

Effectiveness of the National Disability Insurance Agency's management of assistance with daily life supports

About National Disability Services

National Disability Services (NDS) is Australia's peak body for non-government disability service organisations, representing over 1200 non-government service providers. Collectively, NDS members operate several thousand services for Australians with all types of disability. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Commonwealth governments. We have a diverse and vibrant membership, comprised of small, medium and larger service providers, supporting thousands of people with disability. Our members collectively provide a full range of disability services, from supported independent living and specialist disability accommodation, respite and therapy, to community access and employment. NDS is committed to improving the disability service system to ensure it better supports people with disability, their families and carers, as well as supports building a more inclusive community.

1.0 Overview

National Disability Services (NDS) is pleased to make a submission to inform the review of the effectiveness of the National Disability Insurance Agency's (NDIA) management of assistance with daily life supports. NDS welcomes the Australian National Audit Office (ANAO) focus on assessing the efficient and effective implementation of government programs such as the National Disability Insurance Scheme (NDIS) and anticipates recommendations will be considered in the interest of the continuous improvement of the NDIS.

2.0 Scope of this submission

Assistance with Daily Life is a budget area under the Core supports category within the NDIS Pricing Arrangements and Price Limits. It covers support with everyday personal activities that assist NDIS participants to live as independently as possible at home and in the community.

Support types included in this category of support assistance can include ¹:

- Assistance with daily personal activities. This can include high intensity health related supports and support with personal care.
- Assistance with household tasks such as cleaning, garden and home maintenance.
- Assistance in shared living arrangements such as Supported Independent Living (SIL) and Short Term Accommodation and Assistance (or respite).

Supports may be provided at home or in the community and in the case of SIL may be delivered in a supported accommodation or group home context. Each of these support environments pose different challenges for participants and providers and as such the mechanisms and policies required to fund and support high quality service delivery need to be different.

The NDIS has been in operation for nine years. During this time there has been significant growth in the number of participants in the scheme. The number of active participants has increased to approximately 535,000 people and funding of supports for participants is around \$28,661 million ².

Support with core daily activities accounts for over half (54 per cent) all supports funded for NDIS participants. In 2022 committed funds to these supports total \$16,705 million ³.

Supports aimed at improving the capacity of NDIS participants across a range of daily activities are also funded by the NDIS. These consist primarily of therapeutic supports delivered by allied health professionals. We have confined our comments to those supports that delivered under the Core supports category.

¹ See [Pricing Arrangements and Price Limits](#) for a description of supports and support categories

² NDIS Quarterly Report June 2022. Accessed at [Quarterly Reports | NDIS](#)

³ Ibid

NDS will provide comment with regards to the ability of the NDIS to effectively support participants who require assistance with daily life and its capability to manage operational risks to the proper use of resources in administering assistance with daily life supports.

3.0 Relevant Issues

3.1 Supporting participants – planning and implementation

The latest NDIA Quarterly report (Q4 2022)⁴ states that the average annualised plan budgets per participant have decreased over the last two years. There are a range of reasons for this however NDS is aware that participants have seen their plans being reduced without consultation and without warning, particularly as they relate to assistance with daily living. This ultimately means that participants have been unable to review goals and appropriateness of reasonable and necessary supports.

NDS members have expressed that the NDIS does not provide information about the way assistance with daily life supports funding could be utilised or how many hours per day a person should be supported based on the reasonable and necessary criteria. This results in disability service providers taking on the role of assisting participants understand their assistance with daily living supports and explaining that their support must be reduced or varied due to the lack of funding.

Feedback suggests that communication between the NDIA with participants and providers is poor. Decisions made by NDIS may not be transparent and it is often very difficult for participants and their support network to understand how the NDIS has developed their NDIS plan. NDS members report participants providing countless allied health reports, medical reports, and progress notes reflecting the need for the participant to have a certain level of support but as a participants' plans is reviewed, this evidence is rarely taken into consideration. Ultimately, participants are having to progress through the Administrative Appeals Tribunal (AAT) process to challenge the NDIA's decision and obtain the level of support they require.

