

# Integrity of the National Disability Insurance Scheme

Joint Standing Committee on the National Disability Insurance Scheme

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Submitter:

**Michael Sanderson**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED]  
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## Introduction

I welcome the opportunity to make a submission to the inquiry into the integrity of the National Disability Insurance Scheme.

This submission proceeds from a blunt proposition. The integrity problems in the National Disability Insurance Scheme are not merely the product of a few bad actors operating inside an otherwise sound framework. They are the predictable result of trying to deliver an essential human service through a fragmented privatised model that invites extraction from vulnerability, dependence, complexity and weak bargaining power. Fraud, sharp practices, over servicing, inducements, price inflation, worker churn and mistreatment do not appear in a vacuum. They arise where the structure itself rewards revenue capture more reliably than care, continuity and accountability.

The inquiry is framed around non-compliance, including fraud and sharp practices, the impacts on participants and families, the adequacy of successive government responses, and any legislative or other reforms needed to strengthen integrity. That framing is appropriate, but the Committee should be willing to draw the harder conclusion. If the system repeatedly generates exploitative conduct and then requires another layer of policing, another layer of guidance, another layer of restrictions, and another round of integrity rhetoric, the design itself must be put in question.

The proper conclusion is that the privatised provider market is not fit for purpose in an essential service of this kind. Australia should move progressively to nationalise NDIS service delivery capacity through direct public provision, strong public accountability,

and deliberate public workforce formation. The Commonwealth can fund that transition provided the real resources are available, and it should pair that transition with aggressive training and a Job Guarantee based workforce strategy.

### **The present model is structurally prone to exploitation**

The Committee should resist the temptation to treat integrity failures as isolated misconduct around the edges of the scheme. The more important question is why the scheme keeps generating the conditions in which such conduct flourishes.

The present model places a large number of private intermediaries between the participant and the service. Those intermediaries are expected to compete, bill, market, recruit, expand and survive inside a publicly funded system built around participants who often have limited bargaining power, limited time, limited information, and limited capacity to test whether what is being sold to them is necessary, fairly priced or competently delivered. That is fertile ground for extraction.

The vulnerability does not end there. In some cases, the participant is not the person effectively making or controlling the relevant decisions. Guardians, attorneys acting under a power of attorney, nominees, family members or other substitute decision makers may stand between the participant and the scheme. That does not mean such people are inherently untrustworthy. It means the structure creates another point at which influence, pressure, conflict, misuse or outright exploitation can occur. In a privatised system built around billable transactions and opaque service markets, that additional layer of control can deepen rather than reduce vulnerability.

It is therefore no surprise that the scheme attracts fraud, over servicing, inducements, inflated charges, conflicts of interest, aggressive selling, manipulation of plans, weak records, blurred responsibility, worker churn and poor continuity of care. None of this is anomalous. It is what happens when a vital human service is converted into a field of billable transactions and market opportunities.

The language of choice and control is often invoked to defend this architecture. In practice, however, choice without a strong public benchmark can become a euphemism for forcing vulnerable people to navigate a market they did not build, do not control and often cannot realistically discipline. A participant who is dependent on supports, exhausted by administration, subject to substitute decision making, or located in a thin market is not exercising meaningful sovereign consumer power. They are often choosing among inadequate, opaque or exploitative options, or accepting what is available. That is not empowerment. It is managed vulnerability dressed up as market freedom.

The Committee should therefore be cautious about assuming that sharper compliance tools alone will solve the problem. Stronger compliance action may be necessary, but it

is still a downstream response. It is an attempt to police conduct produced by a model that remains structurally conducive to exploitation.

### **The pattern is familiar across privatised essential services**

This problem is not unique to the NDIS. Australia has seen the same pattern repeatedly in other privatised or heavily intermediated essential services.

In banking, complexity, opacity and power imbalance have repeatedly created room for fee extraction, reduction in service, poor conduct and procedural unfairness. In compulsory superannuation, a compulsory income stream has generated a sprawling intermediary class, constant opportunities for graft, marketing, lead generation, inducement and member capture, and repeated calls for further regulatory containment. In energy and communications, essential household need has been turned into a terrain for confusing plans, margin protection, pressure selling and consumer manipulation. In unemployment services, vulnerable people have long been routed through a pseudo market in which private actors are paid to manage and discipline people who often need stable support rather than contractual churn. Education and health have also moved, to varying degrees, in the same direction, with rising commercialisation, increased intermediation, and stronger incentives to monetise dependency, confusion and distress.

