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South Australia Office of the Public Advocate

Submission to the Parliamentary Joint Standing Committee on the National Disability Insurance Scheme
(NDIS)

General Issues concerning the implementation and performance of the NDIS

Submission A- (with Attachment A(1) and A(2)) from the Office of the Public Advocate

Submission B-(with Attachment B(1) and B(2)) from the Disability Advocate

Preamble

The South Australian Public Advocate appreciates the opportunity to provide input into the Parliamentary Joint Standing Committee on the National Disability Insurance Scheme (NDIS) Planning and Supported Independent Living (stated timeframe 6 September 2019). It is noted that in addition to the two inquiries, the committee also invites submissions in relation to general issues concerning the implementation and performance of the NDIS. Given this is an ongoing inquiry, it is noted that the committee has not set a closing date for submissions relating to general issues.

It is requested that this submission remain confidential due to the sensitive nature of the information contained within, particularly attachment A(2) - letter to the Acting CEO NDIA and the case study. The request for confidentiality has been discussed with the Joint Standing Committee by telephone on 5 September 2019.

Please find attached-

1. Submission A, with Attachment A(1) and Attachment A(2) from the South Australian Office of the Public Advocate; and
2. Submission B with Attachments B(1) and B(2) from the South Australian Disability Advocate (located in the SA Office of the Public Advocate).

Using the terms of reference as a guide, these submissions are relevant to the inquiry into both the **NDIS Planning and General issues** concerning the implementation and performance of the NDIS.



Anne Gale

Public Advocate

6 September 2019

SUBMISSION A (with Attachment A(1) and A(2)) Joint Standing Committee Submission.

South Australian Office of the Public Advocate

Background

The Office of the Public Advocate (OPA) provides advocacy, guardianship, information, investigation, education and dispute resolution services to fulfil statutory responsibilities of the Public Advocate.

The Public Advocate is appointed as Guardian of last resort by the South Australian Civil and Administrative Tribunal (SACAT). The Public Advocate delegates the day to day responsibility for decision making to the advocate/guardian staff of the OPA. The OPA can only act as guardian for a person who has a [mental incapacity](#). The person under guardianship is known under the *Guardianship and Administration Act 1993* as the "Protected Person".

The OPA undertakes individual advocacy for its clients and some other individuals, but is concerned mainly with systems level advocacy. The OPA also provides information and education about the law and issues that are, or could be, affecting a person with impaired decision-making capacity.

Overview

At 30 June 2019, there were 1056 guardianship clients. Of these clients, the OPA estimates approximately 656 clients will be eligible for the National Disability Insurance Scheme (NDIS). As of 30 July 2019, 583 OPA clients have met the access requirements of the NDIS. The OPA is pursuing access for the remaining clients.

The OPA has established an NDIS project team to undertake detailed NDIS participant planning to ensure clients are able to access the Scheme and get the best plan possible for their future. Systemic issues are also raised at a national level and the OPA works with the NDIA to improve outcomes.

NDIS data and reporting processes have also been implemented which allow the Public Advocate to track transition to ensure clients receive the supports they require. Internal procedure documents have been developed to assist staff in their decision-making and advocacy roles for clients accessing the NDIS in the areas of:

- Access and Planning;
- Plan Reviews;
- Support Coordination;
- Complaint Management.

The OPA has built links with health services and non-government organisations and service providers. The OPA participates in regular NDIS related meetings, stakeholder forums and workshops, including:

- Monthly meetings between the NDIA and the Public Advocate;
- NDIS Inter-jurisdictional meetings of public guardians and justice agencies;
- South Australian NDIA and OPA Operational Meeting ;
- NDIS Psychosocial Disability Transition Taskforce;
- Disability Forum between Department of Human Services (SA) and the Public Advocate.

Key Issues of concern

The OPA has compiled a log of NDIA processes that are impeding transition for clients accessing the NDIS at **Attachment A(1)**. Priority topics include:

- 1. Complex Client Support Need Pathway.** Clients of the Office of the Public Advocate (OPA) have cognitive impairment, poor social connections meaning most are complex. A tailored access, planning, implementation and monitoring response is required for clients entering this pathway.
- 2. Delays in information exchange. Staff of the OPA are not currently taking on the NDIA nominee role and are not recognised as the participant's substitute decision maker.** Individual OPA guardians are being asked to provide 100 points identification and are not being provided with information by the NDIA to enable them to make decisions for OPA clients in a timely manner. In addition planning processes at times proceed without involving the Office of the Public Advocate (OPA), risking production of a plan that requires an unscheduled review. The time delay places the participant at risk. In addition there is no capacity for an organisational log in to the NDIS portal, which also impacts on the exchange of information, such as the provision of copies of plans.
- 3. Delays in unscheduled plan reviews causing risk to the participant and families.** Delays in plan reviews at times mean that clients are not appropriately supported. This includes an inability to respond quickly to sudden changes in circumstances with large numbers of plan reviews experiencing with significant delays. Providers are experiencing cash flow and potential bad debt. Delays in having a plan that accurately reflects the participant's support needs.
- 4. Lack of crisis response.** In the event of a breakdown in accommodation, vulnerable disability clients may access the homelessness gateway which is deemed inappropriate and high risk for them. There is also a lack of placements and funding for respite services.
- 5. Market gaps.** Market gap-risk that participants will be unable to access a service due to thin markets, particularly those with high and complex needs and those in country areas.
- 6. Delays caused as a result of the NDIA requirement for independent assessments/reports.** For example clients under care of a forensic mental health system i.e. James Nash House (JNH) and clients in inpatient In-patient Rehabilitation Services (IRS) are experiencing difficulty accessing the NDIA planning pathway in a timely way. Discharge planning cannot occur until disability supports are in place resulting in significant delays and risk. Part of the delay can be attributed to the NDIA requirement for independent medical assessments for participants in JNH and health services. Please see **Attachment A(2)** for letter to the Acting NDIA CEO and a case study providing further information and suggestions for improvements.
- 7. Need for ongoing Support Coordination and Plan Management for clients of the OPA. Support Coordination is seen as a temporary provision in plans.** Many OPA clients have high and complex needs and will require longer term and or ongoing Specialist Support Coordination. Where this is not provided the OPA staff are drawn into case management functions which are beyond the scope of their role.

