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Performance Audit

National Disability Insurance Scheme—Management of the Transition of the Disability Services Market

Department of Social Services

National Disability Insurance Agency

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Canberra ACT
9 November 2016

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Social Services and the National Disability Insurance Agency titled *National Disability Insurance Scheme - Management of the Transition of the Disability Services Market*. The audit was conducted in accordance with the authority contained in the *Auditor-General Act 1997*. 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

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Summary and recommendations

Background

1. The National Disability Insurance Scheme (NDIS or the Scheme) is a shared reform agenda to replace current Commonwealth, state and territory disability support systems with a nationally consistent approach that gives people with disability, their families and carers more choice and control. When fully implemented, it is estimated that the Scheme will benefit approximately 460 000 Australians with a disability, at a cost of around \$22 billion in 2019–20.
2. Implementation of the NDIS is intended to drive changes in the disability services market over time. The disability services market is expected to grow significantly to meet increased demand for goods and services. New and different forms of suppliers are anticipated to enter the market, bringing with them ‘diversity, competition and innovation.’¹ Estimates suggest that the disability care workforce will need to more than double in size between 2013 and 2019–20.
3. The NDIS will also transform the way in which the disability services market operates. Consumer choice and control is a central pillar of the NDIS, which will change the nature of the relationship between consumers and service providers. Many service providers will also need to adapt their systems and processes to manage the shift from block funding (in advance) to fee-for-service arrangements. Due to the scale of the reform, the maturing of the new NDIS disability services market is expected to take up to ten years, and perhaps longer in some market segments.

Audit objective and criteria

4. Recognising that a well-functioning and responsive disability services market is fundamental to the successful implementation of the NDIS, the audit focused on the management of the transition of the disability services market by the Australian Government entities with responsibility for the NDIS—the Department of Social Services (DSS or the department) and the National Disability Insurance Agency (the NDIA or the Agency).
5. The objective of the audit was to assess the effectiveness to date of the management of the approach to transitioning the disability services market to the NDIS market arrangements. To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:
 - the approach by the department and the NDIA to transition the disability services market has been informed by lessons learnt from the trial sites and other relevant market transformations;
 - the department and the NDIA have effectively considered implementation issues in their management of the approach to transitioning the disability services market;
 - the Sector Development Fund has been used strategically to support and inform the transition of the disability services market; and

1 Department of Social Services, *Integrated Market, Sector and Workforce Strategy*, June 2015, p. 7, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 26 August 2016].

- the department and the NDIA have effective mechanisms to continue to adjust and refine their approach to transitioning the disability services market.

Conclusion

6. By mid-2016 the department and the NDIA had established, or had taken steps to establish, the key building blocks for a successful transition of the disability services market to the new NDIS arrangements, but many risks and some gaps remain.

7. Within NDIS' intergovernmental governance arrangements, the processes and timeframes for collective decision-making have been inconsistent with the timeframes for the rollout of the Scheme. This, along with a lack of clarity over roles and responsibilities, has contributed to delays, risk and complexity.

8. There is limited evidence of a strategic approach to the use of the Commonwealth's \$146 million Sector Development Fund, in the first three years of the Fund's administration.

9. Both the department and the NDIA have captured, analysed and used lessons from the trial sites to develop market policy and operational settings in response to feedback and experience.

10. While the department did not have a clearly documented work program to implement its disability workforce development responsibilities, the Agency documented a program of activities to operationalise its market transition responsibilities. However there was no published overall work plan which sets out timeframes and deliverables.

11. There is a high degree of executive oversight of NDIS risks within both DSS and the NDIA but opportunities remain to enhance both intergovernmental and Commonwealth risk management.

12. Both the department and the NDIA have recently changed their organisational arrangements to improve their ability to meet their responsibilities. In October 2016, DSS developed a draft NDIS Transition Program Plan to support its market oversight role in the NDIS market transition. The NDIA's transition planning provides for continued collection of data, and mechanisms are in place, or under development, to improve data collection.

13. Finalising the national *NDIS Quality and Safeguarding Framework* and its supporting infrastructure and implementation arrangements needs to be a priority to improve regulatory certainty and address market transition risks. The deployment of a new NDIS ICT system from July 2016 experienced significant problems. Timely and accurate communication is essential in such circumstances.

14. Going forward, the NDIS is a complex social and economic reform. The magnitude of the growth and change required to the disability services market cannot be underestimated, and the transition to full Scheme elevates an already high risk environment. This requires ongoing monitoring and active management. Within this context, both DSS and the NDIA need to invest in their capability to identify and resolve emerging market concerns for many years to come.

Supporting findings

Planning the market transition

15. In the early design and transition phases of the NDIS, the governance arrangements were necessarily complex but fit-for-purpose given the Scheme is a shared responsibility between the Commonwealth and states and territories. In this regard, key market design and policy elements required agreement by all governments. In practice, the timeframes associated with this collective decision-making arrangement have been inconsistent with the implementation timeframes set by governments. This has increased the NDIS' operational complexity and elevated risks for the market transition.

