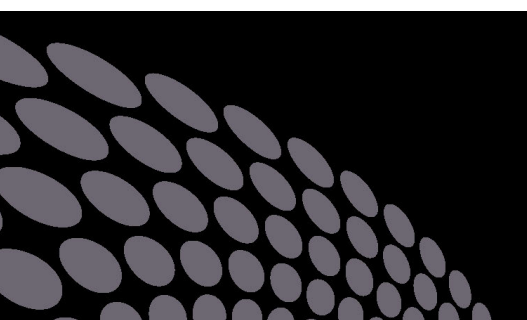


# Joint Standing Committee on the National Disability Insurance Scheme

## ***Capability and Culture of the NDIA***

Occupational Therapy Australia submission

October 2022



## Executive Summary

Occupational therapists are dedicated to building a stronger NDIS that fulfills its promise and endures for the benefit of future generations. The NDIS has changed many lives for the better since its inception however there are a number of ways in which NDIA can adjust the clarity of its processes and capability and culture of its staff to significantly improve the benefits that the scheme can deliver to participants.

Specifically, revised processes to increase the transparency, consistency and clarity of decisions would allow occupational therapists (and other health professionals) to work more effectively with the NDIA and therefore also with the scheme's participants. In addition, there is a perceived lack of training and decision-making support for planners and coordinators, which again can result in inconsistent and opaque decisions which do not result in the best outcomes for participants or the best use of funds to improve participants' daily lives.

OTA has outlined below some examples of inconsistent or ambiguous NDIA processes which have significant impact on the experience of participants. A combination of clearer processes and more consistent application of processes by NDIA staff would increase the NDIA's capability to better meet the needs of both the care provider and the participant.

## The role of occupational therapists in the NDIS

OTA is the professional association and peak representative body for occupational therapists in Australia. There are over 26,750 registered occupational therapists working across the government, non-government, private and community sectors in Australia. Occupational therapists are allied health professionals whose role is to enable their clients to engage in meaningful and productive activities.

Occupational therapy is a person-centred health profession concerned with promoting health and wellbeing through participation in occupations. Occupational therapists achieve this by working with participants to enhance their ability to engage in the occupations they want, need, or are expected to do; or by modifying the occupation or the environment to better support their occupational engagement. Occupational therapists provide services across the lifespan and have a valuable role in supporting participants affected by developmental disorders; physical, intellectual, chronic and/or progressive disability; and mental health issues.

Occupational therapists are highly skilled in assessing the degree to which a person's disability affects their level of function in daily tasks. Given their expertise and area of practice, many occupational therapists deliver services funded by the NDIS. Services focus on promoting independence in activities of daily living and enablement of social and economic participation. These services may include functional capacity assessment and intervention; disability-related chronic disease management; prescription and implementation of assistive technology and/or environmental modifications; mental health interventions; positive behaviour support; driving assessments (when specifically trained to do so); and targeted, goal-focussed rehabilitation.

## **Clarity of NDIA processes and training of staff**

A number of processes within the NDIS are opaque and unclear. This can result in providers, including occupational therapists, being unclear about expectations of them and the reports they prepare, particularly about risk and functional assessments. This can lead to inefficient outcomes for all parties including the over or underfunding of plans. More transparent processes, administered consistently and fairly by NDIA staff, would ensure that all parties understand what is required of them.

A number of these unclear processes are outlined below across the full scope of a participant's experience of the scheme.

### **Functional capacity assessments/identifying support needs**

Currently, there no clear and consistent process exists for initially identifying daily living support needs, which has an impact on the effectiveness of daily living support provision and can result in plans being under or overfunded. It is of crucial importance that a comprehensive, co-designed, fit-for-purpose functional capacity assessment tool is available for NDIS participants. This is also relevant for NDIS participants awaiting hospital discharge.

