

NDIS participant experience in rural, regional and remote Australia

Submission to the Joint Standing Committee on the
National Disability Insurance Scheme

23 February 2024

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal people of the Eora Nation.

¹ www.lawyersalliance.com.au

Introduction

1. The ALA welcomes the opportunity to have input to the Joint Standing Committee on the National Disability Insurance Scheme ('Committee') as part of the Committee's inquiry into National Disability Insurance Scheme (NDIS) participant experience in rural, regional and remote Australia.
2. ALA members practise and represent NDIS participants across Australia, including NDIS participants who are based in rural, regional and remote parts of the country. ALA members report that those NDIS participants face significant barriers to accessing NDIS supports and services.
3. ALA members also have long-standing experience engaging with medical, allied health and disability services in these areas.
4. We are concerned by trends and statistics which demonstrate issues with accessing the NDIS for rural, regional and remote NDIS applicants and participants – for example, that over 33 per cent of NDIS participants in small and rural towns cannot access therapy supports.²
5. The ALA's submission will address the following:
 - a. Service delivery and access to supports in rural, regional and remote Australia;
 - b. The specific experiences of Aboriginal and Torres Strait Islander NDIS participants, NDIS participants from culturally and linguistically diverse backgrounds, and NDIS participants from low socio-economic backgrounds; and
 - c. The role of the National Disability Insurance Agency (NDIA).

² Independent Review into the National Disability Insurance Scheme, *Working together to deliver the NDIS* (Final Report, October 2023) 180.

Service delivery and access to supports

6. NDIS participants across Australia, regardless of where they live, should have choice and control over the NDIS services and supports they access.
7. Instead, the precarious position of NDIS participants in rural, regional and remote areas has been well documented. The ALA submits that this relates to the challenges associated with effective service delivery and adequate access to supports.
8. Thin markets are emerging and are becoming entrenched, exacerbated by workforce infrastructure issues.
9. ALA members report that registered occupational therapists face a number of issues and barriers to providing their services to NDIS participants in rural, regional and remote parts of Australia, including the following:
 - a. the NDIA provides inadequate funding for transport costs for registered occupational therapists to see NDIS participants in rural, regional and remote areas;
 - b. in many remote areas, the NDIA will frequently either not cover accommodation costs or, when the NDIA asks for a quote for a registered occupational therapist's accommodation, the NDIA often then fails to respond in a timely manner such that plans cannot proceed and the registered occupational therapist is not able to see the NDIS participant or participants in that area at that time; and
 - c. there are few to no suppliers of appropriate assistive technology in rural, regional and remote areas.
10. Further, ALA members report that independent service providers are leaving rural, regional and remote areas due to:
 - a. high costs, including in administration and transport;
 - b. workers being unavailable or unwilling to travel to or within rural, regional and remote areas;
 - c. the scarcity in workers who are available in rural, regional and remote areas to provide services for NDIS participants with high care needs;

- d. disability support services finding it near impossible to employ skilled workers due to cost restrictions and the ability for those with highly sought after skills being able to find employment privately for much higher rates of pay;
 - e. higher costs for providing services per NDIS participant, as there may not be another NDIS participant in the same area who needs similar care or resources; and
 - f. the difficulty in properly governing and overseeing where staff are working with NDIS participants, such as in the participant's home.
11. Many NDIS participants in rural, regional and remote parts of Australia, therefore, have no choice about which service provider they use as part of their NDIS package, even if they are dissatisfied with that service provider or it is unsuitable for their specific care needs.
12. ALA members also report examples of rural, regional and remote communities where there are no service providers to provide the services that NDIS participants need in those communities, including service providers who will not take on complex care cases due to workforce issues. So, NDIS participants may have funding but no way of spending it.
13. ALA members have also reported that the transport support offered to NDIS participants through the NDIS does not adequately address the needs of participants in rural, regional and remote areas. This ultimately affects whether NDIS participants can travel for essential reasons, including work or health appointments.
14. The ALA submits that urgent intervention is required to address planning issues within the NDIS, service delivery issues, and workforce infrastructure problems.

Recommendations

- The ALA recommends that this Committee ensures that any changes to the NDIS' requirements for service providers or additional bureaucratic requirements for service providers do not make involvement with the NDIS unviable for smaller service providers, who play an important role especially in rural, regional and remote parts of Australia.
- The ALA recommends that this Committee considers Government-funded incentives to encourage appropriately-skilled workers to move to rural, regional and remote parts of Australia to work in NDIS service delivery.

- The ALA recommends a coordinated approach across both Health and the NDIS, given there is work already being done to develop solutions for health sector workforce issues, which would be helpful in the NDIS space in rural, regional and remote areas.
- The ALA recommends that this Committee urges the NDIA to accept and acknowledge that the existing market-based approach is insufficient to meet needs and address existing issues with service provision. The NDIA should explore and implement alternative methods, particularly in regional, rural and remote parts of Australia. This could include the NDIA allocating funds to allow younger or less experienced registered occupational therapists to join and support more experienced registered occupational therapists in their work in rural, regional and remote areas, so that there are more available and experienced registered occupational therapists to work in those parts of Australia.
- The ALA recommends that this Committee urges the NDIA to ensure that any business or organisation with which the NDIA is associated for the procurement of care support workers for the NDIS is practising safe and fair employment processes, including in relation to pay and conditions.
- The ALA recommends that the Committee examine the use of 'block funding' as a potential solution to thin markets in rural, regional, and remote parts of Australia.

