

31 October 2019

Mr David Tune AO PSM
2019 Review of the NDIS Act and Participant Service Guarantee
Department of Social Services
GPO Box 9820
CANBERRA ACT 2601

Dear Sir

Submission in Response to the Terms of Reference of NDIS Review

1. Plan Management Partners Pty Ltd trading as Plan Partners (Plan Partners) welcomes the opportunity to contribute to the Review of the NDIS Act and the proposed Participant Service Guarantee (the Review).
2. This submission responds to the Terms of Reference for the Review with a number of operational and policy concerns. Where appropriate, these concerns are discussed in terms of some of the questions raised by the Department's Discussion Paper *Improving the NDIS Experience: Establishing a Participant Service Guarantee and removing legislative red tape* (the Discussion Paper).

About Plan Partners

3. Launched in July 2016, Plan Partners is a joint venture between the McMillan Shakespeare Group (MMSG) and Disability Services Australia (DSA) which was created in response to the stated desire of the Australian Government for the private sector to drive innovation and efficiency into the NDIS.
4. Plan Partners exists to service the needs of participants in the NDIS, by utilising the leading expertise of DSA in disability services and of MMSG in funds and payments administration. MMSG is Australia's largest provider of salary packaging in the Not-For-Profit (NFP) sector and of novated leases, and the majority shareholder in Plan Partners. Formed in 1957, DSA is a large NSW-based NFP disability services provider with over 1500 employees, supporting 2,500 people with a disability to develop the skills and capabilities they need to gain independence and participate in society.
5. As of today, Plan Partners has grown to become one of Australia's leading provider of NDIS Plan Management and Support Coordination services. Importantly, we operate across all States and Territories, servicing Participants in urban, rural, and remote areas. We currently manage the NDIS Plans of over 7,000 NDIS Participants, coordinating with over 10,000 NDIS-registered Service Providers and have access to more than 100,000 allied health providers nationally.
6. Plan Partners manages in excess of \$250 million in Participant funding. In 2018, we opened our new state-of-the-art headquarters in Bridge Road, Richmond, Victoria.

Executive Summary

7. We have been proactively engaged with the NDIA since 2014, and have experienced firsthand the scaled responses of the NDIA in grappling with the generational change created by the NDIS. Aside from the expected 'settling in' issues that stakeholders and the NDIA have had to deal with and overcome, we have also formally raised many, more systemic issues with the NDIA on a number of occasions. However, as will be evident from our submission, and despite the success to date of Plan Partners, our concerns have largely gone unheeded in our view.
8. In summary, and having regard to the **Terms of Reference of the Review**:
 - In our view the NDIA is retaining **administrative control of materially too many Participant Plans**, and this has given rise to a key concern about the approach adopted by the NDIA to its policy and statutory obligations and the impact that has on the strive for a successful NDIS.
 - The Local Area Coordinator (LAC) concept is creating more issues than solving them and should be overhauled.
 - Whilst the NDIA has outsourced some of its internal functions, it remains largely resistant in our experience to considering options for partnering in the delivery of services to Participants, including plan management.
 - Plan Partners also has a range of specific concerns with the ongoing management of the NDIS by the NDIA in both policy and procedure. These include concerns with funding and categorisation barriers, binary pricing controls, fraud controls, alleviation of the risk of conflicts of interest, and the absence of tangible outcome-based measures of success.
9. Each of the above are discussed in turn in the body of our submission. Plan Partners can provide further information if requested and is willing to meet with the members of the Review if required.

