

Effectiveness of the National Disability Insurance Agency's Management of Assistance with Daily Life Supports

National Disability Insurance Agency

© Commonwealth of Australia 2023

ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-846-6 (Print)

ISBN 978-1-76033-847-3 (Online)

Except for the content in this document supplied by third parties, the Australian National Audit Office logo, the Commonwealth Coat of Arms, and any material protected by a trade mark, this document is licensed by the Australian National Audit Office for use under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

You are free to copy and communicate the document in its current form for non-commercial purposes, as long as you attribute the document to the Australian National Audit Office and abide by the other licence terms. You may not alter or adapt the work in any way.

Permission to use material for which the copyright is owned by a third party must be sought from the relevant copyright owner. As far as practicable, such material will be clearly labelled.

For terms of use of the Commonwealth Coat of Arms, visit the *It's an Honour* website at <https://www.pmc.gov.au/government/its-honour>.

Requests and inquiries concerning reproduction and rights should be addressed to:

Senior Executive Director
Corporate Management Group
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Or via email:

communication@anao.gov.au.



Canberra ACT
28 June 2023

Dear President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the National Disability Insurance Agency. The report is titled *Effectiveness of the National Disability Insurance Agency's Management of Assistance with Daily Life Supports*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Phone: (02) 6203 7300
Email: ag1@anao.gov.au

Auditor-General reports and information about the ANAO are available on our website:
<http://www.anao.gov.au>

Audit team

Jason Millward
Barbara Das
Evan Lee
Anne-Sophie Colin
Qing Xue
Zhuo Li
David Vandersee
Christine Chalmers
Alexandra Collins

Contents

| | |
|---|-----------|
| Summary and recommendations..... | 7 |
| Background | 7 |
| Conclusion | 8 |
| Supporting findings..... | 9 |
| Recommendations..... | 11 |
| Summary of entity responses..... | 16 |
| Key messages from this audit for all Australian Government entities | 18 |
| Audit findings..... | 19 |
| 1. Background | 20 |
| Introduction | 20 |
| Rationale for undertaking the audit | 23 |
| Audit approach | 24 |
| 2. Support for NDIS participants who require assistance with daily life | 25 |
| Does the NDIA have fit for purpose policies, procedures and guidelines for assistance with daily life supports? | 26 |
| Do communications support participant, partner and provider understanding of assistance with daily life supports?..... | 30 |
| Is the NDIA effectively supporting participants in planning for assistance with daily life supports? | 34 |
| Is the NDIA effectively supporting participants in implementing plans with assistance with daily life supports? | 46 |
| Has the NDIA assessed NDIS participant outcomes in relation to assistance with daily life supports?..... | 53 |
| 3. NDIA management of risks to proper use of resources | 58 |
| Has the NDIA implemented prior Auditor-General recommendations for decision controls over 'reasonable and necessary' supports?..... | 59 |
| Are processes for establishing assistance with daily life support prices appropriate? | 64 |
| Does the NDIA have effective conflict of interest controls? | 71 |
| Does the NDIA have a fit-for-purpose fraud control framework that incorporates prior Auditor-General recommendations? | 79 |
| Does the NDIA have fit for purpose controls for participant and provider overclaiming risks, for assistance with daily life supports? | 91 |
| Appendices | 95 |
| Appendix 1 Entity responses | 96 |
| Appendix 2 Improvements observed by the ANAO | 100 |
| Appendix 3 NDIA assessment tool preference order..... | 102 |



Audit snapshot

Auditor-General Report No.43 2022–23

Effectiveness of the National Disability Insurance Agency's Management of Assistance with Daily Life Supports



Why did we do this audit?

- ▶ To provide assurance to Parliament on the effectiveness of the National Disability Insurance Agency's (NDIA) management of assistance with daily life (ADL) supports and its management of operational risks, including the implementation of recommendations from prior ANAO audits.
- ▶ In 2021–22 NDIA made \$28.6 billion in payments to 534,655 participants. The NDIS is expected to grow to 1,017,522 participants and \$89.4 billion by 2032.



What did we find?

- ▶ NDIA's management of assistance with daily life supports was partly effective.
- ▶ NDIA has largely fit for purpose policies, procedures and guidelines to support the administration of ADL and largely fit for purpose planning and implementation arrangements.
- ▶ NDIA has partly effective processes to manage the risks to the proper use of resources for all support categories.



What did we recommend?

- ▶ There were 13 recommendations to the NDIA, relating to planning decisions, managing fraud and conflict of interest risks, and fully implementing seven prior ANAO audit recommendations.
- ▶ One joint recommendation to NDIA and Services Australia, relating to NDIA's access to Centrelink information.
- ▶ One recommendation to the Australian Government, relating to fraud control requirements for the NDIA.



Key facts

- ▶ NDIA met four of ten Participant Service Guarantee targets for plan development and implementation by December 2022.
- ▶ Sixty per cent of plans reviewed in November 2022 met quality requirements for inclusion of reasonable and necessary supports.
- ▶ Price limits for ADL supports increased by 18 per cent from 2019–20 to 2022–23.

58%

of NDIS participants choose a registered plan manager to manage their allocation of funding for NDIS supports.

55%

of all participants (295,281) aged seven years and over received funding for ADL supports.

\$96,996

was the average value of ADL supports in participant plans approved in 2021–22.

Summary and recommendations

Background

1. The National Disability Insurance Scheme (NDIS or the Scheme) was established in 2013 under the *National Disability Insurance Scheme Act 2013* (NDIS Act) to provide funding for reasonable and necessary supports for eligible people with disability. The NDIS is jointly funded by the Australian, state and territory governments under bilateral agreements. In 2021–22, NDIA made \$28.6 billion in payments to 534,655 participants for NDIS supports. Fifty-five per cent of all participants (295,281) aged seven years and over received funding for assistance with daily life (ADL) supports, averaging \$96,996 per year. The NDIS is expected to grow to 1,017,522 participants and \$89.4 billion for the year ending 30 June 2032.
2. The National Disability Insurance Agency (NDIA) is the Australian Government entity responsible for delivering the NDIS. The NDIA contracts Partners in the Community (PITC) organisations, including Local Area Coordinators (LACs) and Early Childhood (EC) Partners to assist participants with applying to join the NDIS and then developing and implementing their plan of funded NDIS supports.
3. Funding for each NDIA participant is determined through the development of a participant plan, which sets out the participant's goals and aspirations, the reasonable and necessary supports that they require and will be funded, and how that funding will be managed. Plans can be developed by NDIA staff or LACs and are then approved by a NDIA delegate. NDIA assists participants to implement their plan by publishing information and guidance materials and monitoring plan use.
4. ADL is one of the fifteen categories of supports funded by the NDIS and provides funding for self-care activities, such as showering, eating and moving around the house, and household tasks, such as meal preparation, cleaning and yard maintenance.

Rationale for undertaking the audit

5. Prior audits¹ and reviews² have identified issues with NDIS planning, decision-making, communications, service delivery, access to supports and fraud controls (see paragraphs 1.18 to 1.21). This audit provides assurance to Parliament on the effectiveness of the NDIA's management of ADL supports and its management of operational risks, including the implementation of

1 Auditor-General Report No. 50 2018–19 *National Disability Insurance Scheme Fraud Control Program*, and Auditor-General Report No. 14 2020–21 *Decision-making Controls for NDIS Participant Plans*.

2 Completed inquiries include:

- *NDIS Planning* (1 December 2020);
- *General issues around the implementation and performance of the NDIS* (30 November 2021); and
- *Current Scheme Implementation and Forecasting for the NDIS* (31 March 2022).

See: Joint Standing Committee on the National Disability Insurance Scheme, *Completed Inquiries* [Internet], available from

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/Completed_inquiries [accessed 6 July 2022].

recommendations from prior audits. This audit was identified as a Joint Committee of Public Accounts and Audit priority of the Parliament for 2019–20 and 2020–21.

Audit objective and criteria

6. The objective of the audit was to assess the effectiveness of the NDIA's management of assistance with daily life supports.

- Does the NDIA effectively support NDIS participants who require assistance with daily life?
- Does the NDIA effectively manage operational risks to the proper use of resources in administering assistance with daily life supports?

Conclusion

7. The NDIA's management of assistance with daily life supports was partly effective. Seven out of nine recommendations made by the Auditor-General in prior audits relating to improved decision-making controls and fraud controls, which relate to the NDIA's management of risks to proper use of resources, were not fully implemented.

8. The NDIA has developed largely fit for purpose policies, procedures and guidelines to support the administration of ADL, informed by feedback mechanisms and continuous improvement processes. NDIA communications support staff, partner and provider understanding of ADL however, additional communications could be developed to support participant understanding. The NDIA conducts research to inform its communications approach and assesses its effectiveness.

9. NDIA's planning and implementation arrangements are largely fit for purpose. Results of internal quality reviews of decisions to fund reasonable and necessary supports are continually below target. The NDIA publishes guidance material to assist participants to use their allocated funding and implement their plans, and monitors plan usage through regular reports. While the NDIA monitors and assesses participant outcomes through the collection of feedback and data points, greater analysis could be undertaken to inform service improvement.

10. The NDIA has partly effective processes in place to manage the risks to the proper use of resources for all support categories, including ADL, with deficiencies identified in relation to the quality of its decision-making, staff related conflicts of interest and fraud controls. The NDIA partly implemented recommendations from Auditor-General Report No.14 2020–21 *Decision-Making Controls for NDIS Participant Plans*. NDIA has established and follows appropriate arrangements for setting prices for funded supports including ADL. NDIA's management of conflict of interest risk is largely effective for Board members, SES staff and Partners in the Community (PITC). Controls for managing APS staff and contractor providers of support coordination conflicts of interest are partly effective.

11. NDIA has a partly fit for purpose fraud control framework and has partly implemented recommendations from Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program*. The NDIA has partly effective controls for managing the risk of overclaiming by participants and providers.

Supporting findings

Support for NDIS participants who require assistance with daily life

12. NDIA has policies, procedures and guidelines that support NDIA staff and Local Area Coordinators (LAC) with the administration of assistance with daily life (ADL) supports. The NDIA is currently changing its approach to publishing guidelines on its website to improve how it communicates with participants. The NDIA has effective processes to update Operational Guidelines. Documentation to govern NDIA staff access to Services Australia's Centrelink system was inadequate. (See paragraphs 2.4 to 2.13)

13. NDIA communications include the Operational Guidelines, Participant Booklets and web content. Some information is published in different formats, such as easy read, Braille, Auslan video and languages other than English. Local Area Coordinators support participants to understand ADL supports and include these within their plans where relevant. NDIA has Standard Operating Procedures (SOPs) to support staff and partner implementation of the NDIS, including ADL supports. Participant understanding could be improved with further research of the communication needs of specific cohorts. (See paragraphs 2.18 to 2.34)

14. The NDIA has a structured process for developing and approving plans, based on the complexity of participants' needs. Plans can be developed by Local Area Coordinators or NDIA planning officers and are then approved by a NDIA delegate. Plans up to the value of \$385,000 can be developed and approved by a single delegate. The NDIA uses a typical support package (TSP) calculation to aid consistency in decision-making. The NDIA has not assessed the impacts on participant plan outcomes or scheme sustainability from high usage by planners of the World Health Organization Disability Assessment Schedule 2.0 (WHODAS) assessment tool. Since October 2021, the quality of decisions to fund supports considered reasonable and necessary for participants' needs have been below NDIA's target of 75 per cent. NDIA's results against its key performance measure of starting planning within 21 days of Scheme access decision have consistently been above its 95 per cent target since quarter one, 2021–22 and results against the performance measure of approving a plan within 56 days have improved since 2021–22 and reached the target for the first time in quarter two, 2022–23. (See paragraphs 2.35 to 2.76)

15. The NDIA supports participants to implement NDIS funding for supports for activities of daily life (ADL) through education and guidance materials and monitoring use of approved funding. NDIA publishes guidance and online resources to assist participants to connect with and choose NDIS support providers and spend the funding within their plan. Participants may receive funding for tiered levels of support coordination to help implement and manage their plan. Participant survey results indicated the majority understood what happens after the plan is approved and where to seek assistance with implementing their plan. NDIA monitors the implementation phase by tracking the numbers of days it takes for a participant to activate their plan from the date of approval. NDIA generates reports to identify those participants who have not activated their plan within 90 days and may require additional support from NDIA staff or Local Area Coordinators. NDIA has established processes to support monitoring of plan use and connecting with participants at specified intervals or usage rates but does not monitor or report on compliance with these processes. NDIA policy does not assist staff to identify unexpected, overused or underused expenditure. Plan utilisation rates averaged 75 per cent nationally with a gradually increasing trend. (See paragraphs 2.77 to 2.108)

16. The NDIA assesses outcomes for participants, and their families and carers, including through short form and long form questionnaires. These questionnaires include participants who receive ADL funded supports but the results are not categorised by reference to ADL specifically. The survey results are reported monthly to the Board and quarterly to the Disability Reform Ministerial Council. NDIA collects comprehensive data but does not undertake analysis of trends or outcomes to inform service improvement. NDIA provided a 2019 data set to ABS for data linkage. The ANAO saw no evidence of plans for ongoing data linkages which could inform assessment of participant outcomes. The NDIA may improve its ability to measure participant outcomes in the future through the implementation of its 2022–27 Research and Evaluation Strategy. (See paragraphs 2.109 to 2.126)

NDIA management of risks to proper use of resources

17. The NDIA has partly implemented the three recommendations from Auditor-General Report No.14 2020–21 *Decision-making controls for NDIS Participant Plans*. ICT controls aligned to policy requirements for planning decisions have not been implemented. The NDIA reports on the effectiveness of its continuous improvement activities developed to address issues identified in quality monthly reviews. The NDIA does not analyse outcomes of internal or external reviews of decisions to inform continuous improvement. The NDIA has aligned service delivery key performance indicators and quality metrics for reasonable and necessary decision-making. (See paragraphs 3.3 to 3.28)

18. NDIA has established processes for setting the price limits that providers may charge participants for individual funded supports, which include a regular review of set prices and consideration of benchmarks. NDIA demonstrated compliance with its internal requirement for price limits set for the 2022–23 financial year. NDIA's Pricing Strategy defines three pricing levels and uses pricing regulation to foster value for money and encourage increased supply in the market. The Pricing Strategy does not specify how NDIA's performance against the objective or criteria will be measured. NDIA has not set a timeframe for when price deregulation will occur. NDIA has established a reference group with external stakeholder membership to undertake regular pricing reviews. The results of the 2021–22 pricing review were published on 22 June 2022 and took effect on 1 July 2022. The Annual Pricing Reviews are informed by financial benchmarking surveys of providers each year and the NDIS Disability Support Worker Cost Model. NDIA publishes the pricing limits for each support category on its website. The price limits for ADL support items have increased by 18 per cent from 2019–20 to 2022–23. (See paragraphs 3.29 to 3.54)

19. The NDIA has established controls for identifying and managing conflict of interest risks for its Board and Senior Executive Service (SES) staff, which include annual declarations of material interests. The Board should implement procedures to manage conflict of interest risks arising from declarations of members relating to lived experience of disability. APS level staff are required to declare conflicts of interest but there are limited mechanisms to ensure this occurs. Combined with the lack of ICT controls for accessing participant records, staff controls represent an area of risk, especially for plan delegates. NDIA has largely fit for purpose controls for managing Local Area Coordinator conflict of interest risk, including requirements for these to be declared and reported to NDIA, and provision of compliance assurance statements to NDIA. NDIA was

unable to quantify the impact that conflicts relating to support coordinators poses to participants. (See paragraphs 3.55 to 3.88)

20. The frequency and rigour of NDIA's assessment of fraud risks is insufficient given it has assessed the fraud risk associated with the agency's activities to be high. The 2019 Fraud and Corruption Risk Register has been updated in November 2022 but not yet approved by the Board. The risk assessment that informs the overall risk rating assigned to fraud risks is not documented. The NDIA Board does not have adequate oversight of fraud risk. NDIA has not fully implemented four of the recommendations from Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program*. (See paragraphs 3.92 to 3.153)

21. NDIA utilises prevention and detection controls and compliance activities to manage the risk of overclaiming. NDIA has identified key overclaiming risks for home and living supports, including ADL support types. The assessment has not identified controls or mitigation strategies for all risks. NDIA has inadequate system controls for claims for payment, in particular, from self-managed participants. NDIA is piloting stronger controls for providers claiming the Temporary Transformation Payment. (See paragraphs 3.157 to 3.172)

Recommendations

22. This report makes 13 recommendations to the NDIA relating to governance of systems access, planning, conflict of interest, and implementing prior audit recommendations on controls for planning decisions and fraud. There is one recommendation to NDIA and Services Australia to document arrangements for NDIA staff to access Centrelink information. There is one recommendation to the Australian Government to align fraud control requirements for NDIA with those of non-corporate Commonwealth entities.

Recommendation no. 1 The National Disability Insurance Agency (NDIA) and Services Australia document the arrangements for NDIA staff to access information in Services Australia's Centrelink mainframe system, including setting out the legislative basis, terms and conditions for use, and applicable governance arrangements.

Paragraph 2.14

National Disability Insurance Agency response: *Agreed.*

Services Australia response: *Not Agreed.*

Recommendation no. 2 The National Disability Insurance Agency (NDIA) review:

Paragraph 2.57

- (a) the use of the World Health Organization Disability Assessment Schedule 2.0 (WHODAS) tool by planners in developing participant plans, including analysis of plan outcomes, to assess the impact the use of this assessment tool has on participant plan outcomes and scheme sustainability; and
- (b) guidelines, procedures and web content to ensure it transparently conveys NDIA policy about the use of assessment tools consistent with legislative requirements.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 3
Paragraph 3.8

The National Disability Insurance Agency reviews the impact of its policy changes relating to approval of plans that vary from Typical Support Packages (TSPs), including:

- (a) assessing the impact on plan funding outcomes, plan costs and overall scheme costs of no longer requiring higher delegation approval of plans with funding that varies by more than eight per cent from the TSP; and
- (b) undertaking a post-implementation review of its new integrated TSP calculator to ensure variations from the TSP reference point are supported by appropriate evidence of participants' circumstances and determine whether ongoing monitoring is needed.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 4
Paragraph 3.14

The National Disability Insurance Agency implement the first recommendation of Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans* by including controls relating to participant planning considerations and approvals within its new PACE ICT system, to align the system processes with internal policy requirements and to better support planning processes for reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 5
Paragraph 3.22

The National Disability Insurance Agency (NDIA):

- (a) fully implement the second recommendation of Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans* by using outcomes data from internal reviews and Administrative Appeals Tribunal reviews (and other mechanisms such as Independent Expert Reviews), including early resolution outcomes, to inform continuous improvement in reasonable and necessary decision-making; and
- (b) regularly publish summaries of NDIA review data and analysis to improve transparency of review processes.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 6
Paragraph 3.79

The National Disability Insurance Agency (NDIA) improve its management of conflicts of interest by implementing:

- (a) procedures for how the Board manages conflicts arising from declared interests of members;
- (b) mandatory requirement for all NDIA staff, contractors engaged by NDIA and Partners in the Community staff to make an annual declaration of any real or apparent conflict of interest;
- (c) mandatory business practices and ICT controls to restrict access to participant records that relate to a real or apparent conflict of interest reported to NDIA; and
- (d) ICT controls to log all access and amendments to participant records in CRM and PACE, by staff, contractors and Partners in the Community and conduct regular audits of access logs for compliance with policies and declared conflicts of interest.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 7
Paragraph 3.89

The National Disability Insurance Agency assess and quantify the conflict of interest risks posed by providers delivering both support coordination and provision of supports to the same participant, and implement controls to mitigate the risk to participants.

National Disability Insurance Authority response: *Agreed.*

Recommendation no. 8
Paragraph 3.101

The Board of the National Disability Insurance Agency:

- (a) conduct a fraud risk assessment at least annually, until such time as the board assesses that risk of fraud relevant to the agency's activities has moderated to less than high risk, at which time risk assessments be conducted consistent with the Fraud Control Policy;
- (b) identify those fraud risks that are outside the Board's risk tolerance and regularly assess the treatments and controls for those risks; and
- (c) record the Board and risk committee's ongoing consideration of fraud risk including the regular assessment and monitoring of fraud risks outside tolerance and the efficacy of controls.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 9
Paragraph 3.110

The National Disability Insurance Agency fully implement the first recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by regularly updating the Risk Register with planned controls, the delivery date and the project or activity under which the control will be developed and implemented.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 10
Paragraph 3.119

The National Disability Insurance Agency fully implement the fifth recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* and ensure visibility of the fraud control environment by providing regular reports to the Board containing a summary of the status of the Fraud and Corruption Risk Register including:

- (a) the untreated and treated risk ratings for each of the fraud risk types;
- (b) the controls effectiveness rating for each of the fraud risk types; and
- (c) the actions required on controls, with implementation dates.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 11
Paragraph 3.121

When conducting risk assessments for each risk listed in the Fraud and Corruption Risk Register, the National Disability Insurance Agency document the factors considered, their weighting and the rationale for the overall risk rating. The Board should regularly review the risk assessment, including on each occasion it considers a proposed amendment or update to the Fraud and Corruption Risk Register.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 12 The National Disability Insurance Agency fully implement the fourth recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by undertaking a review of its project management of fraud control. This review should:

Paragraph 3.129

- (a) map all projects and activities with fraud control dimensions, including their status, linkages, relative priority and resourcing;
- (b) determine whether additional projects or activities are required to close any gaps between the fraud risks and the implemented and planned fraud controls within projects; and
- (c) support updating the Fraud and Corruption Risk Register.

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 13 The National Disability Insurance Agency fully implement the second recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* to improve its active fraud detection methods by implementing data matching activity as a matter of priority, and on a continuing basis.

Paragraph 3.138

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 14 That the National Disability Insurance Agency fully implement part (b) of the third recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by establishing performance measures for its investigative functions that align with organisational goals for fraud investigations.

Paragraph 3.145

National Disability Insurance Agency response: *Agreed.*

Recommendation no. 15 The Australian Government aligns the fraud control requirements for the National Disability Insurance Agency with those of non-corporate Commonwealth entities, including the Commonwealth Fraud Control Policy and the reporting requirements of subsection 17AG(2) of the Public Governance, Performance and Accountability Rule 2014.

Paragraph 3.154

National Disability Insurance Agency response: *Noted.*

Attorney-General's Department response: *Noted.*

Summary of entity responses

23. The proposed audit report was provided to the National Disability Insurance Agency and extracts were provided to Services Australia (relating to Recommendation no. 1) and to the Attorney-General's Department (relating to Recommendation no. 15). The summary responses, and ANAO rejoinder to Services Australia's response are reproduced below, with the full responses provided at Appendix 1. The improvements observed by the ANAO during the course of this audit are at Appendix 2.

National Disability Insurance Agency

The National Disability Insurance Agency (NDIA) welcomes the ANAO's performance audit on the Effectiveness of the NDIA's management of assisting with daily life (ADL) supports.

The NDIA acknowledges the audit findings and agrees with the recommendations. The NDIA is committed to strengthening its ADL support related governance, risk management and control environment to ensure it is effectively managing key service delivery risks that may have adverse impact on the National Disability Insurance Scheme (NDIS) as well as scheme financial sustainability pressures.

The NDIA will roll out its new ICT system (PACE) nationally in Q2 FY2023/24. The new ICT system is expected to better support key service delivery processes, the control environment, monitoring activities and management reporting for effective decision making. In this regard, ANAO recommendations and improvement opportunities in the report are most welcome.

The creation of the Fraud Fusion Taskforce and recent NDIS funding announcement by the Australian Government as well as transition to the new ICT system will enable NDIA to further improve its Fraud Control Program, management of conflict of interest risks and compliance monitoring.

The NDIA agrees with recommendation no:15, noting this recommendation is to be primarily addressed by the Australian Government. The NDIA welcomes the opportunity to contribute.

Services Australia

Services Australia (the agency) notes that the finding of the report that there was no written protocol or agreement between the two agencies setting out the scope, terms or legislative basis on which staff of the National Disability Insurance Agency (NDIA) access the agency's Centrelink mainframe to support verification of participant details.

The agency is focused on maintaining the security of customer information, and on ensuring that customer records are only accessed by appropriately authorised individuals or entities for a documented business purpose in line with relevant legislative or other Government policy requirements. To that end, the agency has a Statement of Intent with the NDIA that provides the overarching framework under which NDIA is granted access to certain agency systems, and a Protected Information Disclosure document that provides the legislative basis. The agency provides access to Centrelink information systems on the basis of specified position numbers within NDIA. The access is provided as a result of a rule

written into the Centrelink mainframe and does not need to be individually requested by NDIA staff, as it is specifically associated with the requirements of those positions. The position numbers are within the NDIA human resources organisational structure. The systems architecture documents provide further evidence of the controls that are in place to manage user access by NDIA staff in accordance with the above control framework.

ANAO comments on Services Australia's response

24. The ANAO assessed the Statement of Intent between NDIA and Services Australia and other documentation received from Services Australia as not adequately setting out the scope, terms, legislative basis and governance for NDIA staff to access Centrelink mainframe systems. The Disclosure of Protected Information to the National Disability Insurance Agency instrument provided by Services Australia is a document recording the delegation of decision-making authority from the Chief Executive Centrelink to various officers within Services Australia to authorise the disclosure of information to NDIA staff where it is to assist in the administration of the NDIS or to support the work of the NDIS Fraud Taskforce and the NDIA's Fraud and Compliance branch. Services Australia did not provide any documentation of decisions made under the instrument, including its consideration of the appropriateness of a request by NDIA to disclose information or grant access to the Centrelink mainframe. The ANAO notes that the NDIA agreed to work with Services Australia to implement Recommendation no. 1 by documenting 'appropriate arrangements to govern the means of provision, removal, and audit of access to Services Australia's Centrelink mainframe'.

Attorney-General's Department

The Attorney-General's Department notes recommendation 15, which is directed to the Australian Government to align the fraud control requirements of the National Disability Insurance Agency (a Commonwealth corporate entity) with those of non-corporate Commonwealth entities. Implementation of the recommendation is a matter for government and the department will work closely with the Department of Finance, the National Disability Insurance Agency and other relevant entities should it be pursued.

Key messages from this audit for all Australian Government entities

25. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Governance and risk management

- Ongoing consideration by senior executives and the accountable authority of the effectiveness of fraud controls, residual risk ratings and changes to environmental factors should be documented to meet requirements under the *Public Governance, Performance and Accountability Act 2013*, including when a decision has been made that no further action is required.
- The adequate and timely implementation of agreed audit recommendations is an important element of realising the full benefit of those recommendations. It also serves to demonstrate the entity's commitment to improving public administration and being accountable to parliament.

Stakeholder engagement

- Entities could consider ways to improve engagement with citizens and stakeholders to facilitate co-design and consultation, including establishing regular engagement processes with volunteers, such as the NDIA's Participant First model.

Performance and impact measurement

- Entities should continuously improve the collection and use of data to support continuous improvement and evaluation of outcomes, particularly in relation to fraud detection and prevention. Setting key performance measures and using data analytics and data matching capabilities can assist entities to understand the drivers of performance, improve detection of fraud and non-compliance, and assess the impact of their programs and policies.

Audit findings

1. Background

Introduction

1.1 The National Disability Insurance Scheme (NDIS or the Scheme) was established in 2013 under the *National Disability Insurance Scheme Act 2013* (NDIS Act) to provide funding for reasonable and necessary supports for eligible people with disability. Assistance with daily life is one of the categories of support funded by the NDIS and provides funding for self-care activities and household tasks. The National Disability Insurance Agency (NDIA) is the Australian Government entity responsible for delivering the NDIS.

