were made available to registered providers so that they would be able to connect their systems and automate transactions that are usually completed in MyPlace—such as service bookings and payment requests. Providers were also encouraged to provide feedback on the APIs.⁴⁴

- 6.43 On 30 June 2020, the Minister for the NDIS announced that the next phase of the Digital Partnership Program will mean that more software developers who are working with registered NDIS providers will be able to 'request access to ...APIs, creating more opportunities for digital experts to develop new tools and applications'. The Minister stated that this next phase 'will help lay the foundations for a sophisticated and advanced digital environment managed by experts in the sector...[W]e welcome and encourage more software developers to request access' to the APIs.⁴⁵

Committee view

- 6.44 The committee heard that both participants and providers have concerns about the MyPlace portal. In particular, the committee heard that the portal interface is complex, and requires a high level of computer literacy. The committee also heard that providers may be unable to access or create some reports, and that changes are often made to the portal without being properly communicated to providers or software vendors.
- 6.45 The committee notes that a number of these concerns were raised in late 2019 to early 2020. Since then, the NDIA has progressed initiatives to enhance the MyPlace portal, including through its Digital Partnership Program and recent trialling of APIs.
- 6.46 The committee has therefore determined that it will maintain a watching brief. If needed, the committee will return to issues associated with the portal in its future reports into general issues around the implementation and performance of the NDIS.

NDIA communication with participants and providers

- 6.47 Several submitters expressed concern that the NDIA is often unresponsive to inquiries and complaints, and sometimes contacts participants and their representatives in ways that do not reflect participants' wishes.

⁴⁴ National Disability Insurance Agency, *Submission 37*, p. 29.

⁴⁵ The Hon Stuart Robert, Minister for the NDIS, 'Delivering the NDIS: Digital Partnership Program begins developer onboarding phase', *Media Release*, 30 June 2020, <https://ministers.dss.gov.au/media-releases/5931> (accessed 4 December 2020) See also National Disability Insurance Agency, *Submission 37*, p. 29.

- 6.48 For example, Making Connections Together (MCT) expressed concern that its enquiries and requests are 'most often...not responded to', noting that timely responses are critical to ensuring participants are able to access appropriate and necessary supports. MCT also expressed concern that:
- providers are unable to obtain support for payment requests from the provider payments or provider supports areas within the NDIA;
 - administrative staff are not accurately recording client consents; and
 - administrative staff lack knowledge about guardianship and financial management.⁴⁶
- 6.49 The QLS observed that the NDIA made contact with one of its members by telephone, despite having been informed that email contact is preferred due to the member having a hearing impairment. The member also explained over the phone that full participation in a phone conversation was not feasible, reiterating their request that communication be via email. According to QLS, the member was told that this was not possible.⁴⁷
- 6.50 One submitter observed that although their disability prevents them from using a phone, the NDIA still attempted to make contact by phone as part of their NDIS access process. According to the submitter, the NDIA did not leave a message, and the submitter was only alerted to the call when their doctor contacted the NDIA six weeks later.⁴⁸
- 6.51 Another submitter noted that the NDIA had sent them a letter, asking them to contact the NDIA's compliance team. Without additional information as to the purpose of the contact, the submitter experienced considerable anxiety as to whether the NDIA was considering some form of adverse action. Ultimately, the NDIA explained that the contact was part of an 'education program' for participants who are self-managed. However, this was not made clear in the original contact, and the submitter was plan managed—not self-managed. The submitter stated that the letter from the NDIA was 'distressing, poorly worded and totally unnecessary', and that 'education...is not education when it comes from a compliance department. It's a threat'.⁴⁹

Committee view

- 6.52 In a 2017 Progress Report, tabled during the 45th Parliament, a former iteration of this committee noted that it had received 'much evidence' concerning poor communication with participants by the NDIA. The committee also noted that

⁴⁶ Making Connections Together, *Submission 10*, [p. 3].

⁴⁷ Queensland Law Society, *Submission 54*, p. 2. QLS stated that after viewing published submissions to this inquiry, and after consulting with its members, 'it is clear that this is not an isolated occurrence'.

⁴⁸ Name Withheld, *Submission 6*, [p. 1].

⁴⁹ Name withheld, *Submission 28* [pp. 1–2].

in other inquiries, submitters had raised concerns relating to a lack of clarity, consistency and accuracy in information provided by the NDIA; difficulties contacting the agency to obtain information; and a lack of timely responses to queries.⁵⁰ The committee also highlighted these issues in its 2019 Progress Report, and strongly encouraged the NDIA to:

- continue reviewing and improving its publications to ensure clarity and consistency of language and information; and
- develop additional guidance and training materials to ensure its staff and contractors provide clear and consistent information to participants, their families and carers.⁵¹

6.53 Evidence provided to the present inquiry indicates that some of these issues persist. In particular, the committee is concerned that the NDIA has—in some cases—failed to honour participants' express wishes as to preferred manner of contact, and has engaged with participants in ways that have caused stress and anxiety. This suggests that the NDIA may not have adequate mechanisms in place to ensure participants' wishes are recorded and respected.

6.54 The committee therefore considers that the NDIA should develop, publish and implement clear protocols for communicating with participants about matters related to the NDIS, co-designed with participants and representative bodies. The committee considers that these protocols should include, at a minimum:

- processes for clearly recording participants' wishes about communications from the NDIA;
- mechanisms to ensure that participants' wishes respected in communication from the NDIA; and
- instructions for engaging with participants in relation to particular matters (for example, providing information to participants about changes to the scheme, or informing participants about compliance action).

Recommendation 9

6.55 The committee recommends that the National Disability Insurance Agency develop, publish and implement clear protocols for communicating with participants about matters relating to the National Disability Insurance Scheme.

⁵⁰ Joint Standing Committee on the National Disability Insurance Scheme, *Progress Report*, September 2017, pp. 57–58. See also Joint Standing Committee on the National Disability Insurance Scheme, *NDIS ICT Systems*, December 2018, pp. 5–15.

⁵¹ Joint Standing Committee on the National Disability Insurance Scheme, *Progress Report*, March 2019, pp. 63–64.

Recovering payments for services

6.56 Several submitters expressed concern about payments to providers for services delivered to NDIS participants. Mr Michael Robinson observed that invoice payments to providers are sometimes months overdue, and that there is a lack of consistency in the payment of invoices to smaller providers. Mr Robinson queried if there is a system in place to ensure the timeliness and constancy of payments, beyond a guardian having access to the payments portal.⁵²

6.57 Yooralla noted that it is often difficult to recover payments from plan managed and self-managed participants, stating that:

[W]hile payments made by the NDIA are effected in a timely manner, the same cannot be said of plan managers and self-managed participants. It would appear that an increasing number of participants are choosing to either self-manage their packages or to engage plan managers; however, many participants are unaware of the implication of these processes, leading to unacceptable payment delays.⁵³

6.58 Yooralla asserted that where a provider is unable to secure timely payments from plan managers, providers should be able to seek help from the NDIA.⁵⁴

6.59 In its submission to the committee's inquiry into the NDIS Workforce, Exercise and Sports Science Australia (ESSA) noted that its members increasingly have difficulty recovering costs from plan managed participants—with managers reporting that participants do not have the funds to pay invoices. According to ESSA, its members report contacting the NDIA when costs could not be recovered via plan managers, with the NDIA advising that participants would need to be taken to a debt collector:

One ESSA member, a small business owner who refused to send their client to a debt collector, wrote off \$5000 in losses in December 2019. This member noted that it did not seem ethical to send a person to a debt collector, when they had engaged a financial administrator to manage their plan funds because they did not have the capacity to do this for themselves.⁵⁵

6.60 Allied Health Professions Australia (AHPA) similarly noted that cost recovery is an issue for providers, due to participants accepting services without the budget to fund them. AHPA noted that, in such cases, the NDIA advises

⁵² Mr Mike Robinson, *Submission 29*, [p. 2].

⁵³ Yooralla, *Submission 7*, p. 7.

⁵⁴ Yooralla, *Submission 7*, p. 7.

⁵⁵ Exercise and Sports Science Australia, *Submission 33 (inquiry into NDIS Workforce)*, p. 17. ESSA recommended that the NDIS Quality and Safeguards Commission develop an operational framework for plan managers, to ensure that minimum standards are upheld.

providers to pursue the debt from participants. Often, this leaves the provider to absorb the debt—as the provider is unwilling to take this kind of action.⁵⁶

- 6.61 MCT noted that, in some cases, providers are expected to deliver services even where no funding is available (for example, because a participant's plan has expired), out of a sense of duty of care. While providers are often able to recover costs at a later time (such as when a new plan is approved), they are left out of pocket in the intervening period. Compounding this issue is that the NDIA is often unresponsive to providers about this matter:

We and our colleagues have many experiences of emailing 'Provider Payments' for assistance in these case, but never hear back. The lack of response leaves providers out of pocket. For a small business or sole trader even a relatively small outstanding fee can have a big impact on financial viability. Getting a payment for the service can take months and a number of approaches through different channels including attending the NDIA office in person. This leaves small providers at great risk and a contingency mechanism needs to be put in place for instances where plans expire.⁵⁷

NDIA position

- 6.62 The NDIA has recently released a *Guide to Plan Management (Guide)*. The *Guide* states that a participant's plan manager has an ongoing responsibility for monitoring plan funding and paying for supports delivered to the participant, including processing payment requests through the MyPlace portal or other technology options such as APIs. According to the *Guide*, a plan manager:
- must validate whether invoices received from providers are in accordance with the plan, and in line with expected NDIS plan spend, within no more than five business days; and
 - should arrange for a prompt payment to a service provider, or prompt reimbursement to a participant, within two business days of the manager receiving payment from the NDIS.⁵⁸
- 6.63 Plan managers are also expected, at a minimum, to provide monthly financial statements to participants. These statements should include:
- a report which details the participant's NDIS plan spend since the previous issued statement;
 - the remaining balance of funds in the participant's plan; and

⁵⁶ Allied Health Professions Australia, *Submission 35 (inquiry into NDIS Workforce)*, [p. 11]. AHPA argued that NDIA systems must be more robust, and have mechanisms to ensure providers are only delivering services when participant budgets are sufficient to cover the associated costs.

⁵⁷ Making Connections Together, *Submission 10*, [p. 3].

⁵⁸ National Disability Insurance Agency, *Guide to Plan Management*, September 2020, pp. 13, 15, <https://www.ndis.gov.au/participants/creating-your-plan/ways-manage-your-funding/plan-management> (accessed 12 November 2020).