16. During the NDIS trial period there was a lack of clarity over the roles and accountabilities of government entities for managing the market transition. In September 2016 the Disability Reform Council agreed market-related roles and responsibilities for the Commonwealth, states and territories, and the NDIA. It would be useful for DSS and the NDIA to publish statements defining their respective 'market oversight' and 'market stewardship' roles, to improve transparency and support accountability for these responsibilities.

17. Over time, governments have considered a number of elements of the Scheme's market design, but key gaps towards establishing a well-functioning NDIS market remain. Certain regulatory arrangements—in particular on safety and quality—have progressed, but significant work remains. There is no evidence that the conflict of interest in the NDIA being both a price regulator and purchaser (on behalf of governments) has been considered.

18. In June 2015, an *Integrated Market, Sector and Workforce Strategy* was published—two years after the original trial sites commenced. This Strategy describes a vision for the disability services market under the NDIS, and high-level transitional supports, but does not commit jurisdictions to specific deliverables, accountabilities and milestones.

19. The approach to the NDIS market transition, including the *Integrated Market, Sector and Workforce Strategy*, was informed by learnings from the trial sites and other market transitions. There was no formal consultation with external stakeholders. There is benefit to be gained from consulting key non-government stakeholders in the context of any future iteration of the Strategy.

20. There is limited evidence of the Commonwealth adopting a strategic approach to disbursements from the \$146 million Sector Development Fund in the first three years of the Fund's administration. Around one third of the Fund was committed prior to the publication of the *Integrated Market, Sector and Workforce Strategy* in 2015. The ANAO's review of projects supported through the Fund to December 2015 indicates that a more strategic approach is warranted, informed by learnings identified through evaluation of funded projects. Publication of an Investment Strategy or similar document would increase transparency and inform stakeholders of the outcomes sought from projects assisted through the Fund.

Implementing the market transition

21. In October 2016 the department developed a draft NDIS Transition Program Plan that documents a program of work to support its broader market oversight role during transition to full Scheme. However, the department did not have a clearly documented program of work to operationalise its disability workforce development responsibilities, although priorities for investment in workforce development are now documented in a *Sector Development Fund Investment Strategy*. There are common issues and linkages between the quality and supply of the disability, aged care, health and child care workforces. An Interdepartmental Committee is examining how entities can work together to use mainstream policy settings and programs to support an adequate labour supply. The disability care workforce is a major risk to the NDIS rollout, which needs to be carefully monitored and managed. Workforce development initiatives would be strengthened by the department developing and publishing a targeted action plan.

22. The NDIA has a documented program of work to operationalise key areas of activity and projects to support the market transition. Information about aspects of the Agency's market readiness work is also public. There is no published overall work plan relating to the transition of the disability services market which sets out specific timeframes and deliverables. Publishing information on the Agency's market stewardship role and its approach to steering the disability services market towards the desired end state would be beneficial.

23. Both the department and the NDIA have captured, analysed and used lessons from the NDIS trial sites to develop market policy and operational settings in response to feedback and experience. At the operational level, the NDIA has used learnings from the trial sites to support the market transition. The ANAO's review of Agency records and consultation with stakeholders indicated that, in response to trial site experience, the Agency had implemented measures to better support both participants and service providers to transition to the NDIS market.

24. The ANAO's consultations with entities and review of entity records indicate that there is now a high degree of executive oversight of NDIS risks within both DSS and the NDIA. A framework for the identification, management and reporting of risks has been developed which reflects that the NDIS is a shared intergovernmental responsibility. A May 2016 *Independent Review of the Readiness of NDIS for Transition to Full Scheme* made a number of recommendations aimed at enhancing collective risk identification and management, including: changes to decision-making structures to facilitate timely resolution of critical system-wide strategic and implementation issues; joint scenario planning to strengthen risk mitigation and contingency plans; and scheduling of structured reflection points. Implementation of these recommendations would strengthen collective risk management and responsiveness, as well as the department's own risk management.

25. The NDIS Commonwealth Board plays a key role in overseeing NDIS risk to the Commonwealth. The Commonwealth Board has increased its risk focus since May 2015. Documenting accountabilities and timeframes (where applicable) for mitigation strategies—in the NDIS Transition Dashboard Reports provided to the Commonwealth Board by the department—and reporting progress in implementing mitigation strategies would allow increased transparency and accountability for risk management.

Meeting future market challenges

26. Both the department and the NDIA have recently implemented revised organisational arrangements and structures to support their respective market oversight and stewardship roles. As the NDIS market develops over time, both entities will need to continue to invest in their organisational capabilities to enable the Government to maintain its ability to oversee the impacts of the NDIS on stakeholders.

