

# **Investigation into the actions of the National Disability Insurance Agency (NDIA) in relation to Mr C**

THE NATIONAL DISABILITY INSURANCE AGENCY

February 2020

Report by the Commonwealth Ombudsman,  
Michael Manthorpe, under s 15 of the *Ombudsman Act 1976*

REPORT NO. **03 | 2020**

## CONTENTS

<b>INTRODUCTION .....</b>	<b>3</b>
<b>BACKGROUND .....</b>	<b>5</b>
<b>FINDINGS FROM OUR INVESTIGATION .....</b>	<b>6</b>
Incorrect advice .....	6
Incorrect handling of the access request.....	6
Delay in planning.....	7
<b>IMPROVEMENTS ALREADY MADE BY THE NDIA.....</b>	<b>8</b>
<b>RECOMMENDATIONS FOR FURTHER IMPROVEMENT .....</b>	<b>9</b>
Operational Guideline.....	9
Access Request Form .....	10
Training.....	10
Practice Guide .....	11
Quality Assurance .....	12
<b>CONCLUSION.....</b>	<b>12</b>
<b>APPENDIX A: LETTER OF RESPONSE FROM THE NDIA CEO.....</b>	<b>14</b>
<b>APPENDIX B: NDIA RESPONSE TO RECOMMENDATIONS.....</b>	<b>16</b>

## INTRODUCTION

- 1.1 This report arises from a complaint made by Ms D about the NDIA on behalf of Mr C in early 2018. Mr C experiences several comorbid mental illnesses. At the time of his initial application to the National Disability Insurance Scheme (NDIS), Mr C was serving a prison sentence. Ms D, contacted the NDIA in the months leading up to his parole date, to ensure that Mr C would have supports in place when he was released from prison.
- 1.2 Primarily because of the NDIA's handling of these requests to access the NDIS, Mr C did not have any NDIS supports in place at the date that he was granted parole. Less than three months after his release, Mr C breached a condition of his release and his parole was revoked. The NDIS planning process was not completed until after the date of his return to prison.
- 1.3 During the course of this investigation we identified a number of administrative deficiencies, finding that the NDIA:
- 'withdrew' Mr C's first access request and did not process it, without any proper statutory basis
  - failed to identify Mr C as a person with urgent circumstances, whose access request should have been prioritised consistent with its internal policy and Operational Guideline
  - failed to process Mr C's access request within the timeframe outlined by s 21 (3) of the *National Disability Insurance Scheme Act 2013* (NDIS Act)
  - appears to have provided incorrect advice to Mr C's representatives throughout the handling of his request for access to the NDIS.
- 1.4 In 2018, almost one in three prison entrants reported they had a chronic condition or disability that affected their participation in day-to-day activities, education, or employment.<sup>1</sup> Disability discrimination laws require that prisons make reasonable adjustments for prisoners with disability to allow them to participate in prison life, so many people in custody have disability supports provided through the corrections system. However, on release these individuals may require access to the NDIS or request an increase to their NDIS supports.
- 1.5 During transition out of custody, re-engagement with the community can be challenging. NDIS supports are provided specifically to people whose impairments affect their capacity for social and economic participation. We acknowledge that the NDIA is not responsible for interventions or post-custody services specifically aimed at reducing reoffending, however appropriate disability supports are an essential component of supporting prisoners with disability to reintegrate and reengage with their community. Accordingly, it is particularly important that the NDIS provide supports in a timely and appropriate manner to enable people to successfully navigate this challenging transition.

