

NDIS AMENDMENT (GETTING THE NDIS BACK ON TRACK NO. 1) BILL 2024
PUBLIC HEARING - 25 JULY 2024

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NDIS AMENDMENT BILL HEARING

TITLE: NDIA APPROACH TO CO-DESIGNING THE LEGISLATION REFORM

WITNESS: Mr Matthew Swainson, Acting Deputy Chief Executive Officer,
Governance, Risk and Legal

Strategic Narrative

- Our obligation to co-design with people with disability has been enshrined in legislation since 1 July 2022.
- The NDIA is committed to working with the disability sector to design and manage co-design, consultation, and engagement activities across all reforms. This is reflected in the shared statement on co-design, released in partnership with the Independent Advisory Council (IAC) and Disability Representative and Carer Organisations (DRCOs).
- The proposed changes to the *National Disability Insurance Scheme Act 2013* (NDIS Act) is the Government's first step, post the Independent Review of the NDIS (NDIS Review), to put in place the scaffolding needed to start making the NDIS stronger and to improve outcomes for NDIS participants.
- Those directly impacted by key decisions about the Scheme will continue to play a key role in developing the detail and in implementing the reforms.
- The NDIA will work with people with disability and the disability community to design rules and to implement legislation, and to design operational guidance and practice.

KEY HEADLINE FACTS AND FIGURES

- Since December 2022, a total of \$4.23 million has been paid to 28 DRCOs to support their participation in co-design activities including the Reform for Outcomes program.
- The NDIA has also extended contracts with sector members of the Co-design Advisory Group through to February 2025, providing \$191,000 since its inception, as well as funding the Disability Advocacy Network Australia (DANA) \$280,000 to provide secretariat functions for DRCO forums, and \$30,000 additional funding to Australian Federation Disability Organisations (AFDO) for contract coordination.
- The Minister recently announced a further \$11.6 million for DRCOs to support Scheme Reform co-design activities over the next 2 years.
- On 6 June 2024, Minister for the NDIS, the Hon Bill Shorten MP, the NDIA, the Department of Social Services (DSS), the NDIS Quality and Safeguards Commission (NQSC), DRCOs and members of the IAC issued a shared commitment to the approach to working together on reforms identified in the NDIS Review and proposed in a Bill before the Parliament.

Grouped Talking Points

Legislation consultation

- The NDIA has already been working with people with disability and their supporters through engagement and co-design to deliver the Reform for Outcomes program and will build on this work to support the Australian Government's response to the NDIS Review.
- Since the Government introduced proposed legislation, we have been engaging with DRCOs and the IAC to discuss and inform our approach to implementing the reforms and to understand community sentiment and provide an opportunity to ask questions and clarify aspects of the legislation.
- The NDIA and DSS have commenced consultation on key aspects of proposed changes outlined in the Bill to ensure necessary instruments and rules, as well as approaches to implementation, are well informed by the voices of participants and the disability community.

- This has included consultation sessions on:
 - Proposed changes to section 33 that would introduce a total funding amount, funding limits for specific supports and funding periods to NDIS plans.
 - Proposed definition of NDIS Supports and associated draft transitional rule to support proposed changes to section 10.
- Consultation sessions have so far been held with:
 - Better Planning co-design working group (section 33 only)
 - IAC
 - DRCOs
 - Participant Reference Group
- Further sessions are planned with focus groups of participants (through Participant First), our Industry Chief Executive Forum and other key advisory groups such as our Employees with Disability Network.
- In addition to this, DSS is leading consultation with state and territory governments and is planning a public engagement process.

Co-designing reforms

- The intent is that the principles of co-design remain central to all reform activity occurring in the NDIA.
- The priority is to co-design with the disability community and as much as possible directly with people with disability – however, other key stakeholders will continue to be consulted, including service providers and governments.
- Since the Government introduced proposed changes to the NDIS Act, we have been working closely with DRCOs, our IAC and Participant Reference Group (PRG) to confirm the next set of priority topics for co-design and improve our approach to co-design.
- We have agreed to prioritise co-design, consultation and engagement activities on the following topics:
 - Participant pathway experience (including access and planning)
 - Assessments and budgeting
 - Navigator Function

- Participant Services (market reforms)
 - Psychosocial Disability
 - Home and Living
 - Integrity and Fraud Prevention
 - Workforce Capability and Culture
 - Participant Safety
 - Supporting Children and Young People in the NDIS
- The NDIA has committed to broadening our co-design activities, so we are hearing from more people with greater diversity.
 - Existing engagement, co-design and consultation activities will be expanded to include a larger and more diverse range of people with disability as well as experts, providers, partners in the community and other necessary stakeholders.
 - This will include working with existing and new advisory groups (for example, Autism Advisory Group, National Mental Health Sector Reference Group, etc.) and national representative and peak bodies who help us work with harder to reach communities and represent diverse cohorts of people with disability.
 - The NDIA is also in the process of establishing a small number of new expert advisory groups to provide advice across co-design topics. This includes new expert advisory groups on:
 - Children and young people
 - Neurodegenerative conditions, palliative care and rare diseases
 - Rural and remote
 - Self-management
 - The NDIA Engagement Framework (Framework) – available on the NDIS website– outlines our commitment to co-designing with the disability community. The Framework was developed with disability sector representatives to guide, support, and strengthen our engagement with the disability community.
 - It also recognises the spectrum of activities that may occur – from seeking community feedback to co-creating solutions alongside service users – and can take place across a broad range of topics and issues.

- The NDIA are also conducting an evaluation of co-design projects undertaken previously by the NDIA. This will inform how the NDIA can continue to improve how we work with the disability community and participants in co-design.