The current process of assigning a 'functional level' for a participant through the NDIS planning process is a barrier to identifying appropriate levels of daily living supports, and a potential source of inequity. OTA seeks transparency from the NDIS on how occupational therapy assessments are interpreted in order to determine participants' functional levels and their associated levels of funding. Greater clarity would enable occupational therapists to describe function in a way that can be interpreted correctly and consistently every time.

The way in which NDIA determines a participant's functional level is not consistently applied. On some occasions this appears to be determined by administrative officers using inappropriate assessment tools. Where allied health reports are available (and this may depend on a participant's ability to pay for this) they may be taken into account, but there is no transparent process to show how the information in these reports are used.

These decisions are of crucial importance as they link the participant to funding, or Typical Support Packages (TSP). OTA is also concerned that the allocation of daily living support for a participant is currently heavily reliant on TSPs that are connected to a participants listed 'primary' disability. This may disadvantage participants with multiple disabilities, as it may not take into account secondary disabilities, or other complexities for the participant.

The current process can result in unreliable or inaccurate conclusions being drawn and therefore inconsistent decisions for participants. Greater clarity on how allied health assessments are used by NDIA staff, along with clearer and more consistent processes to identify support needs will result in more appropriate supports being provided to participants.

### **Risk assessment for daily living supports**

OTA is concerned that the NDIA risk assessment process for decisions about daily living supports is not working effectively, nor is it clearly communicated to those who must provide the information to decision makers.

OTA understands that risks to participants (who are requesting daily living supports) that are raised in reports prepared by occupational therapists, are not always appropriately reviewed and addressed by NDIA.

For example, an occupational therapist described an instance of a risk assessment and the failure to act on suggested solutions:

*“I trialled a range of strategies to enable my client with complex psychosocial disability to cook safely and independently. He lives alone, and he has a history of self-harm so sharp knives are not appropriate to have in his home. He has a history of setting fires – often unintentionally due to leaving the stove unattended. He has previously blown a fuse due to inappropriate use of the microwave. There were no viable safe cooking methods that would enable him to cook a decent meal independently. I provided evidence to the NDIS planner that there are considerable risks to this client when cooking in the kitchen. Still, NDIS refused to fund a support worker to assist him with preparing meals; and declined to subsidise meal-delivery. I would like to know if and how my risk assessment was considered in this decision.”*

OTA believes that processes need to be put in place to ensure that risk assessments made by occupational therapists are reviewed and addressed by NDIA staff. This will ensure a fair and equitable decision is achieved when assessing daily living risks and support is provided to participants, particularly those with reduced decision-making capacity.

### **Assistive technology**

Occupational therapists are skilled in providing advice on assistive technology (AT) and home modifications to people with a disability who wish to remain living in their own homes and communities. Prescription of AT and home modifications involves robust clinical reasoning and risk analysis based on the best available evidence to ensure that it is safe to use. This advice is individual and specific to the needs of the participant in the environments in which they live, work, and participate in everyday activities.

The impact of recent changes that the NDIA has made to the approval process for low-risk mid-cost AT is not yet clear. OTA are monitoring the impacts, as therapists have raised concern that participants may be at risk, if the prescription of AT is made by assessors who do not have the required levels of competency, qualifications, training, or oversight. If inappropriate AT is prescribed, it may not have the desired impact on the participant's ability to participate in everyday life. Furthermore, there is a risk that inappropriately prescribed AT can create a physical risk and cause harm to the participant and misuse a participant's funding.

Initiatives to improve access and timeliness of the provision of AT or home modifications are welcomed by OTA. However, it is important that the accountability and liability for the assessment, prescription, and provision of assistive technology or home modifications is not compromised by the simplification of the process or by AT assessors who do not have relevant skills, qualifications or training to carry out this work. NDIA must ensure appropriate scrutiny of this work.

In addition to changes made to the low-risk mid-cost AT process, many complex AT and home modifications decisions require multidisciplinary team input. This needs to be factored into funding plans, which currently does not consistently occur. This includes for example, occupational therapists and speech pathologists working with augmentative and alternative communication devices, and environmental control systems; or occupational therapists and physiotherapists working with complex manual handling situations to recommend suitable hoist and the protocols for support workers to follow.