---

<sup>1</sup> The Health of Australia's prisoners', Australian Institute of Health and Welfare, 2018, page 78. We acknowledge that not all those who self-report disability will necessarily be eligible for the NDIS. In order to gain access to the NDIS a participant will need to meet particular requirements contained in sections 18-30 of the NDIS Act.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

- 1.6 The NDIA has acknowledged some of these errors, and has apologised to Mr C for its handling of his access request. Since the date of these events, it has made changes to the way it identifies prospective participants who are incarcerated, in particular by introducing Justice Liaison Officers to promote the NDIS within prison systems. It has also made changes to its policies and training material to strengthen its handling of access requests.
- 1.7 Since the date of Ms D's initial complaint, we have monitored these improvements, and we believe that they will improve outcomes for people transitioning out of custody. However, in our view, further improvements should be made to the NDIA's processes, training and quality assurance arrangements to minimise the chance of events like this reoccurring in the future.
- 1.8 Given the administrative deficiencies identified during my Office's investigation, and the potential impact for other vulnerable prospective NDIS participants, the Ombudsman has decided to report these matters under s 15 of the *Ombudsman Act 1976*, with five recommendations to the NDIA to improve its arrangements.
- 1.9 The NDIA has agreed to all five recommendations. The NDIA's response to each recommendation is included at Appendix B.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

## **BACKGROUND**

- 2.1 In early March 2016, Ms D applied for access to the NDIS on behalf of Mr C, by submitting an Access Request Form to the NDIA. Mr C was incarcerated at the time.
- 2.2 In July or August 2016,<sup>2</sup> the NDIA received further evidence of Mr C's disabilities and treatment regime. The NDIA acknowledged that at this time, it had sufficient information to progress Mr C's access request. However, in December 2016, an NDIA officer 'withdrew' Mr C's access request because it had not received a recent enquiry about the status of the access application. The officer who withdrew the request also noted that Mr C was incarcerated.
- 2.3 In September 2017, Ms D submitted a second Access Request Form to the NDIA on Mr C's behalf. Ms D had contacted the NDIA earlier in September prior to submitting the second request and subsequently in October 2017 and informed the agency of Mr C's imminent release from prison. The NDIA's notes from these conversations record Ms D's statements that the NDIA had previously told her that it would not consider a request for access until 3 months before an incarcerated prospective participant's parole date. During this interaction, the NDIA officer did not record providing any clarification that Mr C was in fact able to apply for access to the NDIS regardless of whether he was incarcerated.
- 2.4 Mr C's disability advocate contacted the NDIA in November 2017 and informed it that Mr C was unable to be released on parole until he had supports in place in the community. The NDIA advised the advocate that it is unable to provide supports for people who are incarcerated and that they would need to provide information about Mr C's parole date in writing.
- 2.5 Mr C was released from prison on parole in November 2017. Between his release and January 2018, Ms D took leave from work to support Mr C, and attempted to arrange other supports for him. She told our Office that she was unsuccessful in obtaining supports for Mr C during this time.
- 2.6 In early January 2018, the NDIA approved Mr C's access to the NDIS. It informed Ms D of its decision on that date. Approximately 2 weeks later, the NDIA prioritised its development of Mr C's NDIS plan when it identified that his circumstances were urgent. The NDIA approved Mr C's first NDIS plan in late February 2018.
- 2.7 Ms D subsequently approached our Office with concerns that the NDIA had delayed considering Mr C's access application and provided incorrect advice that he would not gain access to the NDIS while he was incarcerated.

---

<sup>2</sup> The exact date is unknown due to data loss during migration to the NDIA's new business system in August 2016.

## FINDINGS FROM OUR INVESTIGATION

### Incorrect advice

- 3.1 Our investigation found that the NDIA appears to have provided incorrect advice to Mr C's representatives.
- 3.2 In November 2017, the NDIA told Mr C's advocate that it was unable to provide supports to participants when they are in prison. The NDIA acknowledges that this advice was incorrect.
- 3.3 Ms D informed our Office that sometime before September 2017, the NDIA also told her that Mr C would not be eligible to request access to the NDIS until 3 months before his release date. This information is incorrect—prospective participants can apply for access to the NDIS regardless of whether they are incarcerated and irrespective of their expected parole date.
- 3.4 The NDIA states that it has no record of providing this advice to Ms D. However, it has acknowledged that its records from that time are incomplete. The NDIA has accepted that it may have provided this advice and that it would be incorrect.
- 3.5 The NDIA's internal notes show that:
  - in a phone call with the NDIA in September 2017 Ms D informed it that she wanted an Access Request Form to be sent to her because '[Mr C] gets out on parole in three months'
  - during October 2017, Ms D told the NDIA she had previously been informed that an access request could only be submitted 'up to three months prior' to a prospective participants parole date.
- 3.6 Given the consistency of Ms D's statements about the NDIA's advice to her and that in both interaction notes NDIA officers do not appear to have identified this advice as incorrect or recorded correcting Ms D's statement, we are satisfied that the NDIA likely provided Ms D with this incorrect advice at some point prior to September 2017.

