



Disability
Justice
Australia Inc.

www.dja.org.au

**Submission to the Department of
Social Services Discussion Paper on
the NDIS Experience**

***“Establishing a Participant Service
Guarantee and removing legislative red
tape”***

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**Enriching the lives of people with disabilities through
innovative and person-centred solutions**

1. About Us

Disability Justice Australia Inc (DJA) is a well governed and well-managed Not-for-Profit Registered Australian Body under the Corporations Act 2001.

We have been in continuous operation since 1990. Our reputation and integrity are beyond reproach and is demonstrated by a loyal and increasing membership and a huge demand for our services much of it from former clients, word of mouth and referrals from government and non-government sources.



We have an unblemished compliance record of independent Quality Assurance registration against the National Standards for Disability Services (NSDS).

2. Our Services

We are funded by the federal government Department of Social Services to provide:

2.1. NDIS appeals support for:

- Administrative Appeal Tribunal
- Internal Review of an NDIS Plan
- Appeal rejection as an NDIS Participant

For residents of Metropolitan Melbourne Local Government areas of

Banyule Whittlesea Yarra Nillumbik Darebin

2.2 National Disability Advocacy Program (NDAP)

We provide disability advocacy services to people with all types of disability within our geographical funded area in metropolitan Melbourne with a population of over 3.5 million. Our service is free, independent, flexible and mobile. We meet where it best suits our clients and their families, when and where it is mutually convenient.

Introduction

By far the evidence suggests that majority of participants have good experiences with the NDIS and many have received funding for the first time.

However, every participant who receives the services provided by us at DJA does so because they are dissatisfied and need either Advocacy or NDIS Appeals support to try to resolve an issue they have with the NDIA. ('agency')

This submission highlights these issues using Case Studies and comments-recommendations against each of the key discussion questions in the Discussion Paper.

These issues can be summarised as follows:

- Bureaucratic hurdles created by lack of time frames and jurisdictional issues in the NDIS Act for responses by the agency to internal or change of circumstances review requests.
- Bureaucratic processes that are not person-centred and tend to use a one size fits all approach to service delivery.
- Decisions about access, planning and review that are not timely or transparent and which have caused some participants significant distress and feelings of being devalued by the agency.
- The inherent power imbalance between planners and participants.
- Planning processes which do not consider reasonable adjustments and individual differences between participants. It is largely seen as a bureaucratic centred process which is not tailored to get the best outcome for participants.
- Lack of adequate checklists or guidelines for participants to use to help them identify their current supports or how to create an NDIS Plan.
- No consultation with participants of their support persons about how much time they might need to be set aside for a planning meeting or when the Planning meeting will take place.
- Little or no attention to Customer Service in relation to accountability and respect for participants and their support persons which is disempowering.
- The high costs of obtaining medical evidence to support Access Requests.
- Written responses from the agency to Access Requests that are legalistic and refer to relevant sections of the legislation rather than provide any

real and tangible documentary evidence that is missing or incomplete which resulted in the rejection.

- Little consideration for the reasonable adjustments that many participants need in order to access the NDIS, engage with the internal and external review processes and communicate with or receive information from the agency.
- A grossly underfunded advocacy and NDIS Appeals sector which cannot meet demand.
- A consistent failure to acknowledge receipt of information provided by participants to, or convey decisions made by the agency.
- Agency information for use by participants and their family members which is not provided in a variety of formats consistent with the definition of “Communication” as per article 2 of the UNCRPD.
- Provisions of the NDIS Act which frustrate participants because they create barriers to service delivery by the agency and need reform.
- Inconsistency between the training, knowledge and skills of LAC planners.
- Inadequate support coordination funding that reflects the individual needs of participants.
- Some agency internal and external review decision makers appear to lack empathy and compassion and fail to consider the impact of any delays in making decisions on the health, safety and welfare of the participant.
- Participants being left in situations where their health, safety and well-being is at risk even when information via Change of Circumstances review requests is readily available to the agency.
- The lack of an NDIS Participant Service Guarantee with Service Standards that are underpinned by principles.
- NDIS service provider agreements that do not require any formal proof of informed consent by the participant and/or contain unconscionable terms and conditions; and
- unreasonable delays in receiving approval for assistive technology or home or vehicle modifications which result in an inability to achieve participant goals