Timeline of recent or significant events

Date	Action
July 2024	<ul style="list-style-type: none"> • Consultation on section 33 and section 10 with DRCOs, IAC, ICE Forum, and participant focus groups.
June 2024	<ul style="list-style-type: none"> • Minister announced funding for DRCOs and shared statement on co-design.
May 2024	<ul style="list-style-type: none"> • The NDIS Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 debated in Parliament. • Continued fortnightly meetings with DRCOs to discuss proposed legislation changes. • Briefing at Quarterly DRCO Forum, and DRCO/IAC meeting. • Commenced consultation on section 33 with Better Planning co-design group.
April 2024	<ul style="list-style-type: none"> • Continued fortnightly meetings with DRCOs to discuss proposed legislation changes. • Briefings held with IAC, IAC Intellectual Disability Reference Group, IAC Home and Living Reference Group, Participant Reference Group. • Shared proposed co-design topics and ways of working with IAC, DRCOs and PRG.
March 2024	<ul style="list-style-type: none"> • The NDIS Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 introduced to Parliament. • One to one briefings held with DRCOs

Background

- Following the NDIS reform announcements in April 2023, the NDIA worked with DRCOs and IAC members to agree to a co-design approach with people with disability and the disability community.
- In June 2023 the NDIA established 6 co-design working groups focused on workforce capability, better planning, flexibility, evidence-based supports, fraud, and independent living.

- Membership of working groups includes people with disability (lived experience), members of the disability community and are co-chaired by a DRCO or IAC member and a NDIA representative.
- The NDIA also established an Implementation Steering Committee to oversee co-design progress, which all co-chairs take part in monthly. Quarterly updates are provided to a reform specific joint DRCO and IAC meeting.
- These co-design groups are currently being updated to reflect agreed shared priorities for co-design. New co-design groups are being established and are expected to be in place by August.

Recent media coverage

Date	Source	Item
27 March 2024	<i>People with Disability Australia</i>	Media release <u>Co-design must be genuine, our lives depend on it: PWDA responds to the NDIS Reform Bill</u> https://pwd.org.au/co-design-must-be-genuine-our-lives-depend-on-it-pwda-responds-to-the-ndis-reform-bill/
2 April 2024	<i>Disability Advocacy Network Australia, Children and Young People with Disability Australia, Inclusion Australia, National Ethnic Disability Alliance, First Peoples Disability Network, People with Disability Australia, women with Disabilities Australia</i>	Media release <u>Co-design and foundations essential to get NDIS right</u> https://www.dana.org.au/joint-media-statement-co-design-and-foundations-essential-to-get-ndis-right/

Date	Source	Item
12 July 2024	<i>The Conversation</i>	<p>News article</p> <p><u>NDIS reforms are still in limbo. What's going on, and are people with disability getting enough say? (theconversation.com)</u></p> <p><u>https://theconversation.com/ndis-reforms-are-still-in-limbo-whats-going-on-and-are-people-with-disability-getting-enough-say-234275</u></p>
15 July 2024	<i>HelloCare</i>	<p>News article</p> <p><u>Are People With Disability Getting Enough Say on NDIS reform? - Hellocare</u></p> <p><u>https://hellocare.com.au/are-people-with-disability-getting-enough-say-on-ndis-reform/</u></p>
17 July 2024	<i>Law Society Journal</i>	<p>News article</p> <p><u>NDIS reform: What are the key sticking points? - Law Society Journal (lsj.com.au)</u></p> <p><u>https://lsj.com.au/articles/ndis-reform-what-are-the-key-sticking-points/</u></p>

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NDIS AMENDMENT BILL HEARING

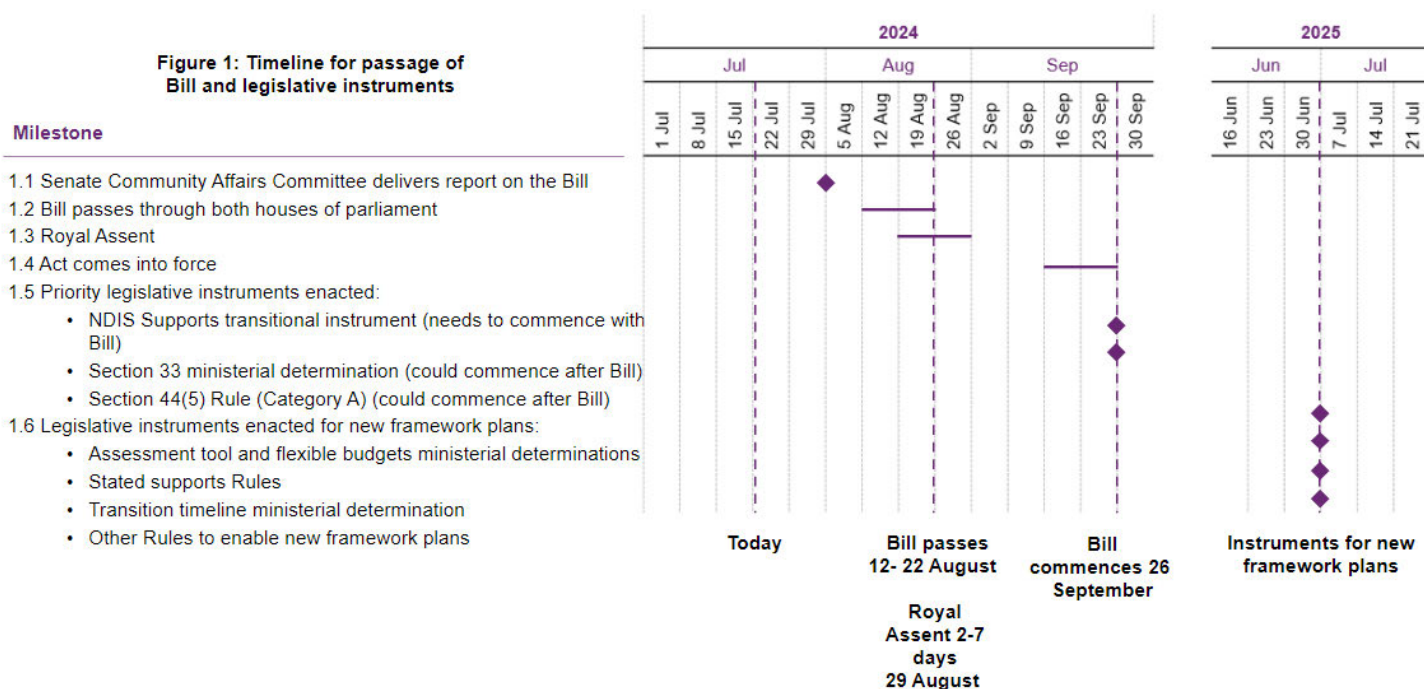
TITLE: IMPLEMENTATION: LEGISLATION

WITNESS: Mr Matthew Swainson, Acting Deputy Chief Executive Officer, Governance, Risk and Legal