For a complex system to effectively operate in a market-based approach, it is reliant on informed and capable consumers. In the case of the NDIS, participants struggle

⁴ NDIA Quarterly Report June 2022. Accessed at [Quarterly Reports | NDIA](#)

to have sufficient information and capacity to be able to make informed choices to drive a market-based approach.

While it is important that decision-makers and NDIA staff be trained in and understand the legal and administrative framework in which decisions are to be made, it is equally as important for participants and providers to understand reasonable and necessary decision-making frameworks to ensure and uphold transparency in the scheme.

3.2 Emergency Planning and Responses

Since early 2020 the COVID-19 pandemic has had unprecedented impacts on the health and wellbeing of all Australians and the Australian economy. Governments have invested heavily to minimise the impacts and support Australians during the pandemic and beyond. The pandemic followed closely on the heels of a terrible bushfire season and, more recently, flooding events continue to impact parts of Australia.

Support related to core activities of daily living by their very nature are significantly affected by these types of events. Unlike some other elements of support such as community access and to some extent therapy supports, where adjustments are able to be made such as moving to online service delivery, supports such as personal care have to be delivered in person and are integral to a participant's health and wellbeing.

These events provide valuable lessons for how people with disability are considered in emergency planning and responses and how NDIA policies and procedures can support participants continue to receive the supports that they need. Feedback from providers indicates that time limited initiatives introduced by the NDIA to help ensure participants and staff received vaccinations, were protected by Personal Protective Equipment (PPE) and had improved access to polymerase chain reaction (PCR) tests and rapid antigen tests (RAT) were helpful, however in some cases these were slow in coming and were withdrawn too quickly.

NDS would support the recommendation arising from the Annual Pricing Review ⁵ that the NDIA should continue to work with the sector to monitor the impact of the

⁵ NDIS Annual Price Review 2021-2022 Report pg 79. Accessed at [Annual pricing review | NDIS](#)

pandemic on provider costs with a view to making timely, regional adjustments to the pricing arrangements and price limits as required. Based on feedback from our members we would caution against these being too temporary in nature.

3.3 Pricing

A significant issue for NDS members is the NDIS Pricing Arrangements and Price Limits (PAPL) ⁶. While price regulation is in place to ensure that participants receive value for money in the supports that they receive, the majority of the assistance with daily living supports are based on the NDIS Disability Support Worker Cost Model (DSWCM). Providers are concerned that even with recent changes the DSWCM understates the costs of delivering core non-SIL and SIL supports. This needs to be rectified before there are more examples of market failure. Of particular concern are assumptions related to overheads such as worker compensation premiums, general operational overheads (particularly in light of rising CPI and operating costs) and the ongoing and increasing costs of compliance.

Current sources of the regulatory burden arise from working with cumbersome and expensive NDIA systems and processes and meeting the requirements of the NDIS Quality and Safeguarding Commission (together with elements of the quality and safeguards systems managed by the state and territory governments).

Accurate, transparent and fit-for-purpose cost models need to be developed for all NDIS supports. The over-reliance on the DSWCM generates price limits not suited to some supports. How price limits are set for other supports are opaque. NDS has called for an Independent Pricing Authority that is able to respond quickly to the changing needs of people with disability and the conditions in which providers operate and would echo this call as part of this review.

3.3.1 Cost of changes arising from the Social, Community, Home Care and Disability Services Modern Award Review

The review of the Social, Community Home Care and Disability Services (SCHADS) Award has resulted in a significant impact on the costs of providing NDIS supports from 1 July 2022. The decisions that will have the most substantial impact on the cost of delivering NDIS daily living supports are:

⁶ NDIS Pricing Arrangements and Price Limits 2022-2023. Accessed at [Pricing arrangements | NDIS](#)

- New minimum engagement period of two hours.
- Requirement to payment a broken shift allowance.
- Travel time between clients is payable.

Unfortunately, the best approach to respond to these additional costs is not straightforward as most cannot be attributed to a particular participant; an allowance will need to be built into prices but determining (or even estimating) the value of this is difficult.

The financial impact on a provider will also vary depending on the:

- support types delivered
- models of support used by a provider
- availability of workers
- ability of the provider to reduce some impacts of the changes (such as rostering to reduce the number of split shifts)
- complexity of the support needs of participants (as some participants can only be supported by the workers with the required skills and training).