8. **A limited plan nominee role** is being explored by the OPA to address the aforementioned issues, including the development of working arrangements with the NDIA. Preliminary discussions are occurring with the NDIA.
9. **There is no single pathway or escalation point for participants to resolve NDIS issues or to raise queries at any point along the participant pathway.** This at times results in staff of the OPA and Service Providers taking on the unfunded role of 'Case Manager', which is unsustainable in the long term.
10. **The OPA has observed unfair and onerous terms being added to Service Agreements.** The rights of participants must be protected and further work has been requested of the NDIA to ensure these documents model fair terms and also provide information and guidance to Service Providers on the development of Service Agreements.

The OPA has compiled some key issues that intersect with the NDIS Quality and Safeguard Commission. Priority topics include:

1. **Interface between the NDIA and the NDIS Quality and Safeguards Commission.** A collaborative approach is required to achieve joined up action and the desired outcome for the participant. For example, the interface between the NDIA plan approval processes and the NDIS Quality and Safeguard Commission often do not run concurrently which results in delays, particularly for complex clients. Processes as listed below are undertaken in isolation, which results in lengthy delays for plan approval and transition from health services into alternative housing:
 - Supported Independent Living;
 - Specialist Disability Accommodation;
 - Positive Behaviour Support Plans;
 - Community/Public Housing Registration;
 - Consent for Restrictive Practices.
2. **Lack of funding in plans for Positive behaviour Support Plans (PBSP) and lack of qualified providers to undertake the PBSP assessments** - OPA staff report insufficient levels of funding for Positive Behaviour Support Plans to enable transition to the community and capacity building. This is causing delays in clients leaving correctional/forensic and health settings. Some practitioners are deciding not to register or de-registering due to the requirements of the NDIS Quality and Safeguard Commission. This results in a lack of supply of Positive Behaviour Practitioners.
3. **Reporting processes for restrictive practices.** Service providers and family members are unclear of the reporting requirements to the NDIS Quality and Safeguard Commission. There is a lack of information available to these groups that outline their responsibilities, including consent and authorisation of restrictive practices. This confusion is causing delays in plan approval by the NDIA.
4. **Service providers are unclear where to obtain information and advice on consent and authorisation of restrictive practices.** Service providers and family members report a lack of clarity on who has carriage of providing education and advice to inform restrictive practices.
5. **Definitional discrepancies for specific restrictive practices and complexity of the legislative landscape.** Service providers and family are unclear of the application of these practices in an operational setting.

SUBMISSION B SOUTH AUSTRALIAN DISABILITY ADVOCATE (with Attachments B(1) and B(2))

Parliamentary Joint Standing Committee on National Disability Insurance Scheme (NDIS)

Background

In January 2019, Dr David Caudrey was appointed as the Disability Advocate for South Australia (SA) with the responsibility for reporting systemic issues associated with the transition to the National Disability Insurance Scheme (NDIS) from a state wide perspective. The position sits within the South Australian Office of the Public Advocate for a period of twelve months. (A separate submission and attachments to the inquiry has been prepared by the Office of the Public Advocate).

The Disability Advocate escalates and refers individual complaints to the appropriate channel. It does not replace existing complaints and individual advocacy mechanisms.

With over 40 years' experience in the disability sector and excellent knowledge of how disability services and the NDIS operates, Dr Caudrey has been able to engage with a broad range of stakeholders to identify the challenges and benefits of the NDIS from the perspective of the participants, their families and the sector. To date, the SA Disability Advocate has engaged with over 140 stakeholder meetings and participant group discussions to get a first-hand account of their NDIS experience.

Overview

At these stakeholder meetings, the Disability Advocate has listened to the voices of participants and their families and carers about their experience of the Scheme. Whilst participants have detailed the challenges associated with the NDIS they have also outlined the positive aspects, for example, the plan includes more support than what was provided under the state based disability service system and they are enjoying more choice and control over the services they engage that meets their goals and aspirations.

Whilst participants of the Scheme have often reported that they end up with a good plan that has given them what they need, the process to get there has often been tortuous, exhausting and infuriating. The most common challenges from participants include delays in review processes and finalising a plan, not knowing who to contact when there is an issue and the NDIA not being agile and responsive to sudden changed circumstances or crises. Also, whilst participants enjoy more choice and control under the NDIS, they also want to receive the support necessary to enable them to make and implement the decisions that affect them. This is particularly relevant to people with cognitive impairment or psycho-social disability that affect their decision-making.

One participant family member said that "the NDIS is like a new board game – you have to start playing before you know the rules and it is very confusing – but after a while you master the rules and eventually get what you want". Another said the "NDIS stands for Never Do It Simply". Clearly the Scheme will benefit from a more simple approach requiring a significant level of red-tape reduction to streamline business practices. This is linked to the reasonable expectations that a participant might have from a 'participant service guarantee' that is being pursued at the Senior Officials level.

Feedback from providers include concern for carrying debt impacting cash flow over the course of a delayed plan review, market capacity such as workforce development and thin markets to cater for increased demand levels particularly in regional and remote areas.