### Incorrect handling of the access request

- 3.7 Our investigation found that the NDIA did not handle Mr C's access request in the manner required by its legislation and its internal policies.
- 3.8 Sections 20 and 21 of the *National Disability Insurance Scheme Act 2013* (the NDIS Act) require the CEO (or their delegate) to act on a request for access to the scheme within 21 days of receiving it. The NDIA received an access request from Mr C, supported by valid evidence, on or around August 2016 and did not act on it until December 2016.
- 3.9 The NDIA has acknowledged that it did not meet the statutory timeframe in its handling of Mr C's access request.
- 3.10 When it actioned Mr C's access request, the NDIA marked the request as 'withdrawn' because it had not received a recent enquiry about the status of the access application.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

- 3.11 Section 26(3) of the NDIS Act states that when the NDIA requests information of a prospective participant, and the person does not provide the requested information within 28 days (or a longer specified timeframe), the person is taken to have withdrawn the access request.
- 3.12 However, in Mr C's circumstances, there is no evidence that the NDIA had requested information from Mr C which would have allowed the NDIA to make use of this provision. In this case, the NDIA officer's withdrawal of Mr C's access request was inconsistent with s 26(3) of the NDIS Act.
- 3.13 During our investigation, the NDIA acknowledged that there was no proper basis in the NDIS Act to treat Mr C's request for access as 'withdrawn' on the basis that he and his representatives had not made any recent inquiries about access.
- 3.14 The NDIA's internal guidance documents 'Work Practice—Access Overview' at the time required that Mr C's request for access be prioritised and actioned within five working days, when he was identified as a person at risk of re-entering the community with no supports in place. The NDIA acknowledged that it departed from 'Work Practice—Access Overview' in its handling of Mr C's access request.

**Delay in planning**

- 3.15 The NDIA's Operational Guideline 6.2 requires the NDIA to commence preparation of a participant's plan within six weeks of deciding that a person meets the access criteria, when a person is being released from custody.
- 3.16 The NDIA told our Office that it requested a priority planning appointment for Mr C in January 2018, after it received further contact from Ms D requesting a planning meeting. The need for priority planning was identified two weeks after Mr C had obtained access to the scheme.
- 3.17 In our view, the NDIA held information regarding Mr C's impending release from custody in September 2017, and should have acted to prioritise his planning immediately on the date that he obtained access to the scheme.
- 3.18 We acknowledge that the NDIA met the timeframe provided by the Operational Guideline for commencement of Mr C's planning process, in that it commenced preparation of the plan within two weeks of deciding that Mr C met the access criteria.
- 3.19 However, because it was aware of Mr C's circumstances at least as early as September 2017, it overlooked an opportunity to provide Mr C with urgently needed supports in a more timely fashion. This further delay had a cumulative effect, building on the incorrect advice and mishandling of Mr C's access request, and resulting in Mr C being without disability supports for the entire time he was in the community before his return to custody.