Strategic Narrative

- The principles of co-design remain central to all reform activity occurring in the NDIA.
- The Agency is committed to ensuring the design and implementation of the proposed changes will include extensive consultation and co-design with the disability community.
- This will be achieved through working together with the disability community to design and implement legislative instruments to ensure people with disability remain at the centre of the Scheme.
- The NDIA’s focus in implementing the legislation will be on communicating with and supporting participants, their families and supporters so that people understand and feel confident about the proposed changes.

Possible timeline for passage of the Bill, subject to passage in the Parliament and prioritisation of instruments



Sequencing of reform activities

- The Bill provides the architecture to enable the time to carefully co-design rules to commence alongside Foundational Supports. These rules will need to be implemented with agreement from states and territories – which means that key changes can be ‘switched on’ as additional Foundational Supports are available.
- The Government, Department of Social Services (DSS) and the NDIA will work with states and territories and the disability community to plan the commencement of new access and planning arrangements.

Reform delivery approach

- As recommended by the Independent Review of the NDIS (NDIS Review), the NDIA has put in place reform coordination arrangements which focus on the experience of participants in accessing and being supported by the Scheme.
- The change impact on internal and external stakeholders is a key consideration in decisions on when reform initiatives will be deployed. This includes changes and reforms which relate to Agency capability, such as implementation of our new computer system.

Legislation Implementation approach

- The NDIA will work with people with disability and the disability community to design rules and to implement legislation.
- The NDIA and DSS have commenced consultation on key aspects of proposed changes outlined in the Bill to inform transitional rules and to ensure approaches to implementation are informed by the voices of participants and the disability community.
- This has included consultation sessions on:
 - Proposed changes to section 33 that would introduce a total funding amount, funding limits for specific supports and funding periods to NDIS plans, and
 - Proposed definition of NDIS Supports and associated draft transitional rule to support proposed changes to section 10.
- DSS will also lead public engagement on priority instruments.

- All consultation activity will be collated and tabled as part of the Explanatory Statement to the legislative instruments.
- The NDIA's focus in implementing the legislation will be on communicating with and educating participants about the changes and putting in place operating arrangements to support participants in the change.

Legislation timeframes

- The legislation will commence 28 Days from Royal Assent. Current NDIS plans will immediately be referred to as 'old framework plans'.
- Some of the proposed provisions will come into effect immediately and apply to old framework plans. These adjustments will make the legislation clearer and reinforce the original intent of the Scheme.
- The New Planning Framework is anticipated to commence around July 2025 and will enable participant plans to be built to include a reasonable and necessary budget, rather than identifying reasonable and necessary supports line-by-line. This change will give participants more flexibility to use their plan to support their needs.
- The NDIA anticipates that legislative instruments for new framework planning will be introduced to enable participants to begin transitioning to new framework planning. The Bill provides for a 5 year timeline from commencement for the transition of participants to new framework plans.

Background

- The Bill was introduced into the Australian Parliament on 27 March 2024.
- Some elements of the legislation can be implemented as soon as the Bill comes into effect.
- Other elements can only be implemented when further work has been undertaken (such as the design of the participant pathway).

Changes that come into effect 28 days after Royal Assent

Amendment	Descriptions	Implementation detail
<p>NDIS supports. Section 10</p>	<ul style="list-style-type: none"> The Bill introduces the concept of 'NDIS supports' into the Act, and there are rule-making powers for determining which goods and services are and are not NDIS supports. The definition of NDIS Supports applies to both old framework and new framework plans, but will become more important in new framework plans, when participants receive a flexible budget which they can choose to spend on any goods and services that are a NDIS support for them. 	<ul style="list-style-type: none"> Transitional arrangements will come into effect 28 days after Royal Assent. It is anticipated that the 'NDIS Supports' Rule will be co-designed with the disability community and agreed by July 2025 (Category A Rule).
<p>Separate access pathways into the NDIS Section 21(2)</p>	<ul style="list-style-type: none"> Decision making at the point of access to support participants to understand the reason for their access into the scheme – whether it is for Disability Requirements (s.24) or the Early Intervention (EI) Requirements (s.25), or both. 	<ul style="list-style-type: none"> This amendment will come into effect 28 days after Royal Assent. Participants will know when they enter the scheme whether they are entering under s24 or s25. Transition to EI pathway will require the creation of EI programs for specific cohorts (i.e. children and people with psychosocial disability) and Rules governing how participants are directed to these programs, are expected from July 2025 (Category A Rule).
<p>Information gathering for eligibility reassessment. Sections 30(2), 30A</p>	<ul style="list-style-type: none"> Information gathering to enable the NDIA to make better decisions during eligibility reassessment based on contemporary information and reports from their treating practitioner. If a participant does not respond to the request or provide the information within 90 days, the CEO may revoke their access. This will only be after all reasonable attempts have been made to help them get the information, including providing a longer timeframe. 	<ul style="list-style-type: none"> This amendment will have immediate effect (28 days from Royal Assent); however, this power will be discretionary and mostly exercised once the new EI pathway is implemented to support participants to access evidence-based EI programs. At that time there will be a new rule-making power to prescribe when the CEO must conduct an eligibility reassessment.

