

20 April 2026

Joint Standing Committee on National Disability Insurance Scheme
Parliament of Australia

Submitted on online platform

Dear Joint Standing Committee on National Disability Insurance Scheme

Integrity of the National Disability Insurance Scheme

Thank you for the opportunity to provide comments to the Joint Standing Committee on National Disability Insurance Scheme (the Committee). We welcome the Committee's review and agree that maintaining the integrity of the National Disability Insurance Scheme is critical.

Who we are

The Legal Aid Commission of New South Wales (Legal Aid NSW) is an independent statutory body providing legal services across New South Wales through a state-wide network of 25 offices. The Civil Law Division provides advice, minor assistance, duty and casework services from the Central Sydney office and most regional offices. The purpose of the Civil Law Division is to improve the lives of people experiencing deep and persistent disadvantage or dislocation by using civil law to meet their fundamental needs.

Recommendation: Establish mandatory, participant-centric internal dispute resolution processes for NDIS service providers

The Committee is considering the nature and extent of non-compliance, including fraud and sharp practices, in the National Disability Insurance Scheme. Legal Aid NSW's experience indicates that non-compliance by NDIS service providers is not confined to fraud, but frequently manifests as sharp practices, including unnecessary escalation to litigation, overcharging, poor record-keeping, and failures to comply with the consumer protection laws. These practices undermine the scheme's integrity and disproportionately harm participants living with disability.

In our view, NDIS service providers should be required to implement clear, accessible and participant-centric internal dispute resolution (IDR) processes. Effective IDR would prevent many disputes from escalating unnecessarily to debt collection or court proceedings. These processes should be participant-centric, trauma-informed, culturally safe, and designed with an understanding of the barriers faced by people with disability, including communication challenges, psychosocial disability, and limited access to alternative service options. Establishing minimum standards for IDR – set by the NDIA or the NDIS Quality and Safeguards Commission – would promote more dignified, cost-effective and efficient resolution of consumer disputes for NDIS participants, outside of the court system.

This recommendation is informed by our experience advising and representing an increasing number of NDIS participants and their carers who are being pursued by service providers, including through debt collectors or litigation, for alleged unpaid debt.

A debt may arise in the following circumstances:

- There might be an ‘overspend’ on the participant’s plan, sometimes due to poor advice from a participant’s plan manager or support coordinator about the funds available;
- The goods or services provided were not of acceptable quality, were not provided with due care and skill, or not provided at all, leading the participant to withhold payment;
- The service provider issues duplicate invoices or overcharges, sometimes in circumstances of fraud, so the participant again refuses to pay.

In advising our clients, we have observed that many NDIS service providers have limited or no internal dispute resolution processes. Some of our clients, particularly those with psychosocial disabilities, often report that their concerns are dismissed or minimised, which makes it extremely difficult to resolve disputes directly with the provider. As a result, disputes often escalate quickly, and registered NDIS service providers commence proceedings in the Local Court of NSW. For people living with disability, being sued by a service provider is often a stressful and traumatic experience. For participants in regional areas, the breakdown of the relationship with a service provider can be devastating due to a lack of alternative service options.

Our clients’ experiences with the NDIS Quality and Safeguards Commission (QSC) have also been mixed. Many participants are unsure what specific information is required to prompt an investigation, and some report receiving no follow-up after lodging a complaint. We understand that the QSC may be transitioning towards a more regulatory function where it investigates patterns and emerging trends in consumer disputes, rather than resolving individual disputes. This shift leaves a significant gap in the system, where participants have no clear, effective pathway for resolving disputes early. Any dispute resolution standards developed for providers

should ensure that processes are accessible, transparent and capable of building participant confidence.

The case studies below illustrate the significant harm that can arise when disputes escalate without an effective early resolution mechanism.

Case study: Tami

Tami was an NDIS participant with schizophrenia, hoarding disorder and other mental health conditions. She engaged a service provider to help her move house. Because of her hoarding disorder, moving house involved a significant amount of work, the extent of which wasn't communicated to Tami when she engaged the service provider. There was no written agreement between Tami and the service provider. At the time, she was experiencing a mental health episode.

A dispute arose in relation to invoices issued by the service provider. Tami said that she did not authorise the work and raised some issues with the service itself. Tami refused to approve payment of the invoices.

Tami received a letter of demand from the service provider for around \$12,000. Tami did not have \$12,000 as she received a disability support pension and understood that all of her supports would be paid for with NDIS money. Later, when she didn't pay, she received a statement of claim in the small claims division of the Local Court.

Case study: Margaret

Margaret was a carer for her adult son who is a NDIS participant. She lived in social housing. Her son did not have capacity to make decisions for himself, and Margaret was his financial manager, guardian and NDIS nominee.

Margaret engaged a NDIS provider, who was a sole trader providing essential services like dressing and showering her son. All agreements were oral and Margaret was not a party to the agreements. There was a dispute about payment rates, and the NDIS money ran out early. Margaret believes this happened because the provider over-charged.

Margaret and the NDIS provider tried to get help from the plan manager and the NDIA but were not successful.