The Role of Plan Managers

10. In order to place our concerns and recommendations in context, we firstly provide below a brief discussion of the important role that Plan Managers and other intermediaries provides in the NDIS.
11. NDIS Participants have the right to engage a specialist intermediary/plan management organisation, such as Plan Partners, to support them in managing their NDIS budgets and the procurement and coordination of support arrangements with providers.
12. Plan managers play a vital role in negotiating support costs with providers, making arrangements for support delivery and providing information and ongoing support to providers regarding the specific needs of their clients.
13. Furthermore, support coordinators/intermediaries aim to guide clients through the complexity of the NDIS, to better educate them and to help administer payment arrangements when needed. These services specifically aim to:

- **Provide necessary support and guidance** – helping scheme participants to navigate the complexity of the NDIS landscape.
 - **Derive better value for Participants** through developing detailed service provider knowledge and value, and creating more competitive environs for the supply of services by providers.
 - **Reduce the complexity** by removing the administrative burden, including payment administration and tracking, for Participants and enabling them to better focus on their quality of life and supports required.
 - **Put Participants in control** – enabling them to make their own decisions and regain a sense of empowerment.
 - **Increase choice and information** by providing a wider selection of service providers for Participants to choose from and assisting to better connect them to service providers based on their individual support plans.
14. Plan managers charge a fee for the provision of their support services to Participants in accordance with the NDIS Price Guide. This form of funded support is defined under the category of 'Capacity Building' for Participants.

The NDIA is managing too many Participant Plans

15. The NDIS Act was designed to allow Participants and their families to choose how their funding for supports under a Plan is to be managed and to move away from the rigid institutionalisation of disability support that for decades maintained a focus on block funding of supports, not on the individual's needs.
16. As a registered Plan Manager, given that we work closely with multiple NDIS stakeholders, we witness on a daily basis the significant impact that the choice and freedom of the NDIS can have on people's lives.
17. However, it is our experience (and that of other Plan Managers) that a material number of Participants, however, are ill-equipped for the NDIS. Many are not well informed or prepared as to how they should go about implementing their plan or NDIS budget. This stems in our view from a fragmented approach to supporting and guiding Participants, resulting in a lack of clarity and understanding around the role of intermediaries.
18. This, in turn, in our view, has led to an over-reliance on the NDIA and Local Area Coordinators (LACs), which is ultimately:
- adding cost to the NDIS;
 - slowing down the pace of the roll-out;
 - reducing the effectiveness of the NDIS for Participants and their ability to maximize the value of their Plan supports; and
 - materially negating the scope for creativity and innovation, including the mitigation of what we describe as 'non-compliant' activity.

19. To illustrate, as of 30 June 2019, the NDIA managed 43% of Plans and co-managed with Participants another 11% of Plans, compared to **30%** of Plans managed by independent Plan Managers, with the remaining 16% of Plans being self-managed by Participants.
20. This means the NDIA is part managing or solely managing 54% or more of NDIS Participant's plans – or around an estimated 270,000 Participants at full Scheme rollout. This is in direct contrast to the original policy intent, which we understand envisaged that at least 50% of all scheme Participants would require plan management assistance in the implementation of their Plans and ongoing management of their supports.
21. The concept of independent Plan Managers has been enshrined in the NDIS Act since its commencement. Pointedly:
 - Section 43 of the NDIS Act provides that a Participant can make a request that their Plan be managed by themselves, a person specified by the NDIA, or by a Plan Management Provider nominated by the Participant.
 - In accordance with subs 42(3) of the NDIS Act, a Participant's Plan must include funding for plan management if the Participant chooses to use a Plan Manager.
 - Subsection 43(4) of the NDIS Act stipulates that if a Participant does not exercise his or her right to make a Plan Management request under subs 43(1), the NDIA must either specify a Plan Management provider for the Participant's Plan or undertake the role of Plan Manager itself.
22. Plan Partners does not believe it is a common occurrence for the NDIA to specify a Plan Manager other than itself in circumstances where subs 43(4) has applied. Certainly, and despite its leading position in the market, Plan Partners has not been specified by the NDIA as a Plan Manager for *any* Participant who has not exercised his or her choice.
23. Across most regions there remains piecemeal understanding and knowledge of the nature and value of Plan Management specifically within the NDIA planner and LAC community. Plan Partners shares the view of other Plan Managers that, intentionally or otherwise, the NDIA *overwhelmingly* considers itself the 'default' option for the management of Participants' Plans. This practice has been the norm since the commencement of the roll-out of the NDIS and continues to this day. It may be strictly in compliance with the literal requirements of subs 43(4) but the practice does not reflect the original intentions behind the Disability Support Organisation (DSO) concept.
24. In recommending the concept of DSOs as a "new form of organisation", the Productivity Commission stated in its 2011 report, which was the genesis of the NDIS, that the NDIA "would not deliver mainstream services or provide specialised services, since it would be unlikely to be proficient at this and it would be inconsistent with a consumer choice model."
25. The NDIA in our view has not taken sufficient heed of that intent, and, despite improvements, its persistent desire to 'step in' and undertake the role of Plan Manager remains and continues to have a number of undesirable impacts on Participants and the NDIS in general, discussed below.