Amendment	Descriptions	Implementation detail
<p>Plan management – spending in accordance with the plan. Section 44</p>	<ul style="list-style-type: none"> • This amendment is intended to strengthen the NDIA’s ability to safeguard participants based on an assessment of risk. • The amendment will allow the Agency to manage a plan, in part or in whole, if the participant (or their representative) is unlikely to spend in accordance with their plan. 	<ul style="list-style-type: none"> • Immediate (28 days from Royal Assent). This power will be focus will be on education and supporting participants to manage their budget, starting with education and support through support coordination (and navigation).
<p>Total funding amounts and funding periods Section 33</p>	<ul style="list-style-type: none"> • Old framework plans require the NDIA to outline each funded support. This amendment allows the NDIA to articulate a participant’s funded supports as a total funding amount. • Support for participant planning by introducing: <ul style="list-style-type: none"> • total funding amount: a limit on the total amount of funding in a participant’s plan. • funding component amounts: a limit on the amount of funding for a support or class of supports. • funding periods: how often funding will be released for total funding amounts or funding component amounts. This will generally be yearly unless there is a good reason to shorten the period (such as overutilisation/risk of harm). 	<ul style="list-style-type: none"> • The NDIA has experienced an increase in participants requesting unscheduled plan reviews to access more funding before the end of their plan period. • The Ministerial Determination will be developed with people with disability and is expected by September 2024 (disallowable legislative instrument). • Participants will still be able to request a plan variation or change in circumstance, if needed.
<p>Funding supports for impairment(s) that met access requirements.</p>	<ul style="list-style-type: none"> • Linking funding to impairments for which participants met access, will help return the NDIS to its original intent of providing supports to people with significant and permanent disability as part of a broader ecosystem of supports available to all people with disability. 	<ul style="list-style-type: none"> • Effective 28 days after Royal Assent. • Most participants will not notice a difference with this change; however, it will mean the Agency is better able to support participants to access mainstream supports for conditions that are not permanent and have not met the access requirements for in the scheme.

New framework planning (expected to transition from July 2025)

Amendment	Description	Implementation detail
<p>New framework plans – budgets</p> <p>Sections 32A-32K</p>	<ul style="list-style-type: none"> • Participants will receive a ‘reasonable and necessary budget’ which will consist of either or both the following: <ul style="list-style-type: none"> – a flexible budget, to be used on any NDIS supports for the participant. – stated supports, which must be used for the purpose stated in the plan. • NDIS rules will prescribe what supports must be stated supports. • In limited circumstances, the CEO will have the ability to place restrictions or conditions on portions of flexible funding. • Funding will generally be released yearly unless there is a good reason to shorten the period (such as overutilisation/risk of harm). 	<ul style="list-style-type: none"> • Legislative instruments are required for new framework planning including budgets, and for transitioning participants to new framework plans. These are expected from July 2025. • The method to determine the amount of funding for the flexible budget and stated supports will be a disallowable legislative instrument. There will also be Rules for other matters, such as prescribing which goods and services must be stated supports.
<p>New framework plans – assessments</p> <p>Section 32L</p>	<ul style="list-style-type: none"> • The assessment of a participant’s support needs will be undertaken in accordance with a specialised assessment tool(s) that will be set out in a Ministerial Determination. • The assessment tool(s) will be developed with input from the disability community and individuals or organisations with relevant expertise in disability support needs of all kinds, as well as international learning and best practice. 	<ul style="list-style-type: none"> • A ministerial determination is required to enable assessments for new framework planning. This is expected by July 2025 (Rules and disallowable legislative instruments). • Standardised assessments will mean more consistent and equitable decision-making for all participants.
<p>New framework plans – calculating funding</p> <p>Section 33(2E)</p>	<ul style="list-style-type: none"> • The total amount of flexible funding and total amount of funding for stated supports will be worked out using a method prescribed in a Ministerial determination. • This method will be built with the disability community. • The outcome of the method will be a dollar amount for flexible funding and/or funding for stated supports. 	<ul style="list-style-type: none"> • A legislative instrument must be developed for calculating stated supports, funding periods and flexible budgets. This is expected by July 2025 (disallowable legislative instrument)

NDIS AMENDMENT BILL HEARING

TITLE: **TRANSITIONAL ARRANGEMENTS**

WITNESS: Mr Matthew Swainson, Acting Deputy Chief Executive Officer,
Governance, Risk and Legal

Strategic Narrative

- The NDIA is committed to working with the disability community and continuing to put people with disability at the heart of NDIS reforms.
- To support implementation, the Independent Review of the NDIS (NDIS Review) made a range of recommendations relating to transitioning to a new planning approach, to ensure reforms are implemented in coordination with other governments and include opportunities for meaningful input from people with disability.
- The NDIS Review recommended the development of a 5-year implementation roadmap, that sets out critical dependencies, implementation risks, community engagement and necessary legislative reforms.
- The NDIA will work with the Department of Social Services (DSS), and will engage people with disability, the disability sector, and all levels of government to develop transition arrangements.

Transition arrangements in the Bill

- The National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 (the Bill) provides the scaffolding for future reforms, in that it enables the development of a range of legislative instruments enlivening the new Scheme arrangements.
- Section 32B of the Bill enables the Minister to create a legislative instrument which determines the process by which participants will transition to 'new framework' plans. Under this instrument, the Minister may identify classes of participants who are to receive new framework plans within particular timeframes.

Reassessment for NDIS eligibility at the point of transition

- During the Senate Community Affairs Legislation Committee hearings, witnesses raised concerns that transition of participants to new framework plans may involve reassessing their eligibility for the Scheme.
- Transition of participants to new framework plans will not require a reassessment of eligibility for the NDIS.