National Disability Insurance Scheme

1.2 The NDIS replaced primarily state-based disability care arrangements and became fully operational in 2020. The Scheme objectives include supporting the independence and social and economic participation of people with disability, providing them with choice and control in the delivery of their supports, and facilitating a nationally consistent approach to disability support.

1.3 Over 2021–22, the NDIA made \$28.6 billion in payments to 534,655 participants. The NDIS is jointly funded by the Australian, state and territory governments under bilateral agreements. In 2021–22, state and territory governments contributed \$11.02 billion to the Scheme.³

Participants, planning and supports

1.4 To be an eligible NDIS participant, an individual must have a disability that is, or is likely to be permanent, and results in a substantial reduction in functional capacity, or have an impairment where the provision of early intervention supports is likely to reduce the individual's future disability support needs. They must also be under the age of 65 and satisfy the residence requirements (citizenship or visa) set out in section 23 of the NDIS Act.

1.5 Once an individual is assessed to be eligible to participate in the NDIS, the NDIA or a contracted organisation, a Local Area Coordinator (LAC), develops an individualised participant plan for that participant.⁴ The plan sets out the participant's goals and aspirations, general supports (informal, community and mainstream), and the reasonable and necessary supports that they require and will be funded under the NDIS.⁵

1.6 NDIA will not fund a support if it:

- is not related to the participant's disability;
- is the same as other supports delivered under different funding through the NDIS;
- relates to day-to-day living costs that are not related to a participant's support needs;
- is likely to cause harm to the participant or pose a risk to others; or

3 These contributions consisted of cash contributions totalling \$10.007 billion and in-kind contributions totalling \$1.013 billion, include health services, education and transport for people with disability.

4 Under the NDIS Act, a plan developed by a LAC must be approved by the CEO of the NDIA or by their delegate.

5 To be reasonable and necessary, a support must satisfy criteria set out in the section 34 of the NDIS Act.

- can be more appropriately or effectively delivered by another system.

1.7 There are three types of NDIS funding:

- core supports, to enable participants to complete activities of daily living (assistance with daily life is one of four support categories within this support type);
- capital supports, such as home modifications; and
- capacity building supports, to build independence and skills, such as support for increased social participation.

Plan implementation

1.8 Participants can choose their service providers from which they purchase supports. Self-managed and plan managed participants can use unregistered or registered providers. Agency managed participants can only access registered providers.⁶ Participant plans may include funding for support coordination and plan management. Support coordinators assist participants to implement plans. Plan managers are responsible for the financial management of plan budgets, such as by making payments.

1.9 The prices which providers can charge for their services are subject to price regulation by the NDIA. All participants can negotiate prices lower than the NDIS price limits. Only self-managed participants may purchase a service costing more than the NDIS price limit established for that particular type of NDIS service.

Assistance with daily life

1.10 NDIS funding for core, capital and capacity building supports, is further catalogued into 15 support categories and 802 support items. Assistance with daily life (ADL) is the core support category relating to assisting with or supervising personal tasks of daily life to enable the participant to live as autonomously as possible. There are 134 ADL support items including support for self-care activities, such as showering, dressing and eating, as well as household tasks such as meal preparation, cleaning and yard maintenance.

1.11 The NDIA does not routinely report on ADL. Data provided by NDIA for this audit indicated 295,281 participants aged seven or older included ADL in their plan in 2021–2022. This represents 55 per cent of all participants. The average annual value of ADL supports for new plans developed in 2021–22 is \$96,996.

1.12 Supported Independent Living (SIL) is an ADL support for participants with higher needs who require dedicated help at home from a disability support worker most of the time, including overnight support. At 30 June 2022 there were 26,950 SIL participants, which represent around five per cent of the total numbers of NDIS participants, and payments to SIL participants accounted for 32 per cent of all NDIS participant payments. The average annual payment for SIL participants was \$340,900. The average annual payment for all other participants not in receipt of SIL (with and without ADL) was \$39,500.

⁶ A registered NDIS provider is a person or organisation that is registered with the NDIS Quality and Safeguards Commission in accordance with section 73E of the *National Disability Insurance Scheme Act 2013*.

National Disability Insurance Agency

1.13 The NDIA was established under the NDIS Act in 2013 to administer the NDIS. The NDIA is a corporate Commonwealth entity, and its accountable authority is the NDIA Board, supported by an Independent Advisory Council. The Board reports to the Minister for the NDIS and to the Ministerial Council of Commonwealth, state and territory ministers responsible for disability services. The NDIA Chief Executive Officer (CEO) is responsible for the day-to-day administration supported by an Executive Leadership Team (ELT).⁷

1.14 NDIA functions include determining whether an individual is eligible to become a NDIS participant and approving and reassessing participant plans. The NDIA's other functions include advising and reporting on NDIS financial sustainability, developing and enhancing the disability sector, building community awareness of disabilities, and undertaking analysis and research.

1.15 The NDIS Quality and Safeguards Commission (the NDIS Commission) is responsible for the regulation and registration of service providers and disability support workers, and handling of complaints about the quality and safety of services provided by providers. NDIA is responsible for managing complaints relating to decisions or actions by NDIA or Partners in the Community (PITC) staff, and complaints about fraud and provider payment non-compliance. The NDIA and the NDIS Commission work together to resolve critical incidents and share and refer complaints related to the other's responsibilities.

Local Area Coordinators

1.16 NDIS delivery is supported by organisations funded under PITC grant funding. PITC organisations include Local Area Coordination (LAC) and Early Childhood (EC) Partners. This audit considered the activities of LACs as the PITC organisations involved in planning and implementation of ADL supports.

1.17 The LAC role includes helping participants to:

- understand and access the NDIS;
- develop the NDIS plan and liaise with the NDIA delegate for plan approval;
- implement the plan, including help to understand and use the supports;
- access community supports;
- monitor plan implementation; and
- undertake plan reassessments and plan variations.

Previous audits and reviews

1.18 Auditor-General Report No.13 2017–18 *Decision-making Controls for Sustainability — National Disability Insurance Scheme Access* made four recommendations relating to access processes, information technology, quality control and review processes.

⁷ ELT assisted the CEO 'to make decisions regarding the implementation of the Board-approved strategic objectives and policies for the NDIA.' ELT included four deputy CEOs, the Scheme Actuary and the chief people, information and risk officers. ELT was replaced in March 2023 by the Strategic Leadership Team (SLT).

1.19 There were six recommendations from Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* and three recommendations from Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans*. This audit assessed NDIA's implementation of recommendations from those performance audits.

1.20 The Joint Standing Committee on the National Disability Insurance Scheme 2020 *Report into Supported Independent Living* noted issues related to a lack of choice and control in provider arrangements; poor communication with participants, families and carers; delays in approvals; and conflicts of interest in the support, tenancy and support coordination functions. Its *NDIS Planning Final Report*, also published in 2020, noted concerns about planning decision inconsistencies, planner errors and poor communication.

1.21 During the audit, NDIA was implementing changes from *The National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022*, incorporating recommendations from the 2019 *Review of the National Disability Insurance Scheme Act 2013 — Removing Red Tape and Implementing the NDIS Participant Service Guarantee* ('the Tune Review').⁸

1.22 On 18 October 2022, the Australian Government announced an Independent Review into the NDIS, to report to Disability Reform Ministers by October 2023.⁹

Rationale for undertaking the audit

1.23 Prior audits¹⁰ and reviews¹¹ have identified issues with NDIS planning, decision-making, communications, service delivery, access to supports and fraud controls. This audit provides assurance to Parliament on the effectiveness of the NDIA's management of ADL supports and its management of operational risks, including the implementation of recommendations from prior audits. This audit was identified as a Joint Committee of Public Accounts and Audit priority of the Parliament for 2019–20 and 2020–21.

8 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013 Removing Red Tape and Implementing the NDIS Participant Service Guarantee* [Internet], December 2019, Department of Social Services, available from <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-national-disability-insurance-scheme/review-of-the-ndis-act-report> [accessed 7 September 2022].

9 Australian Government, *NDIS Review* [Internet], available from <https://www.ndisreview.gov.au/> [accessed 11 November 2022]

10 Auditor-General Report No. 50 2018–19 *National Disability Insurance Scheme Fraud Control Program*, and Auditor-General Report No. 14 2020–21 *Decision-making Controls for NDIS Participant Plans*.

11 Completed inquiries include:

- *NDIS Planning* (1 December 2020);
- *General issues around the implementation and performance of the NDIS* (30 November 2021); and
- *Current Scheme Implementation and Forecasting for the NDIS* (31 March 2022).

See: Joint Standing Committee on the National Disability Insurance Scheme, *Completed Inquiries* [Internet], available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/Completed_inquiries [accessed 6 July 2022].

Audit approach

Audit objective, criteria and scope

1.24 The objective of the audit was to assess the effectiveness of the NDIA's management of assistance with daily life supports.

1.25 To form a conclusion against the objective, the following criteria were adopted.

- Does the NDIA effectively support NDIS participants who require assistance with daily life?
- Does the NDIA effectively manage operational risks to the proper use of resources in administering assistance with daily life supports?

1.26 The audit assessed the NDIA's implementation of prior audit recommendations and fraud control framework.

1.27 The audit did not assess Scheme access decisions, the quality of service delivery by providers or the effectiveness of the NDIA's market stewardship activities in respect of the market for assistance with daily life supports. The audit did not review the 'myplace' participant or provider portals. NDIA advised that a new participant portal is under development. The scope of the audit also excluded children with disability or developmental delay aged six or under, and the associated work of EC Partners. Most ADL participants are adults and the NDIA's 'early childhood approach' for children aged six or under differs from that applied to adults and older children.

Audit methodology

1.28 The audit methodology included:

- review of NDIA documentation including policies, procedures, guidance and training material, and external communications;
- review of NDIA governance material, Board and executive committee papers and minutes;
- analysis of NDIA data, including public sources and data produced for this audit;
- meetings with NDIA staff, including executives and the Participant Advocate;
- walkthrough of participant planning processes;
- meetings on site with staff from two Local Area Coordinators from Canberra and Goulburn;
- analysis of Administrative Appeal Tribunal decisions;
- review of Joint Standing Committee on the National Disability Insurance Scheme reports, hearings and submissions; and
- review of 35 citizen contributions to the audit, including 16 from participants or family.

1.29 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$678,000

1.30 The team members for this audit were Jason Millward, Barbara Das, Evan Lee, Anne-Sophie Colin, Qing Xue, Zhuo Li, David Vandersee, Christine Chalmers and Alexandra Collins.

2. Support for NDIS participants who require assistance with daily life

Areas examined

This chapter examined whether the National Disability Insurance Agency (NDIA) effectively supports National Disability Insurance Scheme (NDIS) participants who need assistance with daily life (ADL) supports, including NDIA policies, procedures and guidelines, whether communications were effective, NDIA planning and implementation processes, and assessment of outcomes.

Conclusion

The NDIA has developed largely fit for purpose policies, procedures and guidelines to support the administration of ADL, informed by feedback mechanisms and continuous improvement processes. NDIA communications support staff, partner and provider understanding of ADL however, additional communications could be developed to support participant understanding. The NDIA conducts research to inform its communications approach and assesses its effectiveness.

NDIA's planning and implementation arrangements are largely fit for purpose. Results of internal quality reviews of decisions to fund reasonable and necessary supports are continually below target. The NDIA publishes guidance material to assist participants to use their allocated funding and implement their plans, and monitors plan usage through regular reports. While the NDIA monitors, and assesses participant outcomes through the collection of feedback and data points, greater analysis could be undertaken to inform service improvement.

Areas for improvement

The ANAO made two recommendations aimed at documenting arrangements for NDIA staff access to Services Australia's Centrelink ICT system and reviewing planner use of assessment tools to identify the impact on participant plan outcomes and scheme sustainability.

The ANAO identified three opportunities for improvement including analysis of communication needs and utilisation trends for specific participant cohorts, and supporting data linkage with other entities.

2.1 Accurate, easy to understand and accessible policies, procedures and guidelines supports quality decision-making and efficient administration. After being granted access to the NDIS, participants engage in the NDIS planning phase which determines the types and amount of supports each participant can receive, and how their plan will be managed. Implementation processes assist participants to make use of their funded supports within their plan. The ongoing assessment and evaluation of administrative effectiveness and participant outcomes can inform NDIA's management of the NDIS and support continuous improvement.

2.2 Once granted access to the scheme, participants work with planners in NDIA or Local Area Coordinators (LACs)¹², to develop their participant plan. Participant plans set out each participant's

12 Local Area Coordinators (LACs) work for Partner in the Community organisations, contracted by the NDIA. While LACs are not NDIA employees, and are not authorised to approve participant plans, they have a key role in preparing a plan of NDIS supports for participants to be approved by a NDIA delegate.

goals, current circumstances and the types and amounts of general supports (not NDIS funded and known as informal, community, and mainstream supports), and the reasonable and necessary supports that will be funded under the NDIS. The ANAO assessed NDIA's plan development guidance and quality review processes.

2.3 A key NDIS purpose is to enable people with disability to exercise choice and control in pursuing their goals and in the delivery of their funded supports. The ANAO assessed the NDIA's approach to supporting participants in the implementation stage of ADL, particularly in making connections with ADL providers, and whether NDIA was supporting participants to meet their goals.

Does the NDIA have fit for purpose policies, procedures and guidelines for assistance with daily life supports?

NDIA has policies, procedures and guidelines that support NDIA staff and Local Area Coordinators (LAC) with the administration of assistance with daily life (ADL) supports. The NDIA is currently changing its approach to publishing guidelines on its website to improve how it communicates with participants. The NDIA has effective processes to update Operational Guidelines. Documentation to govern NDIA staff access to Services Australia's Centrelink system was inadequate.

NDIA policies, procedures and guidelines

2.4 In 2019, Mr David Tune AO PSM was commissioned by the Australian Government to undertake a review of the NDIS to assist in developing a Participant Service Guarantee (PSG) which would improve service delivery experiences for participants (Tune Review).¹³ The NDIA agreed to the recommendation of the Tune Review to publish 'information, in accessible formats, about how it determines when a support is reasonable and necessary.'¹⁴ The commitment to publish clearer guidelines and procedures, including for reasonable and necessary supports, was included in NDIA's Corporate Plan 2020–2024. In 2019, the NDIA commenced the Operational Guidelines Refresh Project to improve how it communicates policy and makes operational decisions. The project plans to transition from 12 publicly available Operational Guidelines, supported by internal policy guidance, to around 40 publicly available Operational Guidelines. NDIA internal Standard Operating Procedures (SOPs) will no longer include policy guidance but will focus on information to assist staff and partners on supporting administrative processes.

2.5 New Operational Guidelines are published in webform and downloadable versions in plain English on a dedicated website.¹⁵ The intent is to improve comprehension by participants, partners

13 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013 Removing Red Tape and Implementing the NDIS Participant Service Guarantee* [Internet], December 2019, Department of Social Services, available from <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-national-disability-insurance-scheme/review-of-the-ndis-act-report> [accessed 7 September 2022].

14 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013* [Internet], Recommendations pages 13-16. Reasonable and necessary supports is discussed at paragraph 2.35.

15 National Disability Insurance Agency, *Our Guidelines: How we make decisions* [Internet], NDIA, available from <https://ourguidelines.ndis.gov.au/> [accessed March 2023].

and providers and staff by putting all policy material in the public domain and better align guidelines with legislation. As at April 2023, the NDIA advised that were five Operational Guidelines still to be refreshed and published in the new format.

2.6 ADL is one of 15 support categories funded by the NDIS and provides funding for self-care activities and household tasks. NDIA does not have distinct policies or guidelines for ADL. Instead, policies and guidelines are grouped thematically around the participant journey, including access to the Scheme, developing and reviewing a plan of funded supports and plan use, supported by Operational Guidelines and Standard Operating Procedures (SOP) on specific topics. ADL is covered by eight topic specific Operational Guidelines within the Home and Living category as well as other Operational Guidelines that apply to the broader NDIS scheme.

2.7 The Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans* found that the NDIA had established largely appropriate policies and processes for participant planning and internal guidance and training materials were consistent with legislation. While that report found the NDIA instrument of delegation had not been updated to reflect organisational changes, the NDIA now maintains a current instrument of delegation.

2.8 Operational Guidelines and SOPs provide appropriate guidance to planners and delegates to support ADL decisions under NDIS legislation. Documentation is consistent with current legislation, Intergovernmental Agreements and the Applied Principles and Tables of Support to Determine Responsibilities NDIS and other service (APTOS).¹⁶ The NDIA has feedback mechanisms and continuous improvement processes in place to ensure its Operational Guidelines and SOPs are consistent with legislation and are understood.

2.9 ANAO analysis of Administrative Appeals Tribunal decisions published in 2021–22 did not identify any systemic issues with NDIA policies, procedures or guidelines related to ADL.

2.10 Although the overarching guidelines and SOPs are appropriate, there are risks associated with how some processes have been operationalised.

- There are inconsistencies between SOPs and NDIA website guidance about the use of assessment tools (see paragraph 2.51).
- NDIA internal delegation instruments permit a delegate to both develop and approve a plan up to an annual value of \$385,000 (rather than having a separation between the plan development and approval duties). In 2021–22, 17,707 plans were both developed and approved by one delegate (with \$2.2 billion aggregate value of supports) and the ANAO found NDIA had insufficient controls for managing staff conflicts of interest and did not undertake risk based compliance activities (see paragraph 2.48).
- Providers can claim and be paid the Temporary Transformation Payment (TTP) without having satisfied the eligibility criteria for such payment (see paragraph 3.171).

16 Department of Social Services, *The Applied Principles and Tables of Support to Determine Responsibilities NDIS and other service* [Internet], available from <https://www.dss.gov.au/the-applied-principles-and-tables-of-support-to-determine-responsibilities-ndis-and-other-service> [accessed 20 July 2022]

- Providers can claim payment directly from the NDIA or Plan Managers without confirmation from the participants that the services were provided. Similarly, self-managed participants can submit claims for payment without providing evidence of services provided (see paragraph 3.95).

Governance arrangements for policies, procedures and guidelines.

2.11 The NDIA sets out its policy hierarchy, including governance arrangements, in the Policy, Operational Guidelines and Standard Operating Procedure. Processes for approving amendments to policy documents are clearly set out and are risk-based. Minor updates, such as formatting and typographical errors, can be approved by the relevant Senior Executive Service branch manager (SES Band 1). New content for existing policies must be approved by the relevant SES general manager (SES Band 2). Major amendments, such as new guidelines or content that changes the operation of the Scheme, require approval from the internal Participant Experience Committee through to the CEO or the Board depending on the significance of the change.

2.12 The NDIA followed its approval processes for updating Operational Guidelines, including consultation with the Independent Advisory Committee and stakeholders.

2.13 NDIA Standard Operating Procedures set out processes for NDIA staff to access Services Australia's Centrelink mainframe system to support verification of participant details such as identity, residency and citizenship, or to obtain contact details if NDIA information was out of date. Between February 2022 and February 2023, 255 NDIA staff had access to the Centrelink mainframe. This access arrangement is referenced but not detailed in the Statement of Intent agreement between the Chief Executive Officers of NDIA and Services Australia dated June 2021 which covers all services provided by Services Australia to NDIA. There was no written protocol or agreement between the two agencies or records of decisions by Services Australia setting out the scope, terms, or legislative basis for access granted to NDIA staff. The documentation and governance for NDIA staff access to Centrelink systems is inadequate to ensure the appropriateness of NDIA's access to and use of the sensitive data in Centrelink's mainframe system.

Recommendation no. 1

2.14 The National Disability Insurance Agency (NDIA) and Services Australia document the arrangements for NDIA staff to access information in Services Australia's Centrelink mainframe system, including setting out the legislative basis, terms and conditions for use, and applicable governance arrangements.

National Disability Insurance Agency response: *Agreed.*

2.15 *Access to the Centrelink mainframe is currently managed through the NDIA's identity and access management system, Azure Active Directory, and is subject to an approval process. The ICT Services Branch will work with Services Australia, in addition to internal legal teams, to document appropriate arrangements to govern the means of provision, removal, and audit of access to Service Australia's Centrelink mainframe. Additionally, the ICT Services Branch will review and where appropriate modify the technical control and governance of access to ensure alignment with the agreed arrangements.*

Services Australia response: *Not Agreed.*

2.16 *Services Australia has provided documents showing the scope, terms and legislative basis for specified NDIA positions to be provided access to agency systems. This access is provided to NDIA staff on a read-only basis to support NDIA in carrying out its functions. Access is provided to NDIA staff in accordance with Schedule 3 of the Statement of Intent, in that those NDIA staff in relevant positions have a legitimate 'need to know' to perform their duties. Other NDIA staff may request access via a request form, through a process that is managed in accordance with the Statement of Intent, and relevant cyber security and other access policies.*

ANAO comments on Services Australia's response

2.17 The ANAO assessed the Statement of Intent between NDIA and Services Australia and other documentation received from Services Australia as not adequately setting out the scope, terms, legislative basis and governance for NDIA staff to access Centrelink mainframe systems. The Disclosure of Protected Information to the National Disability Insurance Agency instrument provided by Services Australia is a document recording the delegation of decision-making authority from the Chief Executive Centrelink to various officers within Services Australia to authorise the disclosure of information to NDIA staff where it is to assist in the administration of the NDIS or to support the work of the NDIS Fraud Taskforce and the NDIA's Fraud and Compliance Branch. Services Australia did not provide any documentation of decisions made under the instrument, including its consideration of the appropriateness of a request by NDIA to disclose information or grant access to the Centrelink mainframe. Services Australia included in its response a policy documented titled 'External Access to Services Australia Systems' and dated 9 December 2021. This policy sets out data sharing principles and processes including initial evaluation of requests, confirming legal authority, conducting ethics and fraud review, and risk management. Further, where systems access is required, the policy sets out a list of requirements to be included in a written agreement with the organisation being granted access. Services Australia did not provide any documentation of these internal policy requirements having been satisfied in relation to NDIA staff access to the Centrelink mainframe. The ANAO notes that the NDIA agreed to work with Services Australia to implement Recommendation no. 1.

Do communications support participant, partner and provider understanding of assistance with daily life supports?

NDIA communications include the Operational Guidelines, Participant Booklets and web content. Some information is published in different formats, such as easy read, Braille, Auslan video and languages other than English. Local Area Coordinators support participants to understand ADL supports and include these within their plans where relevant. NDIA has Standard Operating procedures (SOPs) to support staff and partner implementation of the NDIS, including ADL supports. Participant understanding could be improved with further research of the communication needs of specific cohorts.

Stakeholder communications

2.18 The NDIA's primary communication channel for all stakeholders is the website, www.ndis.gov.au, which attracts 300,000 visitors and 1.7 million page views per month. This sets out Operational Guidelines, participant booklets, videos and other material on access, planning and plan implementation.

2.19 The NDIS website includes hundreds of stories and 64 videos¹⁷, many featuring participants' experiences with planning and implementing their NDIS plans. Videos feature on NDIA's social media pages (Facebook, Instagram, LinkedIn and Twitter) to promote new or specific website content. Further communications support is provided by the National Contact Centre, which the NDIA reported answered 1.085 million calls, 1.07 million emails and 985,000 webchats in 2021–22.

2.20 The ANAO found the content of NDIA's communications to be largely consistent with legislation and policy and underpinned by sound governance processes to develop and publish new content and products. The NDIA developed an 'NDIA Style Guide' in 2018 adapted from the Australian Government Style Manual.¹⁸ NDIA communications are largely consistent with its internally developed style guide, including use of plain English, and publication of easy read versions of documents. Minor inconsistencies were identified which indicates that further work is required to simplify and standardise terminology. For example:

- 'Assistance with Daily Life' in participant plans is referred to as 'Daily Activities' in the myplace portal and some web content, and as 'Assistance with Daily Living' in some web content.
- The Participant Booklet 1: *Applying for the NDIS*, states that 'The NDIS provides reasonable and necessary funding to people with a permanent and significant disability so they can access the supports they need to live and enjoy their life'.¹⁹ The term 'significant disability'

17 National Disability Insurance Agency, *Stories and Videos* [Internet], NDIA, available from <https://www.ndis.gov.au/news/stories> [accessed 5 April 2023]

18 Australian Government, *Style Manual* [Internet], available from <https://www.stylemanual.gov.au/> [accessed 10 November 2022]

19 NDIA, *Applying for the NDIS* [Internet], available from <https://www.ndis.gov.au/about-us/publications/booklets-and-factsheets> [accessed 9 June 2023]

is not referenced in the NDIS Act, the NDIS eligibility webpage²⁰ or in the operational guideline 'Do you meet the disability requirements'.²¹

2.21 The NDIA has continuous improvement processes, including internal and external feedback mechanisms, to revise and update Operational Guidelines and web content to support consistency with legislation and to improve understanding.

2.22 The Participant First engagement initiative is one of the NDIA's co-design processes which connects staff to the lived experience and expertise of 4795 stakeholders, including participants and their family members and carers. The Participant First program includes focus groups, one-on-one interviews, and working groups intended to improve the services provided by NDIA. Participant First members are involved in testing groups to redevelop Operational Guidelines, policies and processes; and revising easy read guides and other publications on the NDIS website.

2.23 The ANAO assessed the NDIA's communication of changes that commenced on 1 July 2022 arising from the *National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2022*.²² This incorporated recommendations from the 2019 Review of the NDIS Act (the Tune Review).²³ The ANAO found communications to be largely consistent with legislation and policy and underpinned by sound governance and clearance processes to develop and publish new content and products. The NDIA provided communication via email and intranet updates to staff and LACs to support their awareness of the changes. The NDIA published a summary of the legislative changes on its website with a table setting out each change and the impact for participants.

Accessibility and usability of communications

2.24 The NDIA does not have ADL-specific communication products or channels. Communications are focussed on NDIS processes, such as scheme access, planning, plan implementation and review, as well as topic-specific products such Supported Independent Living (SIL), Individualised Living Options and Reasonable and Necessary Supports.

2.25 The Home and Living Program, which includes ADL supports, has its own Communications and Engagement Strategy and it was the subject of a consultation process in June 2021. Respondents indicated a preference for getting information about 'where and how you live?' from Support Coordinators or LACs (65 per cent) and the NDIS website (55 per cent). In response to the consultation question 'How helpful is the NDIS website to find information on home and living supports?', three per cent found it very helpful, 29 per cent somewhat helpful and 29 per cent said

20 NDIA, *Am I eligible* [Internet], available from <https://www.ndis.gov.au/applying-access-ndis/am-i-eligible> [accessed 9 June 2023]

21 NDIA, *Do you meet the disability requirements* [Internet], available from <https://ourguidelines.ndis.gov.au/home/becoming-participant/applying-ndis/do-you-meet-disability-requirements> [accessed 9 June 2023]

22 NDIA, *2022 NDIS Legislation amendments – July update* [Internet], available from <https://www.ndis.gov.au/news/7975-2022-ndis-legislation-amendments-july-update> [accessed 10 November 2022]

23 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013* [Internet]

it was not at all helpful. Eighteen per cent found it neither helpful nor unhelpful and 21 per cent had never looked at the NDIS website.

2.26 NDIA engaged Icon Agency in 2022 to undertake a benchmarking review of the NDIS website, informed by focus groups and a user survey in August and September 2022 with 893 respondents. Two thirds of respondents were providers (590), 153 participant respondents (17 per cent) and 161 respondents (18 per cent) who were family members, friends or carers.²⁴ As the survey results were not disaggregated by stakeholder type, participant perspectives were not clearly reflected in broader responses. Neither this study or other reviews focussed sufficiently on the specific communication needs of participants based on their disability, English language proficiency, cultural background, geographical location or length of engagement in the Scheme.