NDS has noted that further work is required to understand the impact of these changes on service provision, however, it is likely that NDIA pricing for daily living supports will need to be adjusted. As such we would endorse the Annual Price Review recommendation to the NDIA that they “should continue to work with the sector to monitor the impact on provider costs of the changes in the employment conditions in the SCHADS Industry Award ... with a view to further addressing these costs if necessary” ⁷.

3.3.2 The cost of responding to increasing workforce pressures

The disability sector is one of the largest and fastest growing in Australia. This has been driven significantly by growth in the NDIS. It is estimated that an additional 83,000 workers (or a 31 per cent increase in current workforce size) will be required across the NDIS sector by 2024 ⁸. This is against consistently high turnover rates which see many workers leave the sector each year. In fact it is anticipated that the

⁷ NDIS Annual Price Review 2021-2022 Report pg 79. Accessed at [Annual pricing review | NDIS](#)

⁸ NDIS National Workforce Plan 2021- 2025. Accessed at [ndis-national-workforce-plan-2021-2025.pdf \(dss.gov.au\)](#)

NDIS will lose approximately 213,000 workers by 2024⁹. When considered together the challenge facing the sector to attract, recruit and, importantly retain workers is considerable.

Disability service providers consistently report workforce as being their most pressing issue and this has only been exacerbated by COVID-19. In 2021, providers who responded to the NDS Annual Market Survey¹⁰ reported a dramatic rise in difficulty in recruiting disability support workers with this increasing to 70 per cent compared to 59 per cent in 2020. Given that significant amounts of core daily living supports are provided by disability support workers, in real terms this means that some people with disabilities were not able to access the daily support that they need.

Issues related to wages and conditions, the availability of cost-effective training that meets the needs of employers and workers, along with broader issues related to workforce shortages impacting across multiple sectors such as allied health and regional, remote and very remote areas need to be considered in pricing approaches.

3.4 Supported Independent Living

A key aim of the NDIS should be to help create and maintain a sense of home. This is consistent with the objects and principles of the NDIS. For people with significant disability, this includes being well supported to live where and with whom they want.

Supported Independent Living (SIL) supports are generally aimed at people with higher support needs and who require a significant amount of support throughout the day, 7 days a week. SIL includes in-home supports needs (such as personal care, behaviour and medication management, relationship matters and meals), support with general health and wellbeing. Currently a significant amount of SIL support is funded to be delivered in a group home environment where supports are shared among residents. As such, providing high quality, sustainable SIL supports that drive positive outcomes for participants is complex.

⁹ NDIS National Workforce Plan 2021- 2025. Accessed at [ndis-national-workforce-plan-2021-2025.pdf](https://www.ndis.gov.au/ndis-national-workforce-plan-2021-2025.pdf) ([dss.gov.au](https://www.dss.gov.au))

¹⁰ Please see: [State of the Disability Sector Report \(nds.org.au\)](https://www.nds.org.au/state-of-the-disability-sector-report)

The NDIS is instrumental in assisting many participants with significant disability to create their home. SIL supports represent a significant component of core daily living supports. As of 30 June 2022, 26,950 participants had SIL funded in their plans with payments totalling \$8.8bn for 2021-2022 financial year ¹¹.

As an area of support and spending that has received significant attention from the NDIA in recent years there has been frequent revision of models of costing and claiming for SIL supports, including a new Homes and Living Policy and subsequent operational guideline being released in late 2021. As recently as September 2022 a new Homes and Living evidence form was introduced.

Reductions in SIL funding since July 2020 have been widespread. A high proportion of participants have experienced reductions in their hours of SIL support and/or are being funded at a lower price (with the NDIA generally making unilateral decisions on these matters). When reporting on SIL, the NDIA relies heavily on averages. This can hide the impact of funding cuts on individual participants. From the provider point of view, there is concern that decreases in funding could impact on the safety of the supports provided to participants (such as needing to use less skilled staff because of the downgrade from higher intensity to standard).

There is a need for policies, funding, planning and implementation to better address issues related to shared supports, including the impact of vacancies on the shared components of support of remaining residents and to ensure the adequacy of funding to support participants with complex needs.