Next steps

- Following the Australian Government's formal response to the NDIS Review and its recommendations, the NDIA and DSS will develop a transition roadmap to govern the development of new Scheme arrangements and the transition of participants to new framework plans.
- The NDIA anticipates the following transition timeframes, **subject to the passage and timing of passage of the Bill:**
 - **Changes to the NDIS Act:** Following passage of the Bill, the NDIA must immediately implement some changes to the Act, as they take effect 28 days after receiving Royal Assent.
 - **Priority legislative instruments:** Some legislative instruments that are necessary to support immediate improvements to the NDIS as part of the Old Framework will be prioritised for introduction from when the changes to the Act come into effect in 2024.
 - **Legislative instruments for new Scheme arrangements:** Legislative instruments required to support the broader changes to the NDIS recommended by the NDIS Review will be co--designed with the disability community and are expected to be introduced from July 2025.
 - **Transition of participants:** will commence at this time and be phased overtime for up to 5 years.

Timeline of recent or significant events

Date	Action
By 16-26 September 2024	Act expected to come into force (28 days after receiving Royal Assent).
By 19-29 August 2024	Bill expected to receive Royal Assent (typically 7-10 business days after passing both houses of Parliament).
By 12 – 22 August 2024	Bill expected to pass both houses of Parliament (first Parliamentary sitting dates after Senate Community Affairs Committee delivers its further report).
By 5 August 2024	The further Senate Committee Report is due.
27 June 2024	Following further proposed amendments to the Bill, the Senate debated the Bill and voted to refer it to the Senate Community Affairs Committee for a further report.
20 June 2024	Senate Community Affairs Committee delivered its first report on the NDIS Amendment Bill.
5 June 2024	The Bill passed the House of Representatives with amendments.
21-22 May 2024	Public hearings of Senate Community Affairs Committee on the NDIS Amendment Bill.
27 March 2024	Bill introduced to House of Representatives.
7 December 2023	NDIS Review released its report and recommendations to improve the NDIS.

Background

- On 7 December 2023, the NDIS Review delivered its recommendations for reforming the NDIS.
- The Bill was introduced into the Australian Parliament on 27 March 2024.
- The Bill enables the development of legislative instruments setting out new assessment and planning arrangements, as well as the process by which participants will transition to new framework plans.
- NDIS Review recommendations 24, 25 and 26 contain a set of actions to manage the transition to the new Scheme arrangements. These are:
 - **Recommendation 24:** Establish appropriate architecture to implement reforms.
 - Action 24.1 The Disability Reform Ministerial Council should agree architecture to support implementation and delivery of the NDIS reform agenda.
 - Action 24.2 The new NDIS Review Implementation Advisory Committee should report to the Disability Reform Ministerial Council every six months or as needed.
 - Action 24.3 The new NDIS Experience Design Office should commission agile projects to design and test reforms to the participant pathway.
 - **Recommendation 25:** Coordinate and consult on amendments to relevant legislation to enact proposed reforms.
 - Action 25.1 The Department of Social Services, with input from the National Disability Insurance Agency and NDIS Quality and Safeguards Commission, should review the recommendations from this Review and develop a proposed package of legislative reforms.
 - Action 25.2 The Department of Social Services should undertake deep public consultation and engagement on proposed package of legislative reforms.

- **Recommendation 26:** Develop an implementation roadmap that factors in critical dependencies and risks and ensures a smooth transition for existing participants.
 - Action 26.1 National Cabinet should agree and publish an implementation roadmap.
 - Action 26.2 The National Disability Insurance Agency should ensure existing participants experience a smooth and fair transition to the new participant pathway.
 - Action 26.3 The new NDIS Review Implementation Working Group should coordinate communications across relevant agencies to regularly update and inform stakeholders on implementation progress.

Recent media coverage

Date	Source	Item
12 July 2024	<i>The Conversation</i>	<p><u>NDIS reforms are still in limbo. What's going on, and are people with disability getting enough say?</u></p> <p>https://theconversation.com/ndis-reforms-are-still-in-limbo-whats-going-on-and-are-people-with-disability-getting-enough-say-234275</p>
27 June 2024	ABC	<p><u>Bill Shorten looks to reassure disabled Australians over NDIS overhaul</u></p> <p>https://www.abc.net.au/news/2024-06-27/bill-shorten-defends-ndis-overhaul-as-advocates-question/104026696</p>
15 May 2024	<i>The Guardian</i>	<p><u>NDIS slugged with \$14.4bn in savings measures as budget aims to put scheme 'back on track'</u></p> <p>www.theguardian.com/australia-news/article/2024/may/14/australia-federal-budget-2024-ndis-cuts-disability-pension-reforms-employment-program-savings-surplus</p>

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NDIS AMENDMENT BILL HEARING

TITLE: FRAUD AND COMPLIANCE (INCL FRAUD FUSION)

WITNESS: Mr Matthew Swainson, Acting Deputy Chief Executive Officer,
Governance, Risk and Legal

Strategic Narrative

- The NDIA uses a risk-based escalation model to address financial non-compliance.
- Responses first consider the potential impact to affected participants and are then individually tailored to the actions of the person or business.
- The NDIA recognises there are a lot of good providers, doing the right things, delivering high quality supports and services to participants.
- Providers and their employees who are caught doing the wrong thing on purpose can be banned from providing supports and services for NDIS participants. They could also go to jail for stealing money from NDIS participant plans. Fraud against NDIS participants and the Scheme is a crime.
- Fraud will not be tolerated, and any type or amount of fraud is unacceptable.
- As at 30 June 2024:
 - There were **72** fraud investigations underway, with a total estimated fraud value of **\$34.5 million**.
 - **16** prosecutions are in progress involving **27** charged offenders, and
 - Over **674** payment locks have been implemented on specific providers to mitigate the risk of fraudulent claiming via those providers.
- The NDIA received over **7,000** tip-offs in the 3 months to 30 June 2024, compared to **5,560** for the same period in 2022–23.
- At the October 2022–23 Budget, the Fraud Fusion Taskforce (FFT) was announced with \$126.3 million in funding. The FFT continues to make significant progress in improving the government's capability to better detect, respond and prevent fraud against the NDIS.