27. DSS has developed a draft NDIS Transition Program Plan aligned to its market-related roles and responsibilities for the NDIS market transition phase, including setting out its plans to establish the capability to collect, analyse and monitor key data to inform its lead 'market oversight' role.

28. In planning for the transition to full Scheme, the NDIA—supported by the Scheme Actuary—has established mechanisms to collect and analyse data and other information to: monitor the emerging markets to support its operational and market stewardship responsibilities; and inform governments and market participants. The Agency is continuing to build its data analytics capacity.

29. The Agency is implementing measures to address identified barriers to a successful market transition. This includes improving the availability of market information and investing in initiatives to build participant capacity to act as informed consumers. The NDIA is developing an improved evidence base to inform its responsibilities for pricing decisions, and intends to establish clear market review cycles to underpin decision-making in respect of Scheme pricing.

30. The national *NDIS Quality and Safeguarding Framework* is still to be considered by the Council of Australian Governments. The Framework and its supporting regulatory infrastructure and implementation arrangements need to be settled as a matter of priority.

31. Existing quality and safeguarding arrangements will continue to operate during transition but there are concerns about the capacity of existing regulatory systems to respond effectively as the NDIS market expands. Delays in the registration of providers have emerged in the lead up to transition, and provider registration may remain a pressure point for the Agency during the transition. Ongoing monitoring and reporting of performance against benchmarks should be considered.

32. The introduction of a new ICT system for the NDIS on 1 July 2016 was expected to provide enhanced functionality for Scheme participants and new and existing service providers. However, the rollout of this new system experienced significant problems. During periods of uncertainty and change in particular, timely and accurate communication is essential to build understanding and reduce frustrations.

Recommendation

Recommendation No. 1
Paragraph 3.7 The Department of Social Services should produce and publish a disability care workforce action plan as soon as practicable, which includes specific actions, timeframes, accountabilities, and monitoring arrangements for implementation.

DSS' response: *Agreed.*

DSS agrees with this recommendation and recognises that workforce action plans that take into account the individual characteristics of geographic and cohort markets will be valuable during the transition period. Work at the bilateral level, in particular, will be critical to ensure that the workforce responses in each jurisdiction are matched to the specific characteristics and needs of the local market. DSS is currently working with State and Territory Governments and the NDIA to operationalise Bilateral Agreements to Transition to a full scheme NDIS. Each Bilateral Agreement includes a System and Sector Readiness Schedule, which sets out agreed activities to prepare the market and workforce, and respond to any sector or system readiness issues in each state or territory. This work will assist DSS in capturing workforce issues and risks that are jurisdiction-specific, and together with the relevant jurisdiction, develop effective strategies to mitigate these problems

Summary of entity responses

Department of Social Services

The Department acknowledges the findings of the report and agrees with the recommendation. The recommendation reflects the direction the Department is already taking in its ongoing role as lead policy agency with responsibility for the National Disability Insurance Scheme (NDIS). The Department will also continue to work closely with the National Disability Insurance Agency (NDIA), and its state and territory counterparts to develop, implement and publish, as appropriate, policy directions and activities which go towards achieving an efficient and effective disability services market and workforce.

The Department notes that we are still in the early stages of transition to the full scheme NDIS. As the audit report notes, we do not yet have a mature market, and consequently any workforce shortages are not national or entrenched, as there is not yet a critical mass of participants with plans in place outside trial sites. It will be critical for the Department, the NDIA and the states and territories to maintain close monitoring of local and systemic issues in the nascent market to ensure a comprehensive and timely response.

The 'learn and build' approach has been a key pillar of the approach to the NDIS. While we have made efforts to be aware of cautionary experiences emerging from other market transitions, the NDIS is a ground-breaking reform to offer life-long, multi-service support to people with disability, which does not lend itself easily to comparisons with other reforms. Similarly, while it was critical to capture the learnings from the trial sites to inform development of strategies and approaches, the information derived from the trials is limited to geographic areas or participant cohorts and does not provide a sound basis for forming judgements about the wider market. The Department considers that a stronger basis for intervention in the market is likely to emerge in the later part of the transition to full scheme.

National Disability Insurance Agency

The National Disability Insurance Agency (NDIA) acknowledges and agrees with the findings in the audit report. The audit process was a valuable exercise and the feedback provided by the ANAO will assist NDIA in its current and future market transition activities.

Audit Findings

1. Background

Introduction

1.1 The National Disability Insurance Scheme (NDIS or the Scheme) will replace current Commonwealth, state and territory disability support systems with a nationally consistent approach aimed at giving people with disability, their families and carers more choice and control over the support they receive. It will provide funded packages of support to eligible individuals with disability and, when fully implemented, it is estimated that the Scheme will benefit approximately 460 000 Australians with a disability, at a total cost of around \$22 billion in 2019–20.²

1.2 Existing disability systems are predominantly funded, and in some case operated, by governments.³ Access to, and choice of, services can be limited. People with disability generally have to accept the services on offer rather than being able to tailor supports to their particular needs. This has resulted in short term planning, higher long term support needs and system costs, and adverse personal outcomes for some people with disability and their carers.

