

7th October 2021
NDIS Act Review Consultations
PO Box 9820
Canberra ACT 2160

Via email NDISConsultations@dss.gov.au

To Whom It May Concern,

Thank you for the opportunity to provide feedback around proposed NDIS legislation improvements and the Participant Service Guarantee.

Given the short period of consultation Living My Way has provided a short summary of feedback from key areas. It is pleasing to see Independence Assessment and the 400 profiles previously proposed are not part of the proposed changes.

Thank you for the opportunity to feedback on Proposed changes to Act and Rules.

Living My Way would be interested in participating in further consultation to the details of these proposed changes.

Kind regards



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About us

Living My Way (LMW) is a trusted Member based not-for-profit organisation with almost 30 years' experience in supporting people of all ages with disabilities to live a self-directed life. As an organisation, a holistic and individualised approach is taken to empower members to live as independently as they choose. LMW prides itself on being an honest, professional, and transparent organisation, inclusive in its culture and approach to service delivery.

We provide the following feedback based on our experience as a member based NDIS Registered Provider in these registration groups.

- Assist – Personal Activities
- Participate Community
- Therapeutic Supports
- Support Coordination including Specialist Support Coordination
- Plan Management
- Development – Life Skills
- Assist – Life Stage, transition

Missed opportunity with prioritised changes to Act and Rules.

While it is wonderful to see that People with lived experience with disability may become board members the proposed changes otherwise further limit the NDIS's commitment to co-design. An exciting proposal to help shape the future of the NDIS, and in its ability to support people with disabilities and the providers in the market.

Schedule 1 Participant Service Guarantee

Advantages (Agreement) of proposed changes

Impact on participants

-Living My Way welcomes the proposal of a Participant Service Guarantee. Outlining clear expectations for duration of processes and timeframe for decisions, i.e. approve plan/ review plan or amending a plan.

- 50 days for complex HM or AT decision – reasonable
 - Shorten timeframe for NDIA to complete a participant request for an internal review – from 90 days to 60 days
- Having set timeframes and service standards will allow participants and providers to plan more effectively and will ensure the agency is held accountable.
 - The participant service guarantee is an excellent response to frustrations and feedback from participants. If executed well it should strengthen the main pillars of the scheme and provide greater transparency and accountability

Concerns (disadvantages) of Proposed Changes

Impact on participants

- The Proposed timeframes extends the time NDIA must decide whether to undertake a request for an unscheduled plan review – from 14 days to 21 days, however, NDIA will have to complete a review if it did not respond after 21 days which is welcome proposal.

Impact on LMW

- The Proposed timeframes extends the time NDIA have to decide whether to undertake a request for an unscheduled plan review – from 14 days to 21 days, however, NDIA will have to complete a review if it did not respond after 21 days which is welcome proposal.

National Disability Insurance Scheme (Plan Administration)

Rules 2021 (New)

Advantages (Agreement) of proposed changes

Impact on participants

- Plan Variation (s47) - Having the option to amend plans without full reassessment/ creation of new plan will be more efficient and a welcome change for members as well as providers. This is especially true for minor amendments, i.e. error in names/ goals.

However, it is not clear if participants have the options to choose whether they want a plan variation (s47) or plan reassessment (s48). For example, if an Assistive Technology (AT) has been approved and NDIS only initiates a plan variation and added the quoted items, member may not have sufficient Capacity Building funding to support Assistive Technology delivery and follow-ups, this would then require a plan review, which will then delay the delivery etc.

- Participants being provided drafts of their plan before it is approved – members and SCs will be able to check and ensure the discussed funding/ items are included in the plan before it is approved. This will save unnecessary rework, confusion and frustration on all sides and make for a much more efficient process and better outcome for participants and providers.
- It would be much easier for members to track their requests status if they can access this information via the portal, it would be easier for relevant service providers such as therapists, Support Coordinators, and any direct providers as well if requests can be submitted via a portal.
- Changes to the circumstances in which the NDIA can vary a plan without requiring a plan review or new plan will make a huge difference to the participants affected. Currently these are a source of huge frustrations for participants and providers which are unnecessary,

- Flexibility for NDIA to pay for a participant's NDIS services directly to providers of a participant's choosing will make life easier for participants to manage. (Section 7)