- An additional \$48.3 million of funding was provided in the 2023–24 Budget to crack down on fraud and non-compliant payments. This funded additional integrity staff and the development of a business case for Information and Communication Technology (ICT) systems to detect, prevent and reduce non-compliant payments.
- On 18 February 2024, the Government announced initial funding of \$83.9 million to improve the integrity of the NDIS through the Crack Down on Fraud (CDoF) program. This included system uplifts described in the business case.
- System improvements to be implemented through the CDoF Program from January 2024 to December 2025, will deliver foundational, minimum standard technological and business process uplifts, and support capabilities to identify and prevent non-compliance and fraud in the NDIS at scale, to make engaging with the Scheme ‘easier to get it right, and harder to get it wrong’ for participants and providers.
- The CDoF program will:
 - build a new fraud case management system that will interact with other enforcement agencies,
 - build new IT systems to connect with other agencies, providers, and banks so transactions can be actioned faster with fewer errors,
 - improve the systems that assess, process, and pay over 400,000 NDIS claims per day,
 - improve identity proofing systems to increase safety and privacy, and
 - improve the NDIS mobile app and online interfaces.
- This investment aligns with a key area of reform identified through the Independent Review of the NDIS (NDIS Review) around concerns of quality, safety, and integrity of the Scheme, and will go towards giving effect to the NDIS Review's recommendation that the Australian Government should invest in the underpinning digital infrastructure and capability needed to protect the integrity of the NDIS.
- The CDoF program also complements the work of the FFT and has been designed to respond to areas of vulnerability that the FFT has identified since it commenced.

- The program has already delivered a suite of measures to address emerging and high-risk integrity issues to improve the integrity of the Scheme.
- Whilst these integrity interventions can be challenging for participants, every measure is accompanied by a participant safety intervention to ensure that participants are receiving appropriate supports. Interventions are, where appropriate, accompanied by education to minimise any potential future integrity risk.
- The NDIA recognises that stakeholder collaboration lies at the heart of responsive policy. Consultation undertaken has clearly shown that participants and other stakeholders (including peak bodies) have been surprised by the level of non-compliance and fraud that continues to undermine their safety and the Scheme sustainability. Consulted stakeholders support proposed integrity improvements and associated investment to protect participants and the Scheme's sustainability.
- The NDIA will continue to consult with the disability community to ensure that participants are fully supported in transitioning to the improved systems.

Grouped Talking Points

Fraud Fusion Taskforce

- In October 2022, **\$126.3 million** in funding was announced to establish the Taskforce. This funding covers a 4-year period until 2025–26.
- The Taskforce funding provided a capability uplift of 147 full time equivalent FFT officers across 14 Australian Government agencies.
- The Taskforce brings together the NDIA, Services Australia, and 18 other Commonwealth agencies to better enable intelligence sharing, identification and response to fraud perpetrated by serious organised crime entities and others seeking to exploit the Australian Government's system of social supports.

- The Australian Skills Quality Authority (ASQA), National Indigenous Australians Agency (NIAA) and Professional Services Review (PSR) recently joined the FFT, bringing the total number of FFT member agencies to 20. The Agencies in the FFT are:
 - National Disability Insurance Agency (co-lead)
 - Services Australia (co-lead)
 - Attorney-General’s Department (AGD) – Commonwealth Fraud Prevention Centre (CFPC)
 - Australian Taxation Office (ATO)
 - Australian Criminal Intelligence Commission (ACIC) (responsible for Fraud Fusion Intelligence Program and Fraud Fusion Centre)
 - Australian Federal Police (AFP)
 - NDIS Quality and Safeguards Commission (NDIS Commission)
 - Australian Charities and Not-for-Profits Commission (ACNC)
 - Australian Securities and Investments Commission (ASIC)
 - Australian Transaction Reports & Analysis Centre (AUSTRAC)
 - Commonwealth Director of Public Prosecutions (CDPP)
 - Department of Employment and Workplace Relations (DEWR) (also Government Payments Program [GPP] participating agency)
 - Department of Veterans Affairs (DVA) (also GPP participating agency)
 - Department of Education (DE) (also GPP participating agency)
 - Department of Health & Aged Care (DHAC) (also GPP participating agency)
 - Department of Social Services (DSS)
 - Australian Skills Quality Authority (ASQA)
 - Professional Standards Review
 - National Indigenous Australians Agency (NIAA)
 - Tax Practitioner Board

Australian Criminal Intelligence Commission (ACIC) Fraud Fusion Centre (FFC) and cross-agency secondments provide significant opportunities to uplift capabilities which can be embedded into home agencies to improve the strategic analysis of data to identify vulnerabilities, fraud and operations.

- The NDIA is working collaboratively across all FFT agencies including the AGD, ATO and Treasury to ensure lasting law reform can be made.
- The role of the FFT is to protect the NDIS and other Government Payment Programs by improving the government's capability to better detect, respond and prevent fraud.
- All NDIA investigations since 1 November 2022 are being progressed under the Taskforce.
- With 20 government agencies now working together, the FFT has investigated more than 100 cases in the first 18 months, with more than \$1 billion of NDIS funding under investigation over that time.

Crack Down on Fraud Program

- Integrity losses are a serious threat to the sustainability of the Scheme and put participants at risk of not receiving the supports they rely on. The CDoF program will protect participants from those seeking to profit from their NDIS plans and ensure that legitimate participants can continue to access legitimate supports and services.
- This investment will make it easier for participants to use and pay for NDIS supports accurately, fairly, and transparently. It will also make it easier for legitimate providers to be appropriately paid for the services they deliver.
- Since funding approval in February 2024, the CDoF program has been actively mobilising its project teams to ensure resources are available to deliver on milestones committed to government.

- The CDoF program has also delivered on the first priorities of immediate integrity initiatives to implement measures to address emerging and high- risk integrity issues. This work program may change quickly to address changing priorities. From January to March 2024 the following has been delivered:

- **Implementation of a payment delay – implemented 16 March 2024**

We have updated the timing of payments to participants and providers to align with published payment standards. This means that we have more time to assess claims prior to payment, and to prevent unscrupulous actors from taking much needed funds away from participants that require services and supports to meet their goals.