A survey ¹² conducted by NDS of SIL providers in late 2021 found:

- SIL providers were carrying substantial debt older than 30 days
- About half of participants supported by responding organisations received a reduction in SIL funding during plan reviews undertaken during 2020–21
- 58 per cent of responding organisations indicated that downgrades from higher intensity to standard support occurred for 20 per cent or more of their SIL participants

¹¹ NDIS Quarterly Report June 2022. Accessed at [Quarterly Reports | NDIS](#)

¹² Please see: [NDS SIL Survey Results 2021.pdf](#)

- 54 per cent of responding organisations indicated that a reduction in the number of hours of support occurred for 20 per cent or more of their SIL participants
- The average vacancy rate across responding organisations was 10 per cent
- Participants supported by respondents received an estimated real average decrease in SIL funding of 4.24 per cent
- Communication from the NDIA on SIL funding reductions was poor (providers indicated they were often not informed of the reduction directly)
- The NDIA's approach to funding SIL supports that are shared across participants is inconsistent with the refusal to adjust funding for shared supports when there is a vacancy.

While recent changes announced under the 'Make SIL Better' initiative may address some of the issues identified above, NDS members report that they are yet to see these being implemented in a consistent fashion and the impact of the unilateral plan cuts reported above continue to be felt as NDIS participant plans are 'rolled over'.

3.5 Planning, pricing and processes that support quality and safeguards and manage risk to participants

Mechanisms to drive quality in organisations are paramount. For the goals of the NDIS to be achieved and for people with disability to have access to high-quality disability services, there needs to be appropriate regulation and registration, sufficient numbers of options within the 'market', service user capacity, and enough workers in the sector to meet the demand for services.

Currently there is no requirement for providers of daily living supports to be registered with the NDIS Commission unless they are implementing restrictive practices as part of these supports. NDS believes that this is a gap in terms of higher risk supports such as those provided in accommodation.

We are also concerned that not all workers directly supporting NDIS participants are required to undergo a Worker Screening Check. Workers employed by unregistered providers delivering what can be very intimate personal care supports in participant homes are currently able to provide these supports without even a basic screening

check. This should be required by unregistered as well as registered providers, and by individuals operating with an ABN. Given the safety risks associated with disability support, not requiring a check should quite simply not be a choice.

Public information and independent review of the horrific circumstances surrounding the death of Ann Marie Smith ¹³ highlights the critical role safeguarding processes have for ensuring the safety and wellbeing for some people with disability. NDIA policies related to supports provided in a participant's home need to support regular connection with someone other than a worker who supports them. In some cases, this may be a family member, friend, advocate or guardian, but in many cases will require a NDIS-funded arrangement such as a support coordinator or Local Area Coordinator.

It is important that policies and funding for daily living supports are not considered in isolation from other funded supports that can impact their safe and effective delivery.

The Royal Commission into violence, abuse, neglect and exploitation of people with disability (the Disability Royal Commission) was established in April 2019 in response to community concern about widespread reports of violence against, and the neglect, abuse and exploitation of, people with disability.

The Disability Royal Commission will continue to gather evidence through research, public hearings, the personal experiences of people with disability and will provide a final report to the Australian Government due by 29 September 2023. This will result in recommendations on how to improve laws, policies, structures and practices to ensure a more inclusive and just society.

As reflected in the NDIA Annual Price Review, "provider costs relating to quality and safeguarding have, in general and on average, increased since the NDIS was established" ¹⁴. NDIA policies and pricing will also need to respond to the recommendations arising out of the Disability Royal Commission.

¹³ Please see [NDIS Commission Website](#) to access the report of the independent review into the death of Ms Smith.

¹⁴ NDIS Annual Price Review 2021-2022 Report pg 73. Accessed at [Annual pricing review | NDIS](#)

4.0 Conclusion

NDS and our members stand ready to work with the NDIA, NDIS participants, the NDIS Commission and other key stakeholders to design and implement policies, processes and mechanisms that support the NDIS to deliver the most fundamental of supports it was developed to deliver – that is those supports that assist people with disabilities with their basic and core activities of daily living. The effectiveness of these supports are instrumental to whether a participant is set up for success.

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