This submission addresses each of the Key Discussion Questions

Possible principles for NDIA service standards

Principle	Description
Timely	The NDIS process will be easier to understand and use, enabling decisions about access, planning and review to happen promptly.
Engaged	The NDIA engages with people with disability, their family, carers and other support persons when developing operating procedures and processes.
Expert	NDIA staff have a high level of disability training and understand the impact particular disabilities have on people's lives. They understand what supports are most effective for a person's disability.
Connected	The NDIA works well with governments, mainstream services (such as health, education, justice services), disability representative groups and providers to ensure people with disability have coordinated and integrated services.
Valued	Participants, their families, carers and other support persons feel valued in their interaction with the NDIS and know where to go if they need further assistance.
Decisions are made on merit	The NDIA acts in a transparent, informative and collaborative spirit so that participants understand why decisions are made.
Accessible	All people with disability can understand and use the NDIS, and the NDIS ensures its services are appropriate and sensitive for Aboriginal and Torres Strait Islander people, people from Culturally and Linguistically Diverse (CALD) backgrounds, LGBTQIA+ and other individuals.

1. Which of the above principles do you think are important for the NDIA to adhere to, and why?

All of the above principles should be part of the NDIS Participant Service Guarantee because if they adhered to consistently and independently monitored and audited they should ensure that NDIA service delivery will comply with Article 1 of the UNCRPD, which is *“to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”*

2. In your experience with the NDIA, do you think they fulfilled the above principles? If not, how are they falling short?

Many of the participants that we have provided support to have not received services from the NDIA consistent with the above principles. For example, decisions about access, planning and review have not been timely or transparent, and this has caused some participants significant distress and feelings of being devalued by the agency.

Case Study: An existing participant who suddenly found themselves homeless was supported to lodge a change of circumstances review with a request for a new NDIS plan based on completely new goals; but was kept waiting for five months before a planning meeting was scheduled.

3. What other key principles are important for the NDIA to follow, that could be included in a Participant Service Guarantee?

Customer service is a principle which is sadly lacking from both the above list and the way in which the agency relates to participants and their families. All the other principles above should be framed in the context of the delivery of outstanding person-centred individualised customer service.

A fundamental principle of customer service is accountability and respect. For example, acknowledging in writing to participants that their access and review requests have been received is not covered by any of the other principles. Yet the failure by the agency to do so consistently is extremely disempowering for many participants.

4. One way to measure these principles is through a set of 'Service Standards'. Do you think these Service Standards are fitting? Are there other standards you believe should be included?

Only the first principle "Timely" can be effectively measured using timeframes as benchmarks for service provision shown in Attachment A. The others are intangible, and a great deal of work would need to be done to create outcomes that are measurable as Service Standards against each of the other 7 principles.

5. Do you have any ideas on how we can measure how well NDIA has delivered on each of the principles?

DJA must comply with the National Standards for Disability Services (NSDS) which has six standards, each of which is underpinned by a number of Indicators of Practice for which evidence can be provided. See

<https://www.dss.gov.au/our-responsibilities/disability-and-carers/standards-and-quality-assurance/national-standards-for-disability-services>

The Indicators of Practice provide guidance on the activities and ways of working that should be in place to support each standard. They describe what needs to be done in order to meet each standard and what individuals, family and carers can expect. The NSDS Evidence Guide includes examples of evidence that may be used to assess whether and how each standard is being met. DJA recommends that a similar approach be taken in relation to the development of the Service Standards to measure whether the principles are being met.

An independent external auditor must satisfy themselves that our services are delivered in accordance with the NSDS and that we have evidence to prove it before registration is confirmed. The Australian National Audit Office ought to be given the authority to independently assess the NDIA against the proposed service standards.

Getting started: Eligibility and application

Key discussion questions

6. What are some of the significant challenges faced by NDIS participants in the access process?

The following are the most common challenges identified by participants in the access process who receive support from DJA:

6.1 the costs of providing medical evidence relating to disability is a barrier. Many of the reports that are required do not have a Medicare item number and we have had numerous examples where some medical professionals have charged exorbitant fees to produce the required reports when no Medicare rebate is available to the participants.