- **Increased pre-payment checks on cash reimbursements – implemented progressively from February 2024**

Claims for cash reimbursements require evidence and are reviewed before they are paid. This enhanced evidence and review process provides confidence that cash reimbursements are being paid for legitimate expenses.

- **Monitoring claims against expired plans – implemented 12 February 2024**

We have enhanced our comprehensive review process for claims received after a plan has expired.

- **A campaign focused on participants that are unable to be contacted – implemented March 2024**

We are trialing a new approach to re-establishing contact with participants that we have been unable to engage with through existing channels. This approach is considering both participant welfare and the financial integrity risks arising from being unable to contact participants.

– **Piloting myGov in front of the NDIS app – implemented 4 March 2024**

We are aligning with the whole of government approach which uses the “myGov” service to access online systems from the Australian Government. This will create a familiar, consistent, and secure experience for participants and nominees and help us make sure we are talking to the right people about their services and supports.

Payment non-compliance

- The NDIA is responsible for protecting the NDIS from non-compliant and fraudulent claiming behaviour resulting in the misuse of NDIS participant funding.
- When claiming for NDIS supports, registered providers are expected to comply with the requirements stated within the NDIS Pricing Arrangements and Price Limits. The National Disability Insurance Scheme Act 2013 states funded supports must be in accordance with the NDIS participant's plan.
- The NDIA actively monitors and reviews risk-flagged made by registered providers and NDIS participants. This monitoring includes the proactive use of data and analytics, and tip-offs received via the NDIA’s Fraud Reporting and Scams Helpline and email.
- Data analytics and risk profiles are used to identify potentially incorrect claims, which are then reviewed on a case by case basis by compliance officers who seek and review evidence and may cancel claims or take other compliance action proportionate to the non-compliance.
- The NDIA’s Compliance and Enforcement Framework outlines the principles adopted by the NDIA towards compliance and enforcement.

Tip-offs

- The NDIA has seen a year-on-year increase in the number of tip-offs received via the Fraud Reporting and Scams Helpline and email.
- All tip-offs received by the NDIA are assessed to determine the most appropriate action required, including compliance activity where it is alleged NDIS funds have been used inappropriately.
- The growth in tip-offs is driven by a range of factors including the growth of the NDIS, the onboarding of NDIS participants and increased public awareness and sentiment regarding the Scheme from greater exposure of recent arrests, media, and Ministerial announcements.

NDIS AMENDMENT BILL HEARING

TITLE: NDIS REVIEW

WITNESS: Mr Matthew Swainson, Acting Deputy Chief Executive Officer,
Governance, Risk and Legal

Strategic Narrative

- As Portfolio lead, the Department of Social Services (DSS) is best placed to take questions in relation to the Government's response to the Independent Review of the NDIS (NDIS Review). The NDIA will contribute to the development of the whole-of-Government response.
- The NDIA has been working with people with disability and their supporters through co-design to deliver the Reform for Outcomes program and will build on this work to support the Government's response to the NDIS Review.
- The purpose of the legislation is to create the scaffolding needed to progress key NDIS Review recommendations in partnership with people with disability and the disability community.

KEY HEADLINE FACTS AND FIGURES

- The NDIS Review Final Report "*Working together to deliver the NDIS*" was released by National Cabinet and the Hon Bill Shorten MP, Minister for the NDIS on 7 December 2023.
- The NDIS Review panel received almost 4,000 submissions.
- The Final Report makes 26 recommendations with 139 actions to change the system that supports people with disability.
- Of the 139 actions, 49 are directed to the NDIA. The other actions are directed to DSS, the Australian Government or states and territories. Recommendations with actions directed to NDIA include:
 - **Recommendation 3:** Providing a fairer and more consistent participant pathway.
 - **Recommendation 4:** Support all people to navigate mainstream, foundation and NDIS service systems.
 - **Recommendation 5:** Provide better support for people with disability to make decisions about their lives.

- **Recommendation 6:** Create a continuum of support for children under the age of 9 and their families.
- **Recommendation 7:** Introduce a new approach to NDIS supports for psychosocial disability, focused on person recovery, and better support for people with complex needs.
- **Recommendation 8:** Fund home and living supports that are fair and consistent, and support participants to exercise genuine choice and control over their living arrangements.
- **Recommendation 9:** Deliver a diverse and innovative range of inclusive Housing and Living supports.

Advice provided to the NDIS Review

- The NDIS Review Panel provided its draft recommendations to the NDIA on 19 September 2023.
- The NDIA provided the NDIS Review with advice in relation to the implementation of its draft recommendations on 26 September 2023 (.).
- The advice focused on areas where clarification would be beneficial to assess feasibility of implementation, if accepted by Government.
- The NDIA provided these comments to assist the NDIS Review Panel as it continued to deliberate and finalise its report.

RedBridge engagement on the Review

- The NDIA engaged RedBridge Pty Ltd (RedBridge) to understand community perceptions and test communications messaging related to areas of NDIS reform.
- We acknowledge in the past we have not effectively tested how to best communicate with people with disability and their families on key areas of the NDIS and undertook this research to help develop communication.
- Effective communication is crucial to building confidence in change by clearly explaining how we will improve the experience for participants and providers.
- It is not unusual for government agencies to undertake research, to help inform communications messaging.
- This research was not about informing policy approaches. The research canvases a range of issues and areas of interest to people with disability. These issues are not new and have always been well known to the disability community.
- We want the NDIS to be about people and not process. The market research allowed us to hear the community's views.
- RedBridge received the interim public report released by the NDIS Review Panel in June 2023.