2.27 The benchmarking report completed in September 2022 found website usage was high (aggregated across all stakeholder cohorts), with 69 per cent visiting www.ndis.gov.au at least once per week. Similar to the Home and Living consultation survey responses and public contributions to this audit, only 16 per cent of respondents to the benchmark review found it easy to find information on the website, with 37 per cent finding it difficult. The search function was the most common area cited for improvement, followed by simpler language, clearer menus and improved navigation. The ANAO observed limitations with the search function, including lack of facility to filter and refine searches. Participants reported finding information more easily through google searches and provider websites. Glossary and acronyms pages were also out of date.

Opportunity for improvement

2.28 Future research and evaluation activities could benefit from specific analysis of the varied communication needs of participants based on their disability, English language proficiency, cultural background, geographical location and whether they are a new or ongoing participant.

Communication formats

2.29 The Participant Service Charter sets out what participants can expect of NDIA and Partners in the Community (PITC), including Local Area Coordinators (LACs) and Early Childhood Partners. The Participant Service Charter is based on five principles for engagement with participants and commits to offering service that is: transparent; responsive; respectful; empowering; and connected. The Participant Service Charter requires the NDIA to communicate in participants' preferred formats.

2.30 NDIA policies and procedures support accessibility and compliance with Web Content Accessibility Guidelines 2.0, including providing plans, letters and other key information in formats preferred by participants. Content is published online in a range of formats, including: web content (in plain English); standard Portable Document Format (PDF); Word (to assist Optical Character Recognition software); easy-read versions of documents with simplified language and diagrams; videos with transcripts; Australian sign language (Auslan); Braille; and translations into languages other than English. In December 2022, a range of NDIA information products were made available

24 There were 993 total responses as some of the 893 respondents were in more than one category.

in Auslan, Braille and translations into five languages other than English (bringing the total to 17). Online information (web content) is not routinely published in Braille.

2.31 NDIA guidance requires products such as Participant Booklets to be available in a range of formats and translations into languages other than English but there is no NDIA policy setting out what web content should be in different formats or languages, or which non-English languages should be used. NDIA documentation did not evidence how the 17 non-English languages currently used were selected.

2.32 The NDIA funds translation and interpreting services (including for Aboriginal and Torres Strait Islander languages) to support participant interaction with the NDIA or LACs, such as in planning meetings. The NDIA Practice Guide on Assisting communication sets out that additional translation and interpreter services for languages other than English are not funded as a support within a participant plans as these are not disability related supports and are expected to be sourced from mainstream services.²⁵ The NDIA has not assessed whether this impedes plan implementation for affected participant cohorts.

2.33 The NDIA provides funding through the National Aboriginal Community Controlled Health Organisation (NACCHO) for 50 Aboriginal Disability Liaison Officers (ADLO) to 'improve how the NDIS connects with Aboriginal and Torres Strait Islander people with disabilities.' A component of the funding requires NACCHO to engage an external party to undertake an evaluation of the program. In November 2022, the contract was extended and the evaluation component varied to require delivery of the final evaluation report by May 2024.

Participant Service Improvement Plan communication commitments

2.34 The NDIA developed a participant Service Improvement Plan (SIP) 2020–21 in August 2021, which was refreshed for 2022–23, setting out its plan of actions to meet the Participant Service Charter and the Participant Service Guarantee.²⁶ NDIA reports quarterly to Disability Reform Ministers on progress implementing the SIP. While NDIA reported all five of the commitments relating to communications²⁷ were completed, ANAO observed that further improvements were required to meet the commitment 'Our documents will use consistent terms and definitions with less jargon', for example, improving consistency of language (discussed paragraph 2.10).

25 Mainstream services include government and community services available to people regardless of whether they are NDIS participants.

26 The Participant Service Charter sets out how services will be delivered, and the Participant Service Guarantee sets out timeframes for processes and decisions.

See: NDIS, *Service Charter* [Internet], available from <https://www.ndis.gov.au/about-us/policies/service-charter>

27 The five completed communications commitments reviewed by the ANAO were: We will put the name of a real person on our letters to you; You will have a current contact name for all your interactions with us; Our documents will use consistent terms and definitions with less jargon; We will be clearer on what reasonable and necessary supports means, with case studies and examples; Our guidelines will come with plain English descriptions and more examples.

Is the NDIA effectively supporting participants in planning for assistance with daily life supports?

The NDIA has a structured process for developing and approving plans, based on the complexity of participants' needs. Plans can be developed by Local Area Coordinators or NDIA planning officers and are then approved by a NDIA delegate. Plans up to the value of \$385,000 can be developed and approved by a single delegate. The NDIA uses a typical support package (TSP) calculation to aid consistency in decision-making. The NDIA has not assessed the impacts on participant plan outcomes or scheme sustainability from high usage by planners of the World Health Organization Disability Assessment Schedule 2.0 (WHODAS) assessment tool. Since October 2021, the quality of decisions to fund supports considered reasonable and necessary for participants' needs have been below NDIA's target of 75 per cent. NDIA's results against its key performance measure of starting planning within 21 days of an access decision have consistently been above its 95 per cent target since quarter one, 2021–22 and results against the performance measure of approving a plan within 56 days have improved since 2021–22 and reached the target for the first time in quarter two, 2022–23.

Plan development

2.35 Section 34 *National Disability Insurance Scheme Act 2013* (NDIS Act) requires the funding for supports in plans to be both reasonable and necessary.

What is a 'reasonable and necessary' NDIS-funded support?

What is a 'reasonable and necessary' support is set out in section 34 — these supports:

- help the participant pursue their goals and aspirations;
- help the participant with activities to increase their social and economic participation;
- are value for money — the support costs are reasonable compared to their expected benefits and costs of alternative supports;
- are likely to be effective and beneficial for the participant;
- are needed to complement the participant's informal supports, by taking into account what is reasonable for families, carers, informal networks and the community to provide; and
- are most appropriately funded or provided by the NDIS rather than another source.

2.36 The staff involved in preparing, advising on, or approving plans depends on the participant's circumstances and support needs. Participants are streamed into general, supported, intensive, super intensive or complex streams for planning and management purposes.

2.37 If streamed to 'general' or 'supported', a LAC meets with the participant to develop a plan that is subsequently approved by a NDIA delegate. In 2020–21, LACs developed nearly 70 per cent of plans for participants aged seven or over. NDIA planners undertake all steps of the planning process for participants with more intensive support needs. Participants with complex needs, including those in hospital or younger people in, or at risk of entering, residential aged care, are allocated to specialised NDIA planners.

2.38 Participant plan development largely follows a single process, although for some ADL supports, expert teams assist. Where plans include home and living supports, the Home and Living (HAL) team assesses the home and living support needs, finishes building the draft plan and assists the NDIA delegate consider the entire plan for approval. Plans for participants with complex needs are fully prepared by specialist planners, in consultation with HAL. Dedicated teams of planners support participants in hospital with accommodation needs, as well as participants aged under 65 years, living in, or at risk of entering, residential aged care.

2.39 Information gathered in the pre-planning phase is recorded in the NDIA's business IT system, CRM, and helps planners identify reasonable and necessary supports to include in plans. Planners check the participant's record for an assessment of their primary disability that indicates functional impact and if the assessment on file is not current and/or the participant does not have a current assessment from a medical professional (or equivalent), the planner assesses functional capacity using the World Health Organization Disability Assessment Schedule 2.0 (WHODAS).²⁸

2.40 Information collected by the planner informs the automated calculation of a Typical Support Package (TSP) funding amount for NDIS supports relative to a participant's functional capacity.²⁹ The TSP assists planners to guide and support consistency in decision-making consistency and does not limit plan amounts.

2.41 During planning, the planner and participant discuss the participant's preferred plan management approach to determine how expenditure against approved plan budgets should be managed. Plan managed or self-managed participants can use unregistered providers. Table 2.1 outlines the plan funding.

Table 2.1: Plan management approaches for all participants as at December 2022

| Approach | How it works | Providers | Pricing | Participants |
|----------------------|---|----------------------------|--|--------------|
| Self-managed (fully) | NDIA pays participants so they can pay providers directly | Registered or unregistered | Not subject to NDIS pricing arrangements or price limits | 23% |
| Plan managed | Participants choose a registered plan manager (NDIS-funded), who pays other providers for the participant | Registered or unregistered | Must not exceed NDIS price limits | 58% |
| Agency managed | Managed by the NDIA. Providers claim payment from NDIA electronically | Registered | | 12% |

28 The WHODAS 2.0 is a generic assessment instrument developed by the World Health Organization to measure the health, level of functioning and disability in adults across six domains: cognition, mobility, self-care, getting along, life activities and participation. The comparable assessment tool for participants 16 or younger is the Paediatric Evaluation of Disability Inventory Computer Adaptive Test (PEDI-CAT).

29 A Typical Support Package (TSP) is an indicative funding amount for each adult participant's package of NDIS supports included in their draft plan. TSPs are calculated automatically in CRM, based on built-in actuarial data and participant responses to questionnaires recorded during pre-planning.

| Approach | How it works | Providers | Pricing | Participants |
|-----------------------|--|---|---|--------------|
| Self-managed (partly) | For example, ADL funding is self-managed and other funding is agency managed | Agency managed supports must be registered. | NDIS price limits for agency or plan-managed supports | 7% |

Source: ANAO analysis of NDIA documentation.

2.42 During plan development, planners complete a risk assessment. Where a registered plan manager is used to manage the funding, the NDIA considers whether to mitigate any risks to the participant by, for example, approving a plan of shorter duration (encouraging more frequent oversight) or offering regular check-ins, as agreed during the plan implementation meeting (paragraph 2.79).

2.43 Plan duration is determined based on participants' circumstances, including how stable their needs are, any expected life transitions (such as finishing school), and personal preference. CRM uses the recorded information to recommend plan duration, but planners vary plan duration as needed. In April 2021, the NDIA moved to longer plan durations, now up to 36 months duration, to simplify the planning process for participants with less variability in their circumstances and needs.

2.44 As of June 2022, four in every five participants had been through a full cycle of developing a plan, using it, and having a new plan developed and implemented. In August 2019, the NDIA introduced automatic plan extensions to prevent gaps in participant supports for plans that reached their end date before a full reassessment took place. In April 2021, the NDIA introduced the option, for planners to offer (between April and 30 June 2021) participants in certain circumstances³⁰ an automatic extension of their plan for up to 12 months.

2.45 As of April 2023, the NDIA's website did not specify a timeframe within which a reassessment should be completed following an automatic extension, and internal guidance states it must be done as soon as possible. The NDIA advised the ANAO that automatic extensions could occur more than once on a plan.

Delegation of decision-making powers

2.46 Authority to approve plans is limited by the financial limits set out in the NDIA Chief Executive Officer's instruments of delegation. For example, planning staff with the lowest delegation may approve plans with an annualised budget of up to \$330,000 for participants with the lowest assessed level of function. Specified Executive Level 2 and SES Band 1 officers may authorise plans with annualised value up to \$1.1 million. Four specified SES officers may authorise plans valued over \$1.1 million.

2.47 The NDIA appropriately maintained its instrument of delegation, including issuing updates on 1 July 2022 to reflect legislative changes around plan variations and reassessments.

2.48 The ANAO's 2021–22 financial statements audit found that key IT system controls operated effectively to ensure plan approvals complied with instruments of delegation. The ANAO observed

30 Optional automatic plan extensions were offered to participants between April and 30 June 2021 for plans due to end between those dates, where: the plan was for 12 months or longer; and the participant was aged seven or older and had a system-generated renewal recommendation of 12 months or more and had not yet had a plan reassessment meeting.

that, while there was segregation of duties between access and planning decisions, and for plans prepared by LACs (subject to NDIA delegate approval), a single delegate could both prepare and approve participant plans in certain circumstances. In 2021–22:

- single delegates developed and approved 7198 plans for new participants, with an aggregated plan value of \$0.6 billion; and
- there were 10,509 plans where single delegates developed and approved initial plans and the same delegates approved the subsequent plans, with a total value of these plans of \$1.6 billion.

2.49 In the 2021–22 financial statements audit, the ANAO recommended the NDIA review its overall monthly quality review sampling methodology to address the increased risks of error and fraud associated with single delegate approved plans, including at lower levels.

Assessment tools

2.50 NDIA delegates must consider relevant assessments when deciding whether to approve the funding of a support in a participant plan. NDIA encourages participants to provide the agency or a LAC with an assessment from their treating medical professional for consideration during planning meetings.

2.51 Where a participant's record does not include a medical assessment, or more information is required, the planner uses the World Health Organization Disability Assessment Schedule 2.0 (WHODAS) assessment tool to calculate a functional capacity assessment to inform plan development. *The National Disability Insurance Scheme (Supports for Participants) Rules 2013*³¹ requires the use of assessment tools in plan development to be specified in NDIA's Operational Guidelines. The use of assessment tools is specified in NDIA internal SOPs but are not included in the publicly accessible Operational Guidelines.

2.52 WHODAS is administered by questionnaire and does not need to be completed by a person with clinical qualifications. NDIA planners are required to complete training on undertaking WHODAS assessments with participants during plan development meetings. For each disability type, NDIA policy contains a preferential order for use of functional capacity assessment tools (see Appendix 3). NDIA guidance identifies WHODAS as the least preferred tool for adults across most disabilities (except vision, hearing and 'other' disability).³² NDIA guidance does not set out specific circumstances in which it is appropriate for planning staff to apply WHODAS where a disability-specific assessment is available, except that WHODAS may be applied where further information is required. The NDIS website states that:

31 Federal Register of Legislation, *National Disability Insurance Scheme (Supports for Participants) Rules 2013* [Internet], available from <https://www.legislation.gov.au/Series/F2013L01063> [accessed 20 April 2023]

32 National Disability Insurance Agency, *Types of disability evidence* [internet], NDIA, available from <https://www.ndis.gov.au/applying-access-ndis/how-apply/information-support-your-request/types-disability-evidence> [accessed January 2023]

In exceptional circumstances, where you do not have any existing assessments, an NDIA staff member may complete a general standardised functional assessment (such as WHODAS or PEDI-CAT³³) with you or your authorised representative.

2.53 In 2018, the NDIA scheme actuary reported issues with the use of the WHODAS assessment tool by planners, including an over-reliance on the tool and variation of functional capacity assessment outcomes from preferred tools. The scheme actuary stated that:

There has been a high degree of usage of the WHODAS 2.0 general functional assessment tool (Section 7.2), rather than the preferred disability-specific assessments. WHODAS 2.0 is more susceptible to gaming. For adults with intellectual disability, 71% of participants have a WHODAS 2.0 assessment rather than a DSM-V or Vineland-II, which are the preferred disability-specific assessment tools. About 6% of functional assessments made using DSM-V are assigned the lowest level of function, while over 30% of functional assessments using the WHODAS 2.0 tool are assigned the lowest level of function.

2.54 A 2021 internal audit on NDIA's customer relationship management system identified that planners can edit responses to the questions administered as part of the WHODAS assessment to achieve a higher overall score for functional capacity. The higher score may produce a higher Typical Support Package calculation used to inform, but not limit, plan development. However, the audit did not make any recommendations relating to this issue. The October 2021 report of the Joint Standing Committee Inquiry into Independent Assessments³⁴ raised concerns about the use of WHODAS, including that the result of the assessment underestimates the extent of difficulties of people with cognitive, mental health or fluctuating or episodic conditions. The NDIA has not assessed the impact of its over reliance on WHODAS, including whether it may be distorting plan funding outcomes for participants overall, or for certain participant cohorts (compared to planning outcomes where disability-specific tools are used).

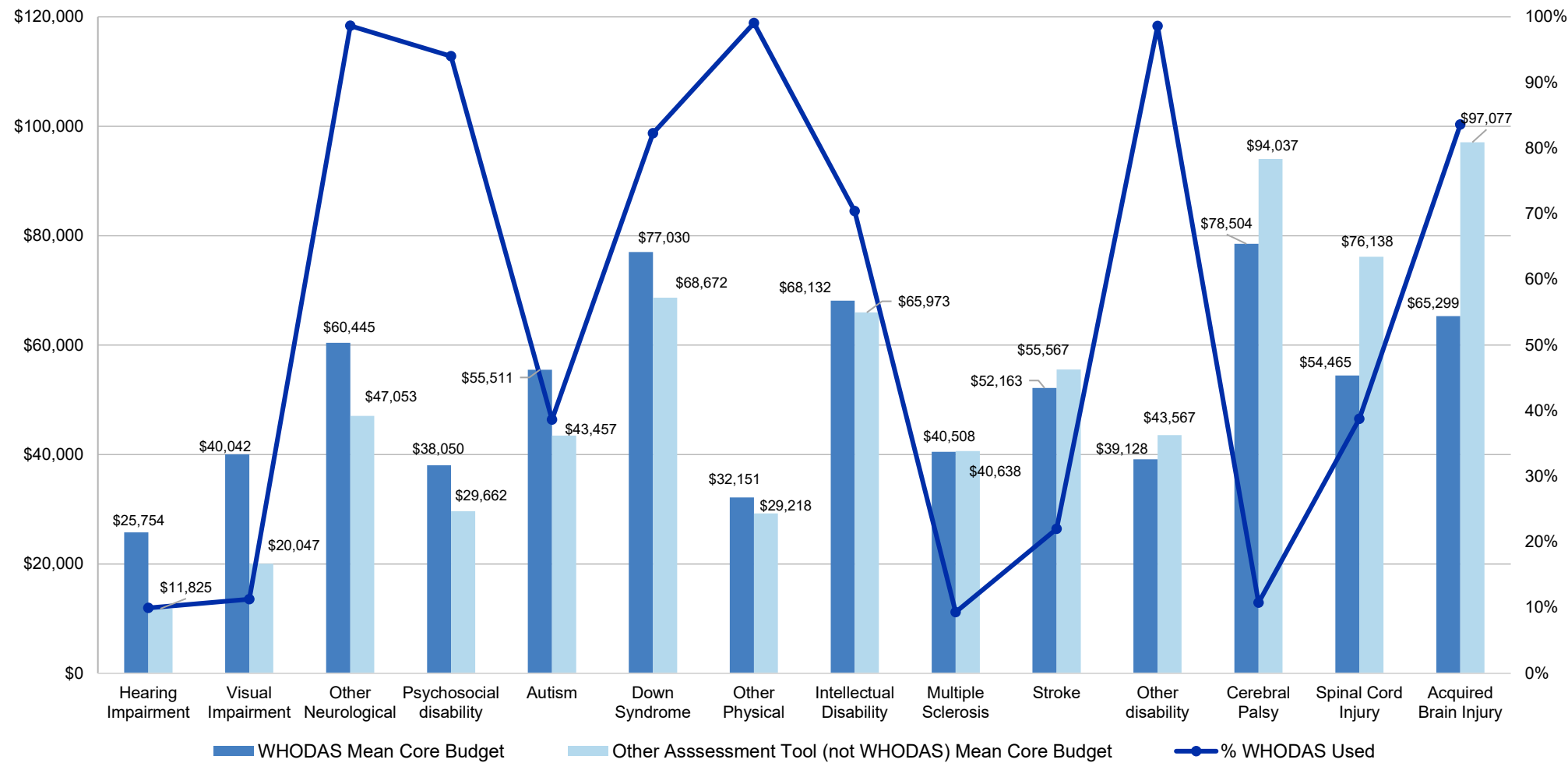
2.55 The ANAO's analysis of NDIA's 2021–22 data on participant plans that included ADL supports indicated average plan budgets vary depending on whether WHODAS or another tool is used (see Figure 2.1). Plan budgets were higher for eight out of the 14 disability groups when WHODAS was used compared to when other tools were used during plan development. For example, for adult participants with autism as a primary diagnosis, WHODAS was used for 39 per cent of plans, resulting in 28 per cent higher average funding for core supports³⁵ of \$55,511, compared to \$43,457 where another tool was used. Conversely, for participants with an acquired brain injury, WHODAS was used 84 per cent of the time, but resulted in average core supports funding of two thirds of that based on another tool, in most instances being the Care and Needs Scale (CANS). The ANAO analysis does not factor in other variables, such as age and geographical location, which may contribute to the differences.

33 Paediatric Evaluation of Disability Inventory Computer Adaptive Test (PEDI-CAT) for children 16 years or younger.

34 Australian Parliament House, *Joint Standing Committee Inquiry into Independent Assessments* [Internet], available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/IndependentAssessments [accessed December 2022]

35 Core supports are those that enable participants to complete activities of daily living.

Figure 2.1: Assistance with Daily Life (ADL): WHODAS assessment tool usage and average core supports budget 2021–22, relative to other assessment tool, by disability



Note: ADL is included in core supports budget (see paragraph 1.7). Analysis includes plans for participants aged 17 years or older approved in 2020–21 and 2021–22, and expenditure greater than zero. Excludes plans less than one month duration and groups with less than 1000 plans: Development Delay, Global Development Delay and Other Sensory/Speech. High usage of WHODAS is expected as the preferred tool for Other Neurological, Other Physical and Other Disability (see Appendix 3).

Source: ANAO analysis of NDIA data.

2.56 The NDIA's monthly quality reviews of samples of recently approved participant plans includes an assessment of whether 'the participant's level of function [is] supported by appropriate evidence?' and the use of assessment tools, including WHODAS, in accordance with SOPs. Across 2020–21 and 2021–22, the NDIA found that of the 11,912 plans reviewed, the participant's level of function was supported by appropriate evidence in 6968 plans (59 per cent). The NDIA's monthly quality reviews and recent results are discussed from paragraph 2.62.

Recommendation no. 2

2.57 The National Disability Insurance Agency (NDIA) review:

- (a) the use of the World Health Organization Disability Assessment Schedule 2.0 (WHODAS) tool by planners in developing participant plans, including analysis of plan outcomes, to assess the impact the use of this assessment tool has on participant plan outcomes and scheme sustainability; and
- (b) guidelines, procedures and web content to ensure it transparently conveys NDIA policy about the use of assessment tools consistent with legislative requirements.

National Disability Insurance Agency response: *Agreed.*

2.58 (a) *The NDIA will undertake analysis of budget variability versus TSP, by tool use. We will supplement this with a qualitative review of a sample of plans, looking at variability in budgets by tool use. This is an addition to a strategic program of activity underway to validate functional assessment tools, including the Information Gathering for Access and Planning project to co-design a new person-centred model of gathering information for access and planning decisions; and the comprehensive review of TSPs which began late 2022. The Improved TSP review enhances the previous TSP calculation to more appropriately capture a more 'typical' support package based on additional participant characteristics.*

(b) *The NDIA's guidance reflects the current policy about tools and assessments. Following the above review, any changes will be updated in our Operational Guidelines.*

ANAO comments on the National Disability Insurance Agency response

2.59 The ANAO observed high usage of WHODAS (see Figure 2.1) in contrast to published guidance referred to in paragraph 2.51 that states it would be used in exceptional circumstances. The recommendation at part (b) goes to transparently informing participants about the NDIA's use of WHODAS.

Consideration of evidence in planning

2.60 NDIA internal guidance directs planners to record the evidence used in developing participant plans. If a plan developer does not include funding for supports that a participant requested, they must document reasons for exclusion on the participant record. An NDIA delegate may disagree with the proposed plan and hold a Plan Alignment Meeting (PAM) with the plan developer to better understand the participant's circumstances or seek further information from the participant before making a final decision. The NDIA SOP states delegates should hold a PAM where they have made significant changes to the reasonable and necessary supports in the draft plan (changing the plan value by 20 per cent or more), or where they change the type of plan management to be used.

2.61 In a November 2021 report to the relevant division's senior executives, the NDIA reviewed a sample of 140 participant plans and identified that of the 75 plans where the delegate changed the plan, a PAM was held in 50 cases (69 per cent of the time). While this indicates PAMs are occurring in the majority of cases, the review did not consider whether the scope of the plan changes met the threshold for undertaking a PAM or whether discussions were held with the LAC who developed the plan that clarified the issue that would otherwise have been discussed during a PAM. As the NDIA does not routinely monitor the use of PAMs, it is unable to assess compliance with this internal policy requirement or their effectiveness.

2.62 In 2021–22, the NDIA's monthly quality reviews found that of the 6682 plans reviewed, planners assessed the available evidence in decision-making in 6174 plans (92 per cent). In 2021–22, there were 1250 plans quality reviewed where requested supports were not funded in the approved plan; the NDIA documented that it gave a reason to the participant in 718 cases (57 per cent). This indicates a low level of compliance with the NDIA's requirement to document that reasons for decisions were communicated to participants. NDIA progress in implementing ICT controls to support compliance is discussed in chapter 3, paragraph 3.4.

Quality checking and other reviews

2.63 The NDIA has a quality assurance program that assesses compliance with the NDIS Act 2013 (such as whether supports in plans are 'reasonable and necessary'), participant experience and the quality of planning and decision-making. The results of the quality assurance reviews are reported to the division's senior executives. The NDIA's Quality Review Manual sets out the basis for the selection of the sample and includes quality review checklists and guides. The monthly quality reviews are conducted on a random sample of 1.5 per cent of plans approved in the previous month. In addition to the random sample, a separate sample is taken of specific types of plans, such as those involving complex support needs or high costs. The NDIA does not monitor ADL support decisions specifically, but monitors the overall quality of the sampled plans which may or may not include ADL funded supports.

2.64 PITC organisations review the quality of a sample³⁶ of LAC prepared plans each month, before they are submitted to the NDIA for delegate approval and report these results to NDIA. PITC organisations use NDIA's methodology and templates for the review. NDIA reviews a sample of PITC reviews to validate results and reports those results monthly to relevant senior executives.

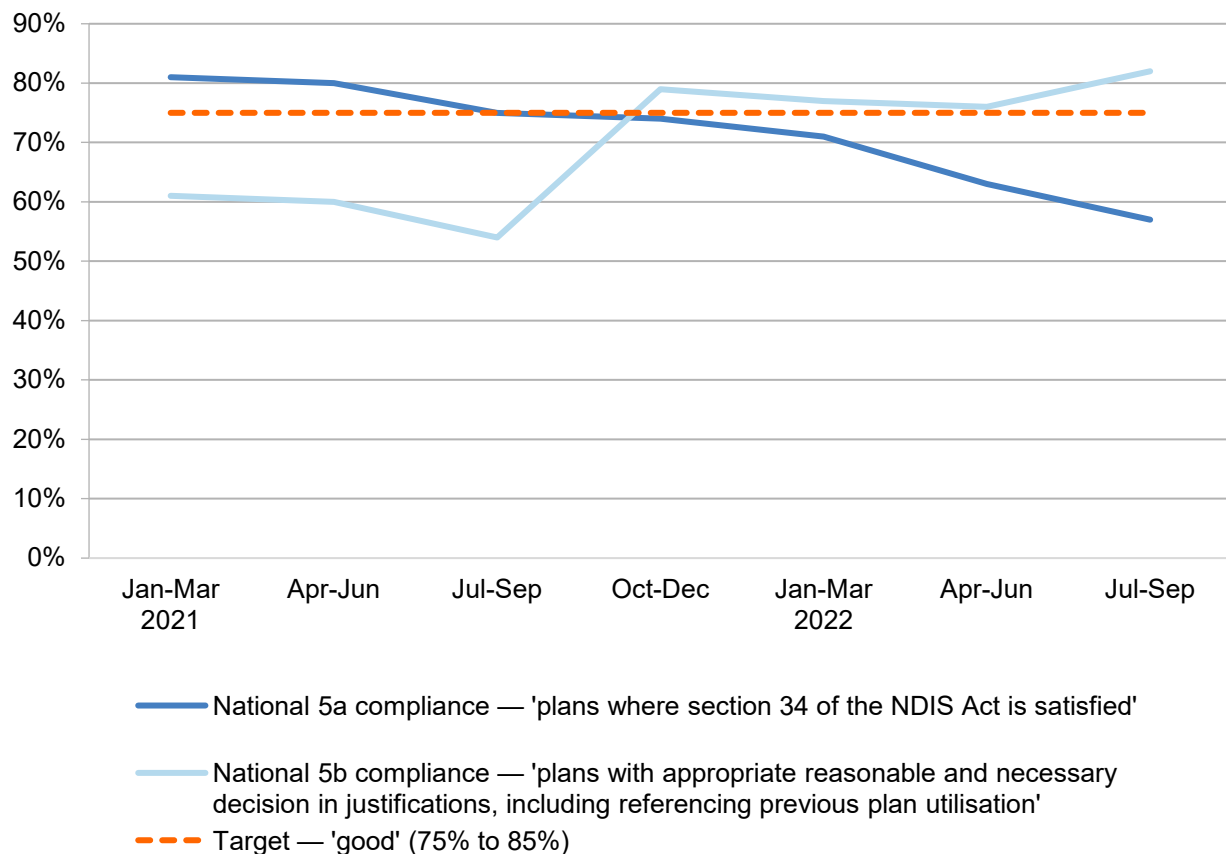
2.65 The following internal NDIA service delivery Key Performance Indicators (KPIs) are calculated on results of the quality reviews:

- KPI 5a — 'percentage of plans where section 34 of the NDIS Act is satisfied'; and
- KPI 5b — 'percentage of plans with appropriate reasonable and necessary decision in justifications, including referencing previous plan utilisation'.