6.2 the NDIS Access Request Form is not available for download by participants or the medical profession via the internet. See <https://www.ndis.gov.au/how-apply-ndis/what-access-request-form#access-request-form> Article 2 of the UNCRPD specifically refers to reasonable accommodations for people with disability which appears to be denied them in relation to obtaining copies of the Access Request Form via the Internet.

6.3 the disability advocacy sector under the NDAP is grossly underfunded and cannot meet the demand for request for support from all participants through the access process.

6.4 there is a lack of training, knowledge and understanding by some members of the medical and allied health professions about how to complete the Access Request Form in a way that facilitates the process for participants and does not disadvantage them.

7. The NDIS Act currently requires the NDIA to decide on an access request within 21 days from when the required evidence has been provided. How long do you think it should take for the NDIA to make an access decision?

DJA believes that a decision should be made within 14 days after the date the agency has confirmed in writing that to the participant that all the required evidence was received. There are numerous examples amongst our participant files where there is no clear indication of the date on which the agency has received the required evidence as

opposed to the date that it was provided to the agency by the participant.

8. What do you think the NDIA could do to make it quicker or easier to access the NDIS?

8.1 make the Access Request Form available to participants and the medical and allied health professions on the Internet, at GP and health clinics

8.2 provide ongoing training in consultation with the medical and allied health professions in relation to the assessment tools that may be used for the purposes of deciding whether a person meets the disability requirements or the early intervention requirements. See 7.2 of the National Disability Insurance Scheme (Becoming a Participant) Rules 2016.

8.3 modifying or developing and using assessment tools that consider individual needs, make reasonable adjustments and are person centred rather than based on what a participant is described as unable to do.

8.4 developing evidence-based practice notes and guidelines that are disability specific for the way each assessment tool should be used and a timeframe by which they ought to be properly completed.

8.5 provide a mechanism for those who complete these assessment tools on behalf of participants to be accountable with a signed declaration that they are cognisant of all the relevant NDIS operational guidelines and rules with potential remedies for participants if they are subsequently rejected by the agency.

8.6 provide a Medicare rebate to participants where such reports are required as evidence

9. Does the NDIA provide enough information to people when they apply for access to the NDIS? If not, what else could they provide that would be helpful?

No. The NDIS does not provide enough information. Checklists for participants and their family members in a variety of formats consistent with the definition of "Communication" as per article 2 of the UNCRPD are urgently needed.

10. Is the NDIA being transparent and clear when they make decisions about people's access to the NDIS? What could the NDIA do to be more open and clear in their decisions?

No, the NDIS is not being transparent fee when they reject access requests

10.1 The written responses are legalistic and refer to relevant sections of the legislation rather than provide any real and tangible documentary evidence that was missing or incomplete which resulted in the rejection. See Case Study example below:

I am writing to let you know the outcome of your request to access the National Disability Insurance Scheme (NDIS). Unfortunately, based on the information provided, you do not meet the access requirements set out in the *National Disability Insurance Scheme Act 2013* (NDIS Act) to become a participant of the NDIS.

Disability requirements

Section 24 of the NDIS Act outlines specific disability requirements to access the NDIS. Based on the information provided, you do not meet these requirements.

10.2 participants who have been rejected for access are only given Information about how to request a review. See Case Study example below.

If you disagree with this decision or have new information, you can submit a request for the decision to be reviewed within 3 months from the date of this letter. Details about how to do this are at the end of this letter.

10.3 None of the staff at DJA has sighted any reference to the option of submitting a new access request under Section 19 (2) of the NDIS Act in any access request rejection. Some participants with psychosocial disabilities and cognitive impairments are deceived by this lack of transparency into believing their only option is to request a review which is often much too distressing and difficult for them to consider so they simply give up and don't proceed any further.

Planning processes 1: Creating, your plan

What the participant needs to achieve:

- understand current supports and prepare for planning
- create a plan to achieve goals and outcomes
- receive an approved plan.

Key discussion questions

11. What are some of the significant challenges faced by NDIS participants in the planning process?

Some of the significant challenges are:

11.1 there is a power imbalance between the planner and the participant which echoes the welfare mentality.

11.2 the planning process does not consider reasonable adjustments and individual differences between participants. It is largely a bureaucratic centred process which is not tailored to get the best outcome for participants, rather to streamline the bureaucratic process.