## IMPROVEMENTS ALREADY MADE BY THE NDIA

- 4.1 As a result of our investigation, the NDIA sent Ms D a letter of apology about the way it handled Mr C's access request. It has also undertaken the following initiatives, to improve prospective participants' experiences of accessing the NDIS, particularly for incarcerated individuals:
- created the Justice Liaison Officer (JLO) role, within the NDIA, to work closely with state and territory justice systems to promote the role of the NDIA and coordinate support for NDIS participants in justice settings
  - developed an internal document 'Practice Guide—Participants with Justice Interface' that provides direction about how officers should consider access and planning for participants in the justice system
  - created a new induction and training program for staff working in the National Access Team.
- 4.2 Nonetheless, in our view, the NDIA should make further changes to its processes, quality assurance and staff training to improve the access experience of prospective NDIS participants.



## RECOMMENDATIONS FOR FURTHER IMPROVEMENT

### Operational Guideline

- 5.1 The NDIA failed to prioritise Mr C's access request in October 2017 in accordance with its internal policy 'Work Practice—Access Overview' and Operational Guideline 4.11.
- 5.2 The NDIA states that the Operational Guideline provides 'detail and guidance to decision makers on how to apply the law in the context of the NDIS, and helps the NDIA to interpret its functions and powers when making decisions or recommendations affecting members of the public'. The NDIA publishes its Operational Guideline on its website.
- 5.3 Operational Guideline 4.11 states that the NDIA may determine that a prospective participant meets the access criteria sooner than the timeframe set out in the NDIS Act, in 'urgent circumstances'. It states that 'urgent circumstances':
- 'include, but are not limited to, where a prospective participant's accommodation or care arrangements have broken down, are unsustainable, fragile, at risk of breakdown or where a prospective participant is at risk of harm or is re-entering a community setting and has few or no supports in place'<sup>3</sup>*
- 5.4 We observe that Operational Guideline 4.11 does not provide as much detail as the associated internal work documents used by staff. These documents set out examples of circumstances which may warrant prioritisation of an access decision, including specifically outlining that officers should prioritise requests when the prospective participant is discharged from hospital, released from prison or a mental health facility, the person has a newly acquired significant disability or spinal cord injury.
- 5.5 As well as prioritising access, the NDIA can also prioritise the preparation of a participant's NDIS plan in accordance with Operational Guideline 6.2. We note that this Operational Guideline provides a detailed explanation and a list of examples of circumstances requiring priority. It also makes specific reference to 'participants being released from prison or custody' among other groups of participants likely to require priority planning.
- 5.6 In our view, the approach taken in Operational Guideline 6.2 in providing a detailed explanation and a list of examples of circumstances requiring prioritisation is more appropriate. By publicising more detailed examples of circumstances which may warrant prioritisation of an access request, the NDIA is more likely to obtain relevant information from prospective participants about their personal circumstances.

#### Recommendation 1

We recommend that the NDIA expand on Operational Guideline 4.11 to include the circumstances already outlined in its internal policy documents when a prospective participant should receive priority processing of their access request.

<sup>3</sup> NDIS Website: <https://www.ndis.gov.au/about-us/operational-guidelines/overview-ndis-operational-guideline/overview-ndis-operational-guideline-overview> , accessed most recently 20 November 2019.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

## **Access Request Form**

- 5.7 Prospective NDIS participants can apply for access to the NDIS verbally, or by completing and submitting the NDIA's Access Request Form.
- 5.8 The Access Request Form does not request information about prospective participant's vulnerabilities or their personal circumstances that would warrant their access request being prioritised under Operational Guideline 4.11. The NDIA told our Office that this is because it primarily uses the Access Request Form to assess eligibility under the NDIS Act.
- 5.9 We acknowledge that the NDIA's internal guidance for staff: 'Task card—make a priority access request', refers staff to the existence of prioritisation principles and outlines how staff should action a priority access request. However, we consider these instructions would be more useful if the NDIA proactively asked prospective participants to provide information about their circumstances which would assist it to assess priority at the earliest possible stage.
- 5.10 In our view, incorporating relevant questions about the circumstances of a prospective participant, with reference to Operational Guideline 4.11, at this point in the process would increase the likelihood of the NDIA identifying circumstances where a prospective participant's circumstances warrant prioritisation of their access decision, such as imminent changes to the prospective participant's care or accommodation arrangements. We accept the NDIA's position that it is not able to compel a person to provide this information, however we consider that it can still request or encourage its provision.