36 The sample size is 2.5 per cent of plans prepared by LACs or a minimum of five reviews per month per service area, whichever number is greater.

2.66 The NDIA's reported quarterly results against KPIs 5a and 5b, from quarter three of 2020–21 to quarter one of 2022–23, are shown in Figure 2.2.³⁷

Figure 2.2: NDIA quality review results — 'reasonable and necessary' plan supports



Note: There was no specific target for performance against the KPIs prior to April 2023 and the NDIA rated performance above 75 per cent as 'good', above 85 per cent as 'better' and above 95 per cent as 'best'. From 3 April 2023, the NDIA set a target of 85 per cent.

Source: ANAO analysis of NDIA data.

2.67 Until December 2021, the NDIA had a separate team that reviewed the quality of a sample of plans prior to approval, to identify and correct any errors before implementation. In August 2022 the NDIA reported to its Risk Committee on decision quality, noting the reason it previously discontinued the team in December 2021 was that it considered it had achieved its intended purpose. The Risk Committee paper stated 'it is hypothesised that the removal of this control [along with reduced activity over Christmas period, messaging timeframes and the timing of the quality assurance review cycles] has impacted staff diligence around quality decision-making and thus is reflected in the May–July 2022 results'. In December 2022, NDIA introduced a new type of quality checks on participant plans to inform the upcoming plan reassessments. The NDIA now performs

37 In March 2022, the NDIA updated its KPIs and replaced 5a with an equivalent KPI 11a, 'the percentage of planning decisions for which the reasonable and necessary decision-making process was followed to a high standard.' KPI 5b was replaced by an equivalent KPI 11b. The NDIA retained existing target ranges. Both sets of KPIs are presented in Figure 2.2 as KPIs '5a' and '5b', see paragraphs 3.28 and 3.29.

front-end checks on plans that include 80 per cent or more supports than comparable plans (in terms of age, disability, and function) and are due to be reassessed. The checks are intended to review existing information and identify any errors or other matters for consideration in the plan reassessment. The NDIA's first internal report on the new process, for December 2022 to March 2023, showed it had checked 1468 plans and identified corrective actions for 874 plans (60 per cent).

2.68 A training module on 'reasonable and necessary' decision-making was released in August 2022 to help improve decision quality. While the training was not mandatory, 88 per cent of planners, including LACs, completed it. NDIA analysis of results from October 2022 (the first available after implementation of the training) showed a seven per cent improvement in overall decision quality for planners who attended the training compared to those who had not completed it.

2.69 Where an error is identified during quality reviews, it is assessed as representing a high, medium or low risk to participants or to NDIA's financial sustainability. Plans with errors assessed as high-risk are returned to the relevant team for correction. Medium and low-risk plan issues are not corrected but are considered by the relevant group's senior executives to identify priorities for any future agency-wide continuous improvement activity, such as new training modules. In ANAO's 2021–22 financial statements audit, a recommendation was made for the NDIA to consider revising its processes to facilitate recording medium and low risk matters within CRM to ensure specific follow up action is undertaken with the participant and allow for plans to be easily varied in such circumstances.

2.70 In May 2022, NDIA completed an internal audit of SIL, which identified a range of issues, such as a lack of a clear SIL decision-making framework and inconsistencies in SIL planning decisions. As shown in Table 2.2, the audit resulted in five findings, each with corresponding management actions agreed to by the NDIA. As of August 2022, the NDIA was responding to the higher-risk finding of the internal audit by co-designing a new Home and Living Policy and related projects, such as Home and Living demonstration projects. Table 2.2 sets out NDIA's reported progress against each of the key audit findings.

Table 2.2: NDIA Supported Independent Living internal audit — NDIA progress in addressing findings, as reported to ANAO in April 2023

| Finding | Agreed management response | Reported status |
|--|---|---------------------------|
| A clearly defined agency wide policy was not in place for SIL support. | Develop an overarching NDIS Home and Living Policy. | Open (due 31 Mar 2023) |
| Roles and responsibilities on SIL processes are to be clearly assigned and documented. | Update Home and Living Governance Group Terms of Reference. Update relevant Operational Guidelines and SOPs. | Closed (1 Jul 2022) |
| SIL risks and controls must be identified and recorded in Home and Living operational risk register. | Update operational risk register to include SIL risks and controls. | Closed (5 Oct 2022) |

| Finding | Agreed management response | Reported status |
|---|--|---------------------------|
| Governance and controls around SIL Tool should be strengthened. | Consider tools and resources that support Home and Living decision-making as part of the Making SIL Better project. Better align external and internal communication about the Home and Living process. | Open (due 31 Dec 2022) |
| Quality assurance and oversight on SIL plans need improvement. | Update the monthly quality review process to identify the SIL decisions in samples. | Closed (26 May 2022) |

Source: ANAO analysis of NDIA documents.

Planner training

2.71 Appropriate training and oversight of the NDIA's planning staff and LACs is important to ensure they develop participant plans in a timely manner while satisfying legislative and policy criteria. In addition to mandatory corporate training, NDIA requires new planning staff and LACs to complete an eight-week Planning Essentials Program (PEP) with on-the-job coaching.³⁸

2.72 NDIA monitors PEP training completion for new planners and periodically reviewed records of LAC training completion. Between August 2021 and September 2022, 920 planning staff (66 per cent of new starters) completed the PEP and 159 planning staff (11 per cent of new starters) were exempt, most having completed equivalent training at an earlier date. A further 289 (21 per cent) had started the training and 22 (two per cent) had not yet started.

2.73 While not mandatory, NDIA planners and LACs are also expected to complete the NDIA's Continuous Improvement 'CI Connect' training modules. CI Connect training is released periodically on topics identified as needing attention to support ongoing plan quality, for example, modules on use of assessment tools, including WHODAS. Across the ten CI Connect training modules delivered between May 2021 and August 2022, an average of 82 per cent of NDIA planning staff and 63 per cent of LACs (and ECs) had completed the training. Planners with responsibility for assessing applications for home and living supports in plans also undergo a two-week program of 'Home and Living' specific training and coaching. As of April 2023, 102 of the 106 staff in the Home and Living team had completed the training.

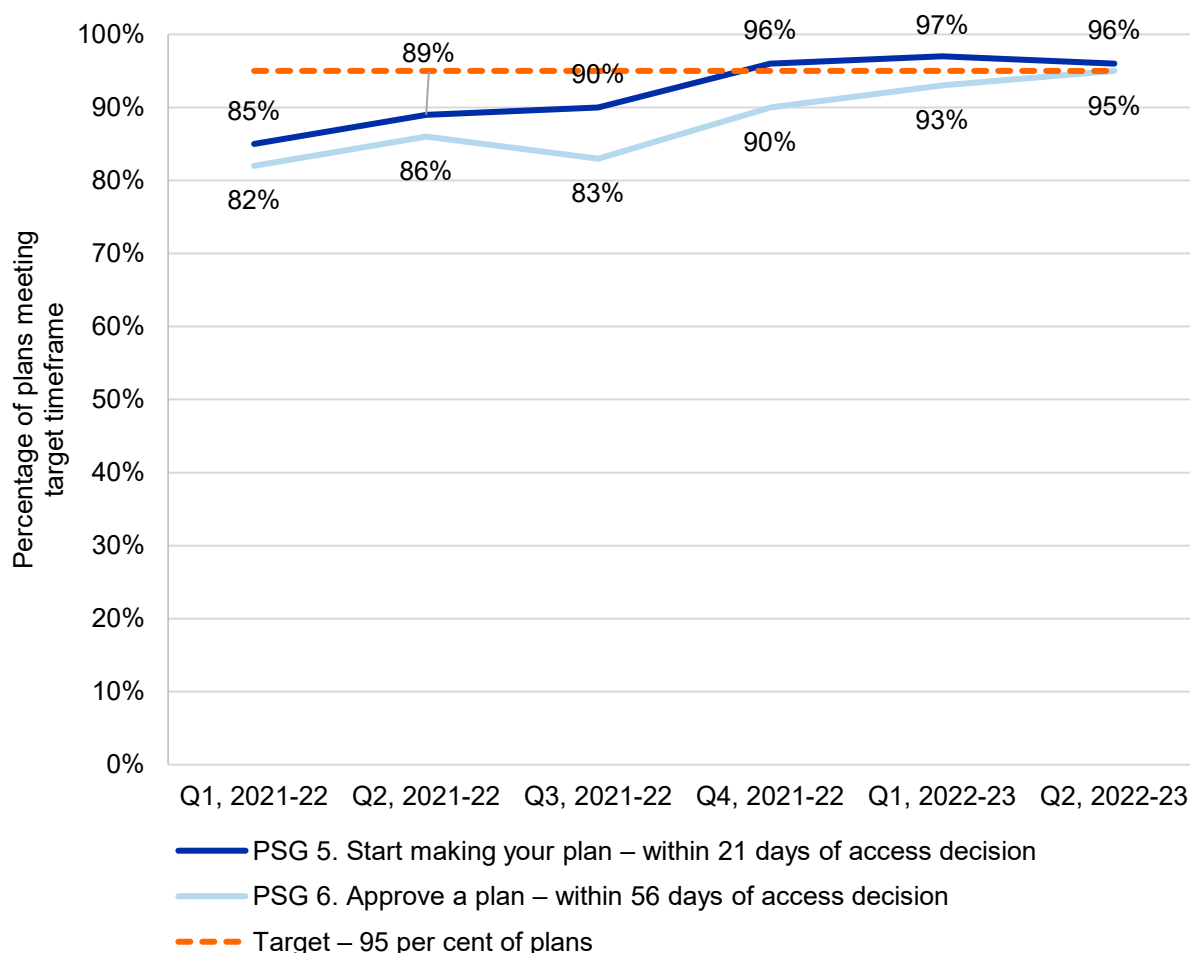
Timeliness of plan development

Participant Service Charter

2.74 The NDIA's Participant Service Charter³⁹ sets out participant expectations on timeframes, including 'service guarantees.' The PSG timeframes took effect in July 2022, although the NDIA has monitored results against the timeframes from 2021. Figure 2.3 shows the NDIA's reported quarterly results for the two planning-related PSG service standards from quarter one, 2021–22 to quarter two, 2022–23.

38 Mandatory training topics included, for example: Australian Public Service Values and Code of Conduct; information handling; security; work, health, and safety; diversity; disability rights; decision-making; and risk.

39 NDIS, *Service Charter* [Internet], available from <https://www.ndis.gov.au/about-us/policies/service-charter> [accessed July 2022]

Figure 2.3: Participant Service Guarantee — quarterly planning results, Quarter 1 2021–22 to Quarter 2 2022–23

Source: ANAO analysis of NDIA data.

2.75 Figure 2.3 shows planning times met the PSG target for ‘start making your plan’ from quarter 4, 2021–22 onwards and for ‘approve a plan’ only in quarter 2, 2022–23.

Home and Living Supports

2.76 The Participant Service Guarantee (PSG) sets a target of approving a plan within 56 days and to make small changes to a plan within 28 days and big changes within 50 days.⁴⁰ The NDIA reported to its Executive Leadership Team (ELT) in 2021–22 on timeliness of its Home and Living support decisions. NDIA started including home and living metrics in quarterly reports to disability ministers from quarter three of 2021–22, but these were not aligned to the PSG targets. The NDIA reported that at 30 June 2022, 3973 applications for Home and Living supports were in-progress. Of the open applications, 1919 applications (48 per cent) were completed within 30 days, while 201 (five per

40 NDIS, *Participant Service Guarantee* [Internet], available from <https://www.ndis.gov.au/about-us/policies/service-charter/participant-service-guarantee> [accessed 27 April 2023]

cent) took 90 days or more. By 31 October 2022, NDIA had reported some improvement, with the number of applications in-progress decreased to 3584, and the number of applications taking 90 days or more, to 171.

Is the NDIA effectively supporting participants in implementing plans with assistance with daily life supports?

The NDIA supports participants to implement NDIS funding for supports for activities of daily life (ADL) through education and guidance materials and monitoring use of approved funding. NDIA publishes guidance and online resources to assist participants to connect with and choose NDIS support providers and spend the funding within their plan. Participants may receive funding for tiered levels of support coordination to help implement and manage their plan. Participant survey results indicated the majority understood what happens after the plan is approved and where to seek assistance with implementing their plan. NDIA monitors the implementation phase by tracking the numbers of days it takes for a participant to activate their plan from the date of approval. NDIA generates reports to identify those participants who have not activated their plan within 90 days and may require additional support from NDIA staff or Local Area Coordinators. NDIA has established processes to support monitoring of plan use and connecting with participants at specified intervals or usage rates but does not monitor or report on compliance with these processes. NDIA policy does not assist staff to identify unexpected, overused or underused expenditure. Plan utilisation rates averaged 75 per cent nationally with a gradually increasing trend.

Connecting participants to ADL providers

2.77 Once a participant plan is approved, implementation begins with the participant able to start spending their funding allocated for NDIS supports. Except for agency managed plans (see Table 2.1), NDIA's role in assisting participants to implement their plan is in education and monitoring. Planners and LACs may refer a participant to a provider where requested but cannot recommend one or influence a participant's decision.

2.78 Participants are expected to select providers and use supports in accordance with their approved participant plan budget. Participants may seek assistance from family or informal supports or may have received funding for support coordination within in their plan.⁴¹ Support coordination is funded at three levels and is separate to plan management options in Table 2.1. The first level is support connection which includes providing initial support for participants to connect with providers. The second is coordination of support and the third level is specialist support coordination — these levels are for participants with more intensive or complex needs and provide support through the life of the plan. At 30 September 2022, 244,163 participants (44 per cent of all participants) had support coordination in their plan.

2.79 The NDIA introduced optional plan implementation meetings in August 2020 in response to the Tune review (paragraph 1.21), requiring all participants to be offered such meeting after the

41 Support Coordinators are funded to help participants understand and implement their plan, connect them to services, anticipate and help manage crises, and build the participant's capacity for self-direction.

approval of their plan. If the participant accepts the implementation meeting offer, the meeting is to be arranged within 28 days of the participant accepting the offer. Depending on the participant and their approved NDIS supports, the plan implementation meeting will either be held with the participant's LAC, NDIA planner, Support Coordinator or Recovery Coach (referred to as 'plan implementers' in this section). Where the plan involves significant home and living supports, such as SIL, the HAL team arranges initial plan implementation.

2.80 The plan implementation meeting is used to discuss:

- what NDIS supports are in the approved plan and how the participant will use these;
- reasons any requested supports were declined and how to seek a formal review;
- how the participant will connect with mainstream, community and informal supports not funded by the NDIS;
- making service agreements⁴² with providers and how to negotiate prices and inclusions; and
- how plan funding will be managed.

2.81 To help participants connect with NDIS support providers and to manage and monitor their plan funding, the NDIA has added the following resources to its website since June 2021.

- Provider Finder — an interactive online search tool for registered providers. Searches can be filtered by location, registration group, provider name and recent activity status.
- 'Tip sheets' — to assist participants find and choose new providers or supports. Tip sheets included links to the provider finder and questions for the participant to consider in identifying a provider that might best meet their needs.
- Budget calculator — an interactive online tool to estimate the amount of plan funding available, or how much support could be purchased for a selected timeframe (for example, \$200 per month or 10 hours per week).
- NDIS Support Organiser — an Excel spreadsheet template formatted to help participants identify at a given point how much support they have available in their plan.
- Guidance to use the participant mobile app, 'My NDIS', to view plan budget, information, personal details, and make claims for support payments (where self-managing).

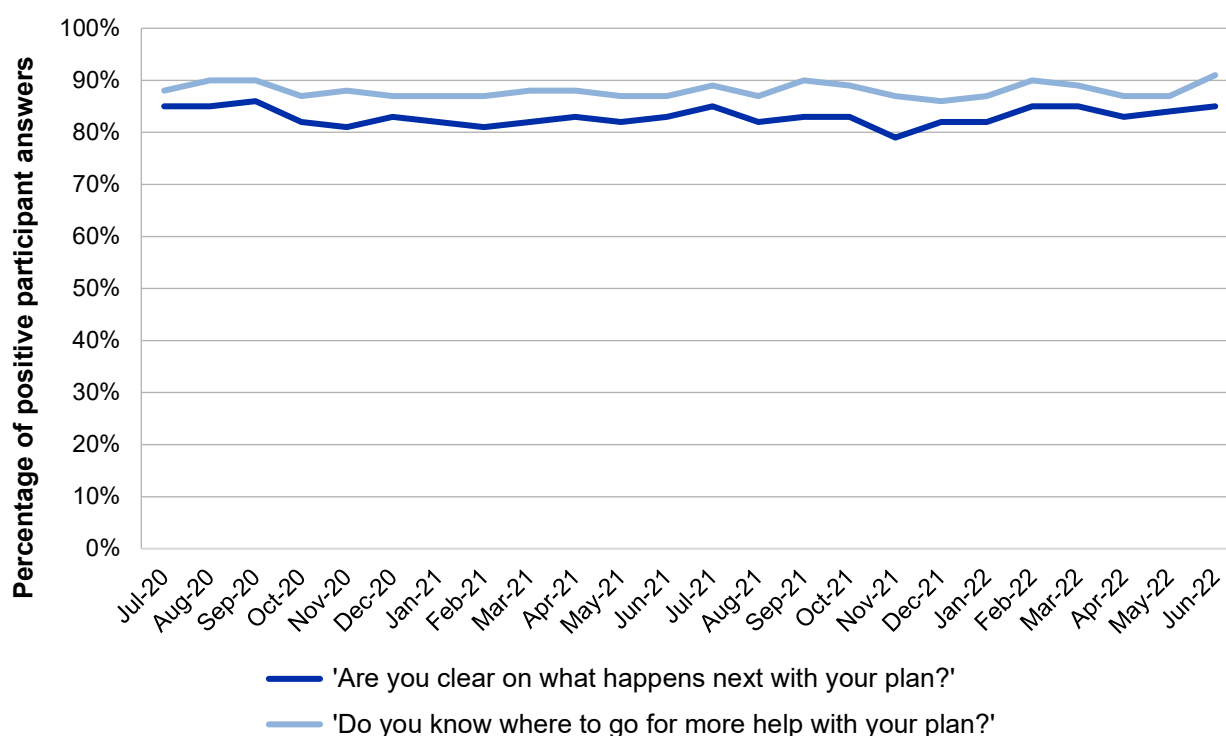
2.82 In May 2022, the NDIA published an online Plan Implementation Directory. The directory is a webpage with links to information on plan use and budgeting found across the NDIS website.

2.83 In response to a Tune Review recommendation that surveys are conducted independently, the NDIA engaged Australian Healthcare Associates in October 2020 to undertake monthly participant satisfaction surveys to assess the level of satisfaction of participants, their families, and carers at four stages of the participant pathway: access; pre-planning; planning; and plan review. These surveys include questions related to participants understanding of the plan implementation phase, namely whether participants are clear on what happens next with their plan, and whether

42 While only required for SDA, the NDIA recommends participants have a written service agreement with all their NDIS service providers so they are clear about what each party has agreed to, for example, what supports will be delivered. NDIA's website contains guidance for making a service agreement.

they know where to go for more help with their plan. Approximately 5,000 participants complete the survey each month. Figure 2.4 shows results against these questions from July 2020 to June 2022.

Figure 2.4: Participant understanding of plan implementation via satisfaction surveys from July 2020 to June 2022



Source: ANAO analysis of NDIA data.

2.84 The NDIA incorporates the elements of participant satisfaction in Figure 2.4 with other participant survey results to assess overall participant satisfaction with access, pre-planning, planning and review for one of its corporate key performance indicators. The combined satisfaction result for 2021–22 was 75 per cent against a target of 78 per cent. Results did not differentiate between new participants implementing their first plan and more experienced participants who have had multiple plans approved.

2.85 In June 2021 the NDIA publicly consulted on its approach to home and living (paragraph 2.25). In response to the consultation question, *‘Who helps you to organise your NDIS supports?’*, participants reported:

- formal supports, which includes paid supports (40 per cent);
- informal supports, such as family, friends and neighbours (38 per cent);
- self-manage without help (14 per cent); and
- other (8 per cent).

2.86 A majority of participants (88 per cent) reported that they found using formal supports either very or somewhat helpful. Themes from respondents included: ‘importance of having people with specialised knowledge of home and living options as it is very difficult for informal supports to navigate’; and ‘planners are not the most knowledgeable about home and living.’

Timeliness of participant connections to providers

2.87 The NDIA reported quarterly to disability ministers, on the timeliness of activation (first use) of plans for new participants (initial plans). Table 2.3 shows reported quarterly results for the 12 months to 30 March 2022. There is a lag in reporting to allow plans to be activated. The NDIA has not set a target for timeliness of activation.

Table 2.3: Number of days from plan approval to activation for new participants between 1 April 2021 and 30 March 2022

| Plan activation | Q4, 2020–21 | Q1, 2021–22 | Q2, 2021–22 | Q3, 2021–22 |
|-----------------------------|---------------|---------------|---------------|---------------|
| Less than 30 days | 68% | 68% | 63% | 71% |
| Within 90 days | 86% | 85% | 84% | 87% |
| After 90 days | 6% | 7% | 8% | 6% |
| No payments | 8% | 8% | 7% | 7% |
| Total plans approved | 18,239 | 20,356 | 20,266 | 19,424 |

Source: ANAO analysis of NDIA data.

2.88 The results show that, consistently over the 12-month period, most plans are at least partly used within 30 days, and the vast majority within 90 days. However, there is no standard reporting on the activation across multiple supports in plans.

Monitoring ongoing plan use

2.89 NDIA policy requires plan implementers start plan monitoring within four to eight weeks of plan approval. Plan monitoring involves assessing whether funded supports are being used to support a participant's goals, identifying any issues the participant might need help with, reviewing use of funded supports against approved budgets and identifying any suspected fraud or misuse of funded supports. Plan use is required to also be reviewed eight to 12 weeks prior to the end date for the current plan (the plan reassessment date, where needs are reassessed for a new plan). Plan implementers are required to contact participants or their representatives if the rate of spending for plan funds for approved supports is unexpected, overused, or underused. NDIA policy does not define unexpected, overused or underused expenditure.

2.90 The NDIA has a suite of reports for plan implementers to use in monitoring that set out how plan budgets are being spent. NDIA also issues weekly reports to each NDIA and LAC office which alert them to plans that have not been activated within 90 days of approval. Report recipients are expected to review the participant record and either take action, such as contacting the participant to discuss plan use, or document why they consider no action is needed.

2.91 In August 2020, the NDIA implemented a reporting tool, PANDA Live, to prompt the plan implementer to consider whether an 'ongoing check-in conversation' with a participant might be needed, including for participants with plan funding for a support coordinator or recovery coach. When prompted, staff are expected to review the participant record and consider a range of factors, such as plan budget and utilisation, to determine if a check-in conversation is needed. The conversation is intended to give participants additional support and advice for implementing their plans.

2.92 The ANAO reviewed eight examples of approved participant plans for evidence of monitoring activity being specifically documented by NDIA or LAC staff and observed this had occurred for four participants. There were no records of monitoring activity being recorded for three participants and for one, monitoring was not applicable as they had since died.

2.93 While the NDIA had established processes to support timely monitoring of plan use and to prompt participant check-ins, it did not centrally monitor or report on compliance with the processes to assure itself that participant monitoring, or check-ins, were occurring where needed across the organisation. NDIA monthly quality reviews of approved plans include checking, 'Is there evidence on the participant's progress towards attaining goals?' In 2021–22, the NDIA found that of the 5837 plans reviewed, there was evidence recorded of the participant's progress towards attaining goals in 4815 plans (82 per cent). The NDIA did not consistently collect evidence on participant progress towards achieving their goals at plan reviews. More consistent collection and review of information on participant progress would better support plan implementation and monitoring, and plan reassessments.

Plan utilisation

2.94 Plan utilisation⁴³ is NDIA's measure of the effectiveness of plan implementation. NDIA monitors plan utilisation by participants at an aggregate level and includes results in its reports to ELT and the Board. Overall plan utilisation reported in July 2022 was 75 per cent. Plan utilisation is reported at an aggregate level against districts⁴⁴ to indicate the presence and extent of thin markets.⁴⁵ These monthly reports do not include detailed reporting on ADL or SIL, including in relation to utilisation.

2.95 The NDIA includes plan utilisation data in its quarterly reports to disability ministers. An addendum to the NDIA's June 2022 report included analysis of utilisation trends for specific cohorts of participants. The report indicated that for all cohorts, utilisation increased with successive plans. For Indigenous participants, the utilisation rate and rate of increase of spending of funded supports from the first plan to subsequent plans was less than for non-Indigenous participants. For culturally and linguistically diverse participants, the utilisation rate and the rate of increase were higher compared to other participants.

2.96 In 2020, the NDIA published its analysis of participant plan data, including utilisation of plan funding, for NDIS participants living in different remoteness areas.⁴⁶ The report identified:

43 'Utilisation' refers to the proportion of funded supports in participant plans that are utilised (calculated as total payments divided by total committed supports). NDIA calculates average utilisation of committed supports over six-monthly periods (to allow for a three-month payment delay).

44 For NDIS market monitoring and analysis purposes, the NDIA identified 80 geographical service districts across Australia.

45 Districts may be considered to have a 'thin market' for services where inadequate service availability results in participants' needs not being met. For example, thin markets may be present in geographically rural or remote areas where no, or too few, providers of needed supports operate.

46 National Disability Insurance Agency, *Participants across remoteness classifications* [Internet], NDIA, available from <https://data.ndis.gov.au/reports-and-analyses/participant-dashboards/previous-participant-group-reports> [accessed September 2022]

- average payments for non-SIL participants were lower in remote and very remote areas combined compared to regional and major cities; SIL participants utilised a higher proportion of their plans than non-SIL participants;
- average utilisation rates were similar for SIL participants across all remoteness areas; and
- for non-SIL participants, utilisation was lower in remote (48 per cent) and very remote (36 per cent) areas than in major cities (64 per cent) and regional areas (58–62 per cent).