11.3 there are no adequate checklists or guidelines for participants to use to help them identify their current supports or how to create an NDIS Plan.

11.4 there is a one size fits all process used to create a plan to achieve goals and outcomes for participants which is not disability specific in terms of reasonable adjustments that might be needed.

11.5 when participants receive notice of a planning review meeting that are not asked about any reasonable adjustments that might be needed to facilitate access to the process.

12. Are there stages of the planning process that don't work well? If so, how could they be better?

12.1 participants and their families are not consulted about how much time they might need to be set aside for planning meeting or when the Planning meeting will take place. The one size fits all model where the length of time for the planning meeting is determined by the planner's schedule is discriminatory and does not provide for reasonable adjustments.

12.2 the use of checklists on laptops is offensive, particularly when participants or their support persons do not have a copy of the checklist to refer to during the planning meeting.

Case Study: a participant with psychosocial disabilities at an initial planning meeting became particularly distressed and unable to continue when the planner insisted on answers to a predetermined checklist on a laptop which were already provided in various medical reports. The planner admitted to not having read them prior to attending the meeting which was a betrayal of trust.

12.3 participants at planning meetings are generally not given the opportunity to view draft plans prepared by LACs before they are submitted to the agency for consideration and approval. This is dismissive and often leads to errors and misunderstandings especially since there is inconsistency between the training knowledge and skills of LAC planners.

12.4 participants should be given the right to use a recording device during planning meetings for use during internal and external review processes as evidence that their needs were not considered if the approved plan was inadequate.

12.5 there are many examples where the Planner was substituted prior to the planning meeting without the courtesy of notifying the participant or their advocate.

12.6 **Case Study:** a plan review meeting was conducted at a venue where the public toilets were out of order, but neither the participant nor their DJA Advocate were notified in advance or any attempt made to find an alternative venue. Staff toilets were available

but were denied for use by the participant or their Advocate who had to find a nearby Fast Food outlet

13. How long do you think the planning process should take? What can the NDIA do to make this quicker, remembering that they must have all the information they need to make a good decision?

13.1 the length of time for the planning process should be determined in consultation with the participant and/or their support person. Arbitrary “time clocks” determined in advance by the planner about how much time is needed for a planning meeting do not consider the individual needs of participants and their support persons. There needs to be room for negotiation about this to consider any reasonable adjustments that might be needed.

13.2 the NDIA could make the planning process quicker by having a service standard that required the planner to read the documents in a participant’s NDIS file and complete most of the checklist prior to the planning meeting in draft form for confirmation and approval by the participant or their support person when the meeting commenced.

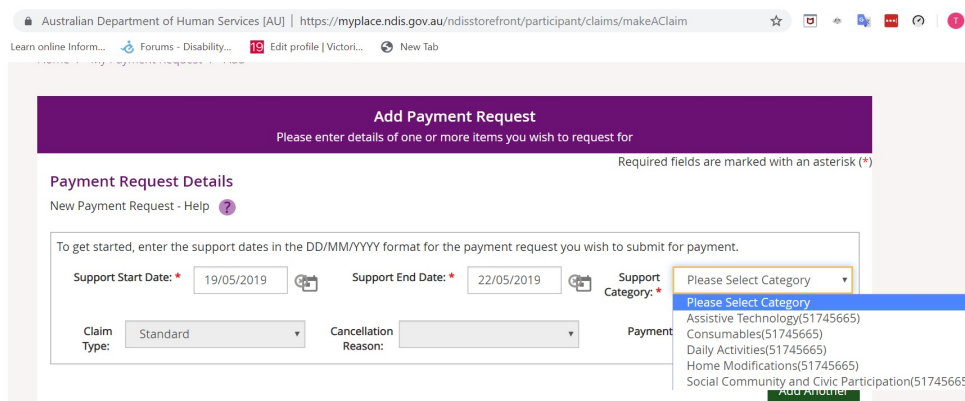
13.3 the NDIA could also make the planning process quicker by having preplanning guidelines available for participants and their support persons in a variety of formats consistent with the definition of “Communication” as per article 2 of the UNCRPD.

14. Is the NDIA giving people enough, and the right type of information, to help them prepare for their planning meetings? If not, what else could they provide?