- an indication of whether the participant's plan spend is consistent with, above or below the forecasted plan spend.⁵⁹
- 6.64 It is best practice for a plan manager to support the participant by providing access to real-time monitoring of funds through a variety of communication methods, such as use of an online portal or application, phone or email.⁶⁰
- 6.65 If a participant is spending plan funds faster than anticipated, and there is a risk of funds being exhausted before the next scheduled plan review, the plan manager is expected to engage early with the participant in relation to the effective, efficient utilisation of funds throughout the plan period. If additional funding is required, the participant can contact the NDIA to discuss options.⁶¹
- 6.66 Complementary guidance for self-managed participants on making payments to providers is available in the *Guide to Self Management*.⁶²
- 6.67 The committee has heard that there may be inconsistencies in these documents which create challenges for plan managers and self-managed participants seeking to discharge their obligations. For example, Support Management Solutions (SMS) noted that there is ambiguity in the *Guide to Plan Management* regarding whether a plan manager is able to exercise their judgment when processing invoices. SMS also noted that although the NDIA's operational guidelines state that the NDIS does not fund gym membership, this is not reflected in the *Guide to Self Management*.⁶³

Committee view

- 6.68 The committee heard that providers are experiencing challenges recovering payments—particularly from plan-managed and self-managed participants, and that in some cases the practical outcome is providers absorbing financial losses. Evidence suggests that these challenges may be due (at least in part) to a lack of clarity around the financial obligations of plan managers and plan-managed participants in relation to making payments to providers.
- 6.69 The committee notes that the NDIA has recently released the *Guide to Plan Management*, which provides a detailed overview of the agency's expectations regarding the management of plan funding. This complements the *Guide to Self Management*, which provides guidance to self-managed participants about payments to service providers. The committee is optimistic that these guidance

⁵⁹ National Disability Insurance Agency, *Guide to Plan Management*, September 2020, p. 17.

⁶⁰ National Disability Insurance Agency, *Guide to Plan Management*, September 2020, p. 17.

⁶¹ National Disability Insurance Agency, *Guide to Plan Management*, September 2020, p. 16.

⁶² National Disability Insurance Agency, *NDIS guide to Self Management*, p. 12, <https://www.ndis.gov.au/participants/using-your-plan/self-management> (accessed 12 November 2020).

⁶³ Support Management Solutions, *Submission 58*, pp. 2–3.

documents will help resolve some issues associated with recovering costs from plan-managed and self-managed participants, and encourages the NDIA to engage appropriately with plan managers, plan-managed participants and self-managed participants to ensure that financial obligations are understood. The committee also encourages the NDIA to regularly review its guidance documents, to ensure that ambiguities are identified and addressed.

- 6.70 However, it remains unclear to the committee what options are available to providers where a participant or a plan manager is unwilling or unable to pay for supports that have been delivered. The committee does not consider that it would be appropriate for a provider to refer a participant or plan manager to a debt collector, or otherwise to pursue debt enforcement action.
- 6.71 The committee encourages the NDIA to actively consider mechanisms to allow providers to recover the cost of services which have been delivered, in cases where a plan manager or self-managed participant has not made payment within a reasonable time.
- 6.72 The committee has heard that provider fraud may arise in a number of ways, including claiming multiple times for one service; intentionally or accidentally generating inaccurate invoices; over-servicing participants; and colluding with participants to siphon plan funds.⁶⁴ The committee does not suggest that many providers engage in such behaviour. Nevertheless, the committee emphasises that mechanisms to enable providers to recover their costs should not create incentives to fraud or reduce choice and control for participants.
- 6.73 Noting that providers must bear some responsibility for ensuring supports are not delivered where no funding is available, the committee also encourages providers to engage with plan managers and self-managed participants before supports are delivered to ensure there are sufficient funds in the participant's plan. The committee emphasises that any engagement must be conducted in a respectful and appropriate manner.
- 6.74 The committee otherwise proposes to maintain a watching brief in relation to these matters.

Privacy and the use of personal information

- 6.75 The committee heard that there are concerns about the extent to which NDIS participants must surrender their privacy in order to obtain reasonable and necessary supports, and about the privacy practices of some NDIA staff and service providers.

⁶⁴ Support Management Solutions, *Submission 58*, pp. 4–5. SMS noted potential solutions to provider fraud include providing more information to plan managers in relation to a participant's plan, and increasing funding allocated for plan management, to enable plan managers to 'continue the valuable yet time-consuming work necessary for fraud detection'.

- 6.76 The PwDWA Report emphasised that people with disability have a right to control their personal information, and stated that all information relating to participants held by the NDIS should be accessible to participants 'without resistance'. The Report also asserted that the NDIS must be accountable for the information it requires, collects and stores:

Particularly, there needs to be accountability around any risk factors involved when requiring compromising information from [people with disability] by identifying what circumstances would require compromising information to be submitted by participants, recognising the impact of this kind of intrusion and invasion, and taking responsibility for identifying information that is indicative of a duty to act.⁶⁵

- 6.77 In addition, the PwDWA Report stated that the NDIS needs to develop transparency surrounding how information will be acted upon, and must take responsibility for acting on information in a way that benefits the participant and does not introduce avoidable harm. It recommended the NDIA develop an 'accessible, transparent policy regarding privacy, confidentiality, and Freedom of Information that is respectful of the agency's role in servicing and supplying funding to people with disabilities in a way that is with integrity to [the] vision of self [for people with disability]'.⁶⁶

- 6.78 These views were echoed in submissions to the inquiry. For example, one submitter stated that the relationship between participants and providers 'is one of imbalance from the start and the mental and emotional damage of surrendering...privacy to an endless line of professionals is not insignificant'. The submitter also outlined an interaction with a provider where privacy was not adequately respected:

My physio not only recently had her kids popping their heads into the shot a couple of times during a telehealth session where my urinary incontinence and my obesity was discussed, she also had her husband standing in the back of the room, looking at the screen...When I gathered the courage to express my discomfort, I was told by my physio that he was just looking into the backyard.

My privacy, already surrendered to so many strangers, wasn't just breached, but my unease at the situation was dismissed. How can the covenant of surrendered privacy and promised protection not be irreparably broken? What do I do now, though? Find yet another stranger to tell intimate and frankly embarrassing things about myself? Accept the breach and no longer be open about how I am functioning? Either way, I lose. I'm no longer confident this trade-off is worth it and I am considering cancelling physio from my plan as a result.⁶⁷

⁶⁵ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 24.

⁶⁶ People With Disabilities (WA) Inc, *Submission 32*, Attachment 1, p. 24.

⁶⁷ Name Withheld, *Submission 47*, [p. 2].

6.79 The Sexuality Education Counselling and Consultancy Agency (SECCA) raised concern that people with disability are required to disclose the reasons they need support to planners in order to access services following assault or abuse. It also noted that reports from counselling sessions involving participants are required to be emailed to a generic email address, with no clarification as to the privacy safeguards which apply.⁶⁸

6.80 In a submission from Mrs Marie Johnson, Ms Johnson's daughter provided a personal account of her experiences with the NDIA, which indicated that some agency staff may not give sufficient consideration to the privacy of people with disability seeking to access the NDIS:

As we entered the [NDIA] office, it did not seem to be set up to receive applications at all. It was very clinical. We approached the front office and a lady came over. She saw the size of the application and immediately started questioning that it was not in the right format. She immediately began flicking through my folder and talking about its contents, in front of everyone else, breaching my rights to privacy, confidentiality and my human right to pass over information in a way that I could.⁶⁹

6.81 Another submitter outlined a case where a support coordinator did not respect the privacy of a participant, stating that:

Although NDIS always talks about Privacy and Confidentiality the current [support coordinator] hasn't observed it when it has been to her advantage...[R]ecently she distributed a confidential psychological assessment...to people who did not need to know including support workers who had left. She did not have [the participant's] permission prior to doing this.⁷⁰

NDIA position

6.82 According to the NDIS website, the NDIA's policy is to 'respect and protect the privacy of all people connected to the NDIA, including participants, providers, employees, contractors and community partners'. The NDIA is bound by the *Privacy Act 1988* (Privacy Act) and confidentiality provisions in the NDIS Act.⁷¹

6.83 The NDIA collects and holds information that is reasonably necessary to carry out its role. The information that the agency collects and holds includes, but is not limited to, personal information about participants and users of NDIS

⁶⁸ SECCA, *Submission 24*, [pp. 2–3]. As an example, SECCA noted that reports from counselling sessions at SECCA must be emailed to the NDIA via a generic email address. SECCA stated that it is unclear safeguards apply to this information.

⁶⁹ Mrs Marie Johnson, *Submission 17*, p. 7.

⁷⁰ Name withheld, *Submission 62*, [p. 2].

⁷¹ NDIS, *Privacy*, <https://www.ndis.gov.au/about-us/policies/privacy> (accessed 9 November 2020).

services, and about its employees, contractors and providers. The NDIA may also collect some 'health information' as defined in the Privacy Act.⁷²

6.84 The NDIS website states that the NDIA collects personal information from people directly or from people who are authorised to represent them. A person does not have to provide the NDIA with all the information that is requested; however, choosing not to provide information may mean that:

- the NDIA may not be able to decide if a person can become a participant;
- decisions may be delayed while the NDIA seeks further information; and
- the NDIA may not be able to approve a participant's plan.⁷³

6.85 The NDIA may collect, hold, use and disclose personal information for the purpose of providing services—including implementing the NDIS; conducting operations, communicating with participants and health providers; conducting research and evaluation on the NDIS; and complying with legal obligations.⁷⁴

6.86 If the NDIA needs to disclose personal information to external parties, it will de-identify the information prior to disclosure. The NDIS will not usually disclose a person's personal information to anyone outside the NDIA except where it refers a participant to an external provider of in-kind supports under an approved NDIS plan; where that person consents; or where the disclosure is authorised or required under law.⁷⁵

Committee view

6.87 The committee notes that the NDIA is subject to the Privacy Act, and that Part 2 of the NDIS Act sets out requirements for the protection of information held by the agency. Further, organisations (such as service providers) with an annual turnover of more than \$3 million are subject to the provisions of the Privacy Act, as are allied health professionals.⁷⁶

6.88 This committee has not given specific consideration to privacy concerns in its previous inquiries. However, evidence provided to the committee suggests

⁷² NDIS, *Privacy*. Examples, of personal information include name, contact details date of birth and age; gender, details of participants' physical or mental health, including disabilities; information about participants' support requirements; details of guardians and nominees, including names, addresses and contact details; Centrelink Customer Reference Number (CRN); details of feedback or complaints about services provided by us; bank account details and employee records. 'Health information includes information about a person's health or disability, doctors a person has attended, and health services a person has received.

