

National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 [Provisions]

Public Hearing – 14 June 2024

ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 [Provisions]

Question reference number: IQ24-000050

Question asked by: Linda Reynolds

Type of Question: Spoken.

Date set by the Committee for the return of answer: 17 June 2024

Question:

Senator REYNOLDS: So, for the bill that has gone through the House of Representatives, when did you start drafting its and was it based on the draft report that we had received or that you had received from the review?

DSS: So that legislation was commenced following the completion of the NDIS review report. There was some understanding of the direction of the recommendations in regard to the outcomes of the report in regard to legislation and following the report the Department commenced working both with the NDIA and the commission around working through with government what the policy authority was in regard to the various legislative arrangements that were to be put in place. There was, of course, also the consideration through National Cabinet around the priority initial response to the NDIS review, which also considered the review responses in terms of the broad range of recommendations including what was outlined in terms of legislative action that was highlighted by the report.

Senator REYNOLDS: So there was advice to all state and territory jurisdictions ahead of National Cabinet around those legislative arrangements... Can you just provide some dates. If I've just got it right, you had a general understanding from the draft report what was going to be in it, so you started considering what would go in there or did you wait until you receive the final board and what date was that? Can you just unpack that a bit further?

DSS: So, I think, senator, we started the policy consideration of what the government would consider in terms of a response following the completion of the report, so that was the normal government process, you know, once that report had been completed and provided to disability ministers ahead of National Cabinet. We might take on note is the exact date when that was actually provided again in terms of...

Thank you, senator, yes?

Senator REYNOLDS: So if you could give us a timeline then on notice for when you started policy considerations, when you started drafting, and what the process was and also the same information for the amendments that were put forward, when they started and what input was received into that. And at estimates oh wasn't very successful in getting any information about what exactly, in the report, has made it into the legislation. So if you are able to take on notice the correlation... Because I've had a look at it, quite carefully, and I can only see 3.5 at best of

the report recommendations have made it into the legislation. So if you could provide that correlation of what recommendations exactly is represented in the legislation. If you could take that on notice.

Answer:

NDIS Review recommendations

The amendments made by the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No.1) Bill 2024 (the Bill) give effect to multiple actions in the NDIS Review.

Policy considerations informing the Bill

The Final Report of the Review was considered at the 3 November 2023 meeting of the Disability Reform Ministerial Council. This was followed by correspondence from the Minister for the NDIS, the Hon Bill Shorten MP on 29 November 2023 which provided a list of legislative reforms related to the Review recommendations.

Initial drafting instructions were sent to the Office of Parliamentary Council on 1 December 2023.

Parliamentary amendments

Drafting instructions for parliamentary amendments were developed and provided to OPC in two tranches (reflecting the two amendment sheets moved by the Government).

Policy consideration of potential parliamentary amendments commenced on the Bill through community forums. Further policy consideration was based on submissions and evidence provided to the Community Affairs Legislation Committee as part of its inquiry into the Bill.

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Question reference number: IQ24-000051

Question asked by: Linda Reynolds

Type of Question: Spoken.

Date set by the Committee for the return of answer: 17 June 2024

Question:

Senator REYNOLDS: So you are also doing the government response to the review. Have you actually sent that brief yet to the minister or is that something, in terms of process and timeline, that is something still to go to the minister?

DSS: I think is all still part of the process we are working through with the government 's, so I don't know we can go into whether we have sent a brief or where we are up to in that. I don't know if...

Senator REYNOLDS: I'm not asking for the content of your policy advice, mostly just asking for very basic information on the process itself. This is a highly... I will just explain, this is highly relevant for centre consideration of this bill because it is not yet clear exactly what the government's position is on the review report and it is also not clear on exactly what part of the review report that the government hasn't yet reported on, responded to is going to be in this legislation and which is actually going to be in the follow on legislation. So with the greatest of respect, questions and process are certainly within the scope of what you can answer.

DSS: Okay, we may need to take that I notice that in terms of working out where and how it works in relation to the first question.

Senator REYNOLDS: Just be very clear, I am not asking for what the advice is, it is just a process you have been through. certainly for the last two pieces of NDIS legislation, that I put through as minister, this is a very different process to that that was adopted by the previous government in that we had an exposure drafts and that we had briefings around the country for the set and we certainly never had nondisclosure agreements for anybody was briefed on the content of the bill before it went to parliament.

Was this a process that the department recommended to the minister, or was this something that the minister recommended or asked for in terms of this process?

Answer:

The Department provides advice to the Minister on an as needs basis.

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Question reference number: IQ24-000053

Question asked by: Linda Reynolds

Type of Question: Spoken.

Date set by the Committee for the return of answer: 17 June 2024

Question:

Senator REYNOLDS: So, did you see the report? Or did you see extracts or receive any guidance about how the EM and how some of the messaging about this was required?

DSS: There was no discussion as part of that consultation process in regard to that matter.

Senator REYNOLDS: Okay. But you were aware of the Red Bridge report? I think the department was... Ms Falkingham said you were briefed on it. I think the department was aware of the research once the research had been made public.

DSS: I think we'd have to take that on notice, Senator, in terms of further advice around...

Senator REYNOLDS: Could you take that on notice, on who was... ..on who was actually provided it within the department, and - my question, to be clear, is not just about that particular briefing with DROs. It is more generally - because, quite conveniently, a lot of the language - not just of the minister, but other language in relation to the bill - there's a remarkable similarity to that focus group recommendations. If you could take that on notice, that would be excellent.

Answer:

The Department of Social Services was not provided with a copy of the report prior to its public release.

National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 [Provisions] Inquiry Name

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Department of Social Services

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Question reference number: IQ24-000054

Question asked by: Linda Reynolds

Type of Question: Spoken.

Date set by the Committee for the return of answer: 17 June 2024

Question:

Senator REYNOLDS: Can I also ask - in relation to Minister Shorten's office, have you had any... Who in his office were you - by position, is fine - who were you liaising with and working with on the messaging?

DSS: Minister Shorten has a number of advisers who have responsibility for working in this policy area. Over the course of the preparation of the policy advice and the legislation, we worked with the people who work in that area, and that's over a number of months.

Senator REYNOLDS: So the senior advisers and advisers.

DSS: Yes.

Senator REYNOLDS: So did that include the speech writer that Services Australia had specially engaged for Mr Shorten?

DSS: My understanding would be - no, that we did not engage with the person engaged by Services Australia in relation to that work. But we can confirm that on notice. But my understanding is that we did not.

Answer:

The Department of Social Services did not engage with speechwriters in Services Australia in relation to the *Getting the NDIS Back on Track No. 1 Bill*.

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Question reference number: IQ24-000056

Question asked by: Linda Reynolds

Type of Question: Spoken.

Date set by the Committee for the return of answer: 17 June 2024

Question:

Senator REYNOLDS: Can you please outline - there's a no-worse-off promise to the states and territories that, if they bump their contributions up from 4 per cent to 8 per cent, then that they'll be overall no worse off, but it's impossible to tell or to see how that can be realised and how that \$14.5 billion can be saved, because the states and territories have said they're not going to be paying any more. So, what's your understanding of how this \$14.5 billion will be realised? And particularly when there is a no-worse-off clause for the states and territories? Surely that means that the Commonwealth has to pay the extra?

Answer:

Please view the following link: <https://www.pm.gov.au/media/meeting-national-cabinet-federation-working-australia>