

Recommendations

Recommendation 1: Sections 21(2) and 34(1)(aa) of the NDIS Act should be repealed, consistent with this Committee’s leading recommendation in the final report on its inquiry into the Capability and Culture of the NDIA *“that the National Disability Insurance Agency assess people according to the totality of their disabilities”*.

Recommendation 2: Section 99 of the NDIS Act should be amended to include specific review rights enshrining procedural fairness for adverse determinations made under Section 46 (*Requirement to spend money only on NDIS supports and in accordance with plan*).

Recommendation 3: That Section 10 of the NDIS Act be amended to restore genuine discretion for individual needs, consistent with Sections 3, 4, 17A, and 31 of the NDIS Act, the Convention on the Rights of Persons with Disabilities (CRPD), and international best practice.

Recommendation 4: That Schedule 2 of the current NDIS Supports Transitional Rules urgently be removed and reverted to the 2013 Rules until such time as a community-endorsed definition of NDIS Supports is developed through extensive consultation on an exposure draft, consistent with Article 4(3) of the CRPD.

Recommendation 5: That the Committee inquire into NDIA conduct of merits and judicial review, including but not limited to:

- Whether the NDIA is complying with its model litigant obligations
- Whether the NDIA and Administrative Review Tribunal (ART) are appropriately meeting ART objectives such as being *“accessible and responsive to the diverse needs of parties to proceedings”* and related provisions in the NDIS Act

Recommendation 6: That the Committee inquire into the impact of NDIS reforms, including:

- Whether participants and their families have been placed at risk of, or experienced, harms arising directly from changes to the NDIS Act, delegated legislation, or policy
- The role of the NDIA’s implementation of reforms on the wellbeing, experience, and outcomes of participants and their families, from the perspective of those impacted
- Whether foreseeable harms were, have been, or continue to be ignored or minimised, and – consistent with findings on the nature of ethical failures in the APSC’s *Centralised Code of Conduct Inquiry Taskforce* report following the Robodebt Royal Commission – *“whether the decisions taken had regard to the impact on members of the Australian public in pursuing the legitimate public policy objective”* of reforming the NDIS to ensure its sustainability for future generations