⁷³ NDIS, *Privacy*.

⁷⁴ NDIS, *Privacy*.

⁷⁵ NDIS, *Privacy*.

⁷⁶ Office of the Australian Information Commissioner, *The Privacy Act: Rights and Responsibilities*, <https://www.oaic.gov.au/privacy/the-privacy-act/rights-and-responsibilities/> (accessed 16 November 2020).

that privacy is a significant concern for a number of people with disability accessing the NDIS. The committee propose to maintain a watching brief in relation to this issue, and will address it in future inquiries if appropriate.

End of life issues

6.89 Under the NDIS Act, a person automatically ceases to be an NDIS participant when the person dies.⁷⁷ When a person ceases to be a participant, they are not entitled to be paid amounts which relate to reasonable and necessary supports that would have otherwise been funded under the NDIS.⁷⁸

6.90 The committee heard that the NDIS may not have effective mechanisms in place to support families, carers and others when a participant passes away. For example, Ms Bianca Grant, the mother of a participant, stated that:

With NDIS, if you die as a participant, [supports] just get cut off. There's none of that continued support coordination or even getting equipment back to where it goes... You don't have any funds. It just stops...

I've got a friend in Ballarat whose child passed away four months ago, and she's got a room full of all his equipment. She hasn't been able to get the reports back from therapy teams, all the photos and all of that stuff. You need that extra time just to tidy things up. It's such a good scheme you just don't want it to just end like that, like a mess. You kind of need that tidy-up stuff, if you know what I'm saying.⁷⁹

Australian Government position

6.91 At a public hearing of the committee on 12 October 2020, Mr Martin Hoffman, the CEO of the NDIA, stated that a participant may have goals in their plan relating to their final years or months. These would inform how supports are structured and funded. Mr Hoffman also emphasised that the NDIS 'is not a provider of palliative care services'.⁸⁰

Committee view

6.92 The committee notes that the death of a participant is a very real scenario—particularly where a participant has a degenerative disability. For many families and carers, coping with the death of a participant can be overwhelming, even without the added complexity of finalising and cancelling supports and returning pieces of assistive technology.

⁷⁷ NDIS Act, s 29(1)(a).

⁷⁸ NDIS, *Access to the NDIS – When a person ceases to be a participant*, <https://www.ndis.gov.au/about-us/operational-guidelines/access-ndis-operational-guideline/access-ndis-when-person-ceases-be-participant> (accessed 29 October 2020).

⁷⁹ Ms Bianca Grant, Private Capacity, *Committee Hansard*, 7 November 2019, p. 50.

⁸⁰ Mr Martin Hoffman, Chief Executive Officer, National Disability Insurance Agency, *Proof Committee Hansard*, 12 October 2020, p. 10.

- 6.93 Issues associated with support and funding gaps where a participant passes away have also been raised in other inquiries by this committee.⁸¹
- 6.94 The committee acknowledges that the NDIS is not a provider of palliative care services, and that participants may include goals relating to their final years or months in a plan. However, the committee is concerned that the NDIS may not have effective processes in place to support families and carers in the event a participant passes away. By contrast, the committee notes that the Department of Veterans Affairs offers information to family members following the death of a veteran—including advice on what supports families are eligible for after the death of a veteran; what the family can do in the event of the death; who the family can contact for advice and support; ways to cope with grief; and a checklist for veterans to fill out ahead of time on who should be notified if they pass away.⁸² The Services Australia website also provides information about benefits available if a family member dies, and about managing circumstances related to a person's death.⁸³
- 6.95 The committee considers that the NDIA should provide information on the NDIS website on managing circumstances related to the death of a participant. This should include information about: the services available to support family members; finalising or cancelling supports; and returning or otherwise dealing with items of assistive technology. The committee considers that this information would be of considerable value to family members and carers, as well as to participants who wish to make their own end-of-life arrangements.

Recommendation 10

- 6.96 The committee recommends that the National Disability Insurance Agency publish information about managing circumstances related to the death of a participant, including the support that is available to family members and carers, on the National Disability Insurance Scheme website.**
- 6.97 If further evidence indicates that matters related to the death of a participant continue to be of concern for stakeholders, the committee may consider this issue in more detail in the future.

⁸¹ See, for example, Joint Standing Committee on the National Disability Insurance Scheme, *Report into Supported Independent Living*, May 2020, pp. 102–103.

⁸² See Department of Veterans' Affairs, *Planning Ahead: A Guide to Putting Your Affairs in Order*, 2008, revised January 2019, <https://www.dva.gov.au/documents-and-publications/planning-ahead-kit> (accessed 9 November 2020).

⁸³ See Services Australia, *Death and bereavement*, servicesaustralia.gov.au/individuals/subjects/death-and-bereavement (accessed 20 November 2020).

Other issues

6.98 Other issues raised in the inquiry included the following:

- The intersection between income support arrangements such as JobSeeker and the NDIS.⁸⁴
- The NDIA's understanding of guardianship and associated financial management obligations.⁸⁵
- Access to crisis counselling for NDIS participants.⁸⁶
- Supported employment for NDIS participants.⁸⁷
- The NDIS not funding interventions based on applied behaviour analysis.⁸⁸
- The implementation of a real time claims system, which may have negative impacts for plan managers.⁸⁹

6.99 If further evidence indicates that these matters continue to be of concern for stakeholders, the committee may consider them in more detail in the future.

Hon Kevin Andrews MP
Chair

Senator Carol Brown
Deputy Chair

⁸⁴ University of Notre Dame Australia & The Multicultural Disability Advocacy Association NSW, *Submission 27*, pp. 2–3.

⁸⁵ Ms Kim Barker, Public Guardian, Office of the Public Guardian Tasmania, *Committee Hansard*, 28 October 2019, p. 28; Making Connections Together, *Submission 10*, [p. 3].

⁸⁶ SECCA, *Submission 24*, [pp. 2–4].

⁸⁷ Ms Pauline Stanton, Director, Access2Choice Tasmania, *Committee Hansard*, 28 October 2019, p. 25; Illawarra Disability Alliance, *Submission 11*, [p. 9].

⁸⁸ Name Withheld, *Submission 14*, p. 1.

⁸⁹ Support Management Solutions, *Submission 58*, pp. 7–8.

Appendix 1

Australian Government response to the committee's report into Supported Independent Living

The Joint Standing Committee on the National Disability Insurance Scheme (NDIS) tabled its report into Supported Independent Living (SIL) in May 2020. The Australian Government responded to that report in August 2020. The following table outlines the Government's response to each of the committee's recommendations, and quotes the Government's comments in part.

Table 1.1 Australian Government response to the committee's report into Supported Independent Living

Recommendation	Government response	Government comments
Recommendation 1 The committee recommends that the National Disability Insurance Agency ensure immediate access to funding for all assessments required to support applications for reasonable and necessary supports, and in particular to support applications for Supported Independent Living.	Supported in principle	<p>The Government recognises the need for immediate access to funding for NDIS participants to support applications for reasonable and necessary supports. The Government is committed to introducing fully-funded Independent Functional Assessments (IFAs) to support better and more consistent decision making...</p> <p>For current participants, the [National Disability Insurance Agency (NDIA)] provides reasonable and necessary levels of funding in plans, which can be used for assessments to provide additional information to support other reasonable and necessary decisions, including in relation to SIL.</p>

Recommendation 2

The committee recommends that the National Disability Insurance Agency clarify the assessments required to support an application for Supported Independent Living funding.

Supported

...The introduction of IFAs will ensure participants and people seeking to access the NDIS have access to fully funded assessments.

On 30 June 2020, the NDIA published a new SIL Operational Guideline, which provides guidance on what SIL is and how to access SIL once it is in a participant's plan. The SIL Operational Guideline is available on the NDIS website.

The NDIA is also developing a Home and Living policy, which will provide guidance on eligibility and the supporting evidence required for home and living supports. The Home and Living Policy, and other materials, including a participant SIL Toolkit, will be available on the NDIS website.

Recommendation 3

The committee recommends that the National Disability Insurance Agency implement measures to ensure that all evidence provided by a participant to establish that supports are reasonable and necessary is accurately recorded in the participant's plan, and is actively considered in plan development.

Supported

...The NDIA has implemented a number of processes to ensure accurate collection, consideration and storage of participant evidence in line with the NDIA Operating Guidelines and Standard Operating Procedures.

All evidence provided by a participant, their plan nominee or treating health professional, is considered as part of the NDIS access and planning process. All documentation received is attached to participant records to inform access decisions.

In the event evidence provided by a participant has not been accurately recorded in the NDIA business system, the NDIA seeks to resolve this as soon as practicable.

Recommendation 4

The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to confirm a participant's eligibility for Supported Independent Living prior to the participant identifying a suitable vacancy.

Supported in principle

...The NDIA is developing guidance on eligibility and supporting evidence for home and living supports and will move away from specifically determining eligibility for SIL.

These arrangements will support the changes made in the 2020-21 Price Guide and Support Catalogue which incorporate 'price limits for SIL supports, replacing the previous quoting and negotiation process.

Recommendation 5

The committee recommends that planners be empowered to authorise a price range for Supported Independent Living (SIL) funding, with no need for further approval so long as a SIL quote falls within that price range, on the condition that the participant and/or their plan nominee is able to review the SIL quote and approve it.

Noted

...The NDIS Price Guide 2020-21 took effect on 1 July 2020. In the new Price Guide, price limits for SIL supports replace the previous quoting and negotiation process. The SIL price limits currently reflect the [Assistance with Daily Living (ADL)] price limits.

The NDIA is reviewing SIL price controls and will release a new Price Guide later in 2020. A new SIL Provider Pack explaining these changes is available on the NDIS website.

To ensure continuity for participants and providers, existing plans containing agreed SIL quotes will continue until the end of their 12-month term, at which point the new SIL price...will apply.