Key Issues of Concern

The SA Disability Advocate response to key areas of the terms of reference is summarised below and outlined in detail at **Attachments B(1) and B(2)**. Of key concern is:

1. Ambitious transition timeframes and program design faults have impacted plan quality and participant experience resulting in significant levels of plan reviews having a considerable resource impost for the NDIA.
2. There is an assumption that support coordination is time-limited, predictable-in-advance and for everyone will not be needed at some stage. However, people with complex support needs, with poor family support or with difficulty navigating services may require ongoing assistance with plan co-ordination and crisis management, if the need arises. However it is acknowledged that the impact of the recent introduction of the Complex Needs Support Pathway will require a review to determine its impact on participant outcomes and experience in this regard.
3. The APY Lands and the unique challenges faced by remote communities requires a review of participant outcomes. It is clear from initial engagements with carers and participants in rural and remote areas that a more innovative and a group approach to service delivery is needed.
4. The original role of the Local Area Coordinator has been sacrificed to the role of Planning Assistant, helping the participant to develop their plan at the expense of capacity building functions.
5. Participants and their families have expressed confusion by all the working parts of the scheme and would prefer to be able to interact with the NDIA more simply. Participants are unclear about how the planning process operates and how to implement their plan. A more comprehensive plan implementation meeting is needed to ensure participants know how to engage with the new disability market including what to do if circumstances change. The anticipated development by the NDIA of an eMarketPlace will be an important mechanism for participants to make informed decisions about available services and to build a responsive and robust market. Strategies such as this will assist participants to utilise their plans more fully.
6. Outcomes for people requiring community mental health services who are not eligible for the NDIS will need monitoring to ensure that an unintended service gap does not eventuate.
7. There is still considerable work to determine the delineation of roles and responsibilities in regards to education, transport and corrections. In the meantime, participants are experiencing unreasonable levels of stress anticipating the loss of services, such as the South Australian Taxi Subsidy Scheme (SATSS).
8. Due to South Australia's widespread demography, the development of responses by the NDIA as the agreed market steward is needed particularly in thin markets, including Aboriginal communities, which is critical to ensure equitable access to Scheme benefits for all South Australians. This may include the need for direct commissioning of services and 'case management' delivery by the Local Area Co-ordinator. The perceived reduction of 'choice and control' with this intervention strategy will need to be closely monitored over time. Further, market signalling to the disability provider sector on the topics of remote area service delivery, psychosocial disability and specialist support co-ordination will be beneficial to increasing capacity in these areas.
9. A more robust accountability reporting framework is needed that complies with the agreement within the Bilateral Agreement for more granular data at a jurisdictional level.

Relevant to these findings and to reduce red-tape and streamline business processes, the Disability Advocate recommends that;

1. The NDIA re-establish the original concept of the NDIA Planner (an employee of the NDIA with a specific defined role and delegation), allowing the Local Area Coordinator to undertake its originally conceived role.
2. To eliminate conflict of issues, the NDIA require that service providers that are registered to offer support coordination do not also offer other services in the participant's plan.
3. The NDIA acknowledge that there is a small but not insignificant proportion (around 6%) of all participants, with complexities in their lives that may require *ongoing* support coordination.
4. The NDIA allows a market for Local Area Coordination, which can also take on the role of support coordination separate from other service delivery. Participants can then have a choice of Local Area Coordination Agency. That a contingency fund is available to Local Area Coordinators for urgent situations that would manage a crisis situation for a participant.

CONFIDENTIAL

OFFICE OF THE PUBLIC ADVOCATE NDIA FINDINGS

ATTACHMENT A (1)

	FINDINGS	SOLUTION	OPA Action
1	<p>Complex Support Needs Pathway.</p> <p>Clients of the Office of the Public Advocate (OPA) have cognitive impairments and poor social connections meaning most are complex.</p>	<p>Name of complex OPA clients provided to the NDIA for consideration to enter the complex client pathway.</p>	<ul style="list-style-type: none"> OPA has provided the NDIA with 20 client names who are having transition/planning issues. Have met with the NDIA to discuss process for OPA clients. All 22 OPA clients participating in the 31 home project have entered the complex pathway.
2	<p>Delays in planning and information exchange</p> <p>The NDIA are unaware of participants with Guardianship orders, consequently the planning process is proceeding without involving the Office of the Public Advocate (OPA), risking a plan that requires an unscheduled review. The time delay places the participant at risk.</p>	<p>At the planning meeting all participants are asked if a Guardianship order is in place.</p>	<ul style="list-style-type: none"> OPA is sending data to the NDIA for cross checking purposes. Dealing with individual issues on a case by case basis. Updated list of guardianship clients (new appointments) has been provided to the NDIA. GO orders sent to the NDIA upon request
3	<p>Delays in unscheduled plan reviews causing risk to the participant and families.</p> <p>The OPA has no clear point of contact when trying to action reviews, which causes delay and requests from the NDIA for 100 points of identification and additional copies of the guardianship orders.</p> <p>Plan Flexibility</p> <p>Restricted flexibility when the plan is agency managed ie providers are required to be registered which is an issue in thin markets</p>	<p>Breakdown of data at a jurisdictional level is required in NDIA Quarterly Report for scheduled and unscheduled NDIS plan review times.</p>	<ul style="list-style-type: none"> OPA has commenced preliminary tracking of scheduled plan review times and considering system enhancements to support this, which will allow for pre planning and information gathering to occur. Discussions occurring with NDIA.
4	<p>Lack of crisis response</p> <p>In the event of a breakdown in accommodation, vulnerable disability clients may access the</p>	<p>NDIA to investigate respite housing options for people in crisis. NDIA after-hours system.</p>	<ul style="list-style-type: none"> NDIA Complex Support Needs Pathway may address some of these issues. Have raised with NDIA. Met with NDIA Complex Support Needs Pathway staff.