1.3 The NDIS instead adopts a lifetime cost of care model, consistent with insurance principles, which seeks to invest over the life of a person. Eligible participants will develop a plan that identifies their individual goals and aspirations and the ‘reasonable and necessary’ supports⁴ required to help them work towards these. Participants with an approved plan of support may then purchase these supports from service providers of their choice. Governments will also significantly increase their funding for disability services and equipment, from an estimated \$14.9 billion in 2012 to around \$22 billion in 2019–20. The transition to the NDIS will involve the phased transfer of eligible people with disability from existing disability systems into the Scheme. New entrants will also join the NDIS during the transition. In addition, the NDIS is expected to assist people with disability, including those who do not meet the eligibility criteria for the Scheme, by providing information, linkages and referrals to connect them with appropriate disability, community and mainstream supports.

Background to the NDIS

1.4 In 2010, the Australian Government asked the Productivity Commission to conduct an inquiry into a ‘National Disability Long-term Care and Support Scheme.’ The Productivity Commission reported in July 2011 and concluded that existing disability support arrangements ‘are inequitable, underfunded, fragmented, and inefficient and give people with disability little

2 NDIA, Federal Budget 2013–14, available from <<http://www.ndis.gov.au/about-us/governance/federal-funding>> [accessed 12 March 2016].

3 The Commonwealth, states and territories each fund disability services. Some states and territories also own and operate services that provide supports to people with disability.

4 The criteria for determining if a support is ‘reasonable and necessary’ are set out in Section 34 of the *National Disability Insurance Scheme Act 2013*.

choice.’⁵ In order to address these concerns, the Productivity Commission recommended the establishment of two schemes—a NDIS and a National Injury Insurance Scheme.⁶

Consideration by the Council of Australian Governments

1.5 In April 2012, COAG agreed a set of high-level principles to guide consideration of the Productivity Commission’s recommendations. These principles included that reforms should take a social insurance approach, supported by actuarial modelling. COAG also required the Select Council on Disability Reform to ‘reflect and give effect to’ design principles that addressed:

- the provision of individualised care and support based on need, supported by a number of ‘foundation reforms’, which included the development of the disability services sector, workforce and capacity as well as reforms to promote client choice and control;
- transparent and sustainable resourcing arrangements that would provide funding certainty and support a social insurance approach;
- transparent and accountable governance arrangements that would provide for ongoing involvement of all jurisdictions in determining governance, policy settings and Scheme management; and
- accelerated progress in the delivery of ‘foundation reforms’, to run in parallel with the resolution of governance and funding issues.⁷

Intergovernmental Agreement

1.6 In December 2012, the Commonwealth and all states and territories entered into an Intergovernmental Agreement for the launch of the NDIS. The Intergovernmental Agreement was to provide ‘the foundations for governments to work together to develop and implement the first stage of an NDIS ... [and a] framework for progressing to a full Scheme’.⁸ Among other things, the Intergovernmental Agreement sets out the objectives for the first stage of the NDIS and the roles and responsibilities of parties to the Agreement. In respect of the Commonwealth, these responsibilities included: developing legislation to support the Scheme; and funding the establishment, administrative and system supports for the launch, including for a National Disability Insurance Agency⁹ (NDIA or the Agency) and sector and workforce development.

1.7 Part 7 of the Intergovernmental Agreement provided for the establishment of a Standing Council on Disability Reform (Ministerial Council) with responsibility for NDIS policy.¹⁰ The

5 Productivity Commission, *Disability Care and Support*, Report no. 54, Commonwealth of Australia, Canberra, 2011, p. 5.

6 The National Injury Insurance Scheme, recommended by the Productivity Commission to address catastrophic injuries from accidents, is not considered as part of this audit.

7 Council of Australian Governments, *Attachment A to Communiqué, 13 April 2012: High-level Principles for a National Disability Insurance Scheme*, COAG, 2012, pp. 2–5, available at <<https://www.coag.gov.au/node/315>> [accessed 18 January 2016].