<p>Recommendation 6</p> <p>The committee recommends that the National Disability Insurance Agency, develop and publish clear, comprehensive guidance material on Supported Independent Living as a matter of urgency.</p>	<p>Supported</p>	<p>...To support implementation of the new SIL price limits, the NDIA has developed a new SIL Provider Pack explaining the NDIS Price Guide 2020-21 changes, and published a new SIL Operational Guideline. Both of these documents are available on the NDIS website.</p> <p>The NDIA is also undertaking a review of home and living supports for participants, including SIL. As part of this review, the NDIA is developing a toolkit for participants accessing SIL to increase their involvement in the planning process...</p> <p>The NDIA will also publish a Home and Living policy to support more informed reasonable and necessary decision making.</p>
<p>Recommendation 7</p> <p>The committee recommends that the National Disability Insurance Agency ensure that its planners fully explore current and future accommodation and support needs with participants during pre-planning, planning and plan review.</p>	<p>Supported</p>	<p>...The NDIA is developing new policy and guidance material for planners, providers and participants to support decision making in relation to home and living supports. As part of this process, the NDIA is reviewing the accommodation-specific questions asked of participants during planning meetings to ensure planners, support coordinators and partners in the community are best placed to support participants to understand and explore housing options, both NDIS funded and mainstream.</p>
<p>Recommendation 8</p> <p>The committee recommends that the National Disability Insurance Agency implement measures to further streamline and expedite quote approvals for Supported Independent Living as a matter of urgency.</p>	<p>Noted</p>	<p>The Government notes that on 1 July 2020, the SIL quoting process was replaced by set SIL price limits in the NDIS Price Guide. This change streamlines the SIL approval process by removing the need for providers to develop annual quotes. Instead, providers submit a Roster of Care (ROC) for each participant and funding is approved at the relevant ADL rate. Detailed documentation will only be required where there is a material change to the ROC.</p> <p>...The NDIA has already implemented measures such as automatic plan</p>

rollovers and extensions to ensure continuity of supports and certainty for participants. The Government also recognises that SIL may not be the best way forward for some participants, and it is vital that participants have an opportunity to explore the full range of home and living supports available through the NDIS.

Alternatives to SIL may include Specialist Disability Accommodation (SDA), Home Modifications, Assistive Technology or [Individual Living Options (ILOs)]. The NDIA is implementing the use of innovative home living solutions as an alternative to SIL and to support more streamlined planning processes.

Recommendation 9

The committee recommends that the National Disability Insurance Agency develop and implement mechanisms to prioritise and expedite approvals for Supported Independent Living and Specialist Disability Accommodation for people with disability in residential aged care, hospital settings, and the criminal justice system.

Supported

...On 25 November 2019, the Government announced it would strengthen the initial targets of the Younger People in Residential Aged Care Action Plan (Action Plan). The new targets, apart from in exceptional circumstances, will seek to ensure that there are:

- No people under the age of 65 entering residential aged care by 2022;
- No people under the age of 45 living in residential aged care by 2022; and
- No people under the age of 65 living in residential aged care by 2025

As part of this announcement, the Government established a Joint Agency Taskforce between the department [of Social Services], the NDIA, and the Department of Health to develop a new strategy that builds on the Action Plan and takes action to ensure these new targets are met.

A specialist team within the NDIA has also been established to prevent younger people with a disability who are eligible for the NDIS from entering aged care.

The NDIA has also recently implemented a number of measures to expedite the discharge of NDIS participants from hospital settings where they are deemed medically ready for discharge.

As part of these measures, Health Liaison Officers and access and planning teams work together to fast track access and planning requests and approvals, and remove barriers to hospital discharge for participants who are deemed ready to leave hospital.

Justice Liaison Officers are also being progressively introduced to support more streamlined information sharing and support provision for participants engaged in the justice system.

Recommendation 10

The committee recommends that the National Disability Insurance Agency clarify whether a provider may continue to claim for supports delivered under a plan while a review of that plan is underway.

Supported

...The Government will take necessary steps to ensure that providers are aware that under Section 37 of the *National Disability Insurance Scheme Act 2013 (NDIS Act 2013)*, a participant's plan only ceases to be in effect when it is replaced by another plan under Division 4; or when a participant ceases to be a participant. As such, a provider may continue to claim for provided supports for current plans and historically up to 90 days, until the above provisions are met and a plan is replaced by a subsequent plan or through cessation of participation in the NDIS.

Recommendation 11

The committee recommends that additional funding be made available in plans for short-term accommodation, for participants seeking to access Supported Independent Living.

Noted

The Government notes that short-term accommodation may be of significant assistance to eligible NDIS participants. Goals relating to short-term accommodation are discussed as part of the planning and review process. Funding for supports, including for short term accommodation, is included in a participant's plan subject to reasonable and necessary decision making criteria under Section 34 of the *NDIS Act 2013*.

Recommendation 12

The committee recommends that the National Disability Insurance Agency (NDIA) develop and implement a mechanism to ensure that participants have the opportunity to review and agree to quotes for Supported Independent Living before they are approved by the NDIA.

Supported in principle

...Under the new SIL approval process introduced on 1 July 2020, providers are no longer required to develop a quote for SIL supports. To ensure participants have greater input to the planning process, before a plan with SIL supports is approved, the NDIA will directly ask the participant or their nominee to confirm they have had an opportunity to see and provide input to the ROC. The support coordinator, if in place, will also be engaged to ensure this occurs.

Recommendation 13

The committee recommends that the National Disability Insurance Agency ensure that its work to improve the Supported Independent Living quoting tool and quoting process takes into account:

- the costs associated with supporting participants with higher or more complex needs;
- the costs associated with supporting participants in thin market areas; and
- all relevant Fair Work decisions.

Noted

The Government notes the previous SIL quoting and negotiation process was replaced by SIL price limits on 1 July 2020. Different price limits apply depending on the time of day and day of the week on which support is delivered, and whether the supports are high intensity supports, or delivered in remote or very remote areas.

The NDIA is considering the impact of thin markets and complex support needs on pricing as part of the SIL price control review.

The NDIS Price Guide 2020-21 incorporates a number of updated price limits developed following the outcome of the Fair Work Commission decision on minimum wage rates.

<p>Recommendation 14</p> <p>The committee recommends that the National Disability Insurance Agency review the 'simplified' quoting tool for Supported Independent Living, to allow providers to make minor changes to a quote based on changes to the National Disability Insurance Scheme pricing structure that have occurred since the quote was approved.</p>	<p>Noted</p>	<p>The Government notes that set price limits for SIL supports replaced the quoting tool on 1 July 2020. The use of SIL price limits in place of annual quoting will mean the right price limit will be applied to SIL supports, without the need for providers to estimate their full year revenue up front. These changes will mean the SIL process is more efficient and will enable providers to get paid without lengthy negotiation.</p>
<p>Recommendation 15</p> <p>The committee recommends that the National Disability Insurance Agency establish a central point of contact for all inquiries relating to Supported Independent Living.</p>	<p>Noted</p>	<p>The Government notes the NDIA has a number of existing communication channels available for all stakeholders. Having a broad range of communication options available ensures stakeholders' choices are not limited when they communicate with the NDIA and that enquiries are streamlined to the appropriate area.</p>
<p>Recommendation 16</p> <p>The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to provide updates to providers on the progress of Supported Independent Living quotes.</p>	<p>Noted</p>	<p>The Government notes that set price limits for SIL supports replaced the previous quoting and negotiation process on 1 July 2020. The home and living guidance material currently in development will set out the NDIA's approach to engaging participants, their nominees, support coordinators and providers in the planning process.</p>

Recommendation 17

The committee recommends that the National Disability Insurance Agency progress the recommendations made in the committee's report, *NDIS ICT Systems*, as a matter of urgency.

Supported

...The NDIA implemented all of the recommendations made by the [Joint Standing Committee on the NDIS] with regard to NDIS ICT Systems by the end of the first quarter of 2020.

Recommendation 18

The committee recommends that the National Disability Insurance Agency review its existing policies and procedures, to ensure that participants needing assistance with daily living are given genuine choice as to whether they access supports in a shared or individual living arrangement.

Supported in principle

...Following principles under the Council of Australian Governments Applied Principles and Tables of Support (APTOS), the NDIA understands its responsibilities to assist participants in individual or shared living arrangements, noting this does not extend to making reasonable adjustments to state and territory owned housing, which remains the responsibility of housing authorities.

As mentioned above, the NDIA is developing a Home and Living policy which will articulate the NDIA's overarching strategic position, bringing together previously disparate elements of NDIS home and living supports, and ensuring coherency of communication internally and externally about the NDIA's priorities for home and living. The policy will provide organising principles for implementation strategies and targeted programs of work, and will fully articulate the NDIA's position on reasonable and necessary supports for home and living options, noting the NDIA is not responsible for housing of participants except in very specific circumstances.

Recommendation 19

The committee recommends that the National Disability Insurance Agency give all participants living in congregate settings, who receive Supported Independent Living funding, the opportunity to review their accommodation and support arrangements and to exit the congregate setting if they wish to do so.

Supported

...Participants who wish to leave congregate living arrangements can request an unscheduled plan review due to a change in circumstances, or have their supports changed at their annual plan review meeting, subject to reasonable and necessary decision making.

The NDIA is reviewing the accommodation-specific questions asked of participants at the time of plan review, and developing new policy and guidance material for planners and participants to support decision making in relation to home and living supports.

Recommendation 20

The committee recommends that the National Disability Insurance Agency review and, if necessary, amend the Supported Independent Living quoting tool, to ensure that it allows participants to choose the people with whom they share a residence to the greatest extent possible.

Noted

The Government notes the SIL quoting tool was replaced by set price limits on 1 July 2020.

...The NDIA's new Home and Living policy, currently in development, will embed planning practices that ensure participants and planners work together to identify participants' home and living goals, which may include goals to change living arrangements. The NDIA is exploring how ILOs and other innovative living arrangements can provide participants with greater choice and control.

The NDIA has also provided support to the department [of Social Services] to amend the SDA Rules to remove barriers and disincentives for participants eligible for SDA funding to share a bedroom or reside with other family members, where they choose to do so. Changes to the SDA Rules to provide more flexibility and increased choice for participants to live with their families, friends and partners commenced in June 2020.

Recommendation 21

The committee recommends that additional funding be made available to support participants seeking to exit congregate living arrangements.

Supported in principle

...Participants who wish to leave congregate living arrangements can request an unscheduled plan review due to a change in circumstances, or have their supports changed at their annual plan review meeting. Any funding for supports included in participant plans, including for changes to congregate living arrangements, is considered in line with participants' goals and reasonable and necessary decision making criteria under Section 34 of the *NDIS Act 2013*.

Recommendation 22

The committee recommends that the National Disability Insurance Scheme Quality and Safeguards Commission implement additional oversight measures for participants in group living arrangements.

Noted

The Government notes significant quality and safeguards protections already exist for group living arrangements under the NDIS Quality and Safeguarding Framework (the Framework). The adequacy of these arrangements will be considered in the context of the Review of the Framework due to commence in 2021.