2.97 The NDIA's June 2019 report on Aboriginal and Torres Strait Islander participants⁴⁷ identified lower utilisation rates for Indigenous people than non-Indigenous people across all age groups and degrees of remoteness. Utilisation rates decreased with increasing remoteness. Thinner provider markets in remote localities disproportionately impact Indigenous participants due to their higher representation. The ANAO's data analysis indicates utilisation for Indigenous participants improved from 70.00 per cent in quarter two of 2021–22 to 70.93 per cent in quarter one of 2022–23, but is still below that for non-Indigenous participants. NDIA advised that it was seeking to increase utilisation and outcomes through an updated First Nations Strategy.

2.98 NDIA analysis of utilisation data for culturally and linguistically diverse participants showed higher utilisation overall compared to other participants. Aggregate data does not allow for analysis of lower utilisation rates for specific cohorts within the overall population.

2.99 ANAO analysis of utilisation by participants in a remote region showed that it trended lower the more remotely a participant lives. Lower utilisation rates were noted in non-remote towns with fewer than 5000 people.

Opportunity for improvement

2.100 While developing the new First Nations Strategy and Cultural and Linguistic Diversity Strategy, NDIA could undertake more detailed analysis of plan utilisation by specific demographic cohorts to inform targeted strategic activities. This includes utilisation by First Nations and different culturally and linguistic diverse communities, plan management type, primary disability, and level of functional English.

Support for participants with service delivery issues or changing needs

2.101 The NDIS Quality and Safeguards Commission (the Commission) is responsible for registering and overseeing NDIS providers, including their compliance with quality and safety standards and the NDIS Code of Conduct. Participants with more intensive or complex needs may receive funding for higher levels of support coordination to help link with supports and resolve service delivery issues. This may include support to liaise with other parties such as the Commission for support with providers.

2.102 The NDIA and the Commission have an agreed Statement of Intent to support their bilateral relationship, under which they share intelligence and advance notice of planned actions with a

47 National Disability Insurance Agency, *Aboriginal and Torres Strait Islander participants 30 June 2019* [internet], NDIA, available from <https://data.ndis.gov.au/reports-and-analyses/participant-dashboards/previous-participant-group-reports> [accessed September 2022]

potential impact on participant safety or service continuity, such as Commission plans to remove a provider's registration. The agencies share information about complaints, Participant Critical Incidents, Reportable Incidents⁴⁸ and provider exits.






2.103 While NDIA and the Commission share provider intelligence, a provider can cease providing NDIS supports with limited warning. Where a provider leaves the NDIS market, support coordinators and LACs working with affected participants help them identify and connect with alternative providers. NDIA undertakes a risk assessment of provider exits and assists in more complex or high-risk cases, such as where there are limited alternative providers for participants to transfer to, where SIL or SDA supports are involved, or the provider exited at very short notice.

2.104 Participants may also have a change in circumstances and need a change to the level or value of funded ADL supports, this can be done via a plan variation or plan reassessment and be initiated by the participant or the NDIA. A plan reassessment is undertaken where there are significant changes in circumstances. The NDIA also contacts participants towards the end of the plan (three months) to arrange a plan reassessment. From July 2022, a plan variation may be used to update the plan, without a reassessment, in specified circumstances, including where there is a small error in the plan, a change to how the funds are managed, emergency funding is required or an adjustment is required due to a change in the reassessment date.

2.105 While participant plans vary in duration, between 1 July 2020 and 30 June 2022 the average ADL participant plan duration was 434 days (1.2 years) and the median was 366 days.

2.106 Table 2.4 sets out results against selected PSG measures relevant to implementation for the most recent full quarter since the PSG was introduced in July 2022.

Table 2.4: NDIA reported performance against service guarantee timeframes for implementation, October to December 2022

| Service type | Description of service being guaranteed | Service Guarantee | Results Q2, 2022–23 (%) | Results against target |
|--------------------------------|--|-------------------|-------------------------|---|
| Implementation | Have a meeting to start your plan if you want to | 28 days | 100 |  |
| Reassessing or changing a plan | Start setting up a plan reassessment | 56 days | 77 |  |
| | Decide whether to do a plan reassessment, if you ask us to | 21 days | 81 |  |
| | Do a plan reassessment we have agreed to | 28 days | 71 |  |
| | Make small changes to a plan | 28 days | 94 |  |

48 Participant Critical Incidents (PCI) are incidents involving participants that come to NDIA's attention and require investigation to ensure participant safety. PCIs could relate to the death, serious injury, abuse, or self-harm of a participant. PCIs may involve registered or unregistered providers. Reportable Incidents (RIs) are managed by the Commission and are incidents that occur in connection with the provision of supports or services by a registered provider, such as death, serious injury, abuse or neglect of a participant.

| Service type | Description of service being guaranteed | Service Guarantee | Results Q2, 2022–23 (%) | Results against target |
|---|--|-------------------|-------------------------|------------------------|
| | Make big changes to a plan | 50 days | 97 | ◆ |
| | Review our decisions if we need to | 60 days | 95 | ◆ |
| | Put changes into place when the Administrative Appeals Tribunal asks us to | 28 days | 97 | ◆ |
| <p>Key:</p> <p>◆ 95 per cent and over</p> <p>▲ 85 to 95 per cent</p> <p>■ less than 85 per cent</p> | | | | |

Note: NDIA considers its target met for PSG results if the service guarantee is met in at least 95 per cent of cases.

Source: ANAO analysis of reported NDIA data.

2.107 NDIA measures its timeliness in facilitating plan reassessments. While reported timeliness against the PSG in each quarter in 2021–22 was between 52 and 60 per cent for scheduled reassessments, for plan updates it was between 91 and 96 per cent. NDIA consistently met PSG 9 ('If the participant accepts the offer, hold a plan implementation meeting') in 2021–22, with plan implementation meetings occurring within 28 days of a participant accepting the offer in 100 per cent of cases.

2.108 The ANAO reviewed examples of participant plans and observed implementation actions were occurring and recorded in accordance with policy guidance.

Has the NDIA assessed NDIS participant outcomes in relation to assistance with daily life supports?

The NDIA assesses outcomes for participants, and their families and carers, including through short form and long form questionnaires. These questionnaires include participants who receive ADL funded supports but the results are not categorised by reference to ADL specifically. The survey results are reported monthly to the Board and quarterly to the Disability Reform Ministerial Council. NDIA collects comprehensive data but does not undertake analysis of trends or outcomes to inform service improvement.

NDIA provided a 2019 data set to ABS for data linkage. The ANAO saw no evidence of plans for ongoing data linkages which could inform assessment of participant outcomes. The NDIA may improve its ability to measure participant outcomes in the future through the implementation of its 2022–27 Research and Evaluation Strategy.

2.109 NDIA's functions under subsection 118(1) of the NDIS Act include to collect, analyse and share data and undertake research relating to disabilities and supports for people with disability, and the social contributors to disabilities.

Evaluation strategy

2.110 The NDIA's Research and Evaluation Strategy 2022–27 (the strategy) focuses on four work streams: information gathering for access and planning, early intervention and high-volume cohorts, home and living, and markets and employment. The first and third work streams are relevant to ADL. The work streams have a series of deliverables set out in the current strategy, along with indicative delivery dates. Each work stream has four objectives:

- generate new evidence to support the delivery of the corporate plan;
- test innovations and discover ways to do things differently;
- measure participant outcomes to inform policy and service delivery; and
- turn evidence into action to support decision making.

2.111 The strategy defines five key participant outcomes that are measured to assess the overall benefits of NDIS:

- equitable access to quality services;
- informed choice and control;
- economic participation;
- daily living and independence; and
- social participation and inclusion.

2.112 The NDIA has set up a governance structure to support evaluation, including a steering committee, and working groups and advisory panels for each work stream. The steering committee provides guidance and oversight for projects investigating Scheme impact on participant outcomes. The working groups support the design and delivery of research and to support research translation.

2.113 The principles governing the NDIA's engagement with participants involved in evaluation are specified in the Research and Evaluation Participant Service Charter, which commits the NDIA to being transparent, responsive, respectful, empowering and connected.

2.114 The Research and Evaluation Branch is separate from NDIA's operations branches to support a level of independence. It advises on co-designing evaluations with policy and program leads and assisting with survey design, consultation questions and data requests. Evaluation projects with primary data collection from NDIS participants and vulnerable populations are reviewed by a human research ethics committee accredited by the National Health and Medical Research Council.

2.115 The NDIS 2021–22 Annual Financial Sustainability Report (AFSR)⁴⁹ recommended that 'The NDIA should continue work on prioritising, implementing and measuring the impact of initiatives that aim to improve participant outcomes.' In 2022, NDIA commenced an Investment Effectiveness Program (IEP) with the Department of Social Services to better understand causal links between supports and participant outcomes. The IEP is a feature of the Research and Evaluation strategy.

49 NDIA, *National Disability Insurance Scheme Annual Financial Sustainability Report 2021–22* [Internet], available from <https://www.ndis.gov.au/about-us/publications/annual-financial-sustainability-reports> [accessed 3 January 2023]

2.116 The first IEP output was ‘basic descriptive statistics for selected outcomes’, published in the 2021–22 AFSR.⁵⁰ This included data from short form outcomes questionnaires completed at plan review points. To test the feasibility of the broader IEP project, a pilot phase is being undertaken on a cohort of participants and split across five phases from March 2022 until June 2024. Future work in 2023–24 is expected to include cost effectiveness modelling and recommendations for NDIS adjustments. The IEP indicates a planned maturation of NDIA from data collection and reporting to data analytics and outcome analysis. The ANAO has not undertaken analysis of the IEP as the program is still in its early stage.

Assessment of outcomes

2.117 The NDIA publishes annual outcomes reports for participants and for families and carers based on longitudinal data collected through the long and short form questionnaires since 2016.⁵¹ The *Participant outcomes to 30 June 2022* report shows that outcomes are generally improving for participants aged 15 years and over across measures such as learning, choice and control, relationships, social and community participation, and identifies areas of concern, such as employment declining for participants aged over 25. There was no evidence that the reports were being used to drive changes to improve outcomes or NDIA’s business practices.

2.118 The NDIA is undertaking Home and Living Demonstration Projects to explore new ways for participants to pursue their Home and Living goals, promote positive participant outcomes, and support scheme sustainability. NDIA advised the ANAO that interim reports would be delivered incrementally from March 2023, with final reports due by June 2024. NDIA co-design approach to development of the new culturally and linguistically diverse (CALD) and First Nations strategies includes an evaluation element.

2.119 NDIA undertakes ongoing monitoring of participant, family and carer outcomes, through questionnaires, including participants with ADL supports. Questions vary based on the participant’s age group, for example, adults are asked about economic outcomes such as employment. The relationship between the questionnaires and the evaluation strategy is unclear. The results of the questionnaires are reported to the Board and ELT and are included in quarterly reports to disability ministers. These reports include trend data and descriptions of the results but no analysis of why data is trending particular ways or recommendations for what changes could be made to improve outcomes.

2.120 Short-form questionnaires are provided to all participants (or their family), with 98 per cent of participants with a new plan providing either participant and/or a family response. Long-form questionnaires have been collected annually since 2016, when 1117 responses were received

50 NDIA, *National Disability Insurance Scheme Annual Financial Sustainability Report 2021-22* [Internet], Appendix K, available from <https://www.ndis.gov.au/about-us/publications/annual-financial-sustainability-reports> [accessed 3 January 2023]

51 NDIA, *Participant outcomes To 30 June 2022 and Family and carer outcomes To 30 June 2022* [Internet], available from <https://data.ndis.gov.au/reports-and-analyses/outcomes-and-goals/participant-families-and-carer-outcomes-reports> [accessed 27 April 2023]

from 2161 participants invited. Since 2019, a sample of around 6000 new participants each year are invited to complete the long form questionnaire, with about half responding. Respondents to previous long form questionnaires are asked to participate subsequent years to establish a longitudinal dataset. Response rates for subsequent years declined, for example, 66 per cent of the 2016, 2017 and 2018 cohorts took part in a second interview. Long form questionnaires were administered by Assessments Australia in 2016 and by Australian Healthcare Associates annually from 2017 onwards. Participants are selected using a stratified sampling methodology and sub-populations with lower response rates are over-sampled. The sample includes participants previously surveyed and new participants with their first plan. Results of the short form questionnaires are included in quarterly reports to disability ministers and annually in the Families and Carers Outcomes Summary Report which is published on NDIA's website. There is no analysis of the results or details of business processes changed in order to improve overall performance.

Monitoring and Reporting

2.121 The NDIA reports on the performance and operation of the NDIS in weekly and monthly 'pulse reports' to its executive and monthly 'pulse reports' to the Board. Monthly pulse reports include performance against the corporate plan and PSG. These reports include survey-derived metrics related to participant and NDIS outcomes, and participant and stakeholder sentiment. The reports also include details of NDIS financial sustainability and integrity, market performance, and NDIA operating performance.

2.122 The NDIA produces quarterly reports to disability ministers which are generally over 500 pages in length and are published on NDIA's website.⁵² These include detailed, summary and dashboard reports at the national level and dashboards for each jurisdiction. The quarterly reports include information on: participant demographics, participant plans, experience and outcomes; performance against the PSG and PSIP; providers; financial sustainability; and staff, advisory groups and the NDIS community. Detailed appendices also provide state and territory breakdowns with numbers of providers supplying ADL supports and total annualised committed supports (plan budgets) and total payments in the assistance with daily life category. Quarterly reports include some high level analysis on participant outcomes, questionnaire results and participant plan utilisation but do not provide sufficiently detailed insights to inform consideration of possible changes in policy or process.

2.123 The NDIA has a Public Data Sharing Policy⁵³ which governs arrangements for data sharing with other government entities, academics and researchers. NDIA publishes data and information to a 'Data and Insights' website. De-identified data published to the website include participant numbers, plan budgets, utilisation, payments, disaggregated by disability and demographic data. Other reports provide data on provider numbers and market concentration.

2.124 In 2019, NDIA provided de-identified data to the Australian Bureau of Statistics (ABS) led Multi-Agency Data Integration Project (MADIP) to test linkage feasibility. The ABS linked data on

52 National Disability Insurance Agency, *Quarterly Reports* [Internet], NDIA, available from <https://www.ndis.gov.au/about-us/publications/quarterly-reports> [accessed March 2023].

53 National Disability Insurance Agency, *Data and Insights* [Internet], NDIA, available from <https://data.ndis.gov.au/> [accessed March 2023]

primary disability and NDIS supports with Census, Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS) data.⁵⁴ The ABS report published in September 2021 provided insights on participant access to MBS and PBS and highlighted the potential of further data linkage.

2.125 The Research and Evaluation Strategy 2022–27 noted an intent to undertake data linkage. There was no evidence of ongoing of data linkage projects. NDIA advised data linkage will form part of its data strategy being developed in 2023, including the National Disability Data Asset.⁵⁵

Opportunity for improvement

2.126 Consistent with the legislative functions of the NDIA to collect, analyse and exchange data and to enhance the assessment of participant outcomes, NDIA could support ongoing data linkages with the Australian Bureau of Statistics and National Disability Data Asset.

-
- 54 Australian Bureau of Statistics, *Characteristics of National Disability Insurance Scheme (NDIS) participants, 2019: Analysis of linked data* [Internet], ABS, 2021, available from <https://www.abs.gov.au/articles/characteristics-national-disability-insurance-scheme-ndis-participants-2019-analysis-linked-data>, [accessed 26 January 2023].
- 55 The Australian and state and territory governments are developing the National Disability Data Asset to link data to better understand outcomes of people with disability. More information can be found at <https://ndda.dss.gov.au/> [accessed March 2023].

3. NDIA management of risks to proper use of resources

Areas examined.

This chapter examined whether the National Disability Insurance Agency (NDIA) effectively managed risks in providing assistance with daily life and other National Disability Insurance Scheme (NDIS) supports. This included assessing implementation of the recommendations of two prior Auditor-General reports, pricing arrangements, conflict of interest controls and controls for overclaiming.

Conclusion

The NDIA has partly effective processes in place to manage the risks to the proper use of resources for all support categories, including ADL, with deficiencies identified in relation to the quality of its decision-making, staff related conflicts of interest and fraud controls. The NDIA partly implemented recommendations from Auditor-General Report No.14 2020–21 *Decision-Making Controls for NDIS Participant Plans*. NDIA has established and follows appropriate arrangements for setting prices for funded supports including ADL. NDIA's management of conflict of interest risk is largely effective for Board members, SES staff and Partners in the Community (PITC). Controls for managing APS staff and contractor providers of support coordination conflicts of interest are partly effective.

NDIA has a partly fit for purpose fraud control framework and has partly implemented recommendations from Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program*. The NDIA has partly effective controls for managing the risk of overclaiming by participants and providers.

Areas for improvement

The ANAO made 12 recommendations for the NDIA aimed at improving controls relating to plans that vary from the typical support package, managing risks related to fraud and conflict of interests, overclaiming of the Temporary Transformation Payment by providers and fully implementing all agreed recommendations from prior Auditor-General reports. One recommendation was for the Australian Government to strengthen NDIA fraud risk arrangements.

The ANAO also identified one opportunity for improvement relating to reporting of outcomes from tip offs to inform fraud risk assessments and compliance responses.

3.1 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) require accountable authorities to efficiently, effectively, economically and ethically manage Commonwealth resources. The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) establish requirements and procedures to achieve the objective of the proper use of resources, including specific provisions which relate to conflict of interest, risk management and fraud prevention. The National Disability Insurance Scheme — Risk Management Rules 2013 require NDIA to have a risk management strategy, culture, structure, and practices in place to monitor and manage material risks it is likely to face.

3.2 Effective controls and mechanisms for decision-making in relation to participant plans, setting of pricing limits, managing conflicts of interest, detecting and preventing fraud detection

and managing payments supports the NDIA's proper use of Commonwealth funds and management of risks relating to the size and scale of its operations. The ANAO assessed NDIA's management of specific categories of operational risks in the Auditor-General Report No.14 2020–21 *Decision-Making Controls for NDIS Participant Plans* and Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program*. The audit assessed NDIA's implementation of the recommendations from the two prior audits designed to improve NDIA's management of risks to the proper use of Commonwealth resources.

Has the NDIA implemented prior Auditor-General recommendations for decision controls over 'reasonable and necessary' supports?

The NDIA has partly implemented the three recommendations from Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans*. ICT controls aligned to policy requirements for planning decisions have not been implemented. The NDIA reports on the effectiveness of its continuous improvement activities developed to address issues identified in quality monthly reviews. The NDIA does not analyse outcomes of internal or external reviews of decisions to inform continuous improvement. The NDIA has aligned service delivery key performance indicators and quality metrics for reasonable and necessary decision-making.

3.3 The effectiveness of the NDIA's decision-making controls for participant plans was assessed in Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans*. The report contained three recommendations aimed at improving policies and processes, continuous improvement processes, and performance monitoring and reporting. All three recommendations were agreed by NDIA.

Information and Communications Technology (ICT) system decision controls

3.4 In October 2020, the NDIA agreed to implement recommendation one of Auditor-General Report No.14 2020–21:

The National Disability Insurance Agency review and update the ICT system controls relating to recording participant planning considerations and approvals, to align the system processes with internal policy requirements and to better support planning processes for reasonable and necessary decision-making.

3.5 In July 2022, the NDIA advised its implementation of recommendation one was 'in progress' and that its deployment of a new Customer Relationship Management (CRM) system (known as PACE) would include key system controls relating to the recommendation.

3.6 One of the three policy requirements lacking controls was the escalation of plans for executive level staff review where they varied from the Typical Support Package (TSP) by ten per cent or more (changed in October 2020 to eight per cent or more). In February 2022, the NDIA removed this requirement as it considered the reviews were not adding value relative to the additional time taken. NDIA data from September 2022 showed that of plans approved over the prior two years, only 14 per cent of plan budgets fell within a 10 per cent variation of the TSP, 16 per cent of plans had a variation of 10 to 50 per cent higher than the TSP, 16 per cent had a variation

of 50 to 140 per cent of TSP, and 16 per cent of plans had a variation of at least 140 per cent. A further 38 per cent of plan budgets were more than 10 percent below TSP.⁵⁶

3.7 While variations from TSPs can be appropriate, to meet the needs of a participant's circumstances removal of the TSP review process reduces controls on plan cost increases and poses risks for scheme sustainability. As at October 2022, NDIA advised that its work to develop PACE included development of a new integrated TSP model), informed by updated and expanded comparative data for improved accuracy.

Recommendation no. 3

3.8 The National Disability Insurance Agency reviews the impact of its policy changes relating to approval of plans that vary from Typical Support Packages (TSPs), including:

- (a) assessing the impact on plan funding outcomes, plan costs and overall scheme costs of no longer requiring higher delegation approval of plans with funding that varies by more than eight per cent from the TSP; and
- (b) undertaking a post-implementation review of its new integrated TSP calculator to ensure variations from the TSP reference point are supported by appropriate evidence of participants' circumstances and determine whether ongoing monitoring is needed.

National Disability Insurance Agency response: Agreed.

3.9 *An ongoing monitoring and continuous improvement framework is currently being developed, with several reports already operationalised for the Tasmanian PACE Pilot. This will measure how close the Improved TSP is to the actual approved budget, with the aim of iteratively improving TSP modelling over time.*

3.10 A further policy requirement that the previous audit found lacked an ICT control was the recording of reasons for decisions to decline requested supports.⁵⁷ In 2022, the NDIA amended CRM to support recording of reasons for declining requested supports and automating the inclusion of such reasons in decision letters, but did not implement the enhancement. NDIA advised it did not implement this change due to the development of the PACE system.

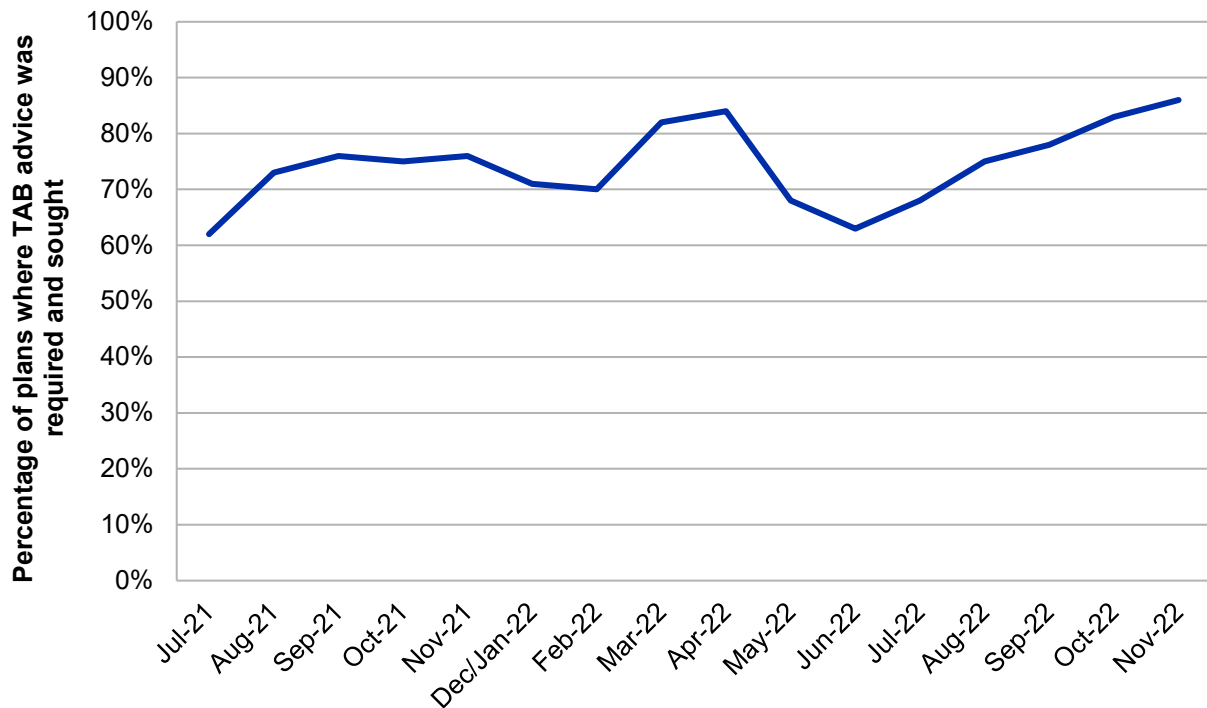
3.11 The NDIA's internal policy requirement to refer plans to its Technical Advisory Branch (TAB), where set criteria were met, also lacked ICT controls. TAB advises planners on complex issues during the plan development phase which require technical and subject matter expertise. NDIA considered that compliance with mandatory TAB referrals was a lead indicator and strong predictor of the overall quality of 'reasonable and necessary' decision-making. While NDIA delivered training to planners on mandatory referrals for TAB advice in September 2021, no system changes were introduced.

56 The data included plans for participants aged seven years or older and excluded plans with Supported Independent Living (SIL) funding.

57 Changes to the NDIS Act 2013, effective from 1 July 2022, included a requirement under section 100(1) for the NDIA to give participants reasons for reviewable decisions.

3.12 Figure 3.1 shows NDIA compliance with mandatory TAB referral requirements. Compliance rates were consistently above 60 per cent in 2021–22 and trended upwards from June 2022.

Figure 3.1: Compliance with NDIA requirement to seek TAB advice in plan development



Source: ANAO analysis of NDIA data.

3.13 The NDIA stopped updating the existing CRM system in March 2022 to support aligning policy and systems requirements for the introduction of PACE. Aspects of PACE were piloted for Tasmanian participants and providers from November 2022, ahead of a national rollout which was originally planned for June 2023. In April 2023, NDIA advised the ANAO the national rollout would commence on 25 September 2023.

Recommendation no. 4

3.14 The National Disability Insurance Agency implement the first recommendation of Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans* by including controls relating to participant planning considerations and approvals within its new PACE ICT system, to align the system processes with internal policy requirements and to better support planning processes for reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed.*

3.15 *The NDIA's new PACE system will improve support for planning processes.*

3.16 *Business requirements for controls relating to recording participant planning considerations and approvals have been documented and provided to relevant project teams on an on-going basis.*

3.17 *The PACE system is designed to ensure all planning decisions are recorded along with valid justification and evidence to support reasonable and necessary decisions. This will be recorded in such a way that these decisions can be easily retrieved and referenced in the future. Whilst the NDIA implements PACE, it will continue with current manual processes and ongoing monitoring of staff compliance with key off-system practices via the NDIA quality program.*

Continuous improvement monitoring and analysis

3.18 The NDIA agreed to implement recommendation two of Auditor-General Report No.14 2020–21:

The National Disability Insurance Agency establishes mechanisms to track and analyse (at the enterprise level) issues arising from review mechanisms to inform continuous improvement in reasonable and necessary decision-making, including:

- using outcomes data from internal reviews and AAT reviews, including early resolution outcomes, to inform continuous improvement in reasonable and necessary decision-making; and
- implementing metrics for measuring the success of continuous improvement initiatives to enable the Agency to determine whether the initiatives are having the intended impact.

3.19 In April 2021, the NDIA's Audit Committee closed its monitoring of recommendation two on the basis implementation was completed.

3.20 The NDIA's continuous improvement approach includes root cause analyses to support identification of priorities for training initiatives and separate 'deep dive' analyses of selected topics. The NDIA uses its internal service delivery Key Performance Indicators (KPIs) and training records to assess the impact of its continuous improvement activities, for example the KPI results for planners who have completed the training are compared to results from those who have not.