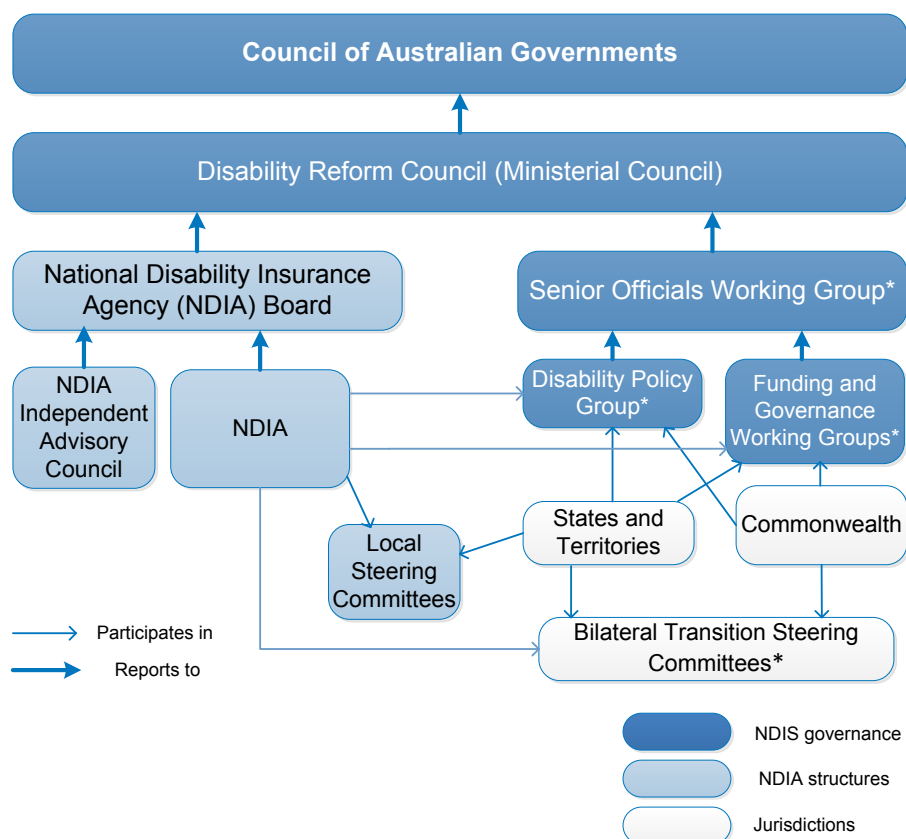
8 Council of Australian Governments, *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*, 7 December 2012, p. 2, available at <<https://www.coag.gov.au/node/485>> [accessed PDF version 18 October 2015].

9 The NDIA is a corporate Commonwealth entity as discussed in paragraphs 1.8 and 1.10.

10 The Standing Council on Disability Reform replaced the Select Council on Disability Reform on 1 January 2013. In December 2013 the Standing Council was replaced with the COAG Disability Reform Council.

Ministerial Council comprises the Treasurers and Ministers with responsibility for disability reform from each jurisdiction, and is supported by a number of officials' forums. The Intergovernmental Agreement also provides that the Board of the NDIA will report to the Ministerial Council 'to give all jurisdictions visibility of the Agency's service delivery and fiscal outcomes'¹¹ (see Figure 1.1).

Figure 1.1: NDIS governance arrangements



*Note: These are intergovernmental groups.

Source: Department of Social Services, as at September 2015.

Legislation

1.8 In March 2013, the *National Disability Insurance Scheme Act 2013* (the Act) was enacted. Among other things, the Act establishes the NDIA as a corporate Commonwealth entity¹² and

11 Council of Australian Governments, *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*, 7 December 2012, pp. 4–5, available at <<https://www.coag.gov.au/node/485>> [accessed PDF version 18 October 2015].

12 Under the *Public Governance, Performance and Accountability Act 2013*, a corporate Commonwealth entity is a body corporate that is legally separate from the Commonwealth. It may, for example, enter into contracts in its own name.

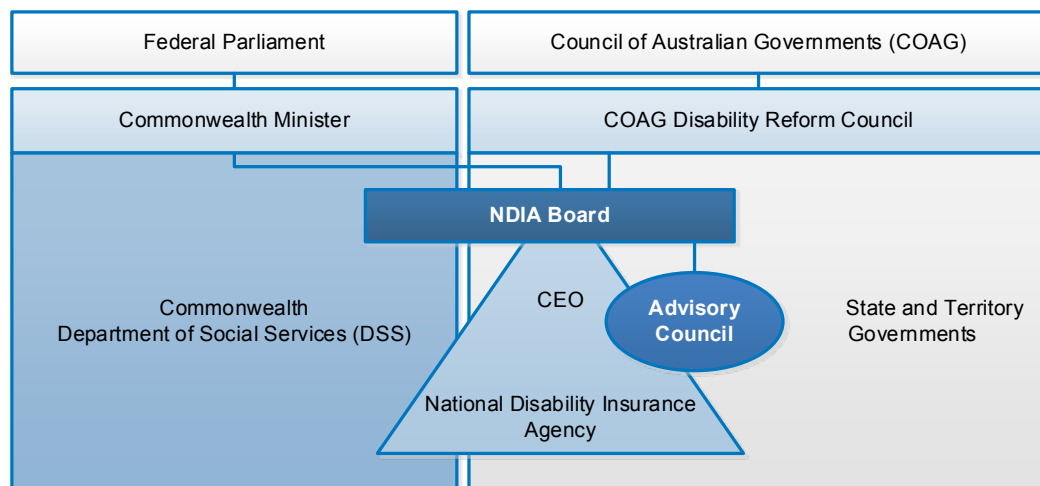
defines its functions, governance and reporting requirements. The Act is supplemented by a number of NDIS Rules, which address the more detailed operational aspects of the Scheme.