The NDIS Commission has oversight arrangements for all registered providers legislated in the *NDIS Act 2013* and associated Rules. Providers delivering NDIS supports and services within the registration group which captures SIL (being 'Assistance with daily life tasks in a group or shared living arrangement') as well as SDA providers, are required to:

- Comply with the NDIS Code of Conduct;
- Undergo regular independent audit activities to assess compliance with relevant NDIS Practice Standards; and
- Meet registration requirements including: responding to, and advising, the NDIS Commission of reportable incidents including the unauthorised use of restrictive practices, ensuring the development of Behaviour Support Plans as appropriate, and ensuring their employees have an acceptable current screening check in place.

Registered providers are subject to NDIS Commission regulatory actions

as set out under the *NDIS Act 2013* and associated Rules, including compliance activities, complaint investigations, and enforcement activities as appropriate.

SIL and SDA providers are required to undergo certification audits. The Core Module of the *NDIS (Provider Registration and Practice Standards) Rules 2018* requires demonstration of compliance with Practice Standards providing strong oversight measures for participants in receipt of NDIS support and services, including SIL.

Recommendation 23

The committee recommends that the National Disability Insurance Scheme Quality and Safeguards Commission develop clear policies and guidance on vacancy management, with a focus on ensuring compatibility between tenants in shared accommodation and ensuring participant involvement in the vacancy management process.

Noted

...The principles of the *National Disability Insurance Scheme (Plan Management) Rules 2013* contain an expectation that people with disability should be involved in decision making processes that affect them. In the context of SDA and SIL this would involve providers considering the views of all participants (if any) already residing in a dwelling before housing another participant in that dwelling.

In addition, SDA providers are required as part of their registration obligations with the NDIS Commission to comply with Module 5 of the *NDIS (Provider Registration and Practice Standards) Rules 2018*, which requires that each participant accessing a SDA dwelling is able to exercise choice and control and is supported by effective tenancy management.

Further details about the requirements for effective tenancy management are provided in the *NDIS (Quality Indicators) Guidelines 2018* which articulate in detail how registered SDA providers must act in relation to vacancy management, compatibility, and participant involvement in shared living arrangements.

Recommendation 24

The committee recommends that the National Disability Insurance Agency implement a mechanism to separate service delivery, tenancy management and support coordination for participants in Supported Independent Living settings.

Supported in principle

The Government...notes the NDIA is undertaking a program of work to consider the redesign of the current support coordination model. This will include examination of the policy changes required to strengthen separation of services between support coordination and other support types. A consultation paper will be released in coming months.

The Government also recognises participants should be able to exercise choice and control over their NDIS supports without being limited by their choice of accommodation.

The NDIS Commission registration process includes the assessment of the suitability of providers in accordance with the types of NDIS supports and services they deliver. The NDIS Practice Standards include requirements for NDIS providers of specialised support coordination (Module 4 of the Practice Standards, Practice Standard 66) and SDA (Module 5 of the Practice Standards, Practice Standard 69) to demonstrate compliance with management of conflicts of interest through a certification audit.

Providers must also have organisational policies in place to manage perceived or actual conflicts of interest, and separate service agreements for SIL and SDA must be in place where a provider delivers both supports to the same participant.

Recommendation 25

The committee recommends that the National Disability Insurance Agency, with the National Disability Insurance Scheme Quality and Safeguards Commission, implement a mechanism to ensure participants accessing Supported Independent Living are able to change providers without compromising housing security or suffering other adverse consequences.

Noted

...Consideration of mechanisms to address issues arising when participants exit SIL arrangements will be considered as part of the NDIA's broader review of SIL and home living arrangements.

The Government notes that the NDIS (Quality Indicators) Guidelines 2018 require SIL and SDA providers to demonstrate compliance with Module 1, Standard 18, 'Continuity of Supports,' as part of an independent audit that forms part of a registration application. All providers must apply to be registered with the NDIS Commission every three years.

The key outcome of this Practice Standard is that, 'Each participant has access to timely and appropriate support without interruption'. Further to this, SDA providers are obligated to meet the requirements of Practice Standard 70: Service Agreements with Participants and Practice Standard 72: Tenancy Management to maintain registration with the NDIS Commission.

Recommendation 26

The committee recommends that the National Disability Insurance Agency develop a central register for participants seeking to identify vacancies for Supported Independent Living and Specialist Disability Accommodation.

Supported

...On 25 November 2019, in response to the Royal Commission into Aged Care Quality and Safety Interim Report, the Government committed to engage with industry to identify all SDA and SIL supports across the country to develop a database of existing and new housing options available now and in the future.

This commitment is being actioned through a Joint Agency Taskforce on Younger People in Residential Aged Care involving the [Department of Health], the department [of Social Services] and the NDIA.

It is important to note that the private market is currently developing a number of tools and platforms designed to assist participants with identifying and finding suitable vacancies for SIL and SDA properties. The work undertaken through the Joint Agency Taskforce will seek to complement the work already being undertaken by private providers.

Recommendation 27

The committee recommends that the National Disability Insurance Agency establish a specialist team dedicated to vacancy management.

Noted

...The NDIA has established a dedicated housing and support team that considers a range of complex issues relating to home and living supports, including vacancies, to ensure participants are supported to consider a diverse range of housing options and have greater choice and control over their home living arrangements.

In addition, the NDIA is supporting the sector to develop platforms to support vacancy management.

Recommendation 28

The committee recommends that the National Disability Insurance Agency develop and implement processes to streamline the approval process for participants who need funding for both Supported Independent Living and Specialist Disability Accommodation.

Supported

...The NDIA housing and support team is working to improve processes to support more streamlined access to home and living supports for eligible participants.

In addition, on 1 July 2020, the NDIA implemented the proposed Participant Service Guarantee timeframes from the Tune Review. This includes timeframes relating to plan approvals following access, plan reviews and plan variations.

Recommendation 29

The committee recommends that, if a participant is approved for Specialist Disability Accommodation involving on-site overnight assistance, funding for Supported Independent Living (SIL) be automatically approved, on the condition that the participant and/or their plan nominee is able to review the SIL quote and approve it.

Noted

...Under the current legislation, an NDIS plan can only be approved by an NDIA delegate. When approving an NDIS plan, the delegate must confirm that the supports in the plan are reasonable and necessary under Section 34 of the *NDIS Act 2013*.

Recommendation 30

The committee recommends that, if a participant exits a Supported Independent Living arrangement, funding for that participant continues at a 50 per cent rate for a period of one month or until the vacancy is filled—whichever is sooner. At the end of that month, a review should be conducted to determine whether additional funding is required.

Noted

The Government...notes the NDIS funds participants and not providers. Mechanisms to address issues arising when participants exit SIL arrangements will be considered as part of the NDIA's broader review of SIL and home living arrangements.

Recommendation 31

The committee recommends that the National Disability Insurance Agency conduct a review of the National Disability Insurance Scheme Price Guide and associated price settings to ensure that the additional costs associated with supporting participants with complex needs, including in Supported Independent Living settings, are adequately captured.

Supported

...The NDIS Price Guide 2020-21 incorporates a number of amendments that relate to additional costs associated with supporting participants with complex needs.

The new SIL price limits include line items for providing higher intensity supports. The NDIA is also conducting a review of SIL price controls. New SIL-specific price limits will be included in an updated Price Guide released later in 2020.

Recommendation 32

The committee recommends that the National Disability Insurance Agency develop and publish clear policy and guidance on when providers may claim above the benchmarks set out in the National Disability Insurance Scheme Price Guide.

Noted

...[U]nder current guidelines providers may not claim above the benchmarks set out in the NDIS Price Guide. NDIS providers may not claim for amounts greater than funded support values or the service booking values agreed with participants. The new SIL price limits specify the maximum amounts providers may claim for the delivery of supports in SIL settings.

Recommendation 33

The committee recommends that the National Disability Insurance Agency develop and implement mechanisms to ensure providers are immediately notified of any changes to the National Disability Insurance Scheme Price Guide or associated price settings.

Supported

...Providers are notified of Price Guide changes at least 30 days before they come into effect. Registered providers receive emails from the NDIA when there are changes to the Price Guide. The Price Guide and pricing information is published on the NDIS website.

Recommendation 34

The committee recommends that the National Disability Insurance Agency review the National Disability Insurance Scheme Price Guide, to ensure that the costs associated with attracting, training and retaining staff to deliver supports to people with severe or complex disability, including in Supported Independent Living settings, are adequately captured.

Supported

...The NDIA conducts annual reviews of the NDIS Price Guide to ensure it is fit for purpose.

The NDIS Price Guide 2020-21 incorporates a number of amendments that relate to additional costs associated with providing supports to participants with complex needs. As previously mentioned, the NDIA is also conducting a review of SIL price controls and will release an updated Price Guide later in 2020.

Recommendation 35

The committee recommends that providers within the National Disability Insurance Scheme invest in additional training for support staff involved in the delivery of Supported Independent Living services and supports for participants with higher or more complex needs.

Noted

The Government notes...that staff training is an obligation that providers are required to meet as part of their registration requirements with the NDIS Commission. The NDIA is supporting NDIS providers through the Exceptionally Complex Support Needs Program (ECSNP), which delivers subject matter expertise and capacity building support to NDIS providers where a participant has exceptionally complex support needs.

The level of investment providers make in their staff is a matter for individual service providers, including where additional investment is required to ensure workers receive additional training support where required.

Recommendation 36

The committee recommends that the National Disability Insurance Agency develop and implement a streamlined mechanism to expedite the processing of claims made by service providers for increased supports provided to participants.

Supported in principle

...Where a participant's support needs have changed, the participant or their nominee can request a plan review. Current plan review guidelines provide for the NDIA to consider amending levels of participant supports when necessary.

For participants with complex needs, the NDIA has implemented the Complex Support Needs pathway (CSN pathway). Participants who are in the CSN pathway receive additional, tailored support in all aspects of their NDIS experience, including access, planning, plan implementation and review.

The NDIA housing and support team is considering further mechanisms to streamline review processes for SIL and SDA participants.

Recommendation 37

The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to streamline plan reviews for participants accessing Supported Independent Living in shared living arrangements.

Supported

The Government sees value in aligning the timing of plan reviews for participants in shared living arrangements. The NDIA has introduced operational improvements to planning processes that include mechanisms to streamline some plan reviews for participants, including those in SIL.

As mentioned above, the NDIA housing and support team is reviewing current SIL processes and will seek to embed practices to improve the planning process for participants receiving or seeking to receive SIL supports.

Recommendation 38

The committee recommends that the National Disability Insurance Agency actively works to address thin markets, and ensures that work to address thin markets in regional, rural and remote areas captures both Supported Independent Living and Specialist Disability Accommodation.