3.21 The NDIA reports monthly on results of its quality reviews of planning decisions, 'deep dives' and quantitative, rather than qualitative, analysis of internal and external decision reviews, including early resolution outcomes. NDIA produces a quarterly report for the delivery division senior executives to monitor the outcomes of internal reviews and external reviews of decisions by the Administrative Appeals Tribunal (the AAT). This report is not provided to the Board or Executive

Leadership Team (ELT), but both receive summary statistics of internal reviews and AAT matters. The report contains statistical trends relating to participant age, disability and location, requested supports and the primary reason for seeking internal review. The quarterly report does not include analysis or insights into drivers of reviews, causal factors for applications withdrawn from the AAT or areas for improvement relating to policies or procedures, although it does identify topics that could be considered for further analysis or 'deep dive'.

Recommendation no. 5

3.22 The National Disability Insurance Agency (NDIA):

- (a) fully implement the second recommendation of Auditor-General Report No.14 2020–21 *Decision-making Controls for NDIS Participant Plans* by using outcomes data from internal reviews and Administrative Appeals Tribunal reviews (and other mechanisms such as Independent Expert Reviews), including early resolution outcomes, to inform continuous improvement in reasonable and necessary decision-making; and
- (b) regularly publish summaries of NDIA review data and analysis to improve transparency of review processes.

National Disability Insurance Agency response: *Agreed.*

3.23 (a) *Expanding on existing processes, the NDIA will create a formal mechanism for the policy, legal and service delivery functions to consider the implications of any themes arising from federal court precedents, Independent Expert Review outcomes and persistent AAT themes. This mechanism will be used to inform any changes to policy settings and operational guidance required as part of continuous improvement.*

(b) *NDIA agrees to publish on a yearly basis a thematic analysis of review data to improve transparency of review processes.*

Key Performance Indicators for plan decision quality

3.24 The NDIA agreed to implement recommendation three of Auditor-General Report No.14 2020–21:

The National Disability Insurance Agency align service delivery KPI and quality metric targets for reasonable and necessary decision-making; and review the target on a regular basis with a view to increasing the target to drive greater quality standards in reasonable and necessary decision-making.

3.25 In August 2020, the NDIA updated its internal key performance indicator (KPI) framework and replaced the measures considered during the previous audit with⁵⁸:

58 In March 2022, the NDIA updated its KPIs and replaced 5a with an equivalent KPI 11a, 'the percentage of planning decisions for which the reasonable and necessary decision-making process was followed to a high standard.' KPI 5b was replaced by an equivalent KPI 11b. The NDIA retained existing target ranges.

- KPI5a — ‘percentage of plans where section 34 of the *National Disability Insurance Scheme Act 2013* (NDIS Act)⁵⁹ is satisfied’; and
- KPI5b — ‘percentage of plans with appropriate reasonable and necessary decision in justifications, including referencing previous plan utilisation’.

KPI5a and KPI5b results are determined by results of monthly quality reviews, which include questions specifically relating to subject matter of each KPI.

3.26 NDIA adopted the following target ranges for KPIs 5a and 5b: ‘good’ for between 75–85 per cent; ‘better’ for between 85–95 per cent; and ‘best’ for above 95 per cent. NDIA records do not set out how target ranges were selected. NDIA reported to its audit committee in November 2020 that the ‘good’ target range would be the initial NDIA standard but had not communicated a specific target to staff until April 2023.

3.27 In March 2022, the NDIA sought to streamline and improve alignment of its KPIs with the Participant Service Charter and Participant Service Guarantee, including replacing KPIs 5a and 5b with the following and retained the existing target ranges:

- KPI11a — ‘percentage of planning decisions for which the reasonable and necessary decision making process was followed to a high standard’; and
- KPI11b — ‘percentage of plans for which reasonable and necessary decision justification recording guidelines have been followed to a high standard.’⁶⁰

3.28 In April 2023, NDIA set a target of 85 per cent for each of these KPIs and communicated these targets to all staff.

Are processes for establishing assistance with daily life support prices appropriate?

NDIA has established processes for setting the price limits that providers may charge participants for individual funded supports, which include a regular review of set prices and consideration of benchmarks. NDIA demonstrated compliance with its internal requirement for price limits set for the 2022–23 financial year. NDIA’s Pricing Strategy defines three pricing levels and uses pricing regulation to foster value for money and encourage increased supply in the market. The Pricing Strategy does not specify how NDIA’s performance against the objective or criteria will be measured. NDIA has not set a timeframe for when price deregulation will occur. NDIA has established a reference group with external stakeholder membership to undertake regular pricing reviews. The results of the 2021–22 pricing review were published on 22 June 2022 and took effect on 1 July 2022. The Annual Pricing Reviews are informed by financial benchmarking surveys of providers each year and the NDIS Disability Support Worker

59 Section 34 sets out the criteria for funded NDIS supports to be considered ‘reasonable and necessary’.

60 KPI 11a assesses the NDIS Act requirement to decide which funded supports to include in plans, based on assessing and weighting evidence in the Participant Statement of Supports, Support Needs Assessment, and relevant reports against each of the ‘reasonable and necessary’ criteria in section 34. KPI 11b tests adherence to administrative law requirements for delegates to provide their reasons for financial decisions.

Cost Model. NDIA publishes the pricing limits for each support category on its website. The price limits for ADL support items have increased by 18 per cent from 2019–20 to 2022–23.

3.29 The NDIA must only fund a support if ‘the costs of the support are reasonable, relative to both the benefits achieved and the cost of alternative support’. The NDIA is responsible for regulating the prices of NDIS supports. The pricing arrangements are set out in a series of documents including the NDIS Pricing Arrangements and Price Limits and the NDIS Support Catalogue. Some supports are subject to price limits (paragraph 1.9), while ‘quotable supports’ can be claimed by a provider only if the NDIA has requested a quote and included the support in a participant plan. Nearly all assistance with daily life (ADL) supports are subject to price limits.⁶¹ Participants who self-manage their plans are exempt from price limits.

NDIS Pricing Strategy

3.30 The August 2019 NDIS Pricing Strategy sets out the context and rationale behind NDIA’s price regulation:

Where possible, the NDIA utilises market mechanisms to deliver the required supply required to meet participant demand and deliver the required mix of goods/services, produced at market clearing (efficient) prices, to meet the needs of participants.

3.31 As the NDIA has assessed the market for disability supports is not yet mature, price regulation is used to ensure that supports achieve value for money and to encourage an increase in supply to meet the expected increase in demand for disability supports. NDIA intends to deregulate prices as the market matures but has not yet set a timeframe for this to occur.

3.32 The Pricing Strategy has three objectives: to balance efficiency and growth; assist providers, and the market, to become more efficient; and to address information asymmetries to empower customers. The criteria for success are defined as demand is satisfied; price caps are not binding (that is, market competition will drive support prices below the price limits); and competition between providers results in efficient prices. The Pricing Strategy does not state whether or how performance against its objectives and criteria will be measured.

3.33 The Pricing Strategy defines three different price levels:

- efficient price levels — prices which represent the minimum cost of providing supports once the market is mature;
- sustainable price levels — prices at which the average current provider is viable and are higher than efficient prices; and
- transitional price levels — prices which encourage new providers to enter the market and are higher than sustainable prices.

61 Most assistance with daily life (ADL) supports are subject to set price limits, such as ‘Assistance With Self-Care Activities’. Since 2020 this includes Supported Independent Living (SIL), which was formerly by quote. Some ADL support items are subject to quotes, such as ‘Assistance In Individual Living Arrangement For Person With Complex Needs’. ADL support items not subject to price limits are typically provider transport costs, which are still expected to be ‘a reasonable price’.

3.34 The Pricing Strategy states in the short to medium term, limits should be set at transitional price levels to encourage an expansion in supply. Transitional price levels are expected to initially increase before decreasing in the long term and converging on efficient price levels. The Pricing Strategy is implemented through Annual Pricing Reviews, informed by financial benchmarking survey (paragraph 3.43) and the NDIS Cost Model for Disability Support Workers (paragraph 3.45).

Price-setting process

2018 Independent Pricing Review

3.35 In June 2017, the NDIA Board commissioned McKinsey and Company to undertake an Independent Pricing Review to investigate ‘the appropriateness of the NDIA’s pricing strategy and approach, and the suitability of current price levels for supports and services.’ In February 2018, McKinsey and Company produced the Independent Pricing Review Final Report, which found⁶²:

The provider economic analysis found that providers of attendant care⁶³ (including assistance with daily life) faced greater profitability challenges than providers of other support types including Supported Independent Living (SIL), therapy, support coordination and plan management services.

3.36 The report included 25 recommendations, all accepted by the NDIA. These included a recommendation to introduce Temporary Support for Overheads, an additional loading on top of the price limits for attendant care to help providers meet the transitional costs of moving to the NDIS. Temporary Support for Overheads was replaced in 2019 by the Temporary Transformation Payment (TTP), which has a similar purpose (see paragraph 3.51).

Annual Pricing Reviews

3.37 The NDIA reviews its pricing arrangements as it deems necessary, and although referred to as Annual Pricing Reviews, in some years a review has not been conducted. The most recent Annual Pricing Review was conducted in 2021–22 in consultation with the Pricing Reference Group (PRG), a committee which advises the NDIA Board and Chief Executive Officer (CEO). The PRG consists of a senior NDIA official and five external members appointed by the CEO following consultation with the Board.⁶⁴

3.38 On 28 July 2021 the NDIA Board agreed the terms of reference for the 2021–22 Annual Pricing Review (2021–22 Review). The Review was to give particular attention to options for simplifying pricing arrangements; whether the methodology and parameters used in the NDIS Cost Model for Disability Support Workers (see paragraph 3.45) remained appropriate; and pricing arrangements for support coordination and plan management.

62 McKinsey and Company, *Independent Pricing Review Final Report, February 2018* [Internet], NDIA, available from <https://www.ndis.gov.au/providers/pricing-arrangements/making-pricing-decisions/pricing-review-archive> [accessed 24 January 2023]

63 Attendant care is services for essential and regular personal care needs.

64 Pricing Reference Group membership and terms of reference available from <https://www.ndis.gov.au/about-us/reference-group-updates/pricing-reference-group> [accessed 12 November 2022]

3.39 There were 254 submissions received on the consultation paper released in October 2021. NDIA consulted with 12 stakeholder working groups covering specific aspects of the pricing arrangements and included representatives from other state and territory statutory insurance schemes and other government entities.

3.40 The intended milestone dates for the Review were not met. The 2021–22 Review report was to be published in March 2022. The 2021–22 Review was considered by the Board in March 2022, before being reconsidered (but not changed) in April 2022 and approved by the Board on 16 June 2022.

3.41 The NDIA published an update to the sector when it released the Annual Pricing Review on 22 June 2022, advising that price limits for supports delivered by disability support workers would increase by nine per cent from 1 July 2022. NDIA could not determine if delays affected provider pricing decisions.

3.42 NDIA commenced the 2022–23 Annual Pricing Review in March 2023 with the release of terms of reference and a consultation paper.⁶⁵

Financial benchmarking surveys

3.43 The Annual Pricing Review is informed by a financial benchmarking survey undertaken each year. The most recent survey was conducted between November 2021 and February 2022 and sought information from 6810 providers (2442 were required to complete the survey and 4368 requested to voluntarily complete) on staffing numbers, costs and earnings in relation to two support categories, including assistance with daily life.⁶⁶ The overall response rate was 15.3 per cent (1043 providers) and 35.5 per cent (866 providers) for providers required to complete the survey. Failure to complete the survey is a compliance issue for providers claiming the Temporary Transformation Payment (TTP), discussed at paragraph 3.171.

3.44 The report provides a demographic overview of providers, including size and length of operation. It also sets out quantitative data and analysis in relation to:

- key cost parameters, such as base pay and standard hours of work;
- employment conditions for disability support workers;
- information on provider prices — whether providers claimed the TTP (paragraph 3.51), set prices at or below the price limit or set different prices for NDIS participants compared to other clients; and
- drivers of key parameters, such as cost.

65 For terms of reference and consultation paper, see: NDIS, *2022–23 Annual Pricing Review* [Internet] available from <https://www.ndis.gov.au/providers/pricing-arrangements/making-pricing-decisions/annual-pricing-review> [accessed 12 April 2023]

66 Deloitte Access Economics, *Final Report – Financial Benchmarking Survey, May 2022*. [Internet], NDIA, available from <https://www.ndis.gov.au/providers/pricing-arrangements/making-pricing-decisions/financial-benchmarking> [accessed 24 January 2023]

NDIS Cost Model for Disability Support Workers

3.45 The NDIS Cost Model for Disability Support Workers (Cost Model) informs the Annual Pricing Review by determining the price limits for supports delivered by disability support workers (including almost 50 per cent of ADL support items). The Cost Model estimates the cost incurred by an efficient provider in providing a billable hour of support, which the NDIA considers to be consistent with sustainable price levels. An 'efficient provider' is defined as one whose costs on each key parameter is at the 25th percentile of provider performance.

3.46 NDIA uses the *Social, Community Home Care and Disability Services Industry Award 2010* (SCHADS Award) as the 'foundation' for the Cost Model (the national award for disability support workers). Disability support workers' base pay, shift loadings and leave entitlements are therefore estimated by reference to conditions set out in the SCHADS Award.

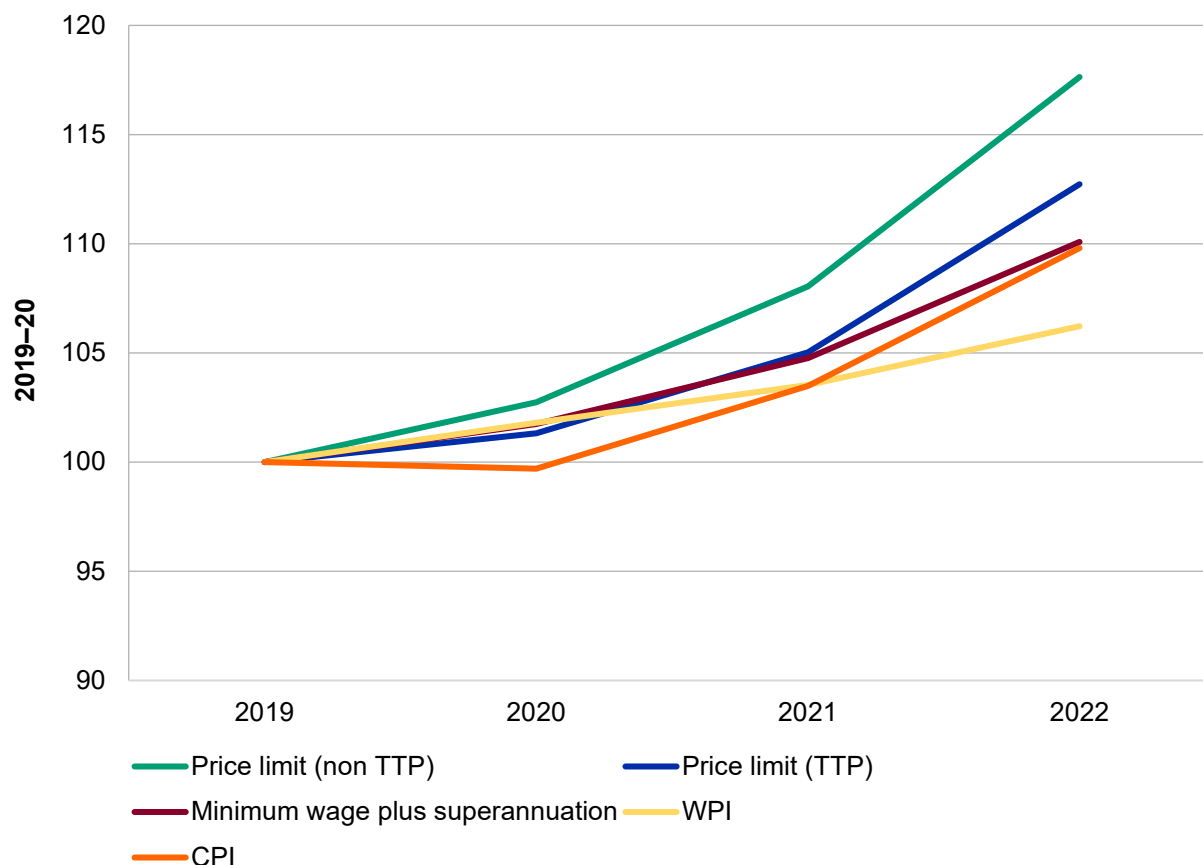
3.47 Until 2021–22, the Cost Model used the financial benchmarking surveys to estimate the following other parameters: salary on-costs (including superannuation, workers compensation and employee allowances); supervision costs, taking into account spans of control; the ratio of permanent to casual workers; and utilisation rates.

3.48 The 2022–23 Cost Model simplifies the model by reducing the number of parameters in the operational overheads categories instead of being separately estimated. Simplification was a 2021–22 Annual Pricing Review recommendation.

3.49 The Cost Model also assumes that providers have corporate overheads of 12 per cent of direct costs and a further margin of two per cent. The 2022–23 Cost Model includes a temporary loading, separate to TTP, of two per cent to take into account the effects of the COVID-19 pandemic and of adjusting to new award provisions. The terms of reference for the 2022–23 Annual Pricing Review includes consideration of this temporary loading arrangement.

3.50 The price limits for ADL support items (without TTP) have increased by 18 per cent from 2019–20 to 2022–23. Prices inclusive of TTP have increased by 13 per cent over the same period, as a result of the ongoing reduction of TTP by 1.5 per cent each year. These are greater increases than the increase in the minimum wage for the sector specified in the Social, Community, Home Care and Disability Services (SCHADS) Industry Award⁶⁷ (plus superannuation), and in the Wage Price Index (WPI) and Consumer Price Index (CPI) (see Figure 3.2).

67 Fair Work Commission, *Social, Community, Home Care and Disability Services Industry Award 2010*, available from <https://www.fwc.gov.au> [accessed 4 January 2023]

Figure 3.2: Indexed comparison of assistance with daily life price limits, minimum wage (plus superannuation) and price indices

Notes: The price limit used for illustrative purposes is that for the support item 'assistance with self-care activities — standard (intensity) — weekday daytime', non TTP and TTP (Temporary Transformation Payment).

The minimum wage used is that specified in the SCHADS Award Level 2.3 and the superannuation rate used is the Super Guarantee rate. SCHADS Award Level 2.3 is used for Disability Support Worker Level A from NDIA's pricing model.⁶⁸

The data used to calculate index scores for price limits and minimum wages (plus superannuation) are as of 1 July in the relevant calendar year. The data used to calculate WPI and CPI are as of 30 June in the relevant calendar year.

Source: ANAO analysis of NDIA Annual Pricing Reviews, SCHADS Award, Super Guarantee rates (ATO) and price indices (ABS).

Temporary Transformation Payment

3.51 To maintain and encourage the expansion of supply and allow time for providers to develop efficiencies, the NDIA Board decided to establish the Temporary Transformation Payment (TTP), a

68 NDIS, *Disability Support Worker Cost Model Assumptions and Methodology 2022-23*, available from <https://ndis.gov.au/media/4566/download?attachment> [accessed 6 June 2023]

conditional loading for some support items. TTP applies to 12 ADL support items, all relating to 'Assistance With Self-Care Activities', set out in Table 3.1 below.⁶⁹

Table 3.1: Hourly Price Limits for Assistance with Daily Life (ADL) Support Items, Standard and Temporary Transformation Payment (TTP), October 2022.

| Assistance with Daily Life Support Item Name | Standard Hourly Price Limit | Hourly Price Limit (inclusive of TTP) |
|---|-----------------------------|---------------------------------------|
| Assistance With Self-Care Activities — Standard — Weekday Daytime | \$62.17 | \$64.04 |
| Assistance With Self-Care Activities — Standard — Weekday Evening | \$68.50 | \$70.56 |
| Assistance With Self-Care Activities — Standard — Weekday Night | \$69.77 | \$71.86 |
| Assistance With Self-Care Activities — Standard — Saturday | \$87.51 | \$90.14 |
| Assistance With Self-Care Activities — Standard — Sunday | \$112.85 | \$116.24 |
| Assistance With Self-Care Activities — Standard — Public Holiday | \$138.20 | \$142.35 |
| Assistance With Self-Care Activities — High Intensity — Weekday Daytime | \$67.28 | \$69.15 |
| Assistance With Self-Care Activities — High Intensity — Weekday Evening | \$74.14 | \$76.20 |
| Assistance With Self-Care Activities — High Intensity — Weekday Night | \$75.51 | \$77.60 |
| Assistance With Self-Care Activities — High Intensity — Saturday | \$94.71 | \$97.34 |
| Assistance With Self-Care Activities — High Intensity — Sunday | \$122.14 | \$125.53 |
| Assistance With Self-Care Activities — High Intensity — Public Holiday | \$149.57 | \$153.72 |

Source: NDIS Support Catalogue 2022–23.

3.52 The TTP was initially set at 7.5 per cent in 2019 and to reduce by 1.5 per cent each year. Seven and a half per cent was chosen as it corresponded to the NDIA's estimate of the difference in costs between the median (50th percentile) provider and the efficient provider operating at the 25th percentile on the key cost parameters. As at January 2023, the TTP is planned to continue phasing down to 1.5 per cent in 2023–24 and to zero (that is, cease) from 1 July 2024.

69 Assistance with self-care activities relates to 'personal tasks of daily life to develop skills of the participant to live as autonomously as possible'.

See: NDIA, *Pricing Arrangements and Price Limits 2022-23* and *NDIS Support Catalogue 2022-23* [Internet] available from <https://www.ndis.gov.au/providers/pricing-arrangements> [accessed 13 April 2023]

Communicating pricing arrangements

3.53 NDIA publishes pricing information on its website, including the Pricing Arrangements and Price Limits, and the Support Catalogue.⁷⁰ NDIA also publishes documentation relating to pricing reviews. For the 2021–22 Annual Pricing Review, this included the final report, report on consultations, consultation paper and terms of reference.

3.54 Providers subscribe to an online monthly newsletter and receive 'newsflashes' via email. These communication channels are used to notify providers when pricing arrangements change.

Does the NDIA have effective conflict of interest controls?

The NDIA has established controls for identifying and managing conflict of interest risks for its Board and Senior Executive Service (SES) staff, which include annual declarations of material interests. The Board should implement procedures to manage conflict of interest risks arising from declarations of members relating to lived experience of disability. APS level staff are required to declare conflicts of interest but there are limited mechanisms to ensure this occurs. Combined with the lack of ICT controls for accessing participant records, staff controls represent an area of risk, especially for plan delegates. NDIA has largely fit for purpose controls for managing Local Area Coordinator conflict of interest risk, including requirements for these to be declared and reported to NDIA, and provision of compliance assurance statements to NDIA. NDIA was unable to quantify the impact that conflicts relating to support coordinators poses to participants.

3.55 The NDIA Fraud and Corruption Control Plan 2020 describes conflicts of interest as situations where business, financial, family, political or personal interests could interfere with the judgement of persons in carrying out their duties. These could be:

- real — where a direct conflict exists between current official duties and other interests; or
- apparent — where it appears or could be perceived that other interests are improperly influencing the performance of official duties — whether or not that is actually the case.

3.56 A real or apparent conflict of interest (COI) could arise, for example, where a:

- NDIA Board member, staff member or PITC employee, or their family member, is a participant;
- NDIA staff member has a family member who works for a NDIS support provider or relevant industry or advocacy body; or
- support coordinator or plan manager connects participants to providers who have a business relationship with their employer.

3.57 The Australian Public Service (APS) Code of Conduct requires APS employees and Senior Executive Service (SES) officers take reasonable steps to avoid any real or apparent conflict of interest. Where conflicts cannot be avoided, the relevant provisions of the *Public Service Act 1999* (Public Service Act), *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and

70 NDIA, *Pricing Arrangements* [Internet], available from <https://www.ndis.gov.au/providers/pricing-arrangements> [Internet].

Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) require disclosure of any material personal interest. The NDIS Act provides additional guidance regarding Board members, who must generally exclude themselves from matters on which they have a conflict.

3.58 The National Disability Insurance Scheme (Code of Conduct) Rules 2018 (NDIS Code of Conduct) sets out expectations of contracted PITC and NDIS service providers. This includes an ‘obligation to act with integrity, honesty and transparency’. The NDIS Quality and Safeguards Commission (the Commission) is responsible for managing NDIS Code of Conduct complaints.

3.59 The NDIA reported in its 2022 Annual Report that, as at June 2022, the workforce consisted of 12,596 people, including 5070 APS employees and SES officers, 1893 contractors, 4813 employed by PITC, 808 National Contact Centre staff and 12 other outsourced staff.⁷¹ Some 2159 APS employees were in planning roles, meaning they exercise a delegation to approve plans, which is an area where poor controls relating to conflicts of interest exposes NDIA to risks of fraud.

Identifying conflict of interest risks

3.60 The NDIA has documented conflict of interest policy and procedural requirements for its SES officers, APS staff, labour hire contractors, Board members and PITC. Responsibility for managing conflict of interest is managed by separate divisions across the NDIA:

- People and Culture is responsible for staff;
- Office of the CEO is responsible for Board members;
- Partners, Providers and Fraud Taskforce is responsible for PITC; and
- Chief Risk Officer Division manages tip-offs and investigates conflict of interest issues.

3.61 An internal Fraud and Corruption Risk and Control Review of conflict of interest policy and procedure in November 2020 stated:

NDIA has a high number of employees identified as a person with a disability, as well as having a high percentage of employees with a lived experience. This creates a unique level of risk around conflict of interest.

3.62 NDIA advised that the following recommendation from the review was not implemented due to the administrative burden of the prior paper-based process and other controls in place (see paragraph 3.69):

All staff, including partners and contractor staff make an annual declaration in relation to any (or no) real or perceived conflicts of interest they may have.

3.63 In September 2022, an external review of insider threat capabilities by Deloitte made 13 recommendations, including ‘mandatory COI reporting for all staff and third-parties’. As at January 2023, one recommendation to establish an insider threat team was being implemented and the remainder were still being considered by the NDIA.









71 NDIA, *NDIA Annual Report 2021-22* [Internet], p.168, available from <https://www.ndis.gov.au/about-us/publications/annual-report> [accessed 13 November 2022]

Implementation of risk controls and mitigations

3.64 The NDIA's risk assessments recorded in its enterprise risk management tool do not include detail of the controls implemented for identified conflicts relating to individuals and the NDIA does not separately report on the effectiveness of its mitigations for conflict of interest risks.

3.65 The NDIA has established controls to apply to its Board members, APS and SES staff, PITC, and for NDIS providers in respect of support coordination and plan management. Table 3.2 below, sets out the ANAO assessment of the extent to which the relevant controls are fit for purpose.

Table 3.2: ANAO assessment of conflict of interest controls

| Group | Control fitness for purpose |
|---|---|
| NDIA Board |  |
| NDIA staff (SES) |  |
| NDIA staff (APS) |  |
| Partners in the Community |  |
| NDIS providers of support coordination and plan management |  |
| Key:  Largely fit for purpose  Partly fit for purpose  Not fit for purpose | |

Source: ANAO analysis of NDIA policy and procedures.

NDIA Board

3.66 Section 132 of the NDIS Act sets out that NDIA Board members must not engage in any paid employment that the Minister for the NDIS considers may conflict with the proper performance of their duties. The Board Charter sets out further conflict of interest requirements consistent with PGPA Act obligations:

- directors disclose details of any material interests relating to NDIA affairs upon commencement, as changes occur, and annually after commencement;
- NDIA maintains a register of director interests and tables changes at meetings; and
- directors with a potential conflict do not receive agenda papers on related items.