OFFICE OF THE PUBLIC ADVOCATE NDIA FINDINGS

ATTACHMENT A (1)

	Homelessness Gateway which is deemed inappropriate and high risk for them.		
5	<p>Market gaps</p> <p>Market gap-risk that participants with high and complex needs will be unable to access a service due to thin markets.</p>	<p>NDIA Market Enablement Approach.</p> <p>Escalation pathway needs to be defined for critical instances.</p>	<ul style="list-style-type: none"> • Discussing with Disability Advocate, other States and the NDIA. • OPA has developed list of South Australian providers.
6	<p>Delays caused by independent assessment process</p> <p>Those under care of a forensic mental health system ie James Nash House (JNH) are experiencing difficulty accessing the NDIA planning pathway in a timely way. Discharge planning cannot occur until disability supports are in place resulting in significant delays and risk. Part of the delay can be attributed to need for independent medical assessments for participants in JNH (refer to case study Attachment A2).</p>	<p>An efficient and timely NDIS planning pathway is developed or interim critical plan ie NSW model.</p> <p>Assessments from medical/health professionals can include functional assessment to reduce duplication.</p> <p>Guidelines to practitioners on what to include in these assessments would also reduce duplication</p>	<ul style="list-style-type: none"> • Meeting with JNH, attending psycho-social taskforce, raised with NDIA. • The Public Advocate has written to the Acting NDIA CEO regarding the delays with multiple assessments. Refer to Attachment A 2 • OPA has met with NDIA Complex Support Needs Pathway staff • OPA liaising with JNH re client specific issues and also a part of the 31 homes project meetings to troubleshoot client specific issues
7	<p>Need for ongoing Support Coordination and Plan Management</p> <p>Support Coordination in NDIS Plans is seen as a temporary provision resulting in State staff being drawn into case management role.</p> <p>Role of the Support Coordinator (SC)</p> <p>The breadth of the SC role requires definition and agreement from jurisdictions.</p>	<p>Support Co-ordination and Plan Manager should be an ongoing service in plans for participants under Guardianship orders.</p> <p>NDIA undertaking work to define current SC role</p>	<ul style="list-style-type: none"> • Advocating with the NDIA on this matter. Raised at OPA/NDIA teleconference meetings. • Sourcing data on this issue and will share with NDIA. • Advocating for this at OPA/NDIA teleconference meetings. • OPA Policy document has defined how OPA will capitalise on the SC role.

OFFICE OF THE PUBLIC ADVOCATE NDIA FINDINGS

ATTACHMENT A (1)

8	<p>Role of a limited plan nominee</p> <p>The role of OPA requires definition in terms of being Limited Plan Nominees</p>	<p>SA OPA developing a position regarding a limited nominee role in line with the powers of the guardianship appointment. Discussions occurring with the NDIA.</p>	<ul style="list-style-type: none"> • Discussing with other States/Disability Advocate/NDIA. • OPA has developed a position and is working with the NDIA to progress this.
9	<p>There is no single pathway or escalation point for participants to resolve NDIS issues or to raise queries at any point along the participant pathway.</p> <p>This at times results in staff of the OPA and Service Providers taking on the unfunded role of 'case manager' which is unsustainable in the long term.</p> <p>The OPA has observed unfair and onerous terms being added to Service Agreements.</p> <p>The rights of participants must be protected and further work has been requested of the NDIA to ensure these documents model fair terms.</p>	<p>Investigate no wrong door policy. Provide names and contact details of an NDIA contact to the participant</p> <p>The NDIA need to provide information and guidance to Service Providers on the development of Service Agreements.</p>	<ul style="list-style-type: none"> • OPA has established operational links and escalations with State based NDIA staff. • OPA developed guidelines for staff on how to address these issues.
10	<p>NDIS QUALITY AND SAFEGUARD COMMISSION</p> <p>Interface between the NDIA and the NDIS Quality and Safeguards Commission. NDIS business processes operate with a siloed approach whereas a coordinated approach is required to achieve the desired outcome for the participant.</p> <p>For example, the interface between the NDIA plan approval processes and the NDIS Quality and Safeguard Commission often do not run concurrently, which results in delays, particularly for complex clients. Processes as listed below are undertaken in isolation, which results in lengthy delays for plan</p>	<p>The NDIA need to provide information and guidance to Service Providers on the development of Service Agreements.</p>	<ul style="list-style-type: none"> • OPA is reviewing the office service agreement process.
1	<p>NDIS QUALITY AND SAFEGUARD COMMISSION</p> <p>Interface between the NDIA and the NDIS Quality and Safeguards Commission. NDIS business processes operate with a siloed approach whereas a coordinated approach is required to achieve the desired outcome for the participant.</p> <p>For example, the interface between the NDIA plan approval processes and the NDIS Quality and Safeguard Commission often do not run concurrently, which results in delays, particularly for complex clients. Processes as listed below are undertaken in isolation, which results in lengthy delays for plan</p>	<p>A collaborative approach is required to achieve joined up action.</p>	<ul style="list-style-type: none"> • The OPA has met with the NDIS Quality and Safeguard Commission, Department of Human Services (SA) and Health SA to discuss this matter.