Timeline

DATE	EVENT	DETAIL
6 February 2023	Focus groups begin for wave one of the first round of NDIS research with RedBridge	Research focused on community attitudes towards cost of NDIS and how to best communicate the value of the NDIS.
13 March 2023	Focus groups begin for wave two of the first round of NDIS research with RedBridge.	Research focused on community attitudes towards specific reform areas and how best to communicate them including: <ul style="list-style-type: none"> • Moving to long-term life course planning • Temporary limitation on new supported independent living plans • Increasing the NDIS workforce • Addressing overcharging, and • Addressing fraud and compliance.
16 March 2023	NDIS Review Secretariat briefing	The NDIS Review Secretariat were provided with Community Research Report 1 and attended a briefing by RedBridge.
18 April 2023	Minister Shorten gives speech at the National Press Club outlining Government's vision for future of the NDIS.	Outlined 6 policy directions: <ol style="list-style-type: none"> 1. Increase the NDIA workforce and sharpen its specialisation 2. Long-term planning 3. Addressing spiralling expenses 4. Better outcomes for Supported Independent Living 5. Eliminate unethical practices, and 6. Increase mainstream and community supports.

9 May 2023	\$910 million Reform for Outcomes Budget Announcement	<p>Included:</p> <p>Capability: \$429.5 million investment in the NDIA’s workforce capability and systems resulting in better consistency and equity in decision-making for access and planning decisions for NDIS participants.</p> <p>Better planning: \$73.4 million to better support participants to manage their plan within budget, including assistance from the NDIA during the year and holding plan managers, support coordinators and providers to account.</p> <p>Flexibility: \$63.8 million to take a lifetime approach to ensure plans are more transparent and flexible for life events.</p> <p>Independent living: \$56.4 million to strengthen supported independent living decisions, including by introducing a home and living panel with highly trained staff to improve consistency across decisions and updating guidelines for planners to improve participants' ability to live independently.</p>
30 June 2023	The NDIS Review releases its interim report.	<p>The interim reports outline 5 key challenges including:</p> <ul style="list-style-type: none"> • Why is the NDIS an oasis in the desert? • What does reasonable and necessary mean? • Why are there many more children in the NDIS than expected? • Why aren’t NDIS markets working? • How do we ensure the NDIS is sustainable?
6 September 2023	Bruce Bonyhady gives NDIS 2.0 speech in Geelong and outlines the ten major reform areas to be recommended by the NDIS Review.	<p>References foundational supports ndisreview.gov.au/resources/speech/ndis-20</p>

19 September 2023	NDIA Chair and CEO are provided the draft recommendations of the NDIS Review via Secretariat Head.	
21 September 2023	Focus groups begin for wave one of the second round of NDIS research with RedBridge.	This research round did not ask anything specific about foundational supports or Supported Independent Living (SIL).
5 October 2023 and 9 October 2023	NDIS Review Secretariat briefing	The NDIS Review also attended briefings by RedBridge, on Community Research Report 3
16 October 2023	Focus groups begin for wave two of the second round of NDIS research with RedBridge.	This research asked specific questions 3:1 SIL and foundational supports.
1 November 2023	Joint briefing of NDIA Review chairs and secretariat, NDIA Chair, CEO and Minister on research findings.	

Assurance of data security and transfer to DSS

- There was a Memorandum of Understanding in place between the Agency and the Department of the Prime Minister and Cabinet (PM&C) for the provision of information to assist the Review. This included the provision of Agency data.
- The Agency reviewed Secretariat data storage and transfer arrangements to ensure that these met the Agency's cybersecurity requirements.
- The data provided by the Agency to PM&C during the course of the Review has been retained by PM&C and not transferred to DSS.

Expert advisors engaged by the Review Panel

- The Secretariat also engaged Taylor Fry and the University of Melbourne. Both these entities required access to Agency data to undertake the work commissioned by the Panel.
- The Agency was consulted on those arrangements and entered into an agreement with both entities to enable the transmission of data and to ensure that the data was provided for the sole purposes of assisting the Panel.
- The Agency reviewed cybersecurity and storage arrangements for both entities and was satisfied that Agency data would be secure. Data was required to be returned to the agency or destroyed within a defined period under each agreement.

Information and support provided by the NDIA to the NDIS Review

- The NDIA provided information on request. This information was mainly current policy documents, production of materials and data, guidelines and operational information.
- Care was taken to ensure that the material provided directly addressed the requests of the Panel, was factual in nature and options on issues were provided only when specifically requested by the Review.

Cost to the NDIA of supporting the Review

- The Agency established a small team to co-ordinate Agency input to the review – led by a Senior Executive Service Band 2 (with other responsibilities), an Executive Level 2 and an Australian Public Service Level 6.
- The Agency also contributed in-kind support in data analytics to the Review.
- The costs of supporting the Review with the sourcing and compilation of information and development of material as required from time to time cannot be quantified. This was an extensive task which impacted all parts of the Agency.

Recent media coverage

Date	Source	Item
12 July 2024	The Conversation	<u>NDIS reforms are still in limbo. What's going on, and are people with disability getting enough say? (theconversation.com)</u>
16 December 2023	Weekend Post	<u>More questions than answers in NDIS reform. https://thecairnspost.pressreader.com/article/282071986694299</u>
12 December 2023	The West Australian	<u>Bill Shorten: For the NDIS to work properly, we need humanity at its core The West Australian</u>
10 December 2023	ABC Insiders	<u>Interview with Minister Shorten</u>
9 December 2023	AFR	<u>Reforms mean \$3.7b cost will have to be met</u>
7 December 2023	The Australian	<u>Access to the NDIS by diagnosis alone must end: Review The Australian</u>
7 December 2023	The Conversation	<u>Recommendations to reboot the NDIS have finally been released. 5 experts react (theconversation.com)</u>
7 December 2023	Sydney Morning Herald	<u>Families diverting to new scheme to rein in costs</u>
7 December 2023	ABC	<u>'Can't go back' to no NDIS: Disability advocates respond to landmark report on scheme's future — as it happened - ABC News</u>
7 December 2023	The Guardian	<u>NDIS review urges dozens of changes as Bill Shorten under pressure over surging costs National disability insurance scheme The Guardian</u>