



Australian Government

Australian Government response to the
Joint Standing Committee on the
National Disability Insurance Scheme
(NDIS) report:

General Issues 2021

February 2023

Introduction

The Australian Government welcomes the Joint Standing Committee on the National Disability Insurance Scheme's (the Committee's) second report in the 46th Parliament on General Issues related to the implementation and performance of the National Disability Insurance Scheme (NDIS).

The report examines new issues raised since the tabling of the first report in December 2020 and provides an update on the Committee's recent activities. In particular, the report makes two recommendations:

1. 3.27 The committee recommends that the Australian Government reconsider its responses to particular recommendations in the committee's previous reports, as outlined in this chapter.
2. 5.29 The committee recommends that the Joint Standing Committee on the National Disability Insurance Scheme of the 47th Parliament of Australia reinstate this committee's inquiry into Current Scheme Implementation and Forecasting for the National Disability Insurance Scheme and continue to consider evidence received by the committee in the 46th Parliament.

The first recommendation relates to the Committee's view about three previous recommendations in the Committee's first General Issues 2020 report and six previous recommendations in the Committee's final NDIS Planning report. In relation to the Committee's General Issues 2020 report, the Australian Government supports the Committee's view about the previous Government response in relation to Recommendation 3 and notes the Committee's view expressed in relation to Recommendations 7 and 8 regarding engagement with people with disability who are homeless. In relation to the Committee's final NDIS Planning report, the Australian Government supports the Committee's view about the previous Government response in relation to Recommendation 2 and notes the Committee's view expressed in relation to Recommendations 7, 18, 26, 34 and 35.

The Australian Government supports the second recommendation that the Joint Standing Committee on the National Disability Insurance Scheme of the 47th Parliament of Australia reinstate its inquiry into Current Scheme Implementation and Forecasting for the National Disability Insurance Scheme and continue to consider evidence received by the committee in the 46th Parliament.

The following pages provide the Australian Government response to each of the recommendations and planned actions, including activity that is currently in train or has already been undertaken.

Inquiry into the Joint Standing Committee on the National Disability Insurance Scheme: General Issues 2021 report

Recommendations made by the Committee

1. 3.27 The committee recommends that the Australian Government reconsider its responses to particular recommendations in the committee’s previous reports, as outlined in this chapter.

Australian Government responses to the Committee view about recommendations 3, 7 and 8 of the General Issues 2020 Report and recommendations 2, 7, 18, 26, 34 and 35 of the final NDIS Planning Report are listed against the individual recommendations below.

Government response to Committee view about previous response to particular recommendations in the General Issues 2020 report

Recommendation 3. The committee recommends that the National Disability Insurance Agency (NDIA) 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.

Previous Government Response: Supported

‘The NDIA engages regularly with people with psychosocial disability and mental illness, including through the Mental Health Sector Reference Group, established on 9 December 2014, to develop a strong working partnership between the mental health sector and the NDIA.

The Participant Reference Group also provides advice to the NDIA about the needs and experiences of NDIS participants, including people with psychosocial disability and mental illness.

In addition, the NDIA engages with participants with psychosocial disability and mental illness through targeted national public consultation. For example, national consultation is scheduled for February 2021 on the Psychosocial Recovery Coach Framework.’

Committee view in General Issues 2021 report:

The committee remains concerned about the extent to which the NDIA is consulting with people with psychosocial disability and implementing changes in response to this feedback, particularly in light of the evidence that the committee received about the impact independent assessments could have on people with psychosocial disability. The committee encourages the NDIA to continue consulting with people with psychosocial disability, including through forthcoming co-design processes, and to put in place robust measures to ensure that it is not just listening to what people from this cohort say in consultations, but also taking action.

Response to the Committee view in the General Issues 2021 report: Supported

The Government is committed to meaningful engagement with people with psychosocial disability, including through development of the NDIS Psychosocial Disability Recovery-Oriented Framework (Recovery Framework).

The NDIA continues to convene the NDIS Mental Health Sector Reference Group to assist the Agency to improve outcomes for participants with psychosocial disability and provide guidance on implementation of the Recovery Framework; and engages directly with people with lived or observed experience of psychosocial disability through its Participant First Engagement Initiative.

The Government will review the design, operation and sustainability of the NDIS, bringing forward the 2023 independent review of the Scheme (the NDIS Review), with a focus on improving all aspects of the participant experience.

Recommendation 7. 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.

Previous Government Response: Noted

‘All governments have agreed to the “Principles to determine the responsibilities of the NDIS and other service systems”, including Applies Principles and Tables of Support (Applied Principle). Applied Principle 8 outlines housing and community infrastructure responsibilities with homelessness related services primarily the responsibility of states and territories. This includes homelessness prevention, outreach and access to temporary and long term housing for people who are homeless, or at risk of homelessness.