Supported

...As part of its market stewardship role, the NDIA is supporting emerging markets to develop and to assist participants to access key supports.

The NDIA is implementing a more flexible approach to thin markets as agreed by the Disability Reform Council (DRC) on 13 December 2019, through initial projects in some rural and remote areas, to address specific market issues that may be impacting on participants' access to supports.

In addition to these projects, the NDIA is considering a number of mechanisms to address thin markets in rural and remote locations, including providing information to the market about levels of participant need, locations of demand, and numbers of participants currently residing in cities who may relocate to regional communities if they can access the required supports.

Recommendation 39

The committee recommends that the National Disability Insurance Agency publish a clear and comprehensive policy on provider of last resort arrangements and crisis accommodation as a matter of urgency.

Supported

...The ECSNP has providers in place in every state and territory and provides after hours crisis referral services. The ECSNP also supports NDIS providers through the provision of subject matter expertise and capacity building activities.

Recommendation 40

The committee recommends that the Commonwealth, states and territories, through the Disability Reform Council, progress work to understand and address gaps in the availability of advocacy and decision support services as a matter of urgency.

Supported

The Government is in the process of coordinating a demand and gap analysis into independent disability advocacy and decision-making supports. The project arose through DRC and is anticipated to report later in 2020.

This project will assist in discussions between the states and territories and the Commonwealth to understand the impact the implementation of the NDIS has had on advocacy. It will also inform discussions regarding possible future partnership approaches for shared and ongoing funding arrangements.

Recommendation 41

The committee recommends that the National Disability Insurance Agency, working with the Australian Government, publish and distribute additional information on the availability of advocacy and decision support services.

Supported

The Government supports the provision of detailed information to participants on the availability of advocacy and decision support services. The department [of Social Services] currently provides an advocacy finder service on its website. Work is also underway to develop a broader information gateway to support people with disability to access a range of services and information, including advocacy.

Recommendation 42 The committee recommends that the Australian Government increase funding for advocacy and decision support initiatives, to ensure that these initiatives reach the broadest range of people who require these services.	Noted	The Government notes the Commonwealth has increased funding for advocacy and decision support over the past six years from \$18 to \$33 million (excluding Disability Royal Commission advocacy support). Both the Australian Government and the states and territories, with the exception of South Australia, recognised at a DRC meeting in December 2019 that the provision of funding to support independent disability advocacy was a shared responsibility. The outcomes of the demand and gap analysis project of independent disability advocacy and decision-making supports (mentioned in response to Recommendation 40), is likely to inform future funding decisions at all levels of government.
Recommendation 43 The committee recommends that the National Disability Insurance Agency, with the Quality and Safeguards Commission, develop and publish service standards specifically for the delivery of Supported Independent Living services.	Noted	The Government notes the NDIS Practice Standards and overarching regulatory activities are appropriate for the regulation of NDIS supports and services to participants, including in sharing or group living settings.

<p>Recommendation 44</p> <p>The committee recommends that the National Disability Insurance Agency and the Quality and Safeguards Commission take a more active role in monitoring the quality of services in residences where Supported Independent Living is delivered, to ensure that participants and advocates can readily identify and address concerns with service quality.</p>	<p>Noted</p>	<p>The Government notes that the NDIS Practice Standards and overarching regulatory activities are appropriate for the regulation of NDIS supports and services to NDIS participants, including in sharing or group living settings. The NDIS Commission performs an ongoing monitoring function through its complaints, reportable incidents and registration functions.</p>
<p>Recommendation 45</p> <p>The committee recommends that the National Disability Insurance Agency, with the Australian Government, develop, publish and implement a clear strategy to address coordination issues between state and territory services and the National Disability Insurance Scheme, particularly for people with disability seeking to access Supported Independent Living supports.</p>	<p>Noted</p>	<p>The Government and states and territories monitor, discuss and address coordination issues between state and territory services and the NDIS on an ongoing basis.</p> <p>Local Area Coordinators are active in every jurisdiction and link participants to the NDIS and to mainstream and community supports in their area. Additionally, NDIA Health Liaison and Justice Liaison Officers are now in place nationally. These liaison positions play a key role in connecting the NDIA and NDIS participants to mainstream service systems, and supporting people to access the NDIS.</p>

Source: Joint Standing Committee on the National Disability Insurance Scheme, Report into Supported Independent Living, May 2020; Australian Government, Australian Government response to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) report: Inquiry into Supported Independent Living, August 2020.

Appendix 2

Australian Government response to the committee's interim report on Planning

The Joint Standing Committee on the National Disability Insurance Scheme (NDIS) tabled its interim report on NDIS Planning in December 2019. The Australian Government responded to that report in February 2020. The following table outlines the Government's response to each of the committee's recommendations, and quotes the Government's comments in part.

Table 2.1 Australian Government response to the committee's interim report on NDIS Planning

Recommendation	Government response	Government comments
Recommendation 1 The committee recommends that fully costed, detailed draft plans be made available to participants at least one week prior to their meeting with the official with the authority to approve the plan, and that at the meeting the participant have the opportunity to rectify the plan.	Supported in principle	...A number of initiatives are underway that support the intention of providing full transparency around NDIS plan approval processes. These include the introduction of draft plan summaries, joint planning and the use of independent functional assessments in access and planning decisions...

<p>Recommendation 2</p> <p>The committee recommends that the National Disability Insurance Agency ensure that participants are given the opportunity to meet face-to-face with an official with authority to approve a plan before the plan is approved.</p>	<p>Supported in principle</p>	<p>The Government supports the recommendation to enable participants to meet with [a National Disability Insurance Agency (NDIA)] delegate prior to plan approval...[F]rom April 2020 the NDIA will be progressively rolling out joint planning meetings nationally...</p> <p>The NDIA already provides participants with a choice about how they would like to conduct their planning meetings. Most choose face-to-face meetings...</p>
<p>Recommendation 3</p> <p>The committee recommends that the <i>National Disability Insurance Scheme Act 2013</i> be amended to enable participants to review only part of a plan, or to vary a plan, in appropriate circumstances.</p>	<p>Supported</p>	<p>...The Government intends to introduce a new plan amendment power, as part of its response to the Tune Review of the NDIS Act.</p>
<p>Recommendation 4</p> <p>The committee recommends that the <i>National Disability Insurance Scheme Act 2013</i> be amended to require the National Disability Insurance Agency to complete an unscheduled plan review within 45 days of receiving a request from the participant.</p>	<p>Supported in principle</p>	<p>...The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020...</p> <p>The Government intends to introduce a timeframe for unscheduled plan reviews as part of its response to the Tune Review of the NDIS Act.</p>

Recommendation 5

The committee recommends that the *National Disability Insurance Scheme Act 2013* be amended to require the National Disability Insurance Agency to complete internal reviews of decisions within 45 days of receiving a request to conduct the internal review.

Supported in principle

...The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020... The Government intends to introduce a timeframe for internal plan reviews as part of its response to the Tune Review of the NDIS Act.

Recommendation 6

The committee recommends that the National Disability Insurance Agency publish settlement outcomes relating to external review by the Administrative Appeals Tribunal, in de-identified form.

Noted

Publishing Administrative Appeals Tribunal settlement outcomes would impose a significant administrative burden on resources and would pose privacy issues, even if published in a de-identified form.

Recommendation 7

The committee recommends that the National Disability Insurance Agency standardise the terminology it uses to refer to persons, processes and other matters associated with the NDIS.

Supported

...[T]he Government recognises the need for information about the NDIS to be accessible and easy to understand. The NDIA is currently reviewing all communication products to ensure there is consistent, plain English language across all products and systems.

Recommendation 8

The committee recommends that the National Disability Insurance Agency (NDIA) clearly define key terms associated with the NDIS, and with the planning process in particular. Where a term refers to a person, organisation or other body, the committee recommends that the NDIA clearly define that entity's role, functions, responsibilities, limitations and accountability.

Supported

...As stated above, the NDIA is currently reviewing all communication products to ensure there is consistent, plain English language across all products and systems. Where appropriate, this will include defining an entity's role, functions, responsibilities, limitations and accountability.

Recommendation 9

The committee recommends that the National Disability Insurance Agency (NDIA) ensure that additional training and skills development is provided to all persons involved in the planning process (particularly NDIA officers and LACs), to ensure that all such persons:

- are familiar with a range of disabilities experienced by participants, and develop specialisation in particular disability areas;
- are familiar with allied health expertise;
- understand the specific needs of Aboriginal and Torres Strait Islander participants, and participants from culturally and linguistically diverse backgrounds, to ensure that they are able to deliver culturally appropriate services; and
- receive training in domestic violence awareness.

Supported

...The NDIA has a thorough onboarding and training program for both its internal staff and Partners in the Community...The current training includes a comprehensive new starter induction program, mandatory learning modules, and disability specific and targeted service delivery training programs. Additionally, ongoing training is provided to maintain and build the specialised skillset of planners and Partners...

The NDIA is also progressively rolling out training programs focused on disability and cultural awareness to improve the service experience for Aboriginal and Torres Strait Islander peoples, people who identify as LGBTIQ+, and people from Culturally and Linguistically Diverse (CALD) backgrounds... [T]he NDIA has a mandatory eLearning module on Family and Gender Based Family Violence Prevention for all staff and will consider further options.

Recommendation 10

The committee recommends—in circumstances where a new plan has not been approved at the plan review date—that:

- the National Disability Insurance Agency continue to provide funding under the existing plan until the new plan is approved; and
- ensure that a plan review is carried out within 45 days of the review date set out in the existing plan.

Supported in principle

...In September 2019, the NDIA launched a new process that identifies participants with plan review dates within seven days, and, in certain circumstances, automatically extends the end date of their plan for 28 days. Where a plan is extended additional pro-rated funding is applied...

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include...timeframes for the NDIA to make decisions or undertake administrative processes.

Recommendation 11

The committee recommends, where a plan is not approved within 45 days of receipt by a National Disability Insurance Agency (NDIA) delegate, that:

- the NDIA immediately approve a typical supports package (TSP) for the participant as an interim measure; and
- the NDIA replace the TSP with an individualised plan no later than 45 days after the TSP is approved.

Noted

The Government recognises that timely access to plan supports is crucial to positive participant outcomes. Through the initiation of [Early Childhood Early Intervention] interim plans, the Government has taken steps to ensure that those most in need of timely NDIS access are supported...

The Government has committed to the implementation of the NDIS Participant Service Guarantee from 1 July 2020. It will include service standards... and timeframes for the NDIA to make decisions or undertake administrative processes...