### **Recommendation 2**

We recommend that the NDIA encourage prospective participants to provide information relevant to prioritising their access request on its Access Request Form and during the Verbal Access Request process

## **Training**

- 5.11 The NDIA stated that the errors made and the incorrect advice provided to Ms D and Mr C's advocate may have been because of scheme immaturity and operator error. While acknowledging these considerations, we consider that some of the errors could have been avoided, and the risk of similar errors minimised in the future, if NDIA staff had a better understanding of Operational Guideline 4.11.
- 5.12 In addition to the changes recommended above, we are also of the view that relevant and thorough training to staff can minimise the risk of these errors occurring. In January and June 2019, the NDIA released a suite of new training materials for its service delivery staff in the National Access Team. We have considered the NDIA's training facilitator guides and its 'on the job training' workbook.
- 5.13 We acknowledge that the facilitator guides encourage trainers to discuss Operational Guideline 4.11 with new staff in the National Access Team. However, we note that the workbook does not encourage staff to consider the NDIA's prioritisation principles for access requests in the 'on the job' component of the training. In our view, reinforcing the information provided in the facilitator guide through practical activities would increase the likelihood that staff will recognise

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

access requests which warrant prioritisation consistent with Operational Guideline 4.11.

- 5.14 As noted above, the NDIA incorrectly withdrew Mr C's access request, inconsistent with s 26(3) of the NDIS Act. The facilitator guide and workbook refer new staff members of the National Access Team to consider the requirements of s 26 of the NDIS Act. However, this section of the workbook does not reference or specifically outline to staff the circumstances where they should consider an access request to be withdrawn, consistent with s 26(3) of the NDIS Act.

**Recommendation 3**

We recommend that the NDIA update its training materials to:

- a) include learning activities to assist new staff in the National Access Team to identify situations which warrant prioritisation of an access request under Operational Guideline 4.11
- b) include content and a learning activity about the withdrawal of an access request under s 26 (3) of the NDIS Act.

**Practice Guide**

- 5.15 At the time of Mr C's requests for access to the NDIS, the NDIA did not have any policy or guideline dealing specifically with incarcerated individuals and access to the NDIS. In September 2018, the NDIA produced a 'Practice Guide—Participants with Justice Interface', which assists staff to meet the needs of participants who are incarcerated or in custody.
- 5.16 The Practice Guide addresses a range of issues across the participant experience including planning, streaming, implementation and plan reviews. It also briefly addresses access, correctly stating that staff should progress an access request from an individual with justice interface 'according to the usual processes', regardless of whether the person is in custody.
- 5.17 In our view, guidance of this kind would have reduced the risk of Mr C's first access request being improperly withdrawn, and we acknowledge that the NDIA has taken steps to meet this need. However, we consider that the Practice Guide could provide further information to officers about the needs of incarcerated individuals making an access request.
- 5.18 Individuals in custody often have supports met by the corrections system, which is required to make reasonable adjustments for people with disability while they are in custody. The Practice Guide identifies that participants in custody may not receive any NDIS funded supports. It also identifies that during transition out of custody, participants are likely to require more intensive supports and support coordination to build mainstream linkages and facilitate re-engagement into the community.
- 5.19 To meet this sudden change in required supports, the Operational Guideline 4.11 directs staff to prioritise an access request from prospective participants re-entering a community setting with few or no supports in place.
- 5.20 However, the Practice Guide does not refer staff to this part of the Operational Guideline, or suggest they should consider prioritisation when they receive an access decision from an incarcerated prospective participant.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

- 5.21 In our view, including a reference to the Operational Guideline within the Practice Guide would increase the likelihood that the NDIA will identify prospective participants whose access decision warrants prioritisation.

