

# Chapter 1

## Introduction

### Referral of inquiry and terms of reference

1.1 The Joint Standing Committee on the National Disability Insurance Scheme (NDIS) was established on 1 September 2016. The committee is composed of five Members and five Senators.

1.2 The committee is tasked with inquiring into:

- (a) the implementation, performance and governance of the NDIS;
- (b) the administration and expenditure of the NDIS; and
- (c) such other matters in relation to the NDIS as may be referred to it by either House of the Parliament

1.3 After 30 June each year, the committee is required to present an annual report to the Parliament on the activities of the committee during the year, in addition to other reports on any other matters it considers relevant.

1.4 The committee is also able to inquire into specific aspects of the Scheme. On 30 November 2016, the committee decided to undertake an inquiry into the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition.

1.5 The terms of reference for the inquiry are as follows:

1. That the joint committee inquire into and report on the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition, with particular reference to:
  - (a) the eligibility criteria for the NDIS for people with a psychosocial disability;
  - (b) the transition to the NDIS of all current long and short term mental health Commonwealth Government funded services, including the Personal Helpers and Mentors services (PHaMs) and Partners in Recovery (PIR) programs, and in particular;
    - (i) whether these services will continue to be provided for people deemed ineligible for the NDIS;
  - (c) the transition to the NDIS of all current long and short term mental health state and territory government funded services, and in particular;
    - (i) whether these services will continue to be provided for people deemed ineligible for the NDIS;
  - (d) the scope and level of funding for mental health services under the Information, Linkages and Capacity building framework;

- (e) the planning process for people with a psychosocial disability, and the role of primary health networks in that process;
- (f) whether spending on services for people with a psychosocial disability is in line with projections;
- (g) the role and extent of outreach services to identify potential NDIS participants with a psychosocial disability;
- (h) the provision, and continuation of services for NDIS participants in receipt of forensic disability services; and
- (i) any related matter.

1.6 In November 2016 the Senate Community Affairs Committee tabled the report *Indefinite detention of people with cognitive and psychiatric impairment in Australia*. The committee made 32 recommendations, including that the Joint Standing Committee on the NDIS conduct an inquiry into the issue of eligibility and access to the NDIS for people held in prisons and the criminal justice system.<sup>1</sup> The terms of reference of the inquiry cover these issues.

### **Structure of report**

1.7 This report is comprised of five chapters, as follows:

- this chapter (chapter one) outlines the context and administration of the inquiry and provides some background information about psychosocial disability and the NDIS;
- chapter two discusses the eligibility criteria for access to the NDIS;
- chapter three examines the planning process and barriers to access NDIS services;
- chapter four explores issues related to funding and the transition of services to the NDIS, continuity of services, and the scope and level of funding for mental health services under the ILC framework; and
- chapter five considers the provision and continuation of services for NDIS participants in receipt of forensic disability services.

### **Conduct of the inquiry**

1.8 The committee received 131 submissions to the inquiry from individuals and organisations. These submissions are listed in Appendix 1.

1.9 The committee also conducted four public hearings:

- 28 April 2017 in Melbourne;

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1 Senate Community Affairs Committee, *Indefinite detention of people with cognitive and psychiatric impairment in Australia*, November 2016, p. xviii, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/IndefiniteDetention45/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetention45/Report) (accessed 23 May 2017).

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- 12 May 2017 in Canberra;
  - 17 May 2017 in Penrith; and
  - 16 June 2017 in Canberra.

1.10 Transcripts from these hearings, together with submissions and answers to questions on notice are available on the committee's [website](#). Witnesses who appeared at the hearings are listed in Appendix 2.

### **Acknowledgements**

1.11 The committee would like to thank the individuals and organisations that made written submissions to the inquiry, as well as those who gave evidence at the four public hearings. We are grateful for their time and expertise.

### **Note on terminology and references**

1.12 References to submissions in this report are to individual submissions received by the committee and published on the committee's website. References to Committee Hansard are to proof transcripts. Page numbers may vary between proof and official transcripts.

### **Background information**

#### ***The NDIS and psychosocial disability***

1.13 Sections 22 to 25 of the *NDIS Act 2013* detail the criteria for access to the Scheme. To become an NDIS participant a person must:

- have a permanent impairment that significantly affects their ability to take part in everyday activities, or have a developmental delay;
- be aged less than 65 when first applying to enter the NDIS and meet additional age requirements if living in SA or TAS;
- live in Australia in an NDIS area on a specified date;
- be an Australian citizen or hold a permanent visa or a Protected Special Category visa.

1.14 The NDIS defines psychosocial disability as the term used to describe disabilities that may arise from mental health issues. Whilst not everyone who has a mental health issue will experience psychosocial disability, those that do can experience severe effects and social disadvantage. People with a significant disability that is likely to be permanent may qualify for NDIS support<sup>2</sup>.