The experiences of Aboriginal and Torres Strait Islander NDIS participants, NDIS participants from culturally and linguistically diverse backgrounds, and NDIS participants from low socio-economic backgrounds

15. The challenges and barriers to accessing NDIS supports and services detailed above are felt deeply by Aboriginal and Torres Strait Islander NDIS participants, NDIS participants from culturally and linguistically diverse backgrounds, and NDIS participants from low socio-economic backgrounds in rural, regional and remote areas of Australia.
16. The ALA notes these concerns have been raised repeatedly by stakeholders (including the ALA) at multiple Commonwealth inquiries, most recently to this Committee and to the Independent Review into the National Disability Insurance Scheme. These concerns are reflected in three reports released in 2023 as part of those inquiries:

The committee received evidence that a culture of mistrust created unnecessary barriers for people from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people, who may have difficulty evidencing disability when applying for access to the NDIS.³

– Joint Standing Committee on the National Disability Insurance Scheme

Gaps in delivery are particularly evident for First Nations and remote communities who are being left behind under a rigid market approach. Too many participants who live in a remote community are not getting daily activity supports, or the therapy services they need. The NDIS should align with Closing the Gap.⁴

– Independent Review into the National Disability Insurance Scheme

There are significant supports gaps across foundational supports for disadvantaged communities. We have heard that there is a lack of available and appropriate supports for Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities and rural and remote communities.⁵

– Independent Review into the National Disability Insurance Scheme

17. This section of the ALA's submission will focus specifically on the experiences of Aboriginal and Torres Strait Islander participants in the NDIS.

Aboriginal and Torres Strait Islander participant experiences in the NDIS

18. The ALA is very concerned that many Aboriginal and Torres Strait Islander peoples living in rural, regional or remote areas face significant barriers in even being approved for NDIS plans.

- a. One example is the NDIA's requirements for individuals living with a disability to provide extensive medical proof of their disability, often necessitating assessments from medical specialists. Those living in remote locations are often unable to access such medical specialist assessments or are unable to afford the travel to obtain such assessments.

³ Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Capability and Culture of the NDIA* (Final Report, November 2023) 49.

⁴ Independent Review into the National Disability Insurance Scheme, *What we have heard* (Interim Report, June 2023) 14.

⁵ Independent Review into the National Disability Insurance Scheme, *Working together to deliver the NDIS* (Final Report, October 2023) 57.

19. Further, the ALA is concerned that the lack of services in remote Aboriginal and Torres Strait Islander communities means that:

- a. even when Aboriginal and Torres Strait Islander peoples living with disability are approved for NDIS packages, they cannot spend their allocated funding due to a lack of available services;⁶
- b. communities must themselves bear the cost of providing necessary support services to Aboriginal and Torres Strait Islander peoples living with a disability; or
- c. Aboriginal and Torres Strait Islander peoples living with a disability must leave the community and their Country in order to access the necessary services, which presents a difficult dilemma for Aboriginal and Torres Strait Islander peoples living with a disability.

20. Additionally, the following finding from the Independent Review into the National Disability Insurance Scheme is concerning to ALA members:⁷

... many NDIS services are not culturally appropriate for First Nations people with disability. As a result, First Nations participants may need to choose between supports that are not culturally safe or not getting funded supports at all.

Recommendations

- The ALA recommends that the NDIA and the Federal Government must ensure that the NDIS is prepared and equipped to provide necessary and culturally-safe support services – including in rural, regional and remote communities – so that Aboriginal and Torres Strait Islander peoples living with a disability can continue to participate in community, cultural and ceremonial activities while also receiving support from the NDIS.
- Further, the ALA recommends that the NDIA and the Federal Government must ensure that the NDIS’ functions and services align with Close the Gap targets, so that the NDIS is supporting progress on those targets.

⁶ See: Scott Avery, *Culture is inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability* (First Peoples Disability Network Australia, 2018).

⁷ Independent Review into the National Disability Insurance Scheme, *Working together to deliver the NDIS* (Final Report, October 2023) 186.

The role of the National Disability Insurance Agency

21. The ALA believes that improving the NDIA's processes, culture and conduct will benefit all NDIS participants, including participants in rural, regional and remote Australia.
22. We refer the Committee to a submission the ALA made to this Committee in December 2022, which details the following issues within the NDIA that directly affect all NDIS participants:⁸
- a. Deficiencies with the NDIA's internal review process and a lack of accountability;
 - b. Safety and wellbeing risks experienced by NDIS participants as a result of the NDIA's poor planning and decision-making processes; and
 - c. How the NDIA approaches other forms of compensation, including repayments of past NDIS amounts and calculating Compensation Reduction Amounts.
23. The ALA notes that, in the March 2023 interim report and the November 2023 final report, this Committee made 32 recommendations for reforming the capability and culture of the NDIA.⁹

Recommendations

- The ALA recommends that this Committee assesses and then provides a public update on how the NDIA is reforming its processes, culture and conduct in the wake of recommendations made by this Committee last year. This will assist all NDIS participants and external stakeholders (such as, NDIS participants' legal representatives) in understanding:
 - what to expect when they interact with the NDIA moving forward; and
 - what further work this Committee still expects from the Federal Government and the NDIA in relation to improving the NDIA.

⁸ See: Australian Lawyers Alliance, Submission to the Joint Standing Committee on the National Disability Insurance Scheme, *Capability and Culture of the NDIA* (15 December 2022) <www.lawyersalliance.com.au/documents/item/2367>.

⁹ See: Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Capability and Culture of the NDIA* (Interim Report, March 2023) xv; Joint Standing Committee on the National Disability Insurance Scheme, Parliament of Australia, *Capability and Culture of the NDIA* (Final Report, November 2023) ix–xiii.

Conclusion

24. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Joint Standing Committee on the National Disability Insurance Scheme on the experience of NDIS participants in rural, regional and remote Australia.

25. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.



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