14.1 No, the NDIS not giving people enough and the right type of information to help them prepare for planning meetings. The information that is generally provided does not prepare participants for the way in which the NDIS plans are formatted to reflect the funded support categories. This leads to confusion, frustration and despair in some participants that their voices were not heard during the process.

14.2 **Case study:** This self-managed participant reported to us that the format of their NDIS plan did not match the Stated Support Categories under which they can claim reimbursement through their portal.

See screenshot below:



This is an ongoing bureaucratic problem which unnecessarily complicates the process

15. Is the NDIA being responsive and transparent when making decisions in participants' plans? If not, how could this be improved?

15.1 No. The NDIA is not being responsive and transparent in many of these situations because there is little or no information about what participant requests for funded supports were rejected or the reasons why they were rejected.

15.2 Unless a participant keeps accurate records of what they were expecting and the evidence they provided in support of this, many find it difficult to understand why they were not funded and what else they need to do or documents to provide to ensure they are successful at an internal review

16. If a participant has been in the NDIS for more than one year, is it easier to make a plan now than when they first started? What has the NDIA improved? What still needs to improve?

16.1 for some participants it is easier to make a plan the second and third time round and so on if the plan met their needs the first time; but for some with psychosocial disabilities the planning process itself is so daunting that it can exacerbate their symptoms.

16.2 **Case Study:** a participant with physical and psychosocial disabilities will not participate in the planning process without an independent advocate from DJA present. This is because the bureaucratic process in the past has proven so intimidating, disempowering and frightening that the participant feels helpless.

Planning processes 2: Using and reviewing plans

Key discussion questions

17. What are some of the significant challenges faced by NDIS participants in using the supports in their plan?

17.1 inadequate support coordination funding to reflect their individual needs.

Case Study: a participant with an acquired brain injury very quickly exhausted their allocation of hours for support coordination because the planner did not take into account the time it takes for them to communicate their needs with their support coordinator, process information, make decisions and keep their own records.

17.2 collusion between support coordinators and service providers in how participants funds will be distributed without the knowledge or consent of the participant.

17.3 service agreements that do not require any formal proof of informed consent by the participant and/or contain unconscionable terms and conditions.

17.4 funded supports in NDIS plans for participants in regional areas or disadvantaged postcodes where there are no service providers or none that are willing to provide services.

17.5 sudden change in circumstances such as homelessness or being arrested and placed on remand where existing service agreements cannot be implemented, and the participant cannot access the stated supports.

17.6 participants with complex, challenging behaviours with whom service providers refuse to work because they have no training in behaviour support.

17.7 situations where the health and safety of workers takes precedence over the right of the participant to access services.

17.8 pressure from some support coordinators for participants to spend all of their allocated NDIS funded supports prior to the annual review date to avoid getting less money in their next NDIS plan.

17.9 unreasonable delays in receiving approval for assistive technology or home or vehicle modifications which result in inability to achieve NDIS goals

Case Study: a participant has been waiting for approval for an AFO protheses for 18 months during which time they could not independently access their local pool to complete their funded hydrotherapy program

17.10 the misuse by some service providers of guardianship and administration legislation to make applications without the knowledge of the participant to remove their decision-making power about how and with whom to spend their stated supports or deliberately sideline a participant's support person who may be perceived as an obstacle.

18. Is the NDIA giving people enough, and the right type of information, to help them use their plan? If not, what other information could the NDIA provide?

A simple explanation, including graphics and clipart to explain the relationship between Core, Capital and Capacity Building Supports and the different funded areas such as support coordination, daily activities, transport, consumables, Allied health therapies, assistive technology etc. is desperately needed and ought to be provided as a breakdown with every new NDIS Plan

19. What other advice, resources or support could the NDIA provide to help participants to use their plan and find supports?

19.1 provide support coordination funding based on need.

19.2 work with the Department of Social Services to make the advocacy finder more accessible for participants seeking independent advocacy support. See

<https://disabilityadvocacyfinder.dss.gov.au/disability/ndap/>

20. What are some of the significant challenges faced by NDIS participants in having their plan reviewed (by planned or unplanned review)?

20.1 some participants do not know where to get support in having their plan reviewed

20.2 bureaucratic hurdles created by lack of time frames and jurisdictional issues in the NDIS Act for responses by the agency to internal or change of circumstances review requests.

