

Senate Community Affairs Legislation Committee

National Disability Insurance Scheme Savings Fund Special Account Bill 2016

**Children and Young People with Disability Australia
Submission – October 2016**

INTRODUCTION

Children and Young People with Disability Australia (CYDA) welcomes the opportunity to contribute to the Community Affairs Legislation Committee Inquiry into the *National Disability Insurance Scheme Savings Fund Special Account Bill 2016* (the Bill).

The National Disability Insurance Scheme (NDIS) is an extremely complex reform that is presently experiencing significant challenges. CYDA acknowledges the critical importance of developing appropriate funding arrangements to ensure the financial sustainability of the Scheme.

The NDIS is currently transitioning from several trial sites across the country to full implementation in 2019. This will involve an increase in people receiving Individual Funding Packages from around 35 000 to 460 000 within a short timeframe of three years.¹ Experiences from the trial sites to date have also indicated that there are more people than expected entering the Scheme.²

At the same time, the NDIS is experiencing inordinate pressures in terms of associated costs and administrative capacity. A complex governance structure also adds a degree of difficulty in implementing the Scheme. The roll out of the NDIS therefore has and will continue to place significant demands on the capacity of the National Disability Insurance Agency (NDIA) and other key stakeholders.

To date, CYDA has received mixed feedback regarding the experiences of children and young people accessing the NDIS. While there have been positive experiences reported, CYDA has also heard of lengthy delays in planning and implementation of services. In addition, there is presently limited knowledge about the NDIS by many potential participants, other people with disability, families and the broader community. This relates to understandings about how the NDIS works, who is eligible and which services can be accessed through the Scheme. There are also unrealistic expectations held by many in the community, who view the NDIS as the sole 'solution' to the significant barriers to meaningful participation and inclusion experienced by people with disability.

The direct experiences reported to CYDA, community discussions and media reporting of participant and service provider experiences indicate that the NDIS, in this early stage, is highly stressed. There is a real tension between meeting the immediate, sudden and increasing needs of people entering the Scheme and realising the intent of the NDIS.

The *NDIS Savings Fund Special Account* (NDIS Savings Fund) is being established to "help the Commonwealth meet its funding obligations relating to the *National Disability Insurance Scheme Act 2013*."³ This submission raises key concerns about the NDIS Savings Fund, in relation to: the creation of a special account for disability services and supports which are a core area of government spending; the control of the NDIS Savings Fund by the Minister; and the use of savings from elsewhere in the budget to fund the NDIS. Due to these significant concerns, CYDA is unable to support the Bill.

¹ National Disability Insurance Agency 2016, *Report on the Sustainability of the Scheme: 1 July 2013 to 30 June 2016*, Geelong, p. 2. <https://goo.gl/NWZ0lr>.

² Ibid, p. 3.

³ House of Representatives 2016, *National Disability Insurance Scheme Savings Fund Special Account Bill 2016: Explanatory Memorandum*, Commonwealth of Australia, Canberra, p. 3.

CHILDREN AND YOUNG PEOPLE WITH DISABILITY AUSTRALIA

CYDA is the national representative organisation for children and young people with disability, aged 0 to 25 years. The organisation is primarily funded through the Department of Social Services and is a not for profit organisation. CYDA has a national membership of 5500.

CYDA provides a link between the direct experiences of children and young people with disability to federal government and other key stakeholders. This link is essential for the creation of a true appreciation of the experiences and challenges faced by children and young people with disability.

CYDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CYDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia and it undertakes the following to achieve its purpose:

- **Listen and respond** to the voices and experiences of children and young people with disability;
- **Advocate** for children and young people with disability for equal opportunities, participation and inclusion in the Australian community;
- **Educate** national public policy makers and the broader community about the experiences of children and young people with disability;
- **Inform** children and young people with disability, their families and care givers about their citizenship rights and entitlements; and
- **Celebrate** the successes and achievements of children and young people with disability.

COMMENTS ON THE BILL

Creation of a Special Account for the NDIS

The NDIS is underpinned by a strong human rights framework, which is clearly articulated in the NDIS legislation. The aims of the NDIS are to:

- Give effect to Australia's obligations under the United Nations *Convention on the Rights of Persons with Disabilities* (in combination with other legislation);
- Support the participation of people with disability in social and economic life;
- Provide certainty around disability services and supports;
- Maximise the choice and control of people with disability around supports received; and
- Support people with disability to achieve their goals and live independently.⁴

Because the NDIS will support the realisation of Australia's human rights obligations, it is critical to recognise the Scheme as a core area of government spending. This was acknowledged by the Productivity Commission *Inquiry into Disability Care and Support*, which recommended that the "costs of supporting people with significant disability from year to year through the NDIS should be viewed as a core funding responsibility of government and met from claims on general government revenue."⁵

⁴ *National Disability Insurance Scheme Act 2013 (Cth)*, s. 2.3.