**Recommendation 4**

We recommend that the NDIA update the ‘access’ section of the Practice Guide—Participants with Justice Interface to:

- a) highlight that prospective participants who have lodged an access request and who are nearing their release date from custody may be more likely to require prioritisation
- b) suggest that staff refer to Operational Guideline 4.11 when considering access requests from incarcerated prospective participants.

**Quality Assurance**

- 5.22 The NDIA’s access decision-making process includes a quality assurance measure, to verify that the proposed access decision is based on a correct application of the NDIS Act, Rules and Operational Guidelines.
- 5.23 This process reduces the risk of incorrect access decisions. Quality Assurance data can also provide the agency with insight into whether its resources, training and guidance are supporting staff to make decisions in a manner consistent with law and policy. This may help the NDIA identify where there is a need for additional investment or resources to ensure robust and fair decision-making.
- 5.24 The NDIA’s ‘National Access and Workload Management Branch (NAWMB) Quality Control Audit Guide’ requires that Quality Development Officers audit proposed access decisions against a range of criteria. However, the criteria does not include a check of whether the access decision was appropriately prioritised in accordance with Operational Guideline 4.11, and if so, whether the relevant timeframe in the Work Practice—Access Overview and the NDIS Act was met.

**Recommendation 5**

The NDIA make changes to its Quality Control Audit process to:

- a) include a check that an access request was appropriately prioritised in accordance with the Work Practice—Access Overview and Operational Guideline 4.11
- b) systematically aggregate and report on data, to be considered by the agency’s leadership to identify areas of risk in the access decision-making process.

**CONCLUSION**

- 6.1 We acknowledge that since the time of these events of this investigation, the NDIA has made considerable improvements in its approach to incarcerated prospective participants.
- 6.2 Nonetheless, we recommend that the NDIA undertake further work to ensure that those leaving prisons have their access decisions appropriately prioritised and we note that these recommendations may also be applicable to the NDIA more broadly for prospective participants transitioning out of hospitals or mental health facilities.

**Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C**

- 6.3 Given the vulnerability of individuals transitioning from custody into the community, it is critical that the NDIA continue to take steps to ensure that its services are appropriately available for this group of people.

Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C

## **APPENDIX A: LETTER OF RESPONSE FROM THE NDIA CEO**

EC19-001938



GPO Box 700  
Canberra ACT 2601  
1800 800 110

[ndis.gov.au](http://ndis.gov.au)

Mr Michael Manthorpe  
Commonwealth Ombudsman

Via email: [paul.pfitzner@ombudsman.gov.au](mailto:paul.pfitzner@ombudsman.gov.au)

Dear Mr Manthorpe *Michael*

Thank you for your email of 29 November 2019 regarding the draft report on the Investigation into the actions of the National Disability Insurance Agency (NDIA) in relation to Mr C.

The NDIA appreciates the opportunity to review, seek changes and provide a formal response to the report in advance of publishing. A copy of the reviewed report complete with tracked changes requested by the NDIA and responses to the recommendations is provided at Attachment A.

The NDIA takes very seriously the feedback provided by the Office of the Commonwealth Ombudsman and values its contribution to the continuing improvement of the services delivered to potential participants, participants and their support networks.

As you have noted in the report, the NDIA has made considerable improvements in the way that people who are incarcerated are supported to test their eligibility for the NDIS and undertake planning in a timely manner. The Agency is also continuing to focus on further enhancing our work in this area through the working groups on mainstream interfaces, refining the resources and functions of the Complex Support Needs Team and broader collaboration between the NDIA and respective corrections and justice representatives in the jurisdictions.

Thank you again for bringing your concerns to my attention and providing the NDIA with valuable feedback to improve the standard of services delivered by the Agency.