Recommendation 12

The committee recommends that all participants with complex support needs be immediately streamed to a National Disability Insurance Agency delegate to develop their plan and appropriate funding package.

Supported

...[T]he NDIA has developed a new Complex Support Needs (CSN) pathway. People who are in the CSN pathway receive additional, tailored support in all aspects of their NDIS experience... Participants in the CSN pathway complete their planning meetings with an NDIA delegate.

Recommendation 13

The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to prioritise access decisions, plan meetings and plan approvals for children with complex needs and/or an acquired disability.

Supported

The Government is aware of the unique challenges faced by children with complex needs and acquired disabilities. Ensuring appropriate escalation of, and support for, these cohorts in need is part of the roll out of the [Complex Support Needs] pathway.

Recommendation 14

The committee recommends that the National Disability Insurance Agency immediately implement a mechanism to allow participants to pay for transport out of core funding.

Supported

...The Disability Reform Council, in October 2019, endorsed an approach to improve the provision of transport supports, including interim measures to increase transport funds for participants who are significant users of taxi subsidy schemes...

[T]he Government and the NDIA have also committed to providing greater NDIS plan flexibility between core and capacity building supports...

[T]he NDIA will introduce greater flexibility to access core supports funding for use on transport during the intervening period.

Source: Joint Standing Committee on the National Disability Insurance Scheme, NDIS Planning Interim Report, December 2019; Australian Government, Australian Government response to the Joint Standing Committee on the National Disability Insurance Scheme: NDIS Planning Interim Report, February 2020.

Appendix 3

Submissions

Submissions

- 1 Western Australian Department of Communities
- 2 Nerang Neighbourhood Centre
- 3 *Name Withheld*
- 4 Raelene Purtill
- 5 Mr Adam Johnston
 - 5.1 Supplementary to submission 5
- 6 *Name Withheld*
- 7 Yooralla
- 8 Ms Sally Gilleece
- 9 Playgroup Australia
- 10 Making Connections Together
 - 10.1 Supplementary to submission 10
- 11 Illawarra Disability Alliance
- 12 *Name Withheld*
- 13 Ms Julie Couzens
- 14 *Name Withheld*
- 15 Ms Denise Rambow
- 16 *Name Withheld*
- 17 Mrs Marie Johnson
- 18 *Name Withheld*
- 19 Family Planning NSW
- 20 Migraine Australia
- 21 The Royal Australian & New Zealand College of Psychiatrists
- 22 Ethnic Disability Advocacy Centre
- 23 Mind Australia
- 24 SECCA
- 25 Advocacy for Inclusion
- 26 Mr James Wood
- 27 The University of Notre Dame Australia & The Multicultural Disability Advocacy Association NSW
- 28 *Name Withheld*
- 29 Mr Mike Robinson
- 30 *Name Withheld*
- 31 Mr Matthew Paul
- 32 People With Disabilities (WA) Inc
- 33 Public Interest Advocacy Centre
- 34 Huntington's NSW ACT

- 35 Cystic Fibrosis Federation members
- 36 Australian CF Hub
- 37 National Disability Insurance Agency
- 38 Submission for the inclusion of Cystic Fibrosis in the NDIS
- 39 *Name Withheld*
- 40 *Name Withheld*
- 41 *Name Withheld*
- 42 Hutt St Centre
- 43 AusDoCC
- 44 Linda Bruce
- 45 Carlo Divita
- 46 *Name Withheld*
- 47 *Name Withheld*
- 48 Ms Muriel Cummins Occupational Therapist
- 49 Victoria Legal Aid
- 50 ANU Law Reform and Social Justice Research Hub
- 51 Mr Mark Hardy
- 52 Occupational Therapy Australia
- 53 First Peoples Disability Network
- 54 Queensland Law Society
- 55 Mental Illness Fellowship Australia
- 56 Victorian Mental Illness Awareness Council (VMIAC)
- 57 *Name Withheld*
- 58 Support Management Solutions Pty Ltd
- 59 *Name Withheld*
- 60 *Name Withheld*
- 61 *Name Withheld*
- 62 *Name Withheld*
- 63 Supportive Families and Friends Association Inc
- 64 Autism Aspergers Advocacy Australia
- 65 *Name Withheld*
- 66 *Name Withheld*

Additional Information

- 1 Additional information from Alliance20, received on 10 October 2019
- 2 Additional information from Queensland Advocacy Incorporated, received on 16 October 2019
- 3 Additional information from ATSA, received on 22 October 2019
- 4 Additional information from Northcott, received on 30 October 2019

Answer to Question on Notice

- 1 Uniting Vic. Tas, answers to questions on notice, 7 November 2019 (received 19 November 2019).
- 2 Speech Pathology Australia, answers to questions on notice, 7 November 2019 (received 22 November 2019).
- 3 Maurice Blackburn Lawyers, answers to questions on notice, 7 November 2019 (received 29 November 2019).
- 4 ANAO, answers to questions on notice, 21 November 2019 (received 5 December 2019).
- 5 Commonwealth Ombudsman, answers to questions on notice, 21 November 2019 (received 9 December 2019).
- 6 National Disability Insurance Agency, answers to questions on notice, 19 November and 21 November 2019 (received 7 January 2020).
- 7 Department of Social Services, answers to questions on notice, 13 February 2020 (received 10 March 2020).
- 8 National Disability Insurance Agency, answers to questions on notice, 13 February 2020 (received 2 April 2020).
- 9 National Disability Insurance Agency, answers to questions on notice, 22 April 2020 (received on 7 May 2020).
- 10 NDIS Quality and Safeguards Commission, answers to questions on notice, 22 April 2020 (received on 7 May 2020).
- 11 Department of Health, answers to questions on notice, 24 April 2020 (received on 12 May 2020).
- 12 National Disability Insurance Agency, answers to questions on notice, 8 May 2020 (received 25 May 2020).
- 13 Professor Christine Bigby, answers to questions on notice, 28 July 2020 (received 5 August 2020).
- 14 Australian Tertiary Education Network on Disability, answers to questions on notice, 28 July 2020 (received 17 August 2020).
- 15 Maurice Blackburn Lawyers, answers to questions on notice, 28 July 2020 (received 19 August 2020).
- 16 NDIS Quality and Safeguards Commission, answers to questions on notice, 13 July 2020 (received 26 August 2020).
- 17 Children and Young People with Disability Australia, answers to questions on notice, 28 July 2020 (received 21 August 2020).
- 18 Office of the Public Advocate (Victoria), answers to questions on notice, 18 August 2020, (received 3 September 2020).
- 19 Northern Territory Office of the Public Guardian, answers to questions on notice, 18 August 2020 (received 4 September 2020).
- 20 ACT Council of Social Services, answers to questions on notice, 18 August 2020 (received on 11 September 2020).
- 21 Dr Natasha Cortis and Dr Georgia van Toorn, answers to questions on notice, 8 September 2020 (received on 28 September 2020).

- 22 Community Mental Health Australia, Mental Illness Fellowship of Australia and Mental Health Australia , answers to questions on notice, 8 September 2020 (received on 29 September 2020).
- 23 Australian Services Union, answers to questions on notice, 8 September 2020 (received 29 September 2020)
- 24 Department of Social Services, answers to written questions on notice, 4 September 2020 (received on 2 October 2020).
- 25 Disability Council NSW, answers to questions on notice, 18 August 2020 (received on 2 October 2020).
- 26 Health Services Union, answers to questions on notice, 8 September 2020 (received on 2 October 2020).
- 27 People with Disability Australia, answers to questions on notice, 8 September 2020 (received on 6 October 2020).
- 28 National Disability Insurance Agency, answers to written questions on notice, 4 September 2020 (received on 6 October 2020).
- 29 United Workers Union, answers to questions on notice, 8 September 2020, (received 22 October 2020).
- 30 Queensland Advocacy Incorporated, answers to questions on notice, 18 August 2020 (received on 10 September 2020).
- 31 National Disability Insurance Agency, answers to questions on notice, 12 October 2020 (received 2 November 2020)
- 32 Department of Social Services, answers to questions on notice, 12 October 2020 (received 2 November 2020)

Appendix 4

Public hearings

Tuesday, 8 October 2019

Undumbi Room
Queensland Parliament
2A George St
Brisbane

Every Australian Counts

- Ms Kirsten Deane, Campaign Director
- Mr Peter Tully, Every Australian Counts Champion

AEIOU Foundation

- Mr Alan Smith, Chief Executive Officer
- Mr Sean Redmond, NDIS Co-ordinator
- Mr Greg Johnson, General Manager

Assistive Technology Suppliers Australia (ASTA)

- Mr David Sinclair, Executive Officer
- Mr Ian Rothall, ATSA Director
- Ms Tiffany Heddes, ATSA Member

Vision Australia

- Ms Caitlin McMorrow, Operations Lead
- Ms Karen Knight, General Manager QLD, NNSW, NT, Government Relations and Advocacy

Deaf Services

- Mr Brett Casey, Chief Executive Officer
- Ms Michelle Crozier, NDIS Project Manager

AMPARO Advocacy

- Ms Maureen Fordyce, Manager

Queensland Advocacy Incorporated

- Ms Michelle O'Flynn, Director
- Dr Nick Collyer, Systemic Advocacy
- Dr Emma Phillips, Senior Lawyer - Law Reform & Systems Advocacy

Queenslanders with Disability Network

- Ms Paige Armstrong, Chief Executive Officer

Disability Connect Queensland, Department of Communities, Disability Services and Seniors

- Mr Max Wise, Assistant Director-General
- Ms Alison Bennett-Roberts, Director of Inclusion, Engagement and Assurance

Wednesday, 9 October 2019

Portside Centre

Level 5, 207 Kent Street

Sydney

Alliance20

- Mr Drew Beswick, CEO, Oak Possability
- Mr Stephen Doley, Director Disability and Aged Care NSW/ACT, Life Without Barriers

Northcott

- Ms Aleta Carpenter, General Manager Supported Living
- Ms Rachel Parker, Claiming and Compliance Manager

Disability Council NSW

- Mr Mark Tonga, Disability Council Chair
- Ms Rachael Sowden, Disability Council member
- Mr Jake Fing, Disability Council member
- Mr Paul Zeller, Disability Council member

Public Interest Advocacy Centre

- Mr Chadwick Wong, Senior Solicitor
- Mr Jonathon Hunyor, Chief Executive Officer

DARE Disability Support (via teleconference)

- Mr Andrew Daly, Chief Executive Officer

Monday, 28 October 2019

Committee Room 1

Tasmania Parliament

Cnr Salamanca Place & Murray Street

Hobart

Ms Jane Wardlaw (teleconference), Private capacity

HOPES

- Ms Alison Jacob, President

Li-Ve Tasmania

- Mr Paul Byrne
- Mrs Nicole Parkinson-Cumine

*Access2Choice**Office of the Public Guardian*

- Ms Kim Barker, Public Guardian
- Ms Maddy Russell, Senior Guardian

Tasmanian Government

- Ms Ingrid Ganley, Director Disability and Community Services
- Ms Carolan Hands, Policy Analyst Department of Premier and Cabinet

Thursday, 7 November 2019

Stamford Plaza Melbourne

Edinburgh Room

111 Little Collins Street

Melbourne

Women with Disabilities Victoria

- Ms Leah van Poppel, Chief Executive Officer

Uniting Vic. Tas.