Case Study: A decision to conduct a review request lodged by a participant was not made after the legislated two-week timeframe. The assumed decision not to conduct a review was automatically converted into an Internal Review in accordance with sections 48(2), 99(6) & 100(5) National Disability Insurance Scheme Act 2013 (the Act).

The following decision was eventually made

“In accordance with section 100 of the National Disability Insurance Scheme Act (NDIS Act) an internal review has now been conducted with the outcome being to not review your plan.”

This was regarded as double speak, obfuscation, unrealistic and meaningless by the participant.

An application for a review of this decision was subsequently lodged at the AAT. However, in the meantime a Local Area Coordinator, conducted a scheduled review. At the first case conference the agency conceded that the scheduled review meeting should not have been conducted because an AAT application had already been made.

However, the agency then went ahead and approved a new plan based on the scheduled review anyway. This led to a further internal review and another external appeal of decision to the AAT which exhausted the participant and involved the expenditure of thousands of dollars of taxpayer’s money.

21. What can the NDIA do to make this process easier or more effective?

21.1 The NDIS Act needs to be amended so that there is a 2-week legislated time frame for an internal review decision to be made.

The assumption that no action in relation to a s48 review constitutes a decision not to conduct a review ought to be removed. It is a

fundamental principle of customer service that a request should be considered, and a decision made and conveyed to the participant.

21.2 the plan review process needs to be as person centred and individually tailored as the NDIS plan itself so that reasonable adjustments are made which empower the participant.

21.3 once a decision is made to review a plan, the plan review process ought to be completed within a three-week timeframe by negotiation with the participant taking into account any reasonable adjustments that might be needed for their effective participation.

Appealing a decision by the NDIA

The Government and the NDIA recognises that participants may feel the NDIA made an incorrect decision. If a participant is unhappy with a decision under the NDIS Act, they can seek an internal review of an NDIA decision. If they are still unsatisfied with the outcome of the internal review, they can seek an external review of the decision through the AAT.

Key discussion questions

22. What are some of the significant challenges faced by NDIS participants when they seek a review of an NDIA decision?

22.1 many participants don't know where to go to get support.

22.2 inadequate funding for independent NDIS appeals or advocacy agencies to meet demand which leads to closed waiting lists and no services.

22.3 there is no written acknowledgement to the participant by the agency that a review request has been received. This is poor customer service.

22.4 some participants, particularly those with psychosocial disabilities avoid the process in seeking a review because of the impact it has on their mental health.

23. Are there other issues or challenges you have identified with the internal and external review process?

23.1 there seems to be an emphasis on protecting the NDIA bureaucracy from exposure to decisions which might set precedents at the AAT at the expense of timely decision-making to meet the reasonable and necessary supports for participants. This often proves more expensive than providing the supports in first place.

23.2 some NDIA internal and external review decision makers appear to lack empathy and compassion and fail to consider the impact of any delays in making decisions on the health, safety and welfare of the participant.

Case Study: one participant was given a 3-month extension of an existing NDIS plan at a scheduled review whilst evidence to support funding for a psycho-social disability was sourced and provided. However, this was completely ignored with no reference made to it whatsoever in the new NDIS Plan. Attempts to get an internal review decision on the eligibility for funding based on this evidence have been fruitless. This participant has a 2-year NDIS Plan which further increases their anxiety about the impact of the delay.

24. How could the NDIA improve the decision review process?

24.1 by maintaining regular contact with the participant or their Advocate about the progress of the decision-making process.

24.2 by being transparent and making timely decisions with unnecessary delays with a focus on customer service and reasonable adjustments

25. How long do you think reviews of decisions should take?

25.1 internal review decisions should be made within 2 months of the request being made and acknowledged by the agency as having been received in writing.

25.2 change of circumstances review requests should be triaged for fast tracking as emergencies where the health, safety and welfare of the participant is at risk.

Removing red tape from the NDIS

Operational processes undertaken by the NDIA are not the same as the NDIS Act or the Rules.

The legislative framework

The NDIS Act Review presents an opportunity to reconsider these issues in Attachment C.

Key discussion questions

26. Do you think there are parts of the NDIS Act and the Rules that are not working or make things harder for people interacting with the NDIS?