Yours sincerely

**Martin Hoffman**  
Chief Executive Officer  
National Disability Insurance Agency

9 January 2020

Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C

## **APPENDIX B: NDIA RESPONSE TO RECOMMENDATIONS**



## APPENDIX B: NDIA RESPONSE TO RECOMMENDATIONS

Recommendation	Agree/Disagree	NDIA Comments
<p><b>Recommendation 1</b></p> <p>We recommend that the NDIA expand on Operational Guideline 4.11 to include the circumstances already outlined in its internal policy documents when a prospective participant should receive priority processing of their access request.</p>	<p><b>Agree</b></p>	<p>The NDIA will align public messaging in the NDIS Operational Guideline (OG) – Access to the NDIS with guidance in standard operating procedures regarding prioritisation of access requests.</p> <p>This recommendation has been included in the OG continuous improvement register for incorporation in the annual cycle of review. Proposed OG updates will be subject to endorsement by the NDIA governance body.</p>
<p><b>Recommendation 2</b></p> <p>We recommend that the NDIA encourage prospective participants to provide information relevant to prioritising their access request on its Access Request Form and during the Verbal Access Request process</p>	<p><b>Agree</b></p>	<p>Whilst the Agency has implemented a prioritisation service standard for access requests from a customer service perspective, this is not a legislative requirement. The NDIA must comply with the <i>National Disability Insurance Scheme Act 2013</i> (the NDIS Act) by only requesting information that is relevant to making the access decision. Therefore, the Agency agrees to prompting people to provide prioritising criteria information during the Access Request. However, the NDIA cannot compel the person to provide this information based on our legislative powers and need to adhere to privacy legislation.</p> <p>The Agency also has many other initiatives underway which will address this issue including:</p> <ul style="list-style-type: none"> <li>• <b>New Collaborative Access</b> - The Agency is enhancing support for people applying for the NDIS where a key contact (Local Area Coordinator) works with them to find local services, apply for the NDIS, gather supporting evidence and understand the next steps. This includes new Hospital Liaison Officers (HLOs) who support people in hospital with the NDIS pathway.</li> <li>• <b>New Access Request Form</b> - The Access Request Form (ARF) has been redesigned and includes a new free text section for people to provide additional information. The Agency will include general prompts above this section about priority circumstances.</li> </ul>

Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C

---

The release of these changes must be coordinated with updates to the VAR and NDIS Business system.

Inclusion of priority criteria on the ARF will add another evidence requirement for people who will need to verify their priority circumstances to mitigate the risk of inappropriate use of the priority pathway.

- **Updated Verbal Access Request (VAR) script** - The Agency will update the VAR script to align with any changes in the ARF. The release of these changes must be coordinated with updates to the ARF and NDIS Business system.
- **Updated NDIS Business system** - The Agency has requested updates to the NDIS Business system to incorporate the new ARF. However further updates will be required to operationalise this recommendation on a national scale. The Agency is already in the process of developing an NDIS Business System solution to manage priority requests.

---

**Recommendation 3**

**Agree**

**Recommendation 3 (a)**

We recommend that the NDIA update its training materials to:

a) include learning activities to assist new staff in the National Access Team to identify situations which warrant prioritisation of an access request under Operational Guideline 4.11, and

b) include content and a learning activity about the withdrawal of an access request under s 26 (3) of the NDIS Act.

**Updated Access – Standard Operating Procedures** - NDIA Access Standard Operating Procedures are currently being updated and will include enhanced practice guidance around priority criteria.

**Extended Access training** - NDIA Access staff complete a robust induction, on the job training and professional development program which could be extended to all Partners In The Community staff engaged in Pre-Access and Access related tasks.

**Induction training** New NDIA Access staff must complete two induction programs:

- Agency Induction (general training)
- Access Induction (technical training)

Access Induction requires staff to complete a detailed Learner Workbook including learning activities to identify & process priority Access Requests. These resources are available on the NDIA Intranet and will be enhanced in 2020 as part of the Training refresh project.

**On the job training (6 weeks)** New NDIA Access staff must shadow experienced staff to apply their induction learning 'on the job' before they are deemed competent to work independently.

---

Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C

---

This structured coaching includes identification, prioritisation and processing of urgent items. The NDIA will ensure that the importance and consequences of prioritisation of requests under Operational Guideline 4.11 are lifted in prominence in these training programs.