3.67 The ANAO assessed NDIA's management of Board conflict of interest to be largely effective, with annual declarations of interests recorded. The ANAO observed that members who declared personal interests as NDIS participants (or family members of participants) and/or members of disability organisations receive all Board papers and are present for discussion of all agenda items. The Board has not documented how it manages conflicts arising from such interests.

APS and SES staff

3.68 Agency heads and SES employees are required to submit, at least annually, a written declaration of financial and other material personal interests. NDIA adheres to this requirement.

3.69 NDIA implemented the following controls arising from the November 2020 review:

- issued Accountable Authority Instructions and updated policy requiring all staff to declare any self-identified actual or potential conflicts of interest;
- developed an outside employment policy;
- implemented a checklist for new employees to declare any conflicts of interest;
- all new staff enrolled in conflict of interest training and completion monitored; and
- implemented an online form and centralised register for APS staff declared conflicts in June 2021 to complement the existing centralised register of SES staff declarations.

3.70 NDIA encourages the employment of people with lived experience of disability, with 18 per cent of staff having a disability, as reported in the 2022 Annual Report. NDIA registers included declarations of real or apparent conflicts of interest from all 82 SES staff and 190 APS staff members (3.7 per cent of total APS staff and 8.8 per cent of APS planners). NDIA monitoring of declared interests involves a process of checking whether the supervisor has evidenced consideration of the matter and proposed mitigation action. NDIA also monitors annual recompletion by those who declare a real or apparent conflict.

3.71 NDIA does not have adequate system controls or other assurance processes to identify APS staff who do not declare, or incorrectly declare, a conflict of interest. Tip-offs are the only control. NDIA's CRM system does not log access to participant records. The ANAO identified 246 plans approved between July 2020 and June 2022 with ADL funded supports where the NDIA delegate had the same family name as the participant. NDIA does not have processes to detect or investigate such potential conflicts of interest. NDIA does not have processes to identify inappropriate access to participant records, such as system access logs used by agencies such as Services Australia and the Australian Taxation Office.

3.72 At the pre-planning stage, planners are required to record in CRM the names and contact information of relevant relationships identified by the participant (for example, family or carers). NDIA does not have controls to automatically restrict access to the participant's record or ensure it is not allocated to a staff member for completion of a task based on declared conflicts of interest with the individuals named within the record.

3.73 In July 2022 the NDIA Deputy Chief Executive Officer issued its current agency-wide direction on segregation of duties to support its ICT security, CRM access, privacy and COI control policies and frameworks. For example, staff making access decisions may not also approve a participant's plan. The direction set business rules, with exceptions to be approved only by the General Manager, Operations and Support with a suitable business case. The ANAO's 2021–22 financial statements audit found that IT controls enforcing this segregation of duties operated effectively.

3.74 In 2020–21 and 2021–22, NDIA reported to ELT that it received around 300 tip offs each year relating to potential conflicts of interest. Of these, NDIA investigated 16 allegations relating staff and/or providers and none relating to Board members. As of August 2022:

- ten of these allegations were closed; nine as no conflict had been identified and one as their partner had resigned, impeding any investigation;
- five were still under investigation; and
- one was referred elsewhere in the NDIA for contract management action.

Partners in the Community

3.75 PITS organisations, that include Local Area Coordinators and Early Childhood partners, have grant agreements with NDIA that include requirements for managing real or apparent conflicts of interest, including in relation to PITS staff interests or provision by PITS organisations of other NDIS services. PITS are generally precluded from providing other supports in the regions in which they operate.

3.76 PITS quarterly reporting to NDIA includes assurance relating to its compliance with requirements for identification and management of conflicts of interest. Local Area Coordinators, employed by PITS, are subject to the NDIS Code of Conduct, which includes conflict of interest provisions.

3.77 As of August 2022, the NDIA had recorded over 170 instances of PITS real or apparent conflicts of interest in its register with the largest proportion of potential or actual conflicts relating to co-location or provision of other NDIS services. NDIA does not undertake data matching of conflicts declared by PITS (which are recorded in registers maintained by PITS and reported to NDIA) to conflicts declared by staff as recorded in its own register.

3.78 PITS compliance with contract assurance obligations, including conflict of interest reporting, informs the PITS overall risk rating under the NDIA's Partner Outcomes Assurance Framework. A 2021 internal audit by NDIA on PITS found all had documented conflict of interest policies and procedures and were compliant with relevant obligations.

Recommendation no. 6

3.79 The National Disability Insurance Agency (NDIA) improve its management of conflicts of interest by implementing:

- (a) procedures for how the Board manages conflicts arising from declared interests of members;
- (b) mandatory requirement for all NDIA staff, contractors engaged by NDIA and Partners in the Community staff to make an annual declaration of any real or apparent conflict of interest;
- (c) mandatory business practices and ICT controls to restrict access to participant records that relate to a real or apparent conflict of interest reported to NDIA; and
- (d) ICT controls to log all access and amendments to participant records in CRM and PACE by staff, contractors and Partners in the Community and conduct regular audits of access logs for compliance with policies and declared conflicts of interest.

National Disability Insurance Agency response: *Agreed.*

3.80 (a) *The NDIA is supporting the Board to strengthen its processes for managing declared conflicts of interest by:*

- *obtaining legal advice on the obligations of the Board and best practice in relation to managing conflicts of interest*
- *updating policy and guidance to better clarify the arrangements for access to papers and involvement in discussions and deliberations that involve declared conflicts on [sic] interest*
- *ensuring that conflicts of interest are declared upon commencement for new Board members, and then at least annually thereafter for all Board members*
- *ensuring that conflicts of interest are declared at the commencement of each Board and Committee meeting*
- *supporting the Chair of the Board to identify agenda items that might give rise to a conflict of interest, real of [sic] perceived, and limiting access to papers and attendance where necessary.*

The NDIA will also explore the relevance, applicability and suitability of these measures for the Independent Advisory Council.

(b) *The NDIA will improve controls to ensure NDIA conflicts of interest are effectively managed by:*

- *updating policy and related supporting information to highlight the critical importance of managing conflict of interest risk, and*
- *identify a more efficient system solution to effectively manage the transition to, and monitoring of, mandatory annual declarations by all staff and contractors engaged by NDIA.*

As part of maintaining a Partner Agreement, PITC organisations are required submit a COI Declaration Form and Risk Mitigation Plan. Updating of this is mandated for all instances during

the term of the agreement where an actual or potential conflict of interest arises. NDIA has mandated the submission a COI Quarterly report to provide an update on conflicts and mitigations. The NDIA commits to reviewing the quarterly reports for appropriateness and risk exposure.

(c) The NDIA currently applies a Standard Operating Procedure for requesting CRM restricted access. As PACE is deployed, its design will limit access to identified staff and will prevent general access by all staff. PACE will contain a function for participants to request that they are “flagged” as restricted access. In these circumstances, records will only be able to be accessed by defined restricted access officers. Any restricted access officers attempting to access that person’s record will be warned that they are accessing a restricted access record and should not proceed if there is a conflict of interest. These controls are designed to operate on current and future capability to restrict access to participant records that relate to a real or apparent conflict of interest reported to NDIA.

(d) The PACE production environment will log all access for every participant record that has been viewed. Amendments are captured for selected fields to support system audits. Regular audits of staff and partner access to CRM are conducted to confirm appropriate access for job titles and the NDIA instrument of delegation. This practice will continue as PACE is deployed, and will support future NDIA internal audit activity relating to compliance with policies and conflict of interest declarations.

ANAO comment on National Disability Insurance Agency response:

3.81 The ANAO notes that NDIA has agreed to the recommendation in full and has provided details of how this will be implemented. The response as it relates to PITC reflects current practices which were assessed by the ANAO in Table 3.2 and paragraphs 3.75 to 3.78. ANAO’s recommendation focuses on the alignment of controls for the identification and management of conflicts of interest for those undertaking planning functions, whether they are NDIA staff or PITC staff.

NDIS service providers

3.82 In relation to provider conflicts of interest, the NDIA had not documented a consolidated range of risks or corresponding controls for matters that fell within its responsibility, noting that the NDIS Commission has primary responsibility for NDIS service provider compliance with the NDIS Code of Conduct and NDIS Practice Standards. The NDIS Code of Conduct and Practice Standards contain guidance for registered NDIS providers to avoid actual or perceived conflicts of interest in the delivery of supports and services. The Commission may act if it identifies a provider or worker has not met their obligations under the code or standards or if it receives a complaint from a participant, provider, or other party, including about concerns of potential conflicts of interest.

3.83 The NDIA’s key approaches to identifying potential provider conflicts are: tip offs and ‘Speak Up’ facilities, promulgation of Commission guidance; and operational arrangements with the Commission to share information about providers. The NDIA and Commission interact through joint working group meetings and information relating to provider declared conflicts of interests and complaints is shared through dedicated email addresses. The NDIA advised that since 1 July 2020, it had received two tip-offs from the Commission relating to conflict of interest.

Support coordination and plan management

3.84 The existence of unmanaged conflicts of interest risks relating to support coordinators was identified in community feedback to the 2019 Tune Review (see paragraph 1.21)⁷²:

Anecdotal evidence suggests that particular conflicts of interests have arisen when a participant is receiving [Supported Independent Living (SIL)] and support coordination from the same provider. In at least some cases, it appears that support coordinators have only directed participants towards supports provided by their own organisation, meaning they have been held ‘captive’ and prevented from exercising free choice and control over their other funded supports.⁷³

3.85 In acknowledging the need to protect participant choice and control over service provision, the Tune Review suggested the risk could be mitigated ‘by requiring the NDIA to actively assess the risk to participants when supporting them through plan implementation.’⁷⁴

3.86 Standard Operating Procedures (SOPs) require NDIA staff to assess risks relating to the type of plan management to be used for a participant’s plan (paragraph 2.42) but not for risks relating directly to funding for support coordination.

3.87 In NDIA’s 2020 public consultation on the role of support coordination, submissions received also raised the issue of independence of support coordinators and plan managers with provider recommendations.

3.88 In May 2020, the Joint Select Committee on the National Disability Insurance Scheme’s report into Supported Independent Living recommended NDIA ‘implement a mechanism to separate service delivery, tenancy management and support coordination for participants in SIL settings’. The recommendation has not yet been implemented. The terms of reference for the Independent Review into the NDIS announced in October 2022 includes consideration of conflict of interest arrangements. The review is due to report by October 2023.

72 A funded support to assist a participant in managing their plan, see paragraph 2.78.

73 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013, December 2019* [Internet], DSS, available from <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-national-disability-insurance-scheme/ndis-legislative-reforms> [accessed August 2022]

74 D Tune AO PSM, *Review of the National Disability Insurance Scheme Act 2013, December 2019* [Internet]

Recommendation no. 7

3.89 The National Disability Insurance Agency to assess and quantify the conflict of interest risks posed by providers delivering both support coordination and provision of supports to the same participant, and implement controls to mitigate the risk to participants.

National Disability Insurance Authority response: *Agreed.*

3.90 *The NDIA is reviewing the Guideline for Support Coordination and regularity of training for Support Coordination providers. In addition, the following specific activities are currently being undertaken to quantify and, where appropriate, mitigate conflict of interest risks posed by providers delivering both support coordination and provision of supports to the same participant:*

- *Undertaking detailed data analysis to identify extent of provision of Support Coordination and other supports to the same participant, to determine if there are any particular providers where this may be their practice. This will identify if the practice is widespread or provider-specific, and if there are patterns of support types or participant cohorts.*
- *Obtaining legal advice on the options for introducing a formal requirement whereby a provider cannot provide Support Coordination and other supports to the same participants, as well as the circumstances that might warrant exemption (such as thin markets), and how such exemptions can lawfully be applied.*

3.91 *The NDIA is liaising with the NDIS Quality and Safety Commission about the Commission's considerations of potential regulatory measures on provider conflicts of interest. Along with the outcomes of the NDIS Review, these discussions will further inform the timing and nature of actions to be taken by the NDIA.*

Does the NDIA have a fit-for-purpose fraud control framework that incorporates prior Auditor-General recommendations?

The frequency and rigour of NDIA's assessment of fraud risks is insufficient given it has assessed the fraud risk associated with the agency's activities to be high. The 2019 Fraud and Corruption Risk Register has been updated in November 2022 but not yet approved by the Board. The risk assessment that informs the overall risk rating assigned to fraud risks is not documented. The NDIA Board does not have adequate oversight of fraud risk. NDIA has not fully implemented four of the recommendations from Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program*.

3.92 The *Commonwealth Fraud Control Framework 2017*⁷⁵ outlines the Australian Government's requirements for fraud control. The framework includes the Fraud Rule⁷⁶, which is binding for

75 Attorney-General's Department, *Commonwealth Fraud Control Framework* [Internet], available from <https://www.counterfraud.gov.au/library/commonwealth-fraud-control-framework> [accessed November 2022]

76 Section 10 of the Public Governance, Performance and Accountability Rule 2014

non-corporate and corporate Commonwealth entities (CCE), the Fraud Control Policy and Fraud Guidance, which are not mandatory but are considered better practice for CCE such as the NDIA.

3.93 Under the Fraud Rule, the accountable authority of a Commonwealth entity must take all reasonable measures to prevent, detect and deal with fraud relating to the entity. The NDIA Board is the accountable authority, and is supported by its risk and audit subcommittees.

3.94 Although not bound by the additional requirements of the Fraud Control Policy, the NDIA's Fraud and Corruption Control Plan 2020 states that the NDIA adheres to the Fraud Rule and applies the Fraud Control Policy and Fraud Guidance. The Fraud Control Policy sets out the key procedural requirements that the Australian Government views as necessary for accountable authorities to establish and maintain an appropriate system of fraud control.

3.95 Providers can claim payment from NDIA or Plan Managers without confirmation from participants that the services were provided. Similarly, self-managed participants can submit claims for payment without providing evidence of services provided (although they are expected to retain evidence). These payment arrangements pose a high risk of fraud.

3.96 This audit assesses whether the NDIA has a fit-for-purpose fraud control framework which complies with the requirements of the Fraud Rule and Fraud Control Policy and has implemented the recommendations of Auditor-General Report No.50 of 2018–19 *National Disability Insurance Scheme Fraud Control Program* (the prior fraud control audit). The NDIA agreed to all six recommendations, and in May 2021 and July 2022 advised the ANAO that it had implemented all six.

Fraud risk assessment

3.97 The Fraud Rule requires that the accountable authority of an entity (in the case of NDIA, the Board) conduct fraud risk assessments 'regularly and when there is substantial change in the structure, functions or activity of the entity'. The Fraud Control Policy, which the NDIA voluntarily complies with, further specifies that:

Subject to an entity's individual risks, entities are encouraged to conduct risk assessments at least every two years. Entities responsible for activities with a high fraud risk may wish to assess risk more frequently.

3.98 NDIA advised that fraud risk assessments are undertaken every two years in accordance with the Fraud Control Policy, with the previous assessment undertaken in August 2020.

3.99 The NDIA submitted the Fraud and Corruption Control Plan 2020 (Fraud Control Plan) to its risk committee for approval in August 2020 along with a one-page document titled 'Agency Fraud and Corruption Risk Profile Summary — July 2020'. The ANAO assessed this document to be a summary of a fraud risk assessment undertaken by NDIA management to inform the Fraud Control Plan. The Fraud Control Plan was documented as being approved by the risk committee, indicative of the committee's agreement to the summary outcomes of the fraud risk assessment. Neither Board or risk committee minutes record specific consideration of the 2020 fraud risk assessment, including whether the Board approved the assessment, risks were within agreed risk tolerances, or it made any changes.

3.100 NDIA was required by its own policy to complete a fraud risk assessment by August 2022. NDIA advised the ANAO in August 2022 that the updated fraud risk assessment was being prepared

for consideration by the Board. Draft minutes of the Risk Committee recorded the approval of the revised fraud risk assessment in November 2022. As of May 2023, the ANAO had not observed evidence of the Board consideration or approval of an updated fraud risk assessment. In June 2023, NDIA advised that the Board would consider the updated fraud risk assessment at its June 2023 meeting.

Recommendation no. 8

3.101 The Board of the National Disability Insurance Agency:

- (a) conduct a fraud risk assessment at least annually, until such time as the board assesses that risk of fraud relevant to the agency's activities has moderated to less than high risk, at which time risk assessments be conducted consistent with the Fraud Control Policy;
- (b) identify those fraud risks that are outside the Board's risk tolerance and regularly assess the treatments and controls for those risks; and
- (c) record the Board and risk committee's ongoing consideration of fraud risk including the regular assessment and monitoring of fraud risks outside tolerance and the efficacy of controls.

National Disability Insurance Agency response: *Agreed.*

3.102 *NDIA will implement the recommendations, including quarterly fraud risk assessments which will be reported to the Board for consideration against their risk appetite and direction. Recommendations of the Board to be captured in the Board meeting minutes.*

3.103 Schedule 2 of the PGPA Rule sets out requirements for non-corporate Commonwealth entities for publication in the annual report, including in respect of the fraud rule:

- information on compliance with section 10 (fraud systems);
- a certification by accountable authority that fraud risk assessments and fraud control plans have been prepared;
- a certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place; and
- a certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.

3.104 NDIA funding for participants totalled \$28.6 billion for 2021–22 and is expected to increase to \$89.4 billion by 2031–32. In 2021–2022, NDIA's compliance activities identified 38,700 incorrect or non-compliant payments submitted by providers which were ultimately cancelled, worth \$44.8 million. The Fraud Fusion Taskforce funded in the October 2022–23 Federal Budget is designed to 'strengthen the Australian Government's fraud detection and capability' and initially focus on the NDIS, replacing the NDIA's current taskforce. As a Commonwealth Corporate entity, NDIA is not bound by the fraud rule reporting requirements of Schedule 2 of the PGPA Rule, even with the materiality and high fraud risk associated with NDIA's activities (Paragraph 3.95).

Fraud and Corruption Risk Register

3.105 The results of the NDIA's fraud risk assessments are documented in its Fraud and Corruption Risk Register (Risk Register). The first recommendation of the prior fraud control audit was:

That, to gain a better understanding of the overall fraud control strategies and to prioritise and track future control enhancements, the NDIA:

- a. remove any non-controls from the Risk Register;
- b. assess if key individual controls are implemented and effective; and
- c. regularly update the Risk Register with planned controls, the delivery date and the project or activity under which the control will be developed and implemented.

3.106 Since the prior fraud control audit, the NDIA has actioned part a of the recommendation, and non-controls have been removed from the most recent version of the Risk Register.

3.107 Part b of the recommendation has been implemented. In 2020, NDIA conducted three Fraud and Corruption Risk and Control Reviews for conflicts of interest, participant registration, and data and privacy. These reviews assessed the NDIA's policies and procedures for those risk types against the NDIA's Risk Management Framework. The reviews also provided recommendations on how to strengthen relevant fraud and corruption risk controls. The NDIA maintained a recommendation tracking sheet to monitor the implementation status of those recommendations; however, this was for internal use by the Risk Advisory branch and was not used for reporting purposes.

3.108 The NDIA has ended its program of Fraud and Corruption Risk and Control Reviews. Instead of conducting any further reviews its Risk Advisory branch is aligning its staff with each NDIA Group with the intention of enabling more targeted and informed risk assessment and engagement. Additionally, the NDIA is currently developing a controls description and effectiveness methodology and associated testing resources. The NDIA advised that these will be rolled out in 2022–23.

3.109 Part c of the recommendation has been partly implemented. An update to the 2019 Fraud and Corruption Risk Register was approved by the risk committee in November 2022, but has not yet been approved by the Board. Although the Risk Register lists treatments that are planned controls that the NDIA has yet to implement, it does not specify the delivery dates for the treatments or the projects or activities under which they will be developed and implemented.

Recommendation no. 9

3.110 The National Disability Insurance Agency fully implement the first recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by regularly updating the Risk Register with planned controls, the delivery date and the project or activity under which the control will be developed and implemented.

National Disability Insurance Agency response: *Agreed.*

3.111 *The revised fraud risk register has been updated to incorporate the current control environment and quantitative data points. Once endorsed, business engagement will capture further control and treatment environments.*

Board oversight of fraud risk assessment

3.112 The fifth recommendation of the prior fraud control audit related to improvements to fraud reporting:

That, to ensure visibility of the fraud control environment, NDIA provide regular reports to the Executive Leadership Team and the Board containing a summary of the status of the Fraud and Corruption Risk Register including:

- a. the untreated risk rating and the residual overall impact after controls are applied for each of the 17 fraud risk types;
- b. the controls effectiveness rating for each of the 17 fraud risk types; and
- c. the actions required on controls, with implementation dates.

3.113 NDIA accepted the recommendation, with the caveat that ‘the NDIA rationalised and re-categorised the risk types to better consider the range and scope of fraud risks faced by the NDIA’ and that there were no longer 17 fraud risk types.

3.114 The NDIA has not fully implemented the recommendation. During 2020–21 and 2021–22, reporting to the Board and Executive Leadership Team (ELT) on the status of the Fraud and Corruption Risk Register was limited. A Chief Risk Officer (CRO) Report is provided to the Board and ELT on a quarterly basis. The report sets out the number of high and critical risks in the fraud and non-compliance category and, for the critical risks (the highest risk rating), specifies the name of the risk and the treated risk rating.⁷⁷ It does not report on the efficacy of controls relevant to those risks, or the other fraud risk categories. Minutes did not record the Board consideration of fraud risks arising from CRO reports.

3.115 NDIA advised the ANAO that fraud matters were routinely discussed at fortnightly meetings between the CRO and the chair of the risk committee, and at each risk committee and Board meeting. NDIA advised that the Board and subcommittee discussions were not recorded in the minutes, due to the confidential nature of discussions covering specific fraud investigations and techniques. The ANAO saw no evidence of actions arising from such discussions recorded in the minutes. Draft minutes of the 22 November 2022 Risk Committee recorded its approval of the

77 The treated risk rating is the assessed level of risk after controls have been applied.

revised Fraud and Corruption Risk Register. The Risk Committee's charter is to provide advice to the Board, it has not been delegated decision-making powers of the Board. As the accountable authority, the Board's consideration of that advice and of approval of the revised Fraud and Corruption Risk Register should be recorded to evidence undertaking a fraud risk assessment as required by the Fraud Rule. As at May 2023, the Board has not approved an updated fraud risk assessment. In June 2023 NDIA advised that the Board will consider this at its June 2023 meeting.

3.116 In its published Fraud Risk Statement, the NDIA states that it has 'zero tolerance for fraud against the NDIS, participants and the NDIA. Any amount of fraud is unacceptable.' The NDIA's Fraud and Corruption Risk Register as at August 2022 records two risk categories, provider fraud and partner/nominee fraud, as having treated risk ratings of critical (which is the highest of the available ratings). A further three as high and eight as medium after relevant controls are applied. NDIA advised that risk ratings are determined following consideration of a range of environmental factors. The consideration of these factors and how they were weighted in determining an overall risk level are not documented. The Board has not documented its ongoing consideration of these risks and relevant controls or its acceptance of the risks which remain outside of tolerance.

3.117 As the ongoing consideration by the Board of the Fraud Risk Register was not recorded in the minutes, there is no evidence the Board approved variation from its stated risk tolerance. There was no evidence of the Board consideration of its appetite for specific risks, separate to its zero tolerance for fraud.

3.118 The reporting to the Board in relation to fraud risk is supplemented by reporting to the risk committee, a sub-committee of the Board. In 2020–21 and 2021–22, the risk committee received reporting on fraud risks at each of its scheduled meetings, including the CRO Report (see paragraph 3.114) at six out of eight meetings. In March 2022 the risk committee received a report by Deloitte of Fraud Intelligence and Investigation Functions (Fraud Functions Report). Deloitte was also awarded the contract to deliver the activities to address identified issues. This included the September 2022 insider threat assessment report (see paragraph 3.63).

Recommendation no. 10

3.119 The National Disability Insurance Agency fully implement the fifth recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* and ensure visibility of the fraud control environment by providing regular reports to the Board containing a summary of the status of the Fraud and Corruption Risk Register including:

- (a) the untreated and treated risk ratings for each of the fraud risk types;
- (b) the controls effectiveness rating for each of the fraud risk types; and
- (c) the actions required on controls, with implementation dates.

National Disability Insurance Agency response: Agreed.

3.120 *The NDIA has established monthly fraud risk reports to the Board that incorporate fraud risks and ratings for visibility. Controls effectiveness tool has been implemented in Insight. Effectiveness assessment of fraud controls will occur in Q1 FY2024 and associated actions captured as treatments on the risk register.*

Recommendation no. 11

3.121 When conducting risk assessments for each risk listed in the Fraud and Corruption Risk Register, the National Disability Insurance Agency document the factors considered, their weighting and the rationale for the overall risk rating. The Board should regularly review the risk assessment, including on each occasion it considers a proposed amendment or update to the Fraud and Corruption Risk Register.

National Disability Insurance Agency response: *Agreed.*

3.122 *The revised fraud risk register has been updated to capture at each quarter the key relevant quantitative data trends, qualitative considerations, emerging risks, and overall rationale (including key drivers) for risk ratings. A record will be kept each quarter after the quarterly board review.*

ANAO comment on National Disability Insurance Agency response:

3.123 The absence of the Board's consideration of the updated fraud risk register and fraud risk assessment approved by its Risk Committee is addressed at paragraphs 3.106 and 3.115. The ANAO notes NDIA's response to Recommendation no. 9 (see paragraph 3.111) states that the fraud risk register is awaiting endorsement.

Fraud and Corruption Control Plan

3.124 The Fraud Rule specifies that the accountable authority of an entity is responsible for 'developing and implementing a fraud control plan that deals with identified risks.' The NDIA's Fraud and Corruption Control Plan 2020 was approved by the Risk Committee on 12 August 2020. The Board noted the minutes of that risk committee meeting but did not specifically approve the 2020 plan. The plan contains the elements recommended by the Fraud Guidance⁷⁸, including a summary of fraud risks and vulnerabilities, treatment strategies and controls, mechanisms for reporting fraud incidents and an outline of roles and responsibilities.

Fraud prevention

3.125 The Fraud Rule requires that accountable authorities implement 'an appropriate mechanism for preventing fraud', which includes ensuring that officials of the entity are aware of what constitutes fraud, and that 'the risk of fraud is taken into account in planning and conducting the activities of the entity'.

Fraud awareness

3.126 NDIA has a mandatory learning policy that requires all APS employees, labour contractors and PITC employees to undertake a range of training, including fraud awareness training upon

78 Department of Finance, *Resource Management Guide No. 201 – Preventing, detecting and dealing with fraud* [Internet], available from <https://www.finance.gov.au/government/managing-commonwealth-resources/preventing-detecting-and-dealing-fraud-rmg-201> [accessed 12 November 2022]

commencement of employment and thereafter every two years. Training completion rates are reported quarterly to the ELT and Board, with fraud training at 95 per cent in July 2022, compared with 84 per cent in July 2020. NDIA publishes fraud awareness content on its website and intranet, including for Fraud Awareness Week.

Project management for fraud control

3.127 The fourth recommendation of the prior fraud control audit was:

That the NDIA undertake a review of its project management of fraud control. This review should:

- a. map all projects and activities with fraud control dimensions, including their status, linkages, relative priority and resourcing;
- b. determine whether additional projects or activities are required to close any gaps between the fraud risks and the implemented and planned fraud controls within projects; and
- c. support updating the Fraud and Corruption Risk Register.

3.128 There was no evidence that the NDIA had actioned this recommendation as it has not undertaken a review of its project management of fraud control.

Recommendation no. 12

3.129 The National Disability Insurance Agency fully implement the fourth recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by undertaking a review of its project management of fraud control. This review should:

- (a) map all projects and activities with fraud control dimensions, including their status, linkages, relative priority and resourcing;
- (b) determine whether additional projects or activities are required to close any gaps between the fraud risks and the implemented and planned fraud controls within projects; and
- (c) support updating the Fraud and Corruption Risk Register.