Impact on LMW

- Plan variation (s47) will reduce administration burden on providers, allowing more time to be spent support participants achieve their goals rather than chase new NDIS plans, create new service bookings, new service agreements and budgets.
- Set out factors the NDIA will consider in funding support coordination in a participant's plan – this will provide clearer guideline on what justifications are required to request support coordination funding

Concerns (disadvantages) of Proposed Changes

Impact on participants

- The NDIS can decide to initiate a plan variation or plan reassessment at anytime however this is a power that may not be in the best interest of the participant and the proposed changes does not indicate details on when this may be initiated.
- The ability to have a longer plan of up to three years if a participant's support needs are stable, however, with the annual changes in price limit, participant's plan often do not get adjusted as required, which they are likely to run out of funds before plan ends and requiring unscheduled plan review.

Impact on LMW

Allows the NDIA to create a plan without the knowledge of provider or participant being aware of changes. While plans are created on the day that the NDIS planner approves it will always be retrospective for participants and providers to be able to implement and amend according to changes. This may lead to overspending without knowledge or opportunity to adjust service provisions.

National Disability Insurance Scheme (Plan Management) Rules 2021 (New)

Advantages (Agreement) of proposed changes

Impact on participants

- Additional protection to participants who want to use a registered plan management provider – should assist with more participants choosing to receive support this way resulting in less difficult conversations between providers and participants and less bad debt for providers.
- The rules around conflict of interest seem logical but further clarification is needed to ensure providers and participants have a thorough understanding. The draft legislation is detailed however, there remains a significant amount of subjectivity. There are also times when it is suitable for a participant to receive more than one service from a provider. This is provided to a participant and exercise their choice and control of services. See below for further comments relating to Conflict of Interest

Concerns (disadvantages) of Proposed Changes

Impact on participants

- The NDIS Act proposed amendment so a participant who requests to ‘plan manage’ their NDIS funding be subject to the same considerations that apply when a participant seeks to ‘self-manage’. Further clarification is required, and Participants and Providers should be consulted on these decisions. Examples - Does that mean it is going to be harder for participants to become/ stay plan-managed? There is significantly less risk for a participant who is plan managed than one who is self-managed.
- Section 8 prevents providers to offer services limits the participants choice and control. It is not clear when this would be initiated. We are assuming this is around fraudulent or suspected

- fraud/misuse of funds, as well as conflict of interest, however the guidelines to when need to be clear and transparent.
- If proposed changes around conflict of interest are in place, then a participant will be unable to exercise their choice and control of their chosen service provider(s). For participants living in rural and remote locations or identify with a specific need this will have further impact. See below for further details.

Impact on LMW

Section 8 proposed changes outline circumstances in which it is not appropriate for the providers of Support Coordination to be the provider of any other funded supports in a participant's plan, to protect participants from provider's conflicts of interest. The details are unclear and requires further exploration with both participants and providers.

Living My Way currently provides multiple services to some of our members during their NDIS plan. We have a robust conflict of interest policy in place. The services are provided by different staff, and different service speciality. All participants who receive Support Coordination with Living My Way who choose to have additional services are provided with at least three suitable options prior to proceeding. There is also an expectation that participants can change their minds at any time without recourse on other service, and this is revisited throughout the plan periods. Living My Way members who have the capacity to make their own decisions, have the choice and control of choosing to have multiple services with us as an organisation to simplify their NDIS plan and services and are satisfied with the services they receive prior to re-establishing service agreements for all individual services.

Living My Way supports determining when services should be separated, such as Supported Independent Living or if a participant is unable to make their own decisions (or at risk /vulnerable).

There are advantages of Support Coordination and Plan Management as serviced by the same provider as it gives both services the greatest ability to assist a participant to manage their budget and link with the most suitable service providers.

Missed Opportunity to Proposed changes

- While it is pleasing to see the NDIA are considering when it will be unreasonable for a participant to manage their own funding, this doesn't go far enough. NDIA should clearly specify the responsibilities of self-management and make participants liable for any debt incurred as a result. Any participants who incur bad debt should be prohibited from self-management and it should be easier for registered providers to flag concerns. There should be an automatic review process in place for any concerns flagged.