1.15 With respect to psychosocial disability, the NDIS acknowledges the importance of recovery, which is defined as achieving an optimal state of personal, social and emotional wellbeing, as defined by each individual, whilst living with or

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2 NDIS, *Psychosocial disability, recovery and the NDIS*, November 2016, p. 1, <https://www.ndis.gov.au/medias/documents/heb/h21/8799160959006/Fact-Sheet-Psychosocial-disability-recovery-and-the-NDIS-PDF-774KB-.pdf> (accessed 23 May 2017).

recovering from mental health issues.<sup>3</sup> The NDIS is committed to ensuring that recovery is supported for participants with psychosocial disability through the design and implementation of the NDIS. The NDIS has stated that it will provide:

- choice and control for participants;
- lifetime commitment to supports and funding as required;
- increased independence and social and economic participation; and
- support for a partnership approach.<sup>4</sup>

1.16 The NDIS is designed to be flexible to meet variations of intensity in mental illness ('episodes'). An NDIS plan will account for these possible fluctuations by providing a flexible budget to increase and decrease supports as necessary. A participant's individualised plan will also document their informal supports (from friends and family) along with supports they access from their local community and other government systems.<sup>5</sup>

***Estimated numbers of NDIS participants with a primary psychosocial disability***

1.17 The original Productivity Commission estimated that there would be 57 000 people with enduring and significant psychiatric disabilities who would meet the NDIS eligibility criteria.<sup>6</sup>

1.18 The Agency estimates that in 2019–20 the total number of expected participants in the NDIS will be approximately 460 000. Of this cohort, around 64 000 participants are estimated to be those with a primary psychosocial disability (13.9 per cent)<sup>7</sup>.

1.19 As of 31 March 2017, across all state/territories 4849 (six per cent<sup>8</sup>) of NDIS participants had psychosocial disability recorded as their primary disability. Compared

3 NDIS, *Completing the access process for the NDIS-Tips for Communicating about Psychosocial Disability*, 5 August 2016, p. 3, [https://ndis.gov.au/html/sites/default/files/Completing\\_the\\_access\\_process\\_for\\_the\\_NDIS\\_Tips\\_for\\_communicating\\_about\\_...pdf](https://ndis.gov.au/html/sites/default/files/Completing_the_access_process_for_the_NDIS_Tips_for_communicating_about_...pdf) (accessed 23 May 2017).

4 NDIS, *Psychosocial disability, recovery and the NDIS*, November 2016, p. 1, <https://www.ndis.gov.au/medias/documents/heb/h21/8799160959006/Fact-Sheet-Psychosocial-disability-recovery-and-the-NDIS-PDF-774KB-.pdf> (accessed 17 July 2017).

5 NDIS, *Psychosocial disability, recovery and the NDIS*, November 2016, p. 2, <https://www.ndis.gov.au/medias/documents/heb/h21/8799160959006/Fact-Sheet-Psychosocial-disability-recovery-and-the-NDIS-PDF-774KB-.pdf> (accessed 23 May 2017).

6 Productivity Commission, *Disability Care and Support: Productivity Commission Inquiry Report*, No54, 31 July 2011, p. 27, <http://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-overview-booklet.pdf> (accessed 24 May 2017).

7 National Disability Insurance Agency (NDIA), *Submission 102*, p. 2.

8 NDIS, *National Dashboard as at 31 March 2017*, 31 March 2017, p. 1, <https://www.ndis.gov.au/medias/root/h81/h56/8800927318046/National-Dashboard-as-at-31-March-2017-Accessible-FINAL.pdf> (accessed 23 May 2017).

to 3835 participants (6 per cent) at 31 December 2016,<sup>9</sup> this represents an increase of 1014 participants in a quarter while the proportions in the context of the overall scheme remain stable.

### ***NDIA Mental health Sector Reference Group (NMHSRG)***

1.20 The NMHSRG was established to develop a working partnership between the mental health sector and the NDIA. It provides expert advice from a cross section of the mental health sector to the NDIA about the integration of psychosocial disability and mental health into the Scheme.

1.21 NMHSRG has met quarterly since December 2014 and its purpose is to ensure a strong working partnership between the mental health sector and the NDIA.

1.22 The NDIA has established the NDIA Mental Health Work Plan 2015-16 to address emerging policies and operational issues. The plan is reviewed annually with input from the NMHSRG.

### ***Fifth National Mental Health Plan***

1.23 Alongside the NDIS rollout, the mental health sector is undergoing significant parallel reform. The COAG Health Council endorsed the *Fifth National Mental Health and Suicide Prevention Plan 2017–2022* and its Implementation Plan at its meeting on 4 August 2017 in Brisbane.<sup>10</sup>

1.24 A consultation draft of the Fifth Plan<sup>11</sup> was released on 21 October 2016. The consultation draft focuses on achievable and measurable improvements across seven targeted priority areas:

- Integrated regional planning and service delivery;
- Coordinated treatment and supports for people with severe and complex mental illness;
- Suicide prevention;
- Aboriginal and Torres Strait Islander mental health and suicide prevention;
- Physical health of people living with mental health issues;

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9 NDIS, *National Dashboard as at 31 December 2016*, 31 December 2016, p. 1, <https://www.ndis.gov.au/medias/documents/h01/hea/8800417775646/National-Dashboard.pdf> (accessed 23 May 2017).

10 COAG Health Council, *Meeting Communique – 4 August 2017*, <http://www.coaghealthcouncil.gov.au/Portals/0/COAG%20Health%20Council%20Communique%20-%204%20August%202017.pdf>, (accessed 14 August 2017).

11 Australian Government, Department of Health, *Fifth National Mental Health Plan – Draft for consultation*, 21 October 2016, [http://www.health.gov.au/internet/main/publishing.nsf/content/8F54F3C4F313E0B1CA258052000ED5C5/\\$File/Fifth%20National%20Mental%20Health%20Plan.pdf](http://www.health.gov.au/internet/main/publishing.nsf/content/8F54F3C4F313E0B1CA258052000ED5C5/$File/Fifth%20National%20Mental%20Health%20Plan.pdf) (accessed 23 May 2017).

- Stigma and discrimination reduction; and
- Safety and quality in mental health care.

1.25 A national consultation process was held throughout November and December 2016 to inform the development of the Fifth Plan.