The point of these comparisons is not to wander away from the NDIS. It is to identify a recurring structural truth. When essential or quasi essential services are delivered through privatised and over intermediated systems, the private sector does not merely provide services. It organises itself around the revenue stream and around opportunities for rent seeking created by dependence, informational asymmetry and regulatory complexity. In that environment, increasing profit is not naturally aligned with increasing service quality, safety or continuity. On the contrary, the drive to increase profit often rewards conduct that cut against those goals, including labour cost suppression, worker churn, billing expansion, selective servicing, and the monetisation of vulnerability and confusion. The NDIS should be understood as part of that wider national pattern. In that sense, the inquiry should not ask only whether the scheme has attracted fraudsters. It should ask whether the market design itself was always likely to attract them.

### **Repeated patching is evidence of design failure**

A system that must constantly expand its arsenal against sharp practices, inducements, over servicing, conflicts of interest, misleading conduct, privacy breaches, neglect, abuse and sexual misconduct is not exhibiting health. It is exhibiting chronic design stress.

There is a point at which endless refinement becomes a form of denial. Parliament should not keep pretending that if it writes one more rule, issues one more warning, tightens one more standard, funds one more regulator, or launches one more integrity drive, the same underlying architecture will somehow become trustworthy. Repeated patching is not proof that the system is working. It is evidence that the system keeps generating the very conduct it then has to suppress.

That matters because the inquiry is expressly concerned with the adequacy of successive government policies. The Committee should be willing to say that there are limits to what policy patching can achieve when the delivery model itself continues to reward the wrong behaviours. The harder but more honest conclusion is that the privatised provider market is not an unfortunate container for integrity problems. It is one of their principal causes.

### **Nationalise service delivery capacity**

The National Disability Insurance Scheme is already national in legal and funding terms. What is not nationalised is the delivery architecture. That is where reform must occur.

The Commonwealth should commence a staged transition away from a predominantly privatised provider market and toward direct public provision of disability supports, backed by strong public accountability and transparent lines of responsibility. This does not require the overnight abolition of every non-government provider. It does require reversing the present presumption that the market should be the organising principle of the scheme.

Essential disability support should be treated as public service infrastructure, not as a field for entrepreneurial extraction. The safer presumption in a scheme of this kind is that core services should be publicly delivered or delivered within a dominant public framework, with private actors, where retained, playing a supplementary and tightly bounded role rather than structuring the whole system.

Public provision would not magically remove every failure. No serious person should claim otherwise. But it would do something the present model cannot do reliably. It would align accountability more directly with care, continuity, training, standards, records and public purpose rather than with billing growth, market share and survival inside a competitive provider field.

It would also allow government to set a genuine benchmark for quality, pricing, training and service continuity instead of relying on a patchwork of private entities whose incentives are inherently mixed.

## **Funding is not the real obstacle**

A structurally defective model should not be shielded by fiscal mythology. Much of the public and political commentary proceeds as though the Commonwealth must somehow scrape together the money, raise taxes, or borrow from others before it can support people with disability properly. That is not serious economic analysis. It is ignorance, dishonesty, or deliberate political cover for a refusal to act.

The Commonwealth is the issuer of the Australian dollar. It is not financially constrained in its own currency in the way a household, business, charity, local council, or state government is constrained. It does not need to collect dollars before it can spend dollars. It does not need to borrow in order to obtain Australian dollar spending capacity. Subject to the availability of real resources, it can always purchase what is for sale in its own currency.

That is the central point, and it should not be diluted. The real limits are not financial in the ordinary sense presented to the public. The real limits are labour, skills, training capacity, supervision, buildings, equipment, administrative systems, management capability, and the need to avoid inflationary pressure if spending runs ahead of what the economy can actually supply. Those are real constraints. They matter. They should be taken seriously. But they have nothing to do with the fiction that the Commonwealth might run out of Australian dollars or must first tax or borrow them before it can spend.

This is not some fringe proposition that can be brushed aside with slogans about budgets and deficits. In Senate Hansard on 28 May 2020, then Reserve Bank Governor Philip Lowe said plainly, “The Reserve Bank doesn't borrow money.” He then explained why: “central banks are unique entities in that they can create money” and “We are the one entity in the country that can create money just out of nothing.” He repeated the point again, stating that “the central banks are the only entities that can create money out of thin air.” The Reserve Bank’s powers exist only because the Commonwealth created them by statute, and whatever independence it is said to enjoy is not sovereign independence but delegated and revocable independence within the legal order of the Australian state. It does not float above the Commonwealth. It exists at the Commonwealths pleasure; within a framework the Commonwealth made and could alter. Once that is understood, the pretence that Australia must first scrape together dollars before it can support people with disability becomes impossible to take seriously.