National Disability Insurance Agency response: *Agreed.*

3.130 *The NDIA proposes that the recommendation is refined to key projects that will materially impact the fraud risk and control environment (e.g., PACE, CPOS, eligibility integrity, payment platforms, etc). Each major project will have this assessment completed at the outset and other projects will be assessed to determine if they have a fraud impact that requires them to meet this requirement.*

3.131 *The broad proposal is unachievable as it has potential to capture all projects managed by the NDIA regardless of scale and materiality with regard to Fraud controls.*

ANAO comment on National Disability Insurance Agency response

3.132 The recommendation relates to ‘all projects and activities with fraud control dimensions’ and not all projects managed by the NDIA. It is a matter for NDIA to determine which projects and activities are in scope to implement this recommendation.

Tip-offs

3.133 Under the Fraud Rule, the accountable authority of an entity must establish ‘a process for officials of the entity and other persons to report suspected fraud confidentially’. The NDIA has dedicated email and phone lines for staff and members of the public to report fraud, and an internal ‘Speak Up’ incident reporting system for staff and PITC.

3.134 The NDIA 2021–22 Annual Report stated that the agency received more than 9230 tip-offs in that financial year, with the most commonly reported behaviour being providers overcharging participants for supports. NDIA reported that it analysed all tip-offs received, and most were deemed suitable for further compliance review or retained as useful intelligence. NDIA provides quarterly reports to the Board about the volume of tips-offs categorised by the subject matter or topic of the report. NDIA reported 35 fraud investigations on hand at 30 June 2022 and a further eight matters under investigation. NDIA also reported that it received a further 3361 tips-offs in the NDIS Quarterly report to disability ministers, 30 September 2022, a 45 per cent increase over the same period the previous year. The report did not contain any thematic analysis of the tip-offs received or any proposed changes to the controls environment as a result of the increase.

Opportunity for improvement

3.135 The NDIA could provide regular detailed reports to the Board of tip-offs, including metrics for those resulting in fraud investigations, compliance activity, overpayments and prosecutions, to inform fraud risk assessments and compliance responses.

Fraud detection — data analytics and data matching

3.136 The second recommendation of the prior fraud control audit was: ‘That the NDIA improve its active fraud detection methods by implementing the planned data analytics and data matching activity as a matter of priority, and on a continuing basis.’ The NDIA has partly implemented this recommendation by undertaking internal data analytics with a range of data detection profiles developed to identify potentially non-compliant or fraudulent claims. The ANAO saw no evidence that data matching was being used in a systemic way to improve fraud detection.

3.137 The NDIA response to the prior audit stated that it had acquired data storage and analytical tools to progress its data matching strategy and that it had entered into formal arrangements to acquire data from other government agencies, including data on immigration movements and child care provider sanctions. As of April 2023, NDIA had not fully implemented the planned data matching activities.

Recommendation no. 13

3.138 The National Disability Insurance Agency fully implement the second recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* to improve its active fraud detection methods by implementing data matching activity as a matter of priority, and on a continuing basis.

National Disability Insurance Agency response: *Agreed.*

3.139 *The National Disability Insurance Agency (NDIA) has several data sharing arrangements in place with other public sector agencies and departments. Data matching processes allow the NDIA to identify instances where these external data sources match to NDIA records for the purposes of developing behavioural based risk profiles.*

3.140 *The NDIA with the support of the current Government has embarked upon a new strategic direction to combat serious and organised crime with the Fraud Fusion Taskforce. The taskforce brings together multiagency sources of data (e.g. ASIC ATO, AFP) and utilises the analytical capability of the ACIC led, Fusion Intelligence Centre to create cross-Government intelligence and investigation referrals for suspected cases of serious and organised crime. Notwithstanding the recommendations from the ANAO, the taskforce will be the vehicle for which data matching will be key to the identification of fraud.*

Fraud investigations

3.141 The Fraud Rule requires that accountable authorities establish ‘an appropriate mechanism for investigating or otherwise dealing with incidents of fraud or suspected fraud’. In accordance with this requirement, the NDIA conducts investigations into incidents of suspected fraud.

3.142 The third recommendation of the prior fraud control audit was that ‘the NDIA improve compliance with investigations policies’ by:

- a. ensuring the new case management system has the functionality identified in pre-procurement planning documents;
- b. establishing performance measures for its investigative functions that align with organisational goals for fraud investigation; and
- c. undertaking quality assurance reviews of recent investigations to gain assurance that the NDIA Investigations Manual is being consistently applied.

3.143 NDIA has implemented the case management system it was procuring during the course of the previous audit, with functionality that meets the requirements of the Australian Government Investigations Standards (AGIS). Since implementation, the NDIA has identified 102 system limitations and has commenced developing a business case to update or replace the system.

3.144 The NDIA has not implemented part b of the recommendation. The NDIA reports the total value of payments under investigation to its Board and the total number of tip-offs received. This is not a measure of the operational performance of the breadth of NDIA’s fraud investigative functions, including its assessment and further investigation of tip-offs.

Recommendation no. 14

3.145 That the National Disability Insurance Agency fully implement part (b) of the third recommendation of Auditor-General Report No.50 2018–19 *National Disability Insurance Scheme Fraud Control Program* by establishing performance measures for its investigative functions that align with organisational goals for fraud investigations.

National Disability Insurance Agency response: Agreed.

3.146 *Due to the variability in execution of fraud investigations and external dependencies, the setting of performance measures for investigative functions is problematic. As an alternative, and in light of the evolved operating environment since the publication of Auditor-General Report No.50, the NDIA is developing an expectations matrix for each investigation category (being Tier 1, 2 or 3 criminal cases, Serious and Complex Non-compliance investigations, and internal fraud) to provide indicative performance guidance proportional to the complexity of the investigation.*

3.147 *Accordingly, the NDIA proposes either a slight modification to the recommendation to accommodate the NDIA’s alternative approach and/or an indication that the alternative approach will satisfy Recommendation 14.*

ANAO comment on National Disability Insurance Agency response

3.148 It is a matter for NDIA to determine how it establishes performance measures for its investigative functions that align with organisational goals for fraud investigations.

3.149 The NDIA has fully implemented part c of the recommendation. NDIA’s Investigation Review Standard Operating Procedure defines two types of review: ‘tactical reviews’, which are informal and conducted while an investigation is in process, and ‘reflective reviews’, which are more detailed quality assurance reviews undertaken following the conclusion of an investigation. The SOP lists

‘themes’ which may fall within the scope of a reflective review including decision-making, planning, operational activity, information management, leadership and management, and communication.

3.150 The Standard Operating Procedure does not specify when an investigation must be subject to a reflective review. ANAO saw evidence of reflective review of the investigations completed to date by the NDIS Fraud Taskforce.⁷⁹ The reflective reviews were completed in a standard template and compliant with the Investigations Handbook and other relevant standards (such as the AGIS). They also made recommendations on how the conduct of investigations could be improved.

3.151 The NDIA also completes case closure reports for all investigations. Case closure reports do not assess compliance with the Investigations Handbook but make recommendations where the investigation has identified deficiencies in the NDIA’s fraud controls.

Recording and reporting of fraud control data

3.152 The Fraud Control Policy requires that the Australian Institute for Criminology (AIC) report annually to the Attorney-General’s Department on fraud against the Commonwealth and fraud control arrangements. The NDIA voluntarily reports to the AIC. The prior fraud control audit found that the data reported by the NDIA was incomplete, and its sixth recommendation was: ‘That, in making improvements to its fraud control processes and systems, the NDIA ensures that it is able to record and report more detailed fraud control data, including for the Australian Institute of Criminology Annual Reporting Census.’

3.153 The ANAO reviewed the NDIA’s response to the AIC fraud questionnaire for 2020–21. This census response contained additional information and addressed all elements of the questionnaire compared to earlier reports, which demonstrated improved fraud data recording and reporting capability. The ANAO assessed that NDIA has fully implemented this recommendation.

79 The NDIS Taskforce was established in 2018 between the NDIA, Australian Federal Police and Services Australia which was responsible for handling more serious and complex cases. The October 2022 federal budget announced \$137.7 million allocated to a new NDIS Fraud Fusion Taskforce.

Recommendation no. 15

3.154 The Australian Government aligns the fraud control requirements for the National Disability Insurance Agency with those of non-corporate Commonwealth entities, including the Commonwealth Fraud Control Policy and the reporting requirements of subsection 17AG(2) of the Public Governance, Performance and Accountability Rule 2014.

National Disability Insurance Agency response: *Noted.*

3.155 This recommendation is against 'Australian Government'.

Attorney-General's Department response: *Noted.*

3.156 *The Attorney-General's Department notes recommendation 15, which is directed to the Australian Government to align the fraud control requirements of the National Disability Insurance Agency (a Commonwealth corporate entity) with those of non-corporate Commonwealth entities. Implementation of the recommendation is a matter for government and the department will work closely with the Department of Finance, the National Disability Insurance Agency and other relevant entities should it be pursued.*

Does the NDIA have fit for purpose controls for participant and provider overclaiming risks, for assistance with daily life supports?

NDIA utilises prevention and detection controls and compliance activities to manage the risk of overclaiming. NDIA has identified key overclaiming risks for home and living supports, including ADL support types. The assessment has not identified controls or mitigation strategies for all risks. NDIA has inadequate system controls for claims for payment, in particular, from self-managed participants. NDIA is piloting stronger controls for providers claiming the Temporary Transformation Payment.

3.157 In 2021–22, total payments for participant funded supports were \$28.6 billion. In its annual report, the NDIA reports on the annual performance metric of 'payment errors/anomalies (% of program outlay)'. The result for this metric was 1.2 per cent for 2020–21 and 3.2 per cent for 2021–22, against a target of 1 per cent. The error rate for payments made in 2020–21 was 1.3 per cent for registered providers and 0.9 per cent for self-managed participants. Error rates in 2021–22 were higher, 2.6 per cent for registered providers and 7.0 per cent for self-managed participants. The reasons for this increase is unclear. Overclaiming contributes to payment errors and anomalies.

Overclaiming risks

3.158 Overclaiming risk arises directly from providers, plan managers and participants making claims for payments for which they are not entitled. The level of risk varies between registered and unregistered providers, between support items, and by plan management type.

3.159 Overclaiming risk ranges from accidental overclaiming on a single occasion through to systemic fraud. Examples of overclaiming risk for ADL include:

- duplicate claims for payment;
- claiming for services not provided;

- claiming a higher payment rate for a service provided, such as weekend rate for a weekday service or claiming nursing support where provided by a disability support worker;
- claiming the incorrect support item; and
- providers claiming TTP where conditions for that payment are not met.

3.160 The NDIA's approach to overclaiming risks is guided by its Fraud and Corruption Control Plan 2022 and Compliance and Enforcement Framework.

3.161 During the audit the NDIA was developing a 'typologies library' that identified 23 specific risks of provider and participant fraud and non-compliance. Amongst other risk assessment detail, the typologies set out how to detect instances of the various risks, any control gaps, and mitigation strategies. The ANAO assessed this list as largely covering key overclaiming risks, including providers claiming the TTP when not entitled. The NDIA also documented a risk assessment for specific risks to payment integrity for home and living supports, although it did not identify controls for all risks or the effectiveness of stated controls. Of the 27 identified risks, 20 had a mitigating control stated.

Controls for overclaiming risks

3.162 The NDIA's approach to managing risks of overpayments involves:

- preventative controls — ICT controls and publication of guidance material for providers and participants;
- detective controls — tip-offs to the NDIA's Fraud Reporting and Scams Helpline, data-matching and analysis, and information sharing with other entities (particularly the Commission); and
- compliance activities — compliance monitoring undertaken across the NDIA, including routine business assurance reviews of payment accuracy, separate reviews of participant and provider payment samples and a range of enforcement activities such as debt recovery, administrative action and referral for criminal prosecution.

Preventive controls

3.163 The NDIA publishes guidance on its website for providers and participants on what may be paid, processes for payments and what documentary evidence to keep to support claims. For example, guidance for providers states that 'Providers must ensure that service bookings and payment requests align with the participant's plan funding, the NDIS Pricing Arrangements and Price Limits and the NDIS Code of Conduct'. The NDIA also publishes the Compliance and Enforcement Framework on its website and undertakes broader educational activities with providers, contacting them to raise awareness of compliance issues.

3.164 The ANAO's 2021–22 financial statements audit identified deficiencies in NDIA system payment controls and made a recommendation relating to systems controls for duplicate payment testing and validation of the claim having been paid by the participant.⁸⁰

80 The NDIA advised that additional ICT controls supporting payment compliance would be included in its PACE system.

Detective Controls

3.165 NDIA detective controls include compliance activities triggered by data analysis and tip offs relating to overclaiming and misuse of funds, as well as the draft typologies library (see paragraph 3.167).

3.166 Monthly business intelligence reporting identifies claiming patterns such as large initial use of plan funds; large use of plan funds at any given time; and where the support type being claimed is inconsistent with the claim description. Plans included in reporting are reviewed to check if the pattern of expenditure appears appropriate. Expenditure that appears inconsistent with the plan is flagged for a further 'claims integrity' review. NDIA reporting on large initial use of funds informed compliance activity that resulted in \$3.9 million of cancelled claims between July and November 2022. The NDIA does not use this reporting to inform an assessment of overall trend analysis and to drive continuous improvement.

Compliance activities

3.167 The NDIA undertakes various additional compliance activities, such as reviews of:

- providers claiming an incorrect rate for supports delivered;
- plan managers overclaiming financial administration fees;
- potential over-servicing by providers for domestic support services;
- Supported Independent Living (SIL) providers; and
- TTPs.

3.168 The NDIA's compliance monitoring activity includes an ongoing program of sample testing of claims for payment. NDIA reports the number and value of payments reviewed, number and value of those cancelled following review or request for further evidence and overall error rate for providers and participants to the ELT on a quarterly basis. The ANAO's 2021–22 financial statements audit identified that NDIA sampling does not take into account the potential high risk of single delegate approved plans in its sampling methodology and also recommended that NDIA consider system driven validation for payments for self management participants..

3.169 For non-compliant self-managed participants, the NDIA may start directly managing their plan or apply a system payment lock on their account to allow pre-payment compliance review and prevent further overclaiming or overutilisation. A plan reassessment may also be initiated to ensure the plan remains appropriate, and that self-managed participants understand the purpose of funded supports. The NDIA advised it:

- applied a system payment lock to zero plans in 2021-22 and to 117 plans between 1 July 2022 and 30 April 2023; or
- changed the plan management approach to plan- or agency-managed for 519 plans in 2021–22 and 407 plans between 1 July 2022 and 30 April 2023

3.170 In 2020–21 the NDIA undertook reviews of 571 providers to test for excess claiming for SIL funding against auto-extended plans.⁸¹ This identified 99 providers inappropriately claiming an estimated \$15.3 million in SIL funding when no service had been provided, impacting 216 participants. The NDIA concluded the total instances and value of providers claiming when no service was provided was likely greater than indicated by this sample. The NDIA advised that it asked providers to voluntarily cancel their non-compliant claims and where providers were unable or unwilling to do so, the NDIA issued a debt invoice.

3.171 In 2021, NDIA identified the risk of TTP being paid incorrectly as providers self-assess eligibility and automated ICT controls are not in place to ensure a claim for TTP is paid only to an eligible provider. The Annual Pricing Review 2021–22 Final Report noted that almost 36 per cent of the providers who claimed the TTP in 2020–21 were ineligible as they had not completed the required benchmarking survey for the 2019–20 financial year. See paragraph 3.51 for further discussion of the TTP.

3.172 A TTP pre-payment review pilot was undertaken in August 2022, where system payment locks were applied to TTP claims, and provider registration status was manually reviewed prior to the payment being processed. Compliant claims were released for payment and non-compliant claims, totalling \$109,752, were cancelled.



Grant Hehir
Auditor-General

Canberra ACT
28 June 2023

81 To provide participants with continuity of support, the NDIA automatically extends plans that have not been reassessed before their end date.

Appendicies

Appendix 1 Entity responses

PDR Number **EC23-001152**



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

Mr Grant Hehir
Auditor General
Australian National Audit Office (ANAO)

Via email: OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Mr Hehir

Australian National Audit Office (ANAO) Audit Report on Effectiveness of the National Disability Insurance Agency's (NDIA) management of Assistance with Daily Life (ADL) supports

Thank you for your correspondence of 5 May 2023, containing the Section 19 Proposed Report for the ANAO performance audit on *Effectiveness of the NDIA's management of ADL supports*. The NDIA appreciates the opportunity to review and comment on the proposed report.

The NDIA welcomes the performance audit of the 'Effectiveness of the NDIA's management of ADL supports' and recognises the value of the ANAO providing independent analysis and insights into the effectiveness of the NDIA's management of ADL supports.

The NDIA acknowledges the findings of the report and supports the recommendations and the opportunities they provide for further improvements in providing participants with suitable supports.

The NDIA will commence activities to address the recommendations raised in the report. In some instances, NDIA has already made significant progress.

The NDIA appreciates the constructive engagement of the ANAO throughout the conduct of this performance audit and remains committed to assisting you with the successful completion of this audit. The NDIA looks forward to the upcoming tabling of the Final Report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Fearnley'.

Mr Kurt Fearnley AO
Chairman
National Disability Insurance Agency

Attachment-1: Summary Response
Attachment-2: Response to Recommendations

5 June 2023

Delivered by the
National Disability
Insurance Agency



Australian Government

Services Australia

Our Ref: EC23-002279

Chief Executive Officer
Rebecca Skinner PSM

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

**Services Australia's response the Australian National Audit Office's (ANAO) performance
audit of *Effectiveness of the National Disability Insurance Agency's management of
assistance with daily life supports***

Thank you for providing Services Australia (the agency) with the opportunity to comment on the extract of the ANAO's performance audit of *Effectiveness of the National Disability Insurance Agency's management of assistance with daily life supports*.

I note the audit's finding that there was no written protocol or agreement between the two agencies setting out the scope, terms or legislative basis on which staff of the National Disability Insurance Agency (NDIA) access the agency's Centrelink mainframe to support verification of participant details.

The agency has a Statement of Intent with NDIA that provides the overarching framework under which NDIA staff are granted access to certain agency systems, and a Protected Information Disclosure document that provides the legislative basis for that access. The agency provides access to Centrelink information systems on the basis of specified position numbers within NDIA. The access is provided as a result of a rule written into the Centrelink mainframe and does not need to be individually requested by NDIA staff, as it is specifically associated with the requirements of those positions. The position numbers are within the NDIA human resources organisational structure.

The relevant inter-agency agreements, policy framework documents, legal authorities and system architecture documents which, together, establish the control framework to support NDIA access to agency systems, have been provided to the ANAO together with this response.

PO Box 7788, Canberra Business Centre ACT 2610 | Phone (02) 6223 4411 | www.servicesaustralia.gov.au

The agency considers that the requirements of the recommendation are currently in place.

The agency's contact for this matter is Mr Andrew Rodrigues, National Manager Audit.
Mr Rodrigues is available on 02 6132 2790 or andrew.rodrigues@servicesaustralia.gov.au.

Yours sincerely



Rebecca Skinner

31 May 2023



Australian Government
Attorney-General's Department

Secretary

19/10744; EC23-001340

1 June 2023

Mr Grant Hehir
 Auditor-General for Australia
 Australian National Audit Office
 GPO Box 707
 CANBERRA ACT 2601

Dear Mr Hehir

Thank you for the opportunity to provide comments on the excerpt of the Australian National Audit Office's performance audit report – *Effectiveness of the National Disability Insurance Agency's management of assistance with daily life supports*.

The Attorney-General's Department welcomes the opportunity to comment on recommendation 15, but notes it has only been provided with a small section of the overall report.

The department 'notes' recommendation 15. The recommendation is not directed to a particular entity, and there are a variety of methods that could be used to implement it. For example, the National Disability Insurance Agency's (NDIA) establishing legislation could be amended, it could be prescribed as a listed entity under the *Public Governance, Performance and Accountability Rule 2014* or the NDIA/its Minister could act to voluntarily 'align' its fraud control requirements itself.

While the Attorney-General and the department have policy responsibility for the Commonwealth Fraud Control Framework, I note that neither the Attorney-General nor the department have the power to unilaterally give effect to the recommendation. Officers of your office and the department have discussed this and, with your permission, officers of the department have also discussed the draft recommendation with the Department of Finance and the NDIA. The department will work closely with the NDIA, the Department of Finance and other relevant entities to give effect to the recommendation should the Government wish to implement it.

Please refer to **Attachment A** for the department's response to the recommendation. As this response is short, we ask that it is also used for the department's summary response.

The action officer for this matter is Scott Sharp, Chief Audit Executive, who can be contacted on 02 6141 3490.

Yours sincerely

Katherine Jones PSM
 Attorney-General's Department

3-5 National Circuit, Barton ACT 2600 Telephone (02) 6141 6666 www.ag.gov.au ABN 92 661 124 436

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.

2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's 2022–23 Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.

3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:

- strengthening governance arrangements;
- introducing or revising policies, strategies, guidelines or administrative processes; and
- initiating reviews or investigations.

4. In this context, the below actions were observed by the ANAO during the course of the audit. It is not clear whether these actions and/or the timing of these actions were planned in response to proposed or actual audit activity. The ANAO has not sought to obtain assurance over the source of these actions or whether they have been appropriately implemented.

- In July 2022, NDIA published an updated plan implementation directory and associated budget calculator.⁸²
- In July 2022, NDIA updated the three Participant Booklets⁸³ in plain English and easy read versions and translated into 12 languages other than English:
 - Booklet 1 — Applying for the NDIS;
 - Booklet 2 — Creating your NDIS plan; and
 - Booklet 3 — Using your NDIS plan.

82 NDIA, *Updated plan implementation directory following participant feedback* [Internet] <https://www.ndis.gov.au/news/8031-updated-plan-implementation-directory-following-participant-feedback> [accessed 2 February 2023]

83 NDIA, *Update to key participant booklets* [Internet] <https://www.ndis.gov.au/news/8038-update-key-participant-booklets> [accessed 2 February 2023]

- In October 2022, the Minister for the NDIS announced the establishment of a fraud fusion taskforce to strengthen fraud detection and better safeguard the NDIS from organised crime and other fraudsters.⁸⁴
- In October 2022, NDIA commenced an alternative dispute resolution pilot to trial ways to improve the timeliness to finalising disputed decisions.⁸⁵
- In November 2022, NDIA published the refreshed Participant Service Charter.⁸⁶
- In November 2022, NDIA released an improved data exploration tool on its website.⁸⁷
- In December 2022, NDIA published new disability dashboards providing insight of participant experiences by disability.⁸⁸
- In January 2023, NDIA published the three Participant Booklets in additional formats, including Auslan (video), digital braille file format, and five additional languages other than English.⁸⁹

84 NDIS, *Getting the NDIS back on track* [Internet] <https://www.ndis.gov.au/news/8351-getting-ndis-back-track> [accessed 2 February 2023]

85 NDIS, *Getting the NDIS back on track* [Internet] <https://www.ndis.gov.au/news/8351-getting-ndis-back-track> [accessed 2 February 2023].

86 NDIS, *Refreshed Participant Service Charter is now available* [Internet] <https://www.ndis.gov.au/news/8496-refreshed-participant-service-charter-now-available> [accessed 2 February 2023].

87 NDIS, *Improvements to Explore Data tool* [Internet] <https://www.ndis.gov.au/news/8531-improvements-explore-data-tool> [accessed 2 February 2023].

88 NDIS, *New Disability Dashboards released* [Internet] <https://www.ndis.gov.au/news/8577-new-disability-dashboards-released> [accessed 2 February 2023].

89 NDIS, *Participant booklets now in 17 languages, Auslan and digital braille* [Internet] <https://www.ndis.gov.au/news/8771-participant-booklets-now-17-languages-auslan-and-digital-braille> [accessed 2 February 2023].

Appendix 3 NDIA assessment tool preference order

1. The NDIA sets out a preference order for planners to use to inform decisions. Where no assessment is available, the planner completes either a World Health Organization Disability Assessment Schedule (WHODAS) 2.0 for participants aged 17 years and over, or the Paediatric Evaluation of Disability Inventory Computer Adaptive Test (PEDI-CAT) for participants aged 16 years and under. The preference order is set out in Table A.1.

Table A.1 NDIA disability assessment tool preference order

| Primary disability | Treating health professional/s | Disability assessment tool preference order |
|---|--|---|
| Acquired Brain Injury (ABI) | ABI health professionals | <ol style="list-style-type: none"> 1. Care and need scale (CANS) (17 years and over) 2. World Health Organization Disability Assessment Schedule (WHODAS) 2.0 (17 years and over) 3. Paediatric Evaluation of Disability Inventory Computer Adaptive Test (PEDI-CAT) (16 years and under). |
| Autism and Intellectual Disability (same tools for both) | Psychologist Occupational Therapist Speech Therapist | <ol style="list-style-type: none"> 1. Diagnostic and statistical manual of mental disorders, fifth edition (DSM-V) 2. Vineland Adaptive Behavior Scale 3 (Vineland-3) 3. Vineland Adaptive Behavior Scale 2 (Vineland-2) 4. PEDI-CAT (16 years and under) 5. WHODAS 2.0 (17 years and over). |
| Cerebral Palsy | Occupational Therapist Physical Therapist Paediatrician Physiotherapist | <ol style="list-style-type: none"> 1. Gross motor functional classification scale (GMFCS) 2. Manual ability classification scale (MACS) 3. Communication function classification system (CFCS) 4. WHODAS 2.0 |
| Hearing Impairment | Audiologist | <ol style="list-style-type: none"> 1. Hearing impairment responses and groupings guide 2. WHODAS 2.0 3. PEDI-CAT (16 years and under) 4. Hearing acuity score. |
| Multiple sclerosis | Neurologist Disease steps trained Nurse examiner | <ol style="list-style-type: none"> 1. Disease steps 2. Patient determined disease steps (PDDS) 3. Expanded disability status scale (EDSS) 4. WHODAS 2.0 |
| Psychosocial disability | Psychiatrist General Practitioner (GP) Psychologist (in limited circumstances) | <ol style="list-style-type: none"> 1. Life Skills Profile 16 measure (LSP-16) 2. Health of the Nation Outcomes Scale (HoNOS) 3. WHODAS 2.0 |
| Spinal Cord Injury | Neurologist Physiotherapist Occupational Therapist Recreational Therapist Psychologist | <ol style="list-style-type: none"> 1. Level of lesion 2. American spinal injury association impairment scale (ASIA/AIS) 3. WHODAS 2.0 (17 years and over) 4. PEDI-CAT (16 years and under) |

| Primary disability | Treating health professional/s | Disability assessment tool preference order |
|--------------------|--|---|
| | Psychiatrist | |
| Stroke | Neurologist | 1. Modified Rankin Scale (mRS) 2. WHODAS 2.0 |
| Vision impairment | Ophthalmologist | 1. Vision impairment questionnaire (17 years and over) 2. WHODAS 2.0 (17 years and over) 3. PEDI-CAT (16 years and under) 4. Visual acuity rating. |
| Other disability | Occupational Therapist Speech Therapist Physiotherapist Social Worker | 1. WHODAS 2.0 (17 years and over) 2. PEDI-CAT (16 years and under) |

Source: ANAO analysis of NDIA information.⁹⁰

90 NDIA, Types of disability evidence [Internet], available from <https://www.ndis.gov.au/applying-access-ndis/how-apply/information-support-your-request/types-disability-evidence> [accessed 5 November 2022]