OFFICE OF THE PUBLIC ADVOCATE NDIA FINDINGS

ATTACHMENT A (1)

	<p>approval and transition from health services into alternative housing:</p> <ul style="list-style-type: none"> • Supported Independent Living • Specialist Disability Accommodation • Positive Behaviour Support Plans • Community/Public Housing Registration • Consent for Restrictive Practices 		
2	<p>Funding for Positive behaviour Support Plans</p> <p>OPA staff reporting insufficient level of funding for Positive Behaviour Support Plans to enable transition to the community and capacity building. Also market gaps for registered providers who are able to undertake this work.</p>	<p>A more streamlined system is required, especially for those with complex needs.</p>	<ul style="list-style-type: none"> • Issue raised at local NDIA level and with senior NDIA staff. • Links made with the NDIS Quality and Safeguards Commission. • Individual issues dealt with on a case by case basis.
3	<p>Reporting processes for restrictive practices.</p> <p>Service providers and family members are unclear of the reporting requirements to the NDIS Quality and Safeguard Commission. There is a lack of information available to these groups that outline their responsibilities, including consent and authorisation of restrictive practices. This confusion is causing delays in plan approval by the NDIA.</p>	<p>Further information needs to be provided to the sector, service providers and family members on the reporting requirements of restrictive practices.</p>	<ul style="list-style-type: none"> • Issue raised at local NDIA level and with senior NDIA staff. • Links made with the NDIS Quality and Safeguards Commission. • The OPA is continuing to raise this matter.
4	<p>Service providers are unclear where to obtain information and advice on consent and authorisation of restrictive practices.</p> <p>Service providers and family members report a lack of clarity on who has carriage of providing education and advice to inform restrictive practices.</p>	<p>Further information needs to be provided to the sector, service providers and family members on the reporting requirements of restrictive practices.</p>	<ul style="list-style-type: none"> • Issue raised at with NDIS Quality and Safeguards Commission and local and senior NDIA staff.

OFFICE OF THE PUBLIC ADVOCATE NDIA FINDINGS

ATTACHMENT A (1)

5	<p>Definitional discrepancies for specific restrictive practices and complexity of the legislative landscape.</p> <p>Service providers and family are unclear of the application of these practices in an operational setting.</p>	<p>Further information needs to be provided to the sector, service providers and family members on the reporting requirements of restrictive practices.</p>	<ul style="list-style-type: none"> Issue raised at with NDIS Quality and Safeguards Commission and local and senior NDIA staff.
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ATTACHMENT A (2)

If calling please ask for: Ms Anne Gale or Lyndi Gepp
Telephone: **08-8342 8200**

OPA Reference: 19OPA00086

5 June 2019

Ms Vicki Rundle
Acting Chief Executive, National Disability Insurance Scheme
PO Box 700
CANBERRA ACT 2601

Dear Ms Rundle

I have recently had discussions with representatives from the National Disability Insurance Agency (NDIA) regarding a range of matters including improvements to the participant pathway.

I am pleased that the new Complex Needs pathway has been established for participants with disability who have a range of complexities that impact their lives and would benefit from a higher level of specialised supports in their plans. We are currently working with David Coyne, NDIA, Branch Manager to assess the suitability of this pathway for a number of clients assisted by the Office of the Public Advocate.

On another matter, it has come to my attention that the NDIA requirement for independent medical assessments is causing delay for some clients exiting health facilities including hospitals and forensic mental health services (such as James Nash House in South Australia and Glenside Inpatient Rehabilitation Service). I am aware that medical assessments are available to the NDIA from health professionals who have been treating the person for a significant period of time and are well placed to provide evidence of the primary disability and its impact on daily functioning.

In addition, the process whereby Supported Independent Living (SIL) quotes and Supported Disability Accommodation (SDA) assessments are requested and when coupled the need for independent assessments, delays have ensued as these processes have not been streamlined or appear to occur concurrently. Please find attached a case study that illustrates the delay caused by these requirements.

To streamline processes, I propose that consideration be given to existing assessments being used in a form that will assist with the development of a participant's NDIS plan and for planning processes that include SIL and SDA's, to occur in a more systematic way. I have raised this matter with the NDIA, Jarrad Cuthbert, Director State Relations, who has informed me of the Interim Critical Plan process being implemented in New South Wales to address this issue.



ATTACHMENT A (2)

Opportunities for a way forward include-

- The development of NDIA templates for use by health professionals for assessment purposes that will adequately inform the planning process including NDIA's requirement to address functional impact on daily living (possibly under a 'Working Arrangement' for South Australia)
- Provision of further information concerning the NSW Interim Critical Plan with a view to assessing its applicability within the South Australian context.

I would appreciate the NDIA's consideration of these suggestions and would be happy to discuss further.

Please do not hesitate to contact me for further information by telephoning 8342 8200 or email Ms Lyndi Gepp on lyndi.gepp3@sa.gov.au

Yours sincerely

Anne Gale
Public Advocate

Attachment: Office of the Public Advocate NDIA Client Case Study

Cc: 1) David Coyne, Branch Manager, National Complex Support Needs Pathway.
2) Jarrad Cuthbert, Director, State Relations.



ATTACHMENT A (2)

Office of the Public Advocate

Issue: Independent Medical Assessments

Case Study

Issues

- Male client under guardianship in a health service. High complex needs with challenging behaviours. The OPA has been working with the client, the health service and the NDIA to expedite his discharge.
- The OPA remains concerned that despite significant information being on the client's file about his support needs, the NDIA has specifically requested additional independent assessments to determine his support needs post discharge.
- Staff from the health service have indicated to the NDIA they are willing to provide information to inform these assessments and requested advice on what additional information is required.
- The NDIA informed all parties that the health service treating team were unable to complete the assessments required to determine the clients support needs due to a potential conflict of interest.
- The requirement for additional assessments has placed considerable stress on the client who finds meeting new people difficult, along with significant staff time to facilitate such assessments.
- In addition there were difficulties with the independent assessors meeting with the client (due to credentialing of workers) which has further delayed discharge.
- There has also been difficulties with the independent assessors accessing information (and sharing) with the health service.