Underutilisation of Plans/Lack of education

26. **Only 47%** of Participants who had their first Plan approved in calendar 2018 fully utilised the funding available to them. This includes the **7%** of Participants who are in supported independent living (SIL) and who have a much higher utilisation rate of **85%**, which means the utilisation rate for non-SIL Participants is actually lower than 47%.
27. The national average Plan utilisation rate for the April to June 2019 quarter was 68% (SIL and non-SIL), meaning that Participants are missing out on almost one third of the NDIS-funded supports they're entitled to. Even more troubling is the fact that that percentage drops to **just 52%** when looking at Capacity Building Supports, which are arguably the very heart and soul of what the NDIS is looking to achieve – to build the capacity that Participants need to achieve their stated goals and to live the life they want.
28. By way of contrast to the NDIA acting as a Plan Manager, an independent Plan Manager will always have a vested interest in ensuring that utilisation rates, particularly in the first year of Plans, is as close to 100% as possible. For example, Participants with Plans managed by Plan Partners currently have a Capacity Building Supports utilisation rate of 67%.
29. The fact that utilisation rates increase as Participants gain experience suggests that education, confidence, and seeking and finding good advice all make a big difference. (Another possibility is that the increase reflects the fact that Participants' NDIS budgets are being reduced to align with how much has been spent in previous plans. Despite many real examples of this being brought to the attention of Plan Partners, the NDIA remain coy on the issue.)
30. We know the NDIA is serious about making the NDIS a success and improving utilisation rates, but to reach those goals it must be more willing to enlist the support of Plan Managers and other intermediaries independent of the NDIA. Plan Partners constantly experiences the positive impact that Plan Management and Support Coordination have on Participants' NDIS experiences; helping to extract maximum value out of their Plans and building their capacity to navigate the NDIS and finding the right supports. As a measure of our success to date, more than 35% of Plan Partners invoice line items are paid under the NDIS price guide rate. This has generated more than \$4.7 million in savings to date, in turn generating 91,675 hours of additional support available for our clients, and this is the outcome Plan Partners is most proud of – helping to improve the lives of people living with disability.
31. While a 100% utilisation rate may be an impossible goal, that doesn't mean we shouldn't be striving to optimise the rate of real and positive outcomes for Participants once their Plans are in place. The current rates of utilisation particularly that of non-SIL Participants, are simply unacceptable and is diametrically opposed to the underlying outcomes that the NDIS was based on. The road to full Plan utilisation will no doubt be long and complex, but by giving more Participants access to intermediary supports, that journey can be a lot easier for everyone. Only then can we finally realise the full potential of the NDIS.
32. With utilisation rates tied to education and familiarity with the NDIS, intermediaries are perfectly placed to boost those figures and deliver a more sustainable and successful Scheme. But progress is unlikely when "NDIA-managed" plans remains the default position of the NDIA, and little is being done to dispel the view that Plan Managers simply pay invoices; overlooking the crucial role they play in giving participants the tools to manage their budgets effectively and to prevent underspending.