That is why claims that the NDIS is unaffordable because it increases the deficit should be treated with contempt. A deficit is not proof that the Commonwealth has exhausted its spending capacity. It is an accounting outcome arising from political and accounting choices within the monetary system of the currency issuer, not a hard financial limit. To

invoke it as though it were evidence that disability support must be restrained is to import household budget logic into a field where it does not belong.

False affordability rhetoric is worse than wrong. It is corrosive. It shifts attention away from the actual policy task and conditions the public to think that support for people with disability is limited by a shortage of money, or that some mythical freestanding taxpayer pool must first be raided before decent support can be provided, when the real issue is political will, institutional design, and resource mobilisation. The question is not whether Australia can find the dollars or whether taxpayers must somehow pay first in the household sense constantly implied in public debate. The question is whether Australia will organise, train, employ and direct the people and institutions required to provide decent disability support directly, competently and accountably. If the real resources exist, or can be developed, the Commonwealth can fund their deployment. If those resources do not yet exist at sufficient scale, the answer is to build them, not to hide behind budget folklore or taxpayer mythology.

The Committee should reject the false affordability frame altogether. The relevant question is not whether the Commonwealth can afford to replace a failed privatised model with direct public capability. The relevant question is whether public provision would produce better integrity, stronger accountability, safer services, and more rational workforce formation. If the answer is yes, then the fiscal objection should be discarded for what it is: a rhetorical shield for policy timidity.

In a currency issuing nation, pleading poverty in the face of unmet disability need is not realism. It is a political choice dressed up as financial necessity.

### **Aggressive public workforce formation is essential**

A public delivery model cannot be asserted in the abstract. It has to be built. That means workforce formation must be treated as a central integrity measure, not as an afterthought.

The Commonwealth should establish an aggressive national strategy to recruit, train, accredit, supervise and retain a disability support workforce. That should include paid training pathways, vocational expansion, traineeships, allied health pipeline support, regional incentives, secure employment, proper supervision, and structured career progression.

The present model too often treats labour as a cost to be squeezed. A public model should treat disability support capability as national social infrastructure to be built and maintained.

This is especially important in thin markets and regional areas, where the market model often fails twice. It fails first by not supplying stable capacity, and then again by using

scarcity as an excuse for poor standards, weak continuity and limited choice. Public workforce strategy is the only serious answer to that problem.

### **The Job Guarantee should be part of the solution**

The Job Guarantee can and should be integrated into this reform agenda. It should not be treated as a side issue or an abstract labour market add on. A Job Guarantee is a federally funded, locally administered public employment guarantee under which government ensures that anyone willing and able to work can access paid employment at a socially inclusive living income. As Mitchell and Mosler explain, it operates as a public employment buffer stock that expands when private demand weakens and contracts when private demand recovers, making it a bottom-up counter cyclical fiscal stabiliser rooted in actual communities rather than top-down aggregate gestures. In the present context, that makes it one of the most practical mechanisms available for building workforce capacity, supporting regional service formation, and creating genuine inclusion through work designed around social need and participant capability rather than private profitability.

First, a Job Guarantee can assist the formation of a public disability workforce by creating a standing Commonwealth pathway for recruitment, paid training, supervised entry and regional workforce development. It provides a direct mechanism for moving willing labour into socially necessary work rather than leaving essential human services hostage to fragmented private labour markets, churn and thin market failure. This is consistent with the emphasis by Cook, Mitchell, Quirk and Watts on the importance of effective local labour markets and regionally grounded employment architecture rather than passive reliance on abstract market adjustment.

Second, and importantly, a Job Guarantee has unique relevance for some NDIS participants themselves. Where suitable and chosen by the participant, it would allow work to be constructed around the capacities of the person rather than forcing the person into rigid labour market templates. That matters because many people are excluded not by lack of ability but by labour market structures that do not accommodate variation, support needs, interrupted work histories or the need for gradual and supported entry. A Job Guarantee changes that starting point. It offers paid work at a socially inclusive living income as a public right, not as a prize granted only when a private employer is satisfied that the person fits a commercial risk model. That logic is central to the Job Guarantee framework described by Mitchell and Mosler.

A Job Guarantee could therefore provide structured participation, paid training, routine, confidence, social connection and skill development for suitable participants. It would help normalise inclusion by treating people as contributors with capacities to be developed, not as passive subjects to be managed around the edge of the labour market. It would also allow employment opportunities to be designed around

community need and local capability, which aligns with the regional employment framework advanced by Cook, Mitchell, Quirk and Watts.