Commonwealth administrative arrangements

1.9 In 2011–12, a cross-portfolio Task Force was established within the Department of Families, Housing, Community Services and Indigenous Affairs to support the development of the NDIS and establishment of the NDIA. Following the launch of the Scheme, the Task Force’s policy functions were incorporated within the Department of Social Services (DSS or the department).¹³

1.10 The NDIA is responsible for implementing the NDIS. The Agency is governed by the NDIA Board, which is responsible under the Act for: ensuring the proper, efficient and effective performance of the Agency’s functions; and determining objectives, strategies and policies to be followed by the Agency. In performing its functions, the Board must have regard to relevant actuarial analysis and advice and is also supported by an Independent Advisory Council (see Figure 1.2). Board appointments are made by the Commonwealth Minister with the agreement of all states and territories.

Figure 1.2: National Disability Insurance Agency governance arrangements



Source: Adapted from NDIA website available at <https://myplace.ndis.gov.au/ndisstorefront/about-us/governance.html> [accessed 28 August 2016].

NDIS Commonwealth Board

1.11 To provide oversight of the development and implementation of the NDIS from a Commonwealth perspective, the Australian Government established the NDIS Commonwealth Board (Commonwealth Board). Presently, the Commonwealth Board comprises high-level representation from the Australian Government departments of: Prime Minister and Cabinet;

¹³ The Administrative Arrangements Order of 18 September 2013 formed the Department of Social Services by combining some functions of the former departments of: Families, Housing, Community Services and Indigenous Affairs; Health and Ageing; Immigration and Citizenship; Education, Employment and Workplace Relations; Industry, Innovation, Climate Change, Science, Research and Tertiary Education; and Prime Minister and Cabinet.

Treasury; Finance; and Veterans' Affairs and is chaired by the Secretary of the Department of Social Services.¹⁴ The Chief Executive Officer of the Agency is an ex-officio member of the Board. The Commonwealth Board is a forum for senior officials to: contribute to a whole-of-government perspective on the implementation of the NDIS; assess, prioritise and progress issues relating to cost and sustainability; and develop whole-of-government positions on NDIS policy.

Implementation of the NDIS

1.12 The Intergovernmental Agreement signed by all jurisdictions on 7 December 2012 sets out key arrangements for the launch of the NDIS in a number of trial sites, commencing from 1 July 2013. In the NDIS trial period—1 July 2013 to 30 June 2016—approximately 34 350 people with disability became NDIS participants across nine operational NDIS sites (seven trial sites and two early transition sites). At full Scheme¹⁵ (2019–20) it is anticipated that there will be around 420 000 NDIS participants nationally, excluding Western Australia.¹⁶

1.13 Bilateral Agreements for the Transition to a NDIS set out the timeframes for transition in each jurisdiction and document how people with disability will move into the NDIS, which is generally by age, by cohort, by geographical region, or a combination of these factors. While the timeframes for transitioning to full Scheme differ between jurisdictions, it is intended that the Scheme will be fully implemented by July 2019 in all jurisdictions that have indicated their intent to progress to full Scheme. This timeframe has been described as ambitious given the magnitude of reform required to implement the Scheme.¹⁷ Appendix 2 provides an overview of planned transition arrangements by jurisdiction, along with key NDIS data.

Disability services market

1.14 Implementation of the NDIS is intended to drive changes in the disability services market¹⁸ over time. The department and the NDIA advised the ANAO that, due to the unprecedented scale and nature of reform, the maturing of a new disability services market under the NDIS is expected to take up to ten years, and perhaps longer in some market segments. Further, some markets may require more active and careful intervention and risk management over several years to aid the transition.

1.15 The disability services market is expected to grow significantly to meet increased demand for goods and services under the NDIS. That is, in 2012–13, around 313 000 people with disability

14 Initially the Commonwealth Board was chaired by the Secretary of the Department of the Prime Minister and Cabinet and had high-level representation from a range of Commonwealth departments with extensive experience in complex policy development and implementation. Following the launch of the NDIS, the scope and membership of the Board were revised.