In both the mid-cost and high-cost AT sector, the NDIA must ensure its staff are aware of the necessity of proper funding to allow for the appropriate assessment, installation, training and adjustment of AT. Greater awareness of the skills of OTs will ensure that participants are protected from inappropriate prescriptions that can cause more harm than good. Again, OTA welcomes initiatives to improve the timeliness of AT provision, however it must not come at the expense of best practice principles.

### **Support coordination**

The role of the support coordinator as OTA understands it, is to work with the participant to engage the supports that are necessary to achieve their goals, while respecting the participant's right to choice and control. The role requires a good knowledge of the services and resources available to participants and can guide the participant, without being overly prescriptive. It also requires capacity to collaborate with service providers to achieve best outcomes for participants.

OTA is concerned that there is a lack of coordination between support coordinators and allied health providers. Occupational therapists report that support coordinators can fail to discuss goals and funding budgets with participants. This results in therapists having to operate within an unrealistically small budget and limits the ability of a therapist to deliver a positive outcome. There is also concern about directives or service requests coming from support coordinators. An OTA member wrote:

*"Many support coordinators will 'instruct' or 'tell' a therapist what the participant needs ... rather than enabling the occupational therapist to complete an unbiased, objective assessment of goals, function and need. Occupational therapists are often castigated if they do not do what the coordinator has stated".*

OTA is concerned that there is a lack of training for support coordinators and too few stated expectations to guide the performance of the role. Support coordinators should aim to facilitate the participant and the care provider working together to achieve positive outcomes. Greater training and clarity for the expectations and roles of the support coordinator role would therefore improve the outcomes for both participants and providers seeking to navigate the system.

### **Living arrangements**

Occupational therapists play a key role in supporting NDIS participants' requests for funding for life-changing home and living options. Their clinical expertise is necessary to assess the functional capacity of people with disability to provide evidence and recommendations to inform NDIA decision-makers. Assessments are often carried out when a participant is either

severely limited or at risk in their current home, or are unable to return to their current home, for example, from a hospital setting.

The process for determining funding for home and living options is lengthy, and there is a lack of transparency in the NDIS decision-making process. OTA members state that there is a lack of clarity among occupational therapists about the level of detail expected of a functional capacity assessment for NDIA to fund home and living options. As stated by one OTA member:

*“We need consistent information from the NDIA regarding their expectations from an OT report and what information they want from the report. Planners’ decisions vary dramatically and frequently come back with questions that have already been clearly outlined in the report.”*

Some of these inconsistencies arise because it is not clear what constitutes a clinical decision versus a funding decision. This is an important distinction.

Similarly, funding to live in specialist disability accommodation (SDA) can be life changing for eligible participants of the NDIS. In order to receive SDA funding, participants must provide evidence of their ‘extreme functional impairment and/or very high support needs’ to the NDIA, where a Home and Living Panel will determine the participant’s eligibility. The evidence that participants submit to the NDIA usually includes a functional assessment completed by an allied health professional (typically an occupational therapist, or a multidisciplinary team which includes an occupational therapist). Beyond this, there is currently limited information about what evidence the NDIA needs from occupational therapy reports to make informed, timely and accurate decisions.

From a clinical perspective, OTA asserts the need for home and living assessments to present a holistic understanding of a participant’s support and housing needs, preferences and goals and provide clear recommendations with clinical justifications. Consistent and more readily available information from the NDIA about their expectations of occupational therapy assessments will undoubtedly shorten decision timelines and provide greater transparency and confidence to NDIS participants requesting SDA or home and living funding.

### **Restrictive practices**

OTA does not believe that strategies known to reduce behaviours of concern are adequately funded by the NDIS or that NDIA staff are fully aware of their benefits and uses.

Occupational therapists are qualified and trained to provide positive behaviour support plans that often reduce the need for restrictive practices. This is in line with the NDIS Commission’s aim of reducing and eliminating the use of regulated restrictive practices where possible.