- Mrs Tracey Gibson, General Manager – Disability and Mental Health Services
- Ms Sue Gannon, Senior Manager – Disability Residential and Community Services

National Disability Services

- Mr David Moody, Chief Executive Officer
- Ms Philippa Anglely, Head of Policy (via teleconference)

Summer Housing

- Mr Daniel McLennan, Chief Executive Officer
- Ms Queenie Tran, Chief Operating Officer

Summer Foundation

- Cathy Bucolo, Clinical Practice Lead

Allied Health Professions Australia

- Ms Gail Mulcair, Chair
- Mr Phillip Hermann, Manager – Policy and Communications

Australian Psychological Society

- Dr Tony McHugh, Senior Policy Advisor

Australian Music Therapy Association

- Ms Bridgit Hogan, Executive Officer
- Ms Michelle Fisher, Disability Advisor
- Dr Melissa Murphy, NDIS Representative (via teleconference)

Occupational Therapy Australia

- Ms Andrea Douglas, NDIS Advisor
- Ms Anita Volkert, National Manager, Professional Practice and Development

Maurice Blackburn Lawyers

- Mr Tom Ballantyne, Principal Lawyer

Tuesday, 19 November 2019

Diamond Room

Mayfair Hotel

45 King William Street

Adelaide

Cara

- Mr Matt Law, Chief Financial Officer

Novita

- Mr Jeremy Brown, Chief Operating Officer

JFA Purple Orange

- Mr Robbi Williams, Chief Executive Officer
- Mr Geoff Barber, Chief Operating Officer
- Mr David Elston, Policy and Research Leader
- Ms Mikaila Crotty, Policy and Research Leader

First Voice

- Dr Jim Hungerford, Deputy Chair
- Ms Heidi Limareff, Director

Aboriginal Health Council of South Australia Ltd

- Ms Polly Paerata, CQI and Health Policy Coordinator

South Australia Child and Adolescent Health Community of Practice

- Ms Maeve Downes, Deputy Chair
- Ms Natalie Hood, Executive Director (Allied Health) - Women and Children's Health Network
- Dr Liberty Gallus, Member

Darwin Community Legal Service

- Mr David McGinlay, Manager - Seniors and Disability Rights Service

National Disability Insurance Agency

- Mr Sudharsan Raghunathan, Branch Manager - Participant Pathway Design
- Ms Melissa Flanagan, Director - South Australia Service Delivery
- Ms Jamie Lowe, Group Manager - Communications, Media and Marketing

Thursday, 21 November 2019

Main Committee Room

Parliament House

Canberra

National Aboriginal Community Controlled Health Organisation (NACCHO)

- Ms Patricia Turner, Chief Executive Officer

Services for Australian Rural and Remote Allied Health (SARRAH)

- Dr Kim Bulkeley, Board Director
- Mr Allan Groth, Director - Policy and Advocacy

National Rural Health Alliance

- Dr Gabrielle O'Kane, Chief Executive Officer

Australian National Audit Office (ANAO)

- Mr David Brunoro, Executive Director - Performance Audit Services Group
- Ms Rebecca Reilly, Executive Director - Assurance Audit Services Group

Commonwealth Ombudsman

- Mr Michael Manthorpe, Commonwealth Ombudsman
- Ms Jaala Hinchcliffe, Deputy Commonwealth Ombudsman
- Ms Fiona Sawyers, Senior Assistant Ombudsman
- Ms Julia Taylor, Director of Disability and Business Intelligence

National Legal Aid

- Ms Jackie Finlay, Senior Solicitor Civil Law Division Legal Aid NSW
- Ms Lindsay Ash, Senior Solicitor NDIS, Legal Aid NSW

National Mental Health Commission

- Ms Sandra Ofei-Ferri, A/g Director - Mental Health Reform
- Mr Marcus Nicol, Director - Monitoring and Reporting

Mental Illness Fellowship of Australia

- Mr Tony Stevenson, Chief Executive Officer

Department of Social Services

- Mr Michael Lye, Deputy Secretary - Disability and Carers

- Mr Peter Broadhead, Group Manager - Participants and Performance
- Mr Andrew Whitecross, Group Manager - Participants and Performance

National Disability Insurance Agency

- Ms Vicki Rundle, Deputy Chief Executive Officer - Participant and Planning Experience
- Mr Scott McNaughton, A/g Deputy Chief Executive Officer - Government, Communication and Stakeholder Engagement
- Mr Hamish Aikman, Head of People and Culture
- Ms Liz Neville, A/g Head of Markets - Provider Sector Development

Thursday, 13 February 2020

Committee room 2S1

Parliament House

Canberra

Department of Social Services

- Mr Matt Flavel, Group Manager - Market Capability

National Disability Insurance Agency

- Ms Vicki Rundle, Deputy Chief Executive Officer - Government, Communications and Stakeholder Engagement
- Mr Oliver Bladek, Deputy Chief Executive Officer - Strategy Development and Chief Risk Officer
- Mr Scott McNaughton, General Manager - Service Delivery and Performance, Participant and Planning Experience

Tuesday, 23 June 2020

via teleconference

Western Australian Association for Mental Health

- Ms Taryn Harvey, Chief Executive Officer
- Ms Chelsea McKinney, Manager - Advocacy and Sector Development

Mental Illness Fellowship of Western Australia

- Ms Monique Williamson, Chief Executive Officer

NPY Women's Council

- Ms Liza Balmer, Chief Executive Officer
- Ms Kim McRae, Team Manager - Tjungu (Disability & Aged Care)
- Mrs Margaret Smith, Vice-Chairperson and Director of NPY Women's Council

Ethnic Disability Advocacy Centre

- Mrs Christine Grace, Manager - Advocacy Services
- Mr Wayne Press, NDIS Appeals Leader

Tuesday, 30 June 2020

via teleconference

Individual Disability Advocacy Service WA

- Ms Jane Timmermanis, General Manager/Principal Solicitor
- Ms Shabnum Rashid, Solicitor
- Ms Isobelle Wikitera, Disability Advocate

Carers WA

- Mr Paul Coates, Chief Executive Officer
- Ms Felicity Mitchell, Systemic Policy Officer

People with Disabilities WA

- Ms Samantha Jenkinson, Executive Director
- Ms Lana Thompson

Sexuality Education Counselling and Consultancy Agency (SECCA)

- Ms Juana Terpou, Manager; Senior Psychotherapist; Forensic Sexologist
- Ms Sue Crock, Consultant

Tuesday, 14 July 2020

via teleconference

Western Australian Department of Communities

- Ms Marion Hailes-MacDonald, Assistant Director-General
- Ms Simone Bastin, Director

National Disability Services

- Mr David Moody, Chief Executive Officer
- Ms Philippa Angley, Head of Policy

Allied Health Professions Australia

- Ms Claire Hewat, Chief Executive Officer
- Mr Philipp Herrmann, Manager - Policy and Communications

Services for Australian Rural and Remote Allied Health

- Ms Catherine Maloney, Chief Executive Officer
- Mr Allan Groth, Director - Policy and Advocacy

Indigenous Allied Health Australia

- Ms Donna Murray, Chief Executive Officer
- Mr Paul Gibson, Executive Officer

Tuesday, 28 July 2020

via teleconference

Children and Young People with Disability Australia

- Ms Mary Sayers, Chief Executive Officer
- Ms Maeve Kennedy, Policy and Programs Manager

Australian Tertiary Education Network on Disability

- Mr Anthony Gartner, President
- Ms Meredith Jackson, Committee Member
- Mr David Swayne, Committee Member

Cara Inc

- Mr Tim Wilson, Executive Manager - Workforce Development

Professor Christine Bigby, Private capacity

Maurice Blackburn Lawyers

- Mr Thomas Ballantyne, Principal Lawyer

Tuesday, 18 August 2020

via teleconference

Office of the Public Advocate (Victoria)

- Dr John Chesterman, Deputy Public Advocate

Northern Territory Office of the Public Guardian

- Ms Beth Walker, Public Guardian

ACT Council of Social Services

- Dr Emma Campbell, Chief Executive Officer
- Mr Ryan Joseph, Capability Officer

Disability Council NSW

- Mr Mark Tonga, Chair
- Dr Jill Duncan, Member
- Ms Casey Gray, Member

Queensland Advocacy Incorporated

- Ms Courtney Wolf, NDIS Appeals Advocate/NDIS Systems Advocate
- Ms Caitlin De Cocq Van Delwijnen, NDIS Appeals Advocate/Social Worker

Tuesday, 8 September 2020

via teleconference

Mental Health Australia

- Mr Harry Lovelock, Director - Policy and Research

Community Mental Health Australia

- Mr Bill Gye, Chief Executive Officer

Mental Illness Fellowship of Australia

- Mr Tony Stevenson, Chief Executive Officer

People with Disability Australia

- Ms Romola Hollywood, Director - Policy and Advocacy

Australian Federation of Disability Organisations

- Mr Ross Joyce, Chief Executive Officer

Dr Natasha Cortis, Private capacity

Dr Georgia Van Toorn, Private capacity

Australian Services Union

- Ms Emeline Gaske, National Campaign and Communications Coordinator

Health Services Union

- Mr Lloyd Williams, National Secretary

United Workers Union

- Ms Melissa Coad, Executive Projects Coordinator

Monday, 12 October 2020

via teleconference

National Disability Insurance Agency

- Mr Martin Hoffman, Chief Executive Officer
- Dr Lisa Studdert, Deputy CEO - Markets, Government and Engagement
- Mr Scott McNaughton, General Manager - National Delivery
- Mr Brett Bennett, General Manager - Participant Experience Design

Department of Social Services

- Mr Matt Flavel, Acting Deputy Secretary, Disability and Carers
- Mr Peter Broadhead, Group Manager, Participants and Performance