26.1 Yes, the lack of legislated timeline for the acknowledgement of having received a review request and making an urgent decision is a major barrier.

Case Study: A single mother with a 14-year-old son on the autism spectrum with complex and challenging behaviours lost an internal review request for additional short-term temporary accommodation “respite” funding. She used her last 2 nights of funding and committed suicide leaving her son in out of home care with no legal guardian or

informal family support. It took over 4 months for Child Protection to get an order before a new Change of Circumstances Plan review could be completed and the boy taken out of respite and placed in more suitable accommodation.

27. What changes could be made to the legislation (if any) to:

a. Improve the way participants and providers interact with the Scheme?

Access decision s21 Currently 21 days to make an access request decision. This should be reduced to 14 days as per s26(2) if all the relevant information is available to the CEO.

b. Improve the access request process?

Access decisions 26(3) Currently if a participant does not provide, within 28 days requested information to support an access decision, the participant is taken to have withdrawn the access request unless the CEO is satisfied that it was reasonable for the participant to have provided information beyond that period.

The participant should be informed in their preferred format consistent with the definition of “Communication” as per article 2 of the UNCRPD of the what is meant by the term “reasonable” in relation to the participant to have provided information beyond the 28 days.

c. Improve the participant planning and assessment process?

Commencement s32(3) this should be amended to as follows:

The CEO must commence facilitating the preparation of a plan within 7 days

Approval s33(4) this should be amended to be consistent with s38 and s47(3) as follows:

The CEO must decide whether or not to approve the statement of participant supports within 7 days.

d. Better define ‘reasonable and necessary’ supports?

The definition of ‘reasonable and necessary’ in relation to supports should be restated in disability rights language consistent with the UNCRPD through consultation with participants and their peak body representatives.

e. Improve the plan review process?

Review decision s48(2) This should be amended as follows:

The CEO must decide whether or not to conduct a requested review within 14 days of receiving a request from a participant and inform the participant of the decision within 7 days.

Commencement s48(3) This should be amended as follows:

The CEO must commence facilitating a plan review within 14 days of a review decision and complete the review within 2 months as soon as reasonably practicable; except where a change of circumstances review request has been triaged for fast tracking as an emergency where the health, safety and welfare of the participant is at risk, in which case a decision must be made within 48 hours and attempts made to inform the participant of the outcome immediately.

f. Improve the internal merit review process?

Review decision s100(6) This should be amended as follow:

If a review of a reviewable decision is sought, the reviewer must make a decision within 14 days that confirms, varies or sets aside the reviewable decision and inform the participant of the decision within 7 days.

g. Improve the way other government services interact with the Scheme?

See comments above in relation to Medicare item numbers.

Plan amendments

Key discussion questions

28. What are the significant challenges faced by NDIS participants in changing their plan?

Participants report to us that the process is discriminatory, rigid, inflexible, bureaucratic, overwhelming and makes no provision for reasonable adjustments to meet their changed needs in a timely manner.

29. How do you think a 'plan amendment' could improve the experience for participants? Are there ways in which this would make things harder or more complicated for people?

This would be a positive step to help improve the experience for participants. However, the proposal to issue 'not complete' Plans with additions such as AT, home modifications or SDA to be added later once appropriate supporting material is available would need to be underpinned by a more flexible and timely approval process for AT and home modifications in particular.

30. How long should people have to provide evidence that they need the changes they are requesting in a plan amendment?

A participant could notify the agency when they have the evidence that they need for the changes they are requesting in a plan amendment. However, if further evidence is required the time frame should be negotiable based on the type and nature of the evidence required, the availability of relevant medical or allied health professionals, tradespersons to provide quotations and advocacy support. It must be flexible, not a one size fits all approach so that no participants are disadvantaged by the process.

31. Are there other situations during the planning cycle where a quicker and easier way to make changes may be necessary?

Yes, in the case of when a Change of Circumstances request is lodged see response in 26 (e) above)

32. How else could the NDIA improve the process for making changes to a plan?

Use a co-design process with people with disability and their representative organisation to develop:

- Appropriate Forms that are accessible and easy to complete and lodge
- Guidelines or Fact Sheets for making Plan changes that are accessible and easy to use.
- A Customer service obligation by the NDIA to keep participant's informed of decisions made about any changes to participant's plans.