However, occupational therapists report that they have encountered barriers to providing evidence-based interventions that align with this aim, under the NDIS – in particular, sensory modulation strategies for people with psychosocial disability. They report that:

- NDIS planners and local area coordinators (LACs) can have a poor understanding of sensory strategies, intervention and sensory items, and funding requests for these are frequently declined. This can result in the use of more restrictive (and often, more costly) strategies such as chemical or physical restraints.
- The NDIS Guidelines are currently unclear and state that the NDIS is unlikely to fund sensory items. This is often interpreted by NDIS planners as a blanket "no" to funding any sensory strategies, interventions and sensory items even when a clear clinical rationale and evidence is provided to support their use.

Greater training for NDIS planners and LACs would ensure the participants are able to access a greater range of treatment options where clinically appropriate. A lack of awareness of alternative treatments can build a reliance on inappropriate strategies, and in this case, restrictive practices.

### **Participant capture and scope of practice**

The NDIS does not always adequately manage the risk of inappropriate service provision to vulnerable participants and does not always ensure that providers are working within their scope of practice.

A particularly vulnerable group are those living in private congregate care, or private group homes. Highly publicised media reports from the past two years have highlighted the risk of participant 'capture' by providers.

One occupational therapist described their experience with this issue:

*“A private group home (supported residential service) owner refused an OT access to a group-home to see a known participant with staff literally blocking the front entrance. His (the client’s) entire established NDIS care-team received the same treatment. The person had a cognitive and psychosocial disability, and did not have access to a phone, a guardian, family member or an advocate. My only option was to wait for him on the street outside, to enquire regarding his wellbeing. When we met, he asked us why we hadn’t visited! It transpired that the group homeowner had requested he sign a form he didn’t understand or be vacated from the accommodation. The form was a service agreement giving a single provider control of his NDIS funds. This was a clear and deliberate example of an attempt at exploitation of a NDIS participant. The incident was reported to the NDIS Commission, and the NDIS planner, along with evidence of the need for additional decision-making support. No additional decision-making support, or risk assessment, was provided by NDIS in the following plan, leaving him vulnerable to further such incidents.”*

There is a further risk of unregulated providers working outside of their scope of practice and recommending inappropriate daily living supports. These providers may include allied health assistants, support workers or support coordinators. While these providers have valuable skills that are an important part of the NDIS, they cannot take the place of allied health clinicians. Often in the case of participant “capture”, providers replace effective supports with

less appropriate and cheaper supports. While this is justified by the provider as getting value for money from a participant's limited funding, it can come at the cost of worse or dangerous outcomes for participants. The NDIS has a responsibility to ensure it is addressing and managing the risks associated with inappropriate use of resources.

Additionally, developmental educators and their ill-defined scope of practice is of concern to OTA. OTA has read reports of cases where the NDIS have suggested that OTs and development educators are interchangeable with regard to assistive technology in a participant's plan.

The NDIA must ensure that NDIS providers are operating within their prescribed scope of practice as well as respecting a participant's right to choice.

### **National Quality and Safeguards Commission**

The current complaints systems for participants in the NDIS who experience issues, accidents or fatalities is via a separate body, the NDIS Quality and Safeguards Commission. Not only are timeframes associated with the Commission's processes reported to be unreasonably long, but the Commission seeks to address issues that have already occurred and avoid them in the future rather than quickly intervene where risk exists. As the central focus of the NQSC is predominantly mitigation of risk, little focus is placed on proactive quality improvement that pre-empts potential risks from arising.

Improving the capability of this body to allow for intervention at a more "upstream" point would allow these potential issues to be addressed before they arise and therefore protect participants earlier on.

## **Contact**

OTA thanks members of the Joint Standing Committee into the NDIS for this opportunity to comment on the Culture and Capability of the NDIA.

OTA would be happy to further engage with the Committee to expand on the observations made in this submission. For further information about this submission, please contact:

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