The Commonwealth, states and territories developed the National Housing and Homelessness Agreement (NHHA) which commenced on 1 July 2018 and includes \$129 million set aside for homelessness services in 2020-21. Under the NHHA, to receive funding, state and territory governments are required to have publicly available housing and homelessness strategies and contribute to improved data collection and reporting.’

Committee view in General Issues 2021 report:

While the committee acknowledges the role of states and territories in the provision of housing and homelessness services to individuals experiencing homelessness, the committee is of the view that issues with accessing housing should not prevent individuals with a disability experiencing homelessness from engaging with the NDIS and using the supports that the scheme has to offer.

The committee will also continue to examine issues regarding the interfaces of mainstream service provision, such as housing and homelessness services, and the provision of NDIS supports in its inquiry into NDIS Implementation and Forecasting (see Chapter 5).

Response to the Committee view in the General Issues 2021 report: Noted

The Australian Government recognises the housing vulnerabilities faced by people with a disability. Disability Ministers recently met and agreed actions to support timely hospital discharge for NDIS participants. This includes a range of actions to accelerate NDIA administrative processes to support timely discharge. Medium-Term Accommodation funding will also be available to support more timely discharge for participants eligible for NDIS funded home modifications or Specialist Disability Accommodation while longer term solutions are progressed.

The Productivity Commission (PC) has reviewed the National Housing and Homelessness Agreement (which provides around \$1.6 billion each year to states and territories to deliver housing and homelessness services) to examine its effectiveness in meeting its objectives, outcomes and outputs, and its suitability for the future. The PC delivered its final report to Government on 31 August 2022. The findings and recommendations of the PC review are expected to inform future arrangements for funding housing and homelessness services.

Recommendation 8. 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.

Previous Government Response: Noted

‘The Government notes the recommendation to implement homelessness Liaison Officers for the NDIS, but recognises that homelessness services remain the responsibility of state and territory governments. The NDIA currently has a network of Health and Justice Liaison Officers [JLOs] who support both participants and mainstream systems to understand and connect to the NDIS, including participants who have experienced, or may be experiencing, homelessness.

In addition, the NDIA undertakes a range of community and mainstream engagement activities, including with homelessness services. NDIA Local Area Coordinators (LACs) also work with mainstream and community services to support potential and existing participants to access the NDIS and supports.’

Committee view in General Issues 2021 report:

See above. [View expressed in relation to Recommendation 7]

Response to the Committee view in the General Issues 2021 report: Noted

The Government will continue to engage with states and territories through the Disability Ministers’ Meetings and associated working groups to ensure mainstream interfaces between the NDIS and state and territory service systems meet the needs of people with disability.

Government response to Committee view about previous Government response to particular recommendations in the final NDIS Planning report

Recommendation 2. The committee recommends that the Australian Government implement Recommendation 3 of the Review of the *National Disability Insurance Scheme Act 2013* (the Tune Review).

Previous Government Response: Supported in principle

‘The Government agrees with the intent of Mr Tune’s recommendations in relation to ensuring participants are supported to navigate the NDIS. ...

In addition:

- the NDIA is currently reviewing the Local Area Coordination (LAC) framework to ensure the Partners in the Community provide effective outreach and referrals.
- \$20 million has been committed to expand the NDIS Community Connectors Program to assist hard to reach communities to navigate the NDIS...
- Under the Department of Social Services, more than \$75 million will be made available in 2020-21 and 2021-22 through two new grant opportunities under the Information, Linkages and Capacity Building (ILC) program...

The Government will monitor the effectiveness of these reforms before considering whether further investment is needed.’

Committee view in General Issues 2021 report:

The committee encourages the Government to monitor the effectiveness of its current measures in relation to funding for advocacy services.

Response to the Committee view in the General Issues 2021 report: Supported

The Government is committed to monitoring the effectiveness of measures related to funding for advocacy services, including the National Disability Advocacy Program (NDAP) and the NDIS Appeals Program, and to ensuring people with disability across Australia can access advocacy support in a way that suits their needs and preferences.

The NDIS review will consider the design, operation and sustainability of the NDIS and provides an opportunity to consider all aspects of the participant experience of the Scheme.

Recommendation 7. The committee recommends that the National Disability Insurance Agency develop, publish and implement a strategy for engaging with participants in custody to ensure that these participants are not unfairly disadvantaged in planning; and are assigned to planners who have the expertise to work with them.

Previous Government Response: Noted

‘The NDIA has committed resources to overcome the challenges custodial settings present for supporting people with disability to navigate the NDIS, while appreciating the clear state and territory responsibility for criminal justice settings... This includes the introduction of [Justice Liaison Officers] in all jurisdictions, undertaking awareness raising activities, and better promotion of standard practices and information sharing in the criminal justice space.

In addition, the NDIA is developing an external resource, Our Guideline – Justice System...

This guideline is due for publishing before 30 June 2021.’

Committee view in General Issues 2021 report:

The committee encourages the Government to re-examine whether its current measures to engage with participants in custody are sufficient, particularly in light of evidence received by the Disability Royal Commission.