15 The term 'full Scheme' refers to the full implementation of the NDIS.

16 As at 20 September 2016, no agreement was in place for Western Australia to transition to full Scheme.

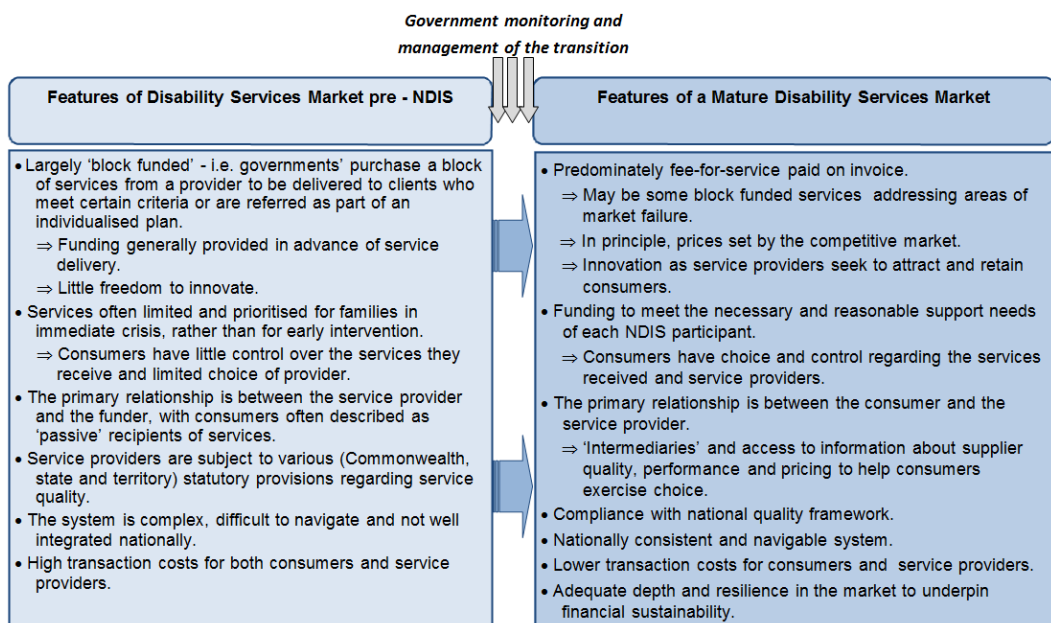
17 See for example: Whalan J, Acton P & Harmer J, *A review of the capabilities of the National Disability Insurance Agency*, January 2014, p. 6; and p. 14; and National Commission of Audit, *National Disability Insurance Scheme*, available from < <http://www.ncoa.gov.au/report/phase-one/part-b/7-2-the-national-disability-insurance-scheme.html> > [accessed 20 September 2016].

18 There are multiple 'markets' in the disability sector, for example: employment; housing; specialist disability care services; goods and equipment. A reference to the disability services market in this audit report is intended to capture these multiple markets.

accessed services provided under the National Disability Agreement.¹⁹ By the time the NDIS is fully implemented in 2019–20, it is estimated that the number of Scheme participants will be around 460 000.²⁰ Funding for disability services is also expected to increase from an estimated \$14.9 billion in 2012 to around \$22 billion in 2019–20.²¹ It is anticipated that new and different forms of suppliers will enter the market to meet this demand, bringing with them ‘diversity, competition and innovation.’²² It is also estimated that the disability care workforce will need to more than double in size between 2013 and 2019–20.²³

1.16 The NDIS is expected to transform the way in which the disability services market operates. Key features of the current disability services market as compared to a competitive and mature NDIS market are listed at Figure 1.3. Notably, the primary relationship under NDIS arrangements will be between service providers and NDIS participants rather than between service providers and government funding bodies.

Figure 1.3: Key features of the disability services market pre and post NDIS



Source: Based on ANAO analysis of: the Productivity Commission report on *Disability Care and Support; the Integrated Market, Sector and Workforce Strategy*; and NDIA presentations on the market transition.

19 Australian Institute of Health and Welfare, *Disability support services: services provided under the National Disability Agreement 2012-13*, Bulletin no. 122. Cat. no. AUS 182, Canberra: AIHW, 2014, p. 1, available at <<http://www.aihw.gov.au/disability-publications/>> [accessed 25 February 2016].

20 NDIA, Federal Budget 2013–14, available from <<http://www.ndis.gov.au/about-us/governance/federal-funding>> [accessed 12 March 2016].

21 *ibid.*

22 See footnote 1.

23 Department of Social Services, *Integrated Market, Sector and Workforce Strategy*, June 2015, p. 7, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 15 September 2016].

1.17 Participant choice and control is a central pillar of the NDIS. New market exchange relationships between participants and providers are expected to empower participants. As Scheme participants develop confidence, gain access to more information about the types of supports that may be available to help them achieve their goals, and start to exercise greater choice and control, the nature of their relationship with service providers is anticipated to change. For example, there is expected to be a greater focus on the participant's experience, service innovation and on effective marketing of goods and services to participants.²⁴

1.18 Similarly, the type and mix of supports that participants demand may change as they start to choose what supports they receive and as participants' goals and aspirations change. The emergence of intermediary services to assist NDIS participants to connect and/or coordinate the supports provided in their plan, or to assist with the financial management of these supports, is also expected to be a feature of disability markets under the NDIS.

1.19 The operational environment is expected to be markedly different under the NDIS. Many service providers will need to adapt their administrative systems and processes to manage the shift from block funding (in advance) to fee-for-service arrangements.