33. Whilst a growing number of people within the NDIA and Local Area Coordinators now realise that the success of the NDIS is intrinsically tied to the involvement of skilled and passionate intermediaries, progress is also impeded by the NDIA consistently overlooking the value of the role of Plan Managers. For example, the Discussion Paper released for the purposes of the Review makes no mention of the role of Plan Managers in the Participant experience, even though we and other Plan Managers play an important role in the timely and efficient delivery of supports to Participants in the NDIS. The NDIA's 2019 Annual Report, as another example, is completely devoid of any mention of the Plan Manager concept, consistent with previous Annual Reports.
34. The institutionalisation of that 'look the other way' approach is also unfortunate for Participants because it ignores the myriad of benefits independent plan management brings to the Participant experience. Plan Managers, for example:
- Provide access to ten's of thousands of service providers not registered with the NDIS, and thus provide the flexibility to use a blend of registered and unregistered providers who charge out at a lower rate (i.e. the use of an unregistered providers on a weekend and mainstream providers on a weekday), and access to new and innovative platforms not registered with the NDIA.
 - Provide greatest ease and flexibility in switching service providers – i.e. less administrative overhead as there is no need to cancel and, reissue service bookings via the NDIA
 - Remove the administrative burden from the NDIA by dealing with Provider calls and escalations on billings and payments, and assume responsibility for claim validation (on behalf of the NDIA)
 - Operate at arms-length from Providers and the NDIA, thereby providing an independent source of assistance for Participants and minimising issues of conflict of interest which are apparent with many Providers who work under NDIA-managed Plans.
 - Fill the gap in helping help Participants access the supports in their Plan when they don't have support co-ordination of an LAC, and otherwise be a single place to get that assistance with a commitment to fast response times.
 - Translate NDIS into 'everyday language' – e.g. describe services, NDIS Plan categories, clarify NDIS rules.
 - Ensure consistent implementation of NDIS rules and appropriate balances and controls, via prudent budget management (no overspend), effective budget utilisation, and, importantly, oversight of provider behaviour (invoicing and pricing) which reduces the likelihood of fraud occurring.
 - Actively minimise the risk of fraud by:
 - obtaining Participant approval of all invoices from Providers. (Participants utilising the services of Plan Partners can set up standing approvals for Providers they are familiar with and trust. Participants will challenge invoices when the number of hours and rates aren't what was agreed to.);

- ensuring all services, units, dollar amounts, items, etc. accord with the NDIA's price guide (and terms of business);
 - providing visibility and enforcement of 'undocumented' rulings by the NDIA where there are no or unclear rules/regulations; and
 - giving the Participant the power over what providers are assigned what dollars out of their budget, according to a service agreement.
- Minimise self-management risks, such as the compliance difficulties of the 'shoe box' approach to recordkeeping, and the risk of collusion-oriented fraud (hire who they want and pay them what they want)
35. The NDIA's blinkered approach to Plan Managers also has the effect that risks associated with NDIA-managed Plans are overlooked. These include the shifting of control over a Plan from the Participant to the Provider with the single pricing control being that of the NDIA's price guide, and the likelihood of 'soft-fraud' in Providers consuming all available funds as their 'primary objective'.

Perception of competition

36. In a free market, independent NDIS-registered providers such as Plan Partners compete with each other. But the market is not free and is instead distortionary as all such providers are effectively competing against the administrator of the pool of NDIS funding – the NDIA. In a free market, competition is a positive factor. But in the NDIS-created marketplace, independent providers can't compete with the arbitrary manner in which the NDIA becomes a Plan Manager for any given Participant. Moreover, this issue gives rise to distinct conflict of interest risks given the NDIA also acts as a Plan Manager in competition against independent Plan Managers. Crucially, intermediaries who don't provide direct supports face no conflicts of interest and are genuinely motivated to provide the best advice – and hence outcomes – to their customers.