**Recommendation 3 (b)**

Access Requests are withdrawn automatically by the NDIS Business System when people have not provided, or requested an extension, further information requested by the NDIA within 28 days.

**Updated Access – Standard Operating Procedures** NDIA Access Standard Operating Procedures are currently being updated and will include enhanced practice guidance around extensions to provide further information prior to withdrawing access request.

**Updated Access – Operational Guidelines** NDIS Operational Guidelines will be updated to make the relevant timeframes for providing information to the NDIA, and opportunities to request timeframe extensions, clearer for people applying for the scheme.

**New Collaborative Access** Additional support from Local Area Coordinators as a key contact and to help people provide the ‘right information, the first time’ will resolve this issue.

---

**Recommendation 4**

**Agree**

We recommend that the NDIA update the ‘access’ section of the Practice Guide – Participants with Justice Interface to:

a) highlight that prospective participants who have lodged an access request and who are nearing their release date from custody may

Consultation between the National Access Workload Management Branch (NAWMB) and Planning Support Branch has confirmed agreement to the need to update the Practice Guide - Participants with Justice Interface to provide enhanced guidance to staff drawing on the prioritisation schedule and Operational Guideline 4.11. The Branches will work collaboratively to ensure that this resource is aligned with the staff resource materials in the NAWMB which will also be considered for opportunities to strengthen the practice desired of staff for prioritisation of access requests.

In addition, the NDIA has been working closely with representatives from jurisdictional Corrections and Justice Services to establish interim procedures in the absence of agreed positions and processes through SOWG sub-working groups and DRC. As a result of this work representatives working with potential participants in the prison setting are identifying individuals approaching release as requiring priority processing in the subject line of the email in

Commonwealth Ombudsman—NDIA—Investigation into the actions of the NDIA in relation to Mr C

---

<p>be more likely to require prioritisation, and</p>		<p>which the access request is sent to the NAWMB. These requests are managed via the existing priority pathway and recent feedback has indicated that the requests are being rapidly processed.</p>
<p>b) suggest that staff refer to Operational Guideline 4.11 when considering access requests from incarcerated prospective participants.</p>		<p>It is recommended that the NDIA continue to enhance the knowledge of key stakeholders in the Justice setting to support early identification of the need for prioritisation as this process has been working successfully across multiple jurisdictions.</p>
<p><b>Recommendation 5</b></p>	<p><b>Agree</b></p>	<p><b><u>Recommendation 5 a)</u></b></p>
<p>The NDIA make changes to its Quality Control Audit process to:</p>		<p>The NAWMB business assurance process targets assessment of access decisions to ensure that the decision is based on correct application of the NDIS Act, Rules and Operational Guidelines, focusing on factors that impact on all access decisions.</p>
<p>a) include a check that an access request was appropriately prioritised in accordance with the Work Practice – Access Overview and Operational Guideline 4.11, and</p>		<p>The NDIA agrees that a check that the access request was appropriately prioritised in accordance with the Work Practice – Access Overview and Operational Guideline 4.11 be added to the Audit Guide. This inclusion will be dependent on the implementation of Recommendation 2 to facilitate a change to the Access Request Form/VAR in which a check can be consistently applied as to whether appropriate prioritisation has occurred based on having this information at the point of access being requested.</p>
<p>b) systematically aggregate and report on data, to be considered by the agency’s leadership to identify areas of risk in the Access decision making process.</p>		<p>In addition, the NDIA is exploring the option of a field in the Business System to flag that an access request or planning requires prioritisation.</p>
		<p><b><u>Recommendation 5 b)</u></b></p>
		<p>The NAWMB undertakes post decision business assurance checks to identify critical errors and areas of the business for improvement. This coupled with the weekly reporting from the NAWMB Quality team on pre-decision quality checks provides data, which informs areas of risk and continuous improvement opportunities. This data will continue to be utilised to identify areas of risk in the Access decision making process.</p>

---