Soon after, Margaret discovered that over \$15,000 had been removed from her bank account under a garnishee order. The provider had served a statement of claim but had an incorrect address, so the provider was able to obtain a default judgment and garnishee order without Margaret knowing anything about the matter until her bank

account was garnisheed. The money was her life savings; and she needed it for another child who also lived with disability.

Margaret's case study outlines the challenges that arise where a service agreement does not clearly define who is a party to an agreement, and therefore who is liable under the agreement if there is a breach. This is particularly relevant if the NDIS participant lacks capacity to enter into a contract or agreement.

Recommendation: Develop a mandatory best-practice template service agreement for use by all NDIS service providers

Clear and consistent service agreements are essential to preventing disputes and ensuring that NDIS participants understand their rights and obligations. To support this, we recommend that a best-practice template service agreement be developed – through consultation with people with disability, carers, advocates and service providers – and mandated for use by all NDIS providers.

The following case study illustrates why this would be of benefit to NDIS participants.

Case study: Eric

Eric is an NDIS participant. He contacted an NDIS service provider and they gave him a copy of the service agreement they had drafted.

One of the terms of the service agreement provided that both the NDIS participant and the provider must always treat each other with “courtesy and respect”.

However, Eric noticed that there were terms in the agreement prohibiting negative behaviour, such as physical violence, threats, intimidation and hurtful language, that only applied to the conduct of the NDIS participant. In addition, there was a specific but undefined term which appeared to prohibit the NDIS participant from unloading their emotions on the service provider's staff.

Also of concern to Eric was a broad “indemnity term” in the agreement which required the NDIS participant to indemnify the service provider against all claims, losses, damages, expense, liability and injury to the participant; by reason of or arising out of the services supplied by the provider within or outside the scope of the agreement.

To facilitate effective dispute resolution, service agreements must clearly identify who is a party to the agreement, and who is liable for payment or other obligations under the agreement if there is a breach. Service agreements should also avoid unfair, vague and subjective terms which are likely to cause concern and may not be enforceable.

Our experience shows that many disputes arise because service agreements are unclear, incomplete, or entirely oral. This is particularly problematic where a participant lacks capacity. In these circumstances, the service agreement should clearly identify any authorised representative and the basis of their authority. This may include a person who is recognised by the NDIA as a substitute decision maker (such as a Plan Nominee), or it could be someone legally appointed as a substitute decision maker (such as a financial manager appointed under a Financial Management Order).

It is crucial that the service agreement explicitly states whether the authorised representative/substitute decision maker is jointly and severally liable for payment of the fees. This term effectively makes the representative a guarantor. The service provider should be required to draw this term to the attention of the authorised representative, and advise them that they may obtain independent legal advice before signing the agreement. This process should also apply even when there is no written agreement, as many NDIS arrangements are still formed orally.

Case study: Robert

Robert is a NDIS participant with some capacity to make decisions for himself. Andrew is Robert's brother and his NDIS Plan Nominee.

Robert had a service agreement with a registered NDIS provider; and Robert had signed the agreement. Andrew's name and telephone number were recorded on the agreement as an alternate contact person however Andrew had not signed the agreement.

The service provider claimed they had unpaid invoices and pursued the debt by commencing proceedings in the Local Court against both Robert and Andrew. Andrew was unable to assist Robert with navigating the complexity of the court process, including potentially being appointed as his tutor, as Andrew was now a party to the proceedings and had to defend the claim made against him. Andrew and Robert required separate legal representation which added to the complexity and cost of the matter.

Recommendation: Participants should not lose access to supports when a service provider is under investigation for fraud

Legal Aid NSW has assisted clients who have unknowingly engaged service providers later found to be involved in fraudulent conduct. The National Disability Insurance Agency's Integrity Unit plays a critical role in investigating instances of alleged fraud. However, it is important that the investigation process does not disrupt

a participant's ability to access their funding to pay for services from alternative service providers.

Where a provider is under investigation, the NDIA should ensure that participant funding remains accessible, payments to other providers are not delayed, and participants are not penalised for the conduct of providers.

Case study: Rachel

Rachel has significant physical disabilities and relied on her NDIS funding to participate in daily essential activities. One of the service providers assisting Rachel was investigated by the NDIA for fraud and they were ultimately de-registered. Rachel was not under investigation by the NDIA for fraud and there were no concerns from the NDIA about Rachel's entitlement to her funding package.

However, when the NDIA started investigating the service provider, all invoices that Rachel submitted to the portal to pay other service providers were not paid by the NDIA. As a result, Rachel did not get access to the supports she needed. Service providers became concerned about working with Rachel because they knew that their invoices would not be paid. This situation continued for months before the NDIA agreed to make a manual payment to the providers. Rachel had tried to solve this issue herself, and with support from her local member, before finally coming to Legal Aid NSW for assistance. Rachel described the experience as devastating.

Thank you again for the opportunity to provide comments. If you have any questions or would like to discuss this matter further, please contact [REDACTED]

Yours sincerely

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Monique Hitter
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[\[1\]](#) All case studies in this submission have been de-identified.