Context and Case study 1

- Original discharge date, March 2017. At the time this expired, due to lack of accommodation and ongoing risk to client and community, an application was made for an Interim Treatment Order (ITO) and granted.
- The client is distressed about remaining at the health service for longer than anticipated. It is a large focus for him in the majority of conversations and can be difficult for staff to manage his distress on occasions.
- Whilst at the health service the client has had regular engagement with his treating team. This has included psychiatrist, social work, nursing staff and Occupational Therapist (OT) over a two year period.



ATTACHMENT A (2)

- Staff from the health service provided significant information to the NDIA to assist with determining eligibility. Despite not only addressing functional impact of disability, these reports detail the context to the level of support the client requires.
- In March 2018, a detailed report was undertaken about the client, his housing and support needs post discharge. This report relied on many other reports on the clients file, which specifically addressed his support needs upon discharge.
- In approximately September 2018, a decision was made that residing at another health service was not suitable and investigations commenced to identify another suitable public/community housing property.
- Due to the regular and ongoing contact with OT, psychiatry, nursing and social work at the health service, these disciplines would be in a good position to outline the details of the client's support needs for NDIS purposes.
- In late 2018 a community housing property was identified for the client to move into with 24/7 support. The client began paying rent on this property on 21 December 2018.

Current status

- There have been multiple discussions between the NDIA, the OPA and all other interested parties regarding whether or not to register the property as Specialist Disability Accommodation (SDA).
- In March 2019, the decision was made for the community housing provider to commence the process to register the property as SDA. It was at this time that the NDIA advised that they are not able to fund the modifications to the property due it being registered as SDA. This information was unforeseen by those involved and raised concerns about further delays whilst this matter was being addressed.
- The treating Doctor from the health service commenced discussions with the DHS to ascertain if they are willing to fund the house modifications (the service provider estimated it to be around \$15-20K).
- A 6 month transition period was recommended, based on independent housing and support needs reports undertaken by independent assessors. This timeframe was queried by the health service, the OPA and the service provider given the length of the process to date.
- In early April 2019, the NDIA advised the OPA they had received all the necessary assessments, including the SIL and a decision would soon be made regarding what is reasonable and necessary.
- The NDIA were unable to provide a timeframe on how long this process would take.



ATTACHMENT A (2)

- As an interim measure, the service provider is meeting with the client once a week to commence relationship building. This support is funded via the current NDIS plan and the OPA has been advised that if a new plan is not in place soon, these visits will need to cease and transition may be stalled.
- On 29 May 2019 the NDIA advised the OPA that they have all the information they require and a decision will be made regarding the clients plan and funding by the end of the first week of June 2019.
- July 2019 delays occurring due to advice from the NDIA that the NDIS Plan could not be approved until the delegated guardian had consented to the Positive Behaviour Support Plan (PBSP). The OPA advised the NDIA that it was the responsibility of the South Australian Civil and Administrative Tribunal (SACAT) to approve the restrictive practices outlined in the PBSP. The NDIA were advised special powers through SACAT were being sought but that this shouldn't delay the NDIS plan approval process.
- An Interagency Risk Management Plan, Positive Behaviour Support Plan and associated documents have been completed by the Service Provider with input from the health service and others.
- Still no discharge date.

September 2019

CONFIDENTIAL

ATTACHMENT B (1)-DISABILITY ADVOCATE FINDINGS-NDIS ISSUES

*FINDINGS	SOLUTION
<p>There is no single pathway or escalation point for participants to resolve an NDIS issue quickly.</p> <p>Participants are saying-“NDIA is difficult to navigate-with many layers. No single ‘go to’ person when there is an issue causing a weakening of accountability measures (Our Voice member).</p> <p>Concern expressed by providers that they are taking on the unfunded role of ‘case manager’ which is unsustainable in the long term.</p>	<p>Critical Issues Officer appointed in LAC until scheme maturation.</p> <p>Instigate no wrong door policy.</p> <p>LAC as go to person better communicated.</p>
<p>There is a mismatch between what is discussed at the NDIS planning meeting and what services end up in the plan.</p> <p>The participant pathway requires the LAC to undertake the initial planning process however final sign off requires the NDIA to review the plan which may result in changes potentially triggering an unscheduled plan review. Participants are saying <i>The plan didn’t reflect discussions we had with the LAC planner. Focus needs to be placed on getting the plan right which is now a process of negotiation and advocacy (NDIS provider comment)</i></p>	<p>A participant/plan nominee is able to review the plan prior to being finalised reducing the number of unscheduled plan reviews.</p>
<p>There is significant delays in unscheduled plan reviews causing risk to the participant and families.</p> <p>Participants are saying-<i>Sometimes there is an error in the plan and there is no one we can contact, then a plan review is needed which takes a long time (NDIS participant). No other alternative but the 1800 number with no response.</i></p>	<p>Breakdown of data at a jurisdictional level is required in the NDIA Quarterly Report for scheduled and unscheduled NDIS plan review times.</p>
<p>No after-hours NDIA response for participants in crisis or providers needing urgent assistance.</p> <p><i>We need help, we need help! And we don’t know who to call. (Our Voices member).</i></p> <p>Participants are wanting a friend or ally to assist them to navigate the system and help them if things go wrong.</p>	<p>After hours response system needs to be implemented and communicated.</p> <p>Consideration of contingency fund managed by LAC for streamlining and agility in urgent circumstances.</p>
<p>The NDIS has resulted in a fragmentation of what was, under the previous system, the case manager function resulting in unnecessary layering comprising plan managers, support co-ordinators, specialist co-ordinators, LACs, Q&S Commission, NDIA 1800 number causing</p>	<p>A more streamlined system is required especially for those with complex needs.</p>