Response to the Committee view in the General Issues 2021 report: Noted

The Government is working closely with state and territory governments to ensure the needs of Australians with disability are met in custodial settings, as well as when they transition back to the community.

The NDIS review will consider the design, operation and sustainability of the NDIS, and will provide an opportunity to consider how the NDIS interacts with state and territory mainstream systems.

Recommendation 18. The committee recommends that the Australian Government amend the National Disability Insurance Scheme (Supports for Participants) Rules 2013 to require the CEO of the National Disability Insurance Agency (or their delegate) to take into account any expert advice developed specifically for a participant when deciding whether a support would, or would likely, be effective and beneficial for that participant.

Previous Government Response: Noted

‘From late-2021, the outcomes of independent assessments will be a key input into deciding the value of a plan budget. This will mean that the current approach to creating a participant’s plan budget will change, with the amount of funding in a participant’s plan informed by their functional capacity as determined through an independent assessment, not a listing of individual reasonable and necessary supports...’

Committee view in General Issues 2021 report:

Given the Government has announced that independent assessments and Personalised Budgets in their proposed form will not proceed, the committee urges the Government to revisit this recommendation and its response to it.

Response to the Committee view in the General Issues 2021 report: Noted

The Government recognises the importance of getting NDIS participants’ plans right and notes the NDIS Review provides an opportunity to examine how evidence is used to support decision-making under the NDIS Act, including the role of expert advice. The Government is committed to working with the disability community to co-design an improved NDIS that delivers improved participant experiences and outcomes.

Recommendation 26. The committee recommends that the National Disability Insurance Agency:

- a. increase its family violence training for planners in how to identify family violence and what appropriate referral services exist,**
- b. ask participants before their planning meetings if they have a preference for a planner with a particular gender,**
- c. create a team of specialised planners within the Complex Support Needs pathway who are specially trained in how to plan for participants experiencing family violence, and**
- d. ensure that planners and Local Area Coordinators are able to refer participants who they suspect are experiencing family violence to this pathway.**

Previous Government Response: Noted

‘The NDIA upholds the Commonwealth, state and territory governments’ shared responsibility for effectively responding to family violence and child abuse. As such all new starters in the NDIA complete a mandatory suite of eLearning which includes a module on Family and Gender Based Violence Prevention. Given that the training is mandatory for all those coming into contact with participants, a team of specialised planners in this regard is not judged necessary.

If a participant self identifies as someone experiencing family violence, the Partner in the Community or planner will support them to the correct external pathway, for example Police and/or emergency services. Participants are also able to request a different planner should they not be comfortable for whatever reason including if they have a preference for a planner with a particular gender.’

Committee view in General Issues 2021 report:

Given that the government response did not identify proactive measures in addition to online training currently undertaken by the NDIA in relation to identifying participants at risk of experiencing family violence, the committee encourages the Government to re-examine whether its current procedures and training on family violence are adequate to support participants experiencing family violence in the planning process.

Response to the Committee view in the General Issues 2021 report: Noted

The Australian Government is committed to ensuring the safety of all Australians, including those with disability. Domestic, family and sexual violence cannot be excused or justified under any circumstances.

The NDIS Review provides an opportunity examine how the NDIS supports participants, and to explore ways to improve participant safeguarding. The Government will continue to work with the disability community on the co-design of a new policy on participant safety.

Recommendation 34. The committee recommends that the National Disability Insurance Agency develop and publish de-identified summaries of key themes arising from settlement outcomes in the Administrative Appeals Tribunal.

Recommendation 35. The committee recommends that the Australian Government ensure that the National Disability Insurance Agency is sufficiently resourced to carry out the functions outlined in Recommendation 34.

Previous Government Response: Noted

‘The AAT generally publishes decisions in relation to the NDIS in accordance with its publication of decisions policy... AAT settlements are not precedent-setting, and all cases are considered on their individual merits.

The Government is committed to appropriately resourcing the NDIA so the agency can undertake all its legislated functions.’

Committee view in General Issues 2021 report:

The committee calls upon the Government to reconsider its position on this matter, given that multiple bodies – this committee, the Tune Review and the Australian National Audit Office – have now made this recommendation.

Response to the Committee view in the General Issues 2021 report: Noted

The Administrative Appeals Tribunal (AAT) remains responsible for the publication of matters before the tribunal and the AAT’s annual report includes details on its operations.

2. 5.29 The committee recommends that the Joint Standing Committee on the National Disability Insurance Scheme of the 47th Parliament of Australia reinstate this committee's inquiry into Current Scheme Implementation and Forecasting for the National Disability Insurance Scheme and continue to consider evidence received by the committee in the 46th Parliament.

Supported

The Government supports the intention to re-initiate the Committee’s inquiry into Current Scheme Implementation and Forecasting for the NDIS in the 47th Parliament of Australia. The Government is committed to ensuring the NDIS is working as intended for its participants, and welcomes the opportunity to work with the incoming Chair of the Committee as the inquiry proceeds.