⁵ Productivity Commission 2011, *Disability Care and Support: Productivity Commission Inquiry Report*, Commonwealth of Australia, Canberra, p. 85.

The need for a 'special account' in addition to the *DisabilityCare Australia Fund* to hold funds for the NDIS is therefore unclear. It is CYDA's understanding that this is not a typical funding arrangement for other core areas of government spending such as health or education. Current special accounts cover a broad range of policy areas but are typically created for more specific programs.⁶

CYDA is therefore concerned about how the creation of a special account that will house savings taken from elsewhere in the budget positions the provision of disability services and supports as peripheral to the core functions of government.

Control of the Special Account by the Minister

The NDIS was designed according to insurance principles, whereby all Australians contribute to the NDIS through taxation and are guaranteed reasonable coverage "against the potential costs of long term care and support associated with disability."⁷ The Productivity Commission stated that an insurance scheme requires 'sufficient' and 'predictable' funding sources⁸ and recommended that the NDIS be funded through general revenue or a levy, rather than being tied to the "annual budget cycle."⁹

The current Bill provides the Minister for Social Services discretionary powers to identify savings from other areas of the budget to be placed in the NDIS Savings Fund. This vests significant control over the fund with the Commonwealth Government. Funding for the NDIS will therefore be dependent on the capacity of the government of the day to identify savings according to their priorities and have them passed through Parliament. This puts funding for the NDIS in a precarious position, determined by the budget cycle.

Further, the NDIS governance framework was developed through intergovernmental agreements outlining shared responsibility between the Commonwealth and state and territory governments. In addition, the NDIA Board was established to deliver and manage the NDIS.¹⁰ The creation of the NDIS Savings Fund controlled by the Minister therefore substantially alters the existing arrangements regarding the role of the NDIA Board and the shared responsibility arrangements between the jurisdictions.

Despite the significant changes to the oversight and governance mechanisms for the NDIS implicit in the Bill, there has been minimal consultation and the Bill does not require NDIS Savings Fund to be reviewed until 2027. Further, introducing a special account with centralised control by one Minister into a scheme with shared governance raises questions about the stability of funding streams and the sustainability of the current governance model.

Identified Credits to the NDIS Savings Fund

The 2016 Federal Budget identified savings to be credited into the NDIS Savings Fund. These include savings from: closing carbon tax compensation to new income support recipients; changes to how new Carer Allowance claims are backdated; reviewing 30 000 Disability Support Pension (DSP)

⁶ Australian Government Department of Finance 2016, *Chart of Special Accounts – 28 January 2016*, Commonwealth of Australia, Canberra, viewed 4 October 2016, <https://goo.gl/HZwo4c>.

⁷ Productivity Commission 2011, *Disability Care and Support: Productivity Commission Inquiry Report*, p. 11, 33.

⁸ *Ibid*, pp. 648-649.

⁹ *Ibid*, p. 11.

¹⁰ *National Disability Insurance Scheme Act 2013 (Cth)*, s. 118.

recipients per year for three years to assess their capacity to work; and savings from within the NDIS.¹¹

Addressing the present NDIS funding gap through savings made from other areas of the budget will take vital funding away from vulnerable people and requires the NDIS to compete for funding with other areas of need. For example, the changes to the DSP announced in the Budget would involve DSP recipients deemed eligible for Newstart receiving around \$170 less income per fortnight.¹² Given that the DSP is an essential income support program that provides a vital safety net, tying NDIS funding to reduced DSP spending creates a concerning tension between two areas of essential services.

In addition, it is unclear what will happen if savings identified for the NDIS Savings Fund are not passed by Parliament. This was the case in the amended *Budget Savings (Omnibus) Act 2016*, which maintained access to the Energy Supplement for new Newstart recipients. The lack of clarity around what processes are in place if identified savings are not passed again indicates that funding for the NDIS will be precarious.

There is also a risk that including savings from within the NDIS into the new NDIS Savings Fund may create an incentive to reduce spending on the Scheme, including for Individual Funding Packages. A focus on cost reduction was a key feature of the previous disability services system and will undermine the role of the NDIS to provide reasonable and necessary supports and foster innovative approaches to disability service provision.

CONCLUSION

CYDA does not support the creation of an NDIS Savings Fund. Given the concerns outlined in this submission, there is a significant risk that the NDIS Savings Fund will add an additional layer of complexity and bureaucracy to an already stressed and challenging service environment. Further, the NDIS Savings Fund as described in the Bill would limit both the stability and predictability of NDIS funding and lead to significant changes to the oversight of the Scheme.

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¹¹ Australian Government 2016, *Budget 2016-17: Budget Paper No. 2*, Commonwealth of Australia, Canberra, pp. 143-144.

¹² Australian Council of Social Service 2016, *Budget Analysis 2016-17*, Sydney, p. 27.