ATTACHMENT B (1)-DISABILITY ADVOCATE FINDINGS-NDIS ISSUES

<p>inefficiencies and high risk to participants and impacting state based mainstream service system (ie hospitals, homelessness services) .</p>	<p>NDIA after hour response and 'go to' person implemented.</p>
<p>More granular data is needed at a jurisdictional level. Participants are signalling significant delays across all NDIA systems ie NDIS planning pathway, scheduled and unscheduled reviews, SIL and AT quotes. Timing along pivotal points in the pathway (ie from access met to first plan meeting to plan approval to plan activation and utilisation rates) and other systems need to be reported at a jurisdictional level within the NDIS Quarterly report. These delays will impact SA mainstream service systems (ie hospitals, homelessness, and correctional services). <i>We have been waiting 6 months or more to review the plan.</i></p>	<p>Commonwealth NDIA staff capping needs to be lifted to shift the backlog of delays across the system. NDIS Quarterly report requires more granular data ie jurisdictional level and include the timeline for planning processes, plan activation and utilisation rates, satisfaction rates and rationale for lower than national average plan utilisation rates.</p>
<p>NDIS planning process is difficult and complicated for some people. Participants are saying <i>"Take more time and talk to us face to face."</i> Language when communicating to participants is complicated. <i>We just want to hang out with friends (not community capacity building) and get a job (not economic participation)</i> (Own Voice members)</p>	<p>Use community language in all forms of communication to participants.</p>
<p>Some participants are reporting being worse off under the NDIS or second plans being significantly less than the first plan impacting unscheduled plan reviews. One participant said- <i>We are close to \$14,000 worse off under the NDIS</i></p>	<p>Data is required to monitor the extent of this issue.</p>

ATTACHMENT B (2) REDUCING RED TAPE AND STREAMLINING BUSINESS PROCESSES

FINDINGS	OPERATIONAL Impact	PARTICIPANT Impact	SOLUTION
<p>1. The planning questionnaire does not capture the extent of the participant needs or subtlety due to yes/no answers required.</p>	<p>Significant number of plan reviews to try and get the plan right according to participant needs.</p>	<p>Participant frustration at not being able to fully and accurately express their needs.</p>	<p>Centrelink have a questionnaire using a scaling system. Which could be used by the NDIA.</p>
<p>2. Access Request issues -Rigid assessment requirements that are unclear to the participants.</p>	<p>Unnecessary reviews and impact on advocacy services.</p>	<p>Several participants are attending special schools with intellectual disability but have been declined because the assessment does not identify functional capacity impact on daily living. Where there is insufficient evidence, GP's are being approached to complete the professional statement. For many people with disability the GP does not 'treat' their disability resulting in the statement not being useful.</p>	<p>More flexibility in the assessment process and more guidance for participants, families and health professions so that assessment reports to better reflect the functional capacity impact.</p>
<p>3. The price guide is complex and not well understood by participants</p>	<p>Providers and mainstream services have to help participants with understanding the NDIA Price Guide and this is unfunded.</p>	<p>Participants are unclear of the cost of services and the pricing regime is very confusing.</p>	<p>Price guide needs to be simplified to allow participants to understand pricing – this would help them to understand and build their capacity.</p>
<p>4. Mismatch between what the participant says at the planning meeting and what they get in the plan.</p>	<p>More plan reviews than should be needed and delays in the provision of services.</p>	<p>Plans often do not reflect what was discussed in planning meetings. Participants are then required to submit Change of Circumstances/reviews to have the plan changed. This causes delays to the provision of necessary supports and adds to administrative burden</p>	<p>Needs to be a check undertaken before plan is finalised to ensure it is correct. Participant should be able to review the plan prior to it being approved. If there is a change to a plan from the planning meeting to when it is approved, there needs to be an explanation to the participant as to why the plan is different.</p>

ATTACHMENT B (2) REDUCING RED TAPE AND STREAMLINING BUSINESS PROCESSES

FINDINGS	OPERATIONAL Impact	PARTICIPANT Impact	SOLUTION
<p>5. Large number of plan reviews</p>	<p>Poor understanding by participants, service providers, guardians, health professionals about the evidence required to support a timely plan review.</p>	<p>Participants are confused about what information is needed to facilitate a timely plan review.</p>	<p>Light touch reviews have helped this issue, although further resources required to address the back-log. Clear communication on evidence needed for a review.</p>
<p>6. No clear point of contact within the NDIA for participants</p>	<p>Multiple approaches by participants trying to get help from NDIA, LAC complaints mechanism, appeals, advocacy agencies resulting in administrative stress in the system.</p>	<p>Participants have indicated that they feel stress and at risk when they don't know how to get help when they need it and the service system fails to be customer friendly. Ringing a 1800 number and talking to a new person is not customer friendly.</p>	<p>Critical Issues Officer appointed in LAC until scheme maturation. LAC as 'go to person' better communicated and easier to contact the participant's LAC or NDIA planner.</p>
<p>7. Lack of flexibility in processes for CALD and indigenous participants.</p>	<p>Service providers and LAC often struggle to make appropriate provision for participants from ATSI and CALD backgrounds.</p>	<p>Services are not delivered in a culturally appropriate way. Participants are missing out on the supports/services they require.</p>	<p>Review of participant outcomes for CALD and indigenous pathway needed. Consider specialist LACs for ATSI and CALD participants if they request it.</p>
<p>8. Public Guardians are not recognised as the participant's substitute decision maker.</p> <ul style="list-style-type: none"> ● Individual guardians required to give 100 points identification ● Guardians unable to access the portal and or secure emails 	<p>Office of the Public Advocate, guardians significant time being spent on NDIS administration and 'double handling'</p>	<p>Significant delay in plan activation times and frustration/stress</p>	<p>Recognising the Public Advocate's delegate as the contact person and making changes to the portal to enable access by the delegate to the participant's plan.</p>
<p>9. Significant wait times for home modifications. Compounded by significant shortages of providers of home modifications.</p>	<p>In SA up to 300 participants are waiting for 'scope of works' for home modifications, are exasperated when NDIA rejects the initial building assessment and quote (provided unfunded) requiring builders to re-quote. This</p>	<p>Wait times for home modifications sometimes exceed the life of the plan and this is frustrating for participants.</p>	<p>NDIA provide training and clear guidelines for home modifications to ensure quotes are made according to the guidelines. This will eliminate the need for re-quotng.</p>