It could also operate as a bridge to better paid private employment where that is realistic and desired. One of the cruelties of the private labour market is that employers often prefer to hire people who are already in work, leaving the unemployed trapped by the very condition they are told to escape. Job Guarantee employment overcomes that obstacle by allowing people to demonstrate reliability, capacity and recent work experience. That does not mean every participant should be pushed towards private sector employment. It means the door should be open and the Commonwealth should provide a bridge rather than leaving people stranded outside the gate. This bridging and stabilising role is consistent with Mitchell and Mosler's account of the Job Guarantee as a standing public employment mechanism rather than a temporary labour market program.

This is a stronger and more civilised approach than leaving unemployed people, including people with disability, at the mercy of private employers' risk calculations. It recognises that access to income, dignity, participation and contribution should not depend entirely on whether private firms happen to see commercial advantage in offering someone a job.

## **Recommendations**

### Recommendation 1

The Committee should conclude that the integrity problems of the NDIS are not merely compliance failures within an otherwise sound model. They are substantially the product of a fragmented privatised provider architecture that is structurally prone to exploitation, sharp practices and participant harm.

### Recommendation 2

The Commonwealth should commence a staged transition away from a predominantly privatised provider market and toward direct public provision of disability supports, with clear public accountability and transparent lines of responsibility.

### Recommendation 3

Core disability supports, especially where participant vulnerability is high or market thinness is acute, should be presumptively delivered within a public framework rather than left primarily to private market provision.

#### Recommendation 4

The Commonwealth should establish an aggressive national disability workforce strategy built around paid training, supervised entry, accreditation, regional workforce development, secure employment and career progression.

#### Recommendation 5

The Commonwealth should integrate a Job Guarantee into the reform agenda so that it can assist both in building the disability support workforce and in creating suitable employment pathways for NDIS participants who wish to engage in structured work designed around their capacities. That Job Guarantee should provide paid work at a socially inclusive living income through a federally funded, locally administered public employment guarantee that does not depend on private market demand or private hiring preferences.

#### Recommendation 6

False and contrived fiscal objections should not be permitted to shield a structurally defective model. Provided the real resources can be mobilised, the Commonwealth can fund a public disability support capability. The true constraint is organisational and material capacity, not some imagined shortage of dollars.

### **Conclusion**

The Committee should not mistake constant containment for success. If a scheme repeatedly generates fraud, sharp practices, exploitation, worker churn, poor continuity and participant harm, the answer cannot be confined to more guidance, more audits, more restrictions and more policing of the same underlying architecture. At some point integrity requires institutional redesign. That point has arrived.

The privatised NDIS provider model is not fit for purpose. Like other privatised essential services, it places profit seeking intermediaries around human need and then acts surprised when extraction follows. In that environment, rising profit is not naturally aligned with rising care, safety, continuity or public value. Too often it is aligned with labour suppression, billing expansion, selective servicing and the monetisation of vulnerability and confusion. Parliament should stop pretending that another round of market correction will cure a design that keeps rewarding the wrong conduct.

The proper response is to rebuild disability support around direct public provision, public workforce capacity and public accountability. False fiscal narratives should not be allowed to preserve a failed delivery architecture. If the real resources can be mobilised, the Commonwealth can fund a public disability support capability. The true constraint is organisational and material capacity, not some imagined shortage of

dollars. The real task is to train, employ and organise the people and institutions required to deliver decent support directly, competently and accountably.

A Job Guarantee should form part of that reconstruction. Properly designed as a federally funded, locally administered public employment guarantee providing paid work at a socially inclusive living income, it can help build the disability support workforce, strengthen regional capacity, act as a bottom-up counter cyclical fiscal stabiliser and, where suitable, create dignified pathways into paid work for participants themselves. It should do so as a public employment guarantee rather than as an adjunct to private employers' hiring preferences or profitability calculations. That is a stronger and more civilised approach than leaving unemployed people, including people with disability, at the mercy of private employers' risk calculations.

The question for the Committee is therefore not whether the present model can be made slightly less harmful. The question is whether Parliament is willing to admit that the market model has failed the integrity test and replace it with a system organised around care rather than capture, public purpose rather than private margin, and capability rather than excuse.

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## Reference Sources

- Cook, Beth, Mitchell, William, Quirk, Victor and Watts, Martin, *Creating effective local labour markets: a new framework for regional employment policy*, Centre of Full Employment and Equity, University of Newcastle, November 25, 2008.
- Mitchell, William F. and Mosler, Warren B., *Fiscal Policy and the Job Guarantee*, Centre for Economic Policy Research, Australian National University, Discussion Paper No. 441, December 2001.
- Senate Economics Legislation Committee, Estimates, 28 May 2020, evidence of Philip Lowe, Governor, Reserve Bank of Australia.

*(Note: One or all of the above sources can be supplied on demand)*