Maladministration

37. We have verifiable evidence of NDIA planners stating to Participants that should they choose to utilise a Plan Manager, the funding for such services will need to be deducted from that part of the Participant's budget set aside for other capacity building supports such as therapies, community engagement activities and the like. In our view this is inexcusable.
38. Plan Partners is experiencing LACs and NDIA planners refusing on 'reasonable and necessary' grounds to include Plan Management funding in new and second year Plans, despite Participants referencing the obligation of the NDIS Act for the NDIA not to withhold such funding. This behavior also arises in cases where a Plan that does include Plan Management funding (as required by the NDIS Act) is being renewed.
39. New participants are being advised by the NDIA and LACs that there is 'no need' for plan management if they are only using registered providers, and that if plan managed their core funding supports will be 'reduced'. Both assertions are factually incorrect, and constitute unacceptable threats to Participants' exercising their rights under the NDIS Act. Such maladministration is also jeopardizing the ability of Participants to get the most from their NDIS Plan by accessing unregistered providers and receiving more sophisticated Plan Management services than the NDIA can ever hope to provide.

Recommendations

40. Plan Partners recommends that s 43 of the NDIS Act be amended to prevent the NDIA continuing to adopt the practice of inserting itself as Plan Manager by default whenever a Participant does not exercise his or her right to choose how their Plan is to be managed. One means of doing so would be to amend subs 43(4) by deleting para 43(4)(b).
41. Regardless of any prospective amendment to s 43, it is recommended that the NDIA undertake a review of its role of Plan Manager, having regard to the issues raised in this submission.
42. Plan Partners also recommends that consideration be given to have an allocation for Plan Management funding made available as a default in all Plans, and to then have the Participant determine which management option is preferable at that point in time

The Local Area Coordinator (LAC) concept needs to be overhauled

43. We note that the specific DSO concept was not included in the rollout of the NDIS in its original form as intended. In its place are Local Area Co-ordinators (LACs), Plan Managers, and the Information, Linkages and Capacity Building (ILC) framework. Clearly, the DSO concept foresaw that the rollout of the NDIS would:
 - for many individuals, be the first time they have an opportunity to access the disability supports they need, and for most, the opportunity to exercise choice and control over their supports would be completely new; and therefore
 - for these Participants the prospect of going out into the market to look for suitable providers and negotiate would be a daunting one.
44. Accordingly, it was identified that intermediaries (Plan Managers) would build the bridge between Participants and providers, ultimately making it easier to navigate the NDIS by assisting Participants to implement and administer their plans and to negotiate and drive greater value, leading to a maximisation of the spending potential of their Plans amongst other benefits.
45. In short, intermediaries would help to remove unnecessary administration burden from Participants, freeing up these individuals to get on with living better lives with the support of their NDIS Plan, whilst having peace of mind knowing the management of their plan was being undertaken by qualified professionals.
46. Plan Partners believes it was a mistake by the NDIA to outsource the NDIS connection and plan development processes to the NFP sector as it did not have sufficient levels of commercial acumen or experience to undertake the LAC role. As a result, we have seen the sector struggle to mobilise and recruit an acceptable and suitably-trained LAC workforce, with some inter-sector cannibalisation of employees taking place. The overall effect has been a destabilising impact on NFPs and an unacceptable level of performance overall by LACs.

Recommendation

47. Plan Partners submits that the success of the NDIS planning and assessment process must be pegged to the critical outcomes that the Government wants to drive from the NDIS. Right now, these measures are disproportionately focused on short-term measures such as the number of plans released and some very high level qualitative measures.

The NDIA is unwilling to partner with the private sector

48. Despite our best efforts to work with the NDIA, it has been the longstanding experience of Plan Partners that it is unwilling to partner in a meaningful way with the private sector in rolling out the NDIS. Important features of the NDIS both for Participants to understand and for effective administration by the NDIA, such as education, planning, support coordination, financial management, fraud management, plan reviews, and ongoing customer management, are all left to the NDIA to deliver.
49. Plan Partners is just one organisation from the private sector willing to invest capital in the NDIS to help drive innovation in a sector of the economy where this was previously problematic, for example, to develop new on-line tools and other innovative service and fund management functions.

Recommendation

50. Plan Partners recommends that the NDIA be encouraged to review its functions in rolling out the most important aspects of the NDIS and determine whether instead they should be delivered by 'engaged' business partners.