ATTACHMENT B (2) REDUCING RED TAPE AND STREAMLINING BUSINESS PROCESSES

FINDINGS	OPERATIONAL Impact	PARTICIPANT Impact	SOLUTION
<p>10. NDIA consent mechanisms are causing delays and double handling. For example, NDIA consent mechanisms are not allowing foster families to act on behalf of their foster children and having to contact personnel in the Dept of Child Protection (DCP).</p>	<p>is causing disincentive in the market. Double handling causing delays and administrative burdens in DCP.</p>	<p>Significant disadvantage and delays to participants.</p>	<p>Policy change required to allow eligible families, determined by DCP, to have delegated permission to liaise directly with NDIA.</p>
<p>11. Additional medical assessments/reports requested by the NDIA for participants exiting hospitals and forensic institutions (eg James Nash House) when expert assessments/reports already exist.</p>	<p>Administrative cost for State mainstream services in preparing additional reports.</p>	<p>Significant delays in discharge from JNH and hospital whilst additional reports are sought.</p>	<p>Templates for required information needed and training of health professionals. <i>'Tell us what you want in a report and we will provide it.'</i></p>
<p>12. Support coordination as an individualised component of a participant plan does not work for all participants.</p>	<p>Providers and State mainstream services are providing the 'case management' component for participants. Conflict of interest is evident when providers are delivering services and support co-ordination to the same participant.</p>	<p>Participants who have 'run out' of support co-ordination in their plans are left to flounder. It is often impossible in advance to know how much support co-ordination is going to be needed. A more agile system is needed.</p>	<p>Support Co-ordination also able to be offered by LAC as a choice. This will enable more agility in the Scheme to respond to participant need when required, eliminating the need to know the value of support co-ordination up front. Ongoing support co-ordination is needed for participants with complex support needs.</p>
<p>13. Accommodation- Vacancies-there is no panel or replacement mechanism</p>	<p>Loss of housing sector confidence in the NDIS resulting in housing shortages for people with disabilities.</p>	<p>Participants and families unable to access appropriate housing options.</p>	<p>An accommodation panel or mechanism for sourcing accommodation services is required.</p>

ATTACHMENT B (2) REDUCING RED TAPE AND STREAMLINING BUSINESS PROCESSES

FINDINGS	OPERATIONAL Impact	PARTICIPANT Impact	SOLUTION
managing accommodation vacancies.			
14. SILS Quoting system is laborious and expensive	Providers are required to provide evidence that they have offered the participant 3 choices of SILS and when SIL is presented the NDIA are requiring more quotes.	Reported incidences from families indicating that the NDIA require 4 assessments.	NDIA has clearer protocols for what is required in a SIL quote and simple assessment requirements.
15. Change of Circumstance (CoC) needs a triage approach	CoC ranges from a simple change of address to crisis. May impact mainstream services (ie hospital)	Significant wait times for the participant and risk if the situation is at crises point.	Managing crisis needs a separate process to COS.
16. Lack of transparency and data sharing to monitor and identify sticking points in the Scheme	Mainstream State agencies unable to monitor impacts on participants and assist where needed.	Delays in participant pathway and plan activation rates as quality data from the NDIA on levels of need is not available.	Further breakdown of data at a jurisdictional and program level (as per Bilateral Agreement) to ensure priority action where needed.
17. Many moving parts to the NDIS	Administrative impost to service providers trying to deal with a complex mechanism.	The participants are confused not knowing how to interact with the scheme placing pressure on families.	'Planners doing plans with delegation to sign off the plan.' LAC sticking to LAC work and not doing planning but also able to offer support co-ordination.
18. Concerns for the future of transport assistance.	Service providers often have to provide transport which is more than what is available in a participant's plan.	A limited 3 tier system of transport is insufficient for those with high and complex needs.	SOWG working group progresses this issue nationally as a priority. Transport is a key need which is not adequately met.
19. No clear crisis response by the NDIA or escalation pathway	Cost shift to the state's mainstream service systems (Health, Corrections, Child Protection) because NDIA does not offer what State disability systems offer. Service providers deal with crisis (unfunded).	No alternative to hospital casualty departments or police when families are dealing with family members with disabilities in crisis. Families not associated with the Dept of Child Protection have threatened	NDIA to formulate an escalation process for the Change of Circumstances mechanism to allow for the release of urgent funds under section 34 of the NDIS Act.

ATTACHMENT B (2) REDUCING RED TAPE AND STREAMLINING BUSINESS PROCESSES

FINDINGS	OPERATIONAL Impact	PARTICIPANT Impact	SOLUTION
<p>20. NDIA inability to respond quickly to sudden changes in circumstances</p>	<p>Large numbers of plan reviews with significant delays. Providers are experiencing cash flow and potential bad debt</p>	<p>relinquishing custody of their children due to insufficient funding to sustain informal support. Delays in having a plan that accurately reflects the participant's support needs.</p>	<p>Broader access to the NDIA after-hours crisis phone number and communication with the sector. LAC's to have a crisis contingency fund for a quick response in high risk situations.</p>