Specific concerns

51. Plan Partners has range of specific concerns with the ongoing management of the NDIS by the NDIA in both policy and procedure, discussed in turn below. We would welcome the opportunity to discuss these in detail with the Review.

Conflicts of interest are rife

52. In our view both support coordination and plan management service provision should ideally be separate from organisations who are also providing direct service provision, as they are guidance and support roles designed to assist in the identification and selection of service providers. That is, support coordination and plan management should be separated from the delivery of direct supports in order to avoid conflicts of interest. For service providers to legitimately provide the support coordination and plan management services, both informed consumer choice and a clear separation of service provision and support coordination services including plan management within the organisation would need to be demonstrated.

No outcome-based measures of success

53. The NDIA is focused on the 'number of plans per FTE per day' as a measure of its success. Plan utilisation, achievement of the goals that were established at the start of the planning process and, at the highest level, the value created for the economy as a result of people with disability contributing to society are all more desirable measures.

NDIS critical path invisible to providers

54. This point relates to visibility inside the NDIS, which the NDIA is not providing. Information such as how many participants next quarter, where, breakdown between plan management, self-management, agency managed, support coordination, etc.

Funding/Category barriers need to be removed to enable greater participant choice and control

55. There are currently 15 different support categories available to the NDIA. Four of these categories have mechanisms for funds to be flexibly moved within them. The other 11 categories are ring-fenced and one pool of money cannot be used to fund another support category. For example, a Participant cannot choose to use one hour *less* of physiotherapy and undertake one hour *more* of support coordination or exercise physiology. In our view this is contrary to the Scheme ethos of enabling 'choice and control'.

NDIA systems need to transact better with external technology through application programming interfaces (APIs)

56. The Scheme was supposed to provide an e-market that would enable people to transact quickly, and that would enable providers and other stakeholders to interact easily and simply. However the technology platforms and systems utilised by the NDIA, whilst improving, are not fit for purpose and remain demonstrably inadequate. Unfortunately the current agency systems do little to facilitate and encourage innovative new service providers to enter the market and assist scheme participants in previously non considered (nor possible) ways.

The binary pricing controls achieve the opposite to what was intended.

57. Whilst never the intention, the capping of pricing provides no incentive for inefficient service providers to improve what they do and how they operate today – in fact it discourages such providers from innovating as there is no inherent incentive to do so. Likewise it discourages new entrants from entering the market due to a lack of incentive and a knowledge that the current construct actually supports the longevity of those who are less efficient or underperforming.

Fraud controls are extraordinarily weak.

58. Given the sensitivity of this matter, it would be the preference of Plan Partners to speak in person directly with members of this Review about existing controls and their effectiveness.

"Providing a single point of contact for participants"

59. Plan Partners believes that the NDIA's aim to ensure each Participant in the NDIS has a single point of contact as part of the new Participant Pathway (page 7 of the Discussion Paper) is an absurdity, unachievable economically, and does not address underlying issues of Participant and provider education and preparedness to behave differently to the way the sector has always behaved.

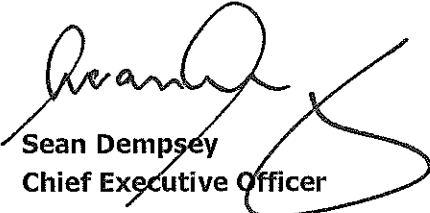
The Participant Pathway has to date not made material improvements at a NDIS level and is only needed because the fundamental change from state/block funding to NDIS did not involve sufficient qualitative education, and information for the disability community.

Better and rapid education of disability sector needed

60. Plan Partners believes more could be done to educate the wider disability sector about the NDIS.

Thank you for your consideration of the matters raised in this submission. We would welcome the opportunity to meet in order to provide more in-depth discussion and articulation of these matters. I can be contacted on mob 0401 991 405.

Yours faithfully,


Sean Dempsey
Chief Executive Officer