1.20 The effective growth, transition and management of the disability services market is considered to be central to the successful implementation of the NDIS. Without market adjustment there is a risk that the demand generated by the NDIS will outstrip supply, creating inflationary and quality pressures in the market. Such pressures have the potential to adversely impact access by NDIS participants to quality services and supports and to undermine the Scheme's sustainability.

Audit approach

1.21 This audit is the first in a series that the ANAO plans to conduct into the NDIS. Recognising that a well-functioning market is fundamental to the successful implementation of the NDIS, this audit is focused on the management of the transition of the disability services market. Noting that management of the market transition is a shared responsibility between the Commonwealth and the states and territories, this audit examines the Australian Government entities with responsibility for the NDIS—DSS and the NDIA.

1.22 The objective of this audit is to assess the effectiveness to date of the management of the approach to transition the disability services market to the NDIS market arrangements. To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- the approach by DSS and the Agency to transition the disability services market has been informed by lessons learnt from the trial sites and other relevant market transformations.
- the department and the Agency have effectively considered implementation issues in their management of the approach to transitioning the disability services market.

24 Financial Review, *Not-for-profits on the hunt for NDIS marketing talent*, 2 May 2013, available at <<http://www.afr.com/content/afr/business/notforprofits-on-the-hunt-for-ndis-marketing-talent-20130502-kboed.html>> [accessed 20 June 2016].

- the Sector Development Fund has been used strategically to support and inform the transition of the disability services market.
- the department and the Agency have effective mechanisms to continue to adjust and refine their approach to transitioning the disability services market.

1.23 The audit focused on the department's and the Agency's policy and operational development work around market design, implementation and transition within a multi-jurisdictional framework. The audit did not examine the initial market design and transition by the Productivity Commission or other aspects of the NDIS such as: scaling up for roll-out to the full Scheme; intergovernmental negotiations other than where these have impacted on the department's and the Agency's management of the market transition; the financial sustainability of the NDIS; or the interaction with mainstream services.

1.24 Previous ANAO audits of significant, demand-driven programs with exacting implementation timeframes²⁵, and recent key reviews and guides relating to Commonwealth administration were also considered, including: *Learning from Failure* by Professor Peter Shergold AC²⁶; and *Successful Implementation of Policy Initiatives*, by the Department of the Prime Minister and Cabinet and the ANAO.²⁷

1.25 The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of approximately \$913 860.

25 For example, ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned; and ANAO Audit Report No. 9 2010-11 *Green Loans Program*.

26 P Shergold, *Learning from Failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*, Australian Public Service Commission, 2015, Canberra, available at <<http://www.apsc.gov.au/publications-and-media/current-publications/learning-from-failure>> [accessed 17 June 2016].

27 Department of the Prime Minister and Cabinet & ANAO Better Practice Guide—*Successful Implementation of Policy Initiatives*, October 2014, Canberra, available at <<https://www.anao.gov.au/pubs/better-practice-guides>> [accessed 16 June 2016].

2. Planning the market transition

Areas examined

This chapter examines whether management of the transition of the disability services market was underpinned by: effective governance arrangements; clear roles and accountabilities; and a strategic approach to market regulation and transition. It also examines if there are processes in place to monitor implementation and whether the Sector Development Fund was used strategically to support the market transition.

Conclusions

Within NDIS' intergovernmental governance arrangements, the processes and timeframes for collective decision-making have been inconsistent with the timeframes for the rollout of the Scheme. This, along with a lack of clarity over roles and responsibilities, has contributed to delays, risk and complexity.

There is limited evidence of a strategic approach to the use of the Commonwealth's \$146 million Sector Development Fund, in the first three years of the Fund's administration.

Areas for improvement

It would be useful for the Department of Social Services and the National Disability Insurance Agency to publish statements defining their 'market oversight' and 'market stewardship' roles, respectively, to improve transparency and accountability.

There would be benefit in the 2017 Productivity Commission review to also examine regulatory responsibility for price setting.

Publication of an investment strategy for the Sector Development Fund would increase transparency and inform stakeholders of the outcomes sought.

Do governance arrangements support the effective management of the market transition?

In the early design and transition phases of the NDIS, the governance arrangements were necessarily complex but fit-for-purpose given the Scheme is a shared responsibility between the Commonwealth and states and territories. In this regard, key market design and policy elements required agreement by all governments. In practice, the timeframes associated with this collective decision-making arrangement have been inconsistent with the implementation timeframes set by governments. This has increased the NDIS' operational complexity and elevated risks for the market transition.

2.1 The National Disability Insurance Scheme (NDIS or the Scheme) is a shared responsibility between the Commonwealth and states and territories and this is reflected in multi-jurisdictional and multi-layered governance arrangements (see Figure 1.1). The Scheme is being jointly designed by the Commonwealth, states and territories and implemented by the National Disability Insurance Agency (NDIA or the Agency). The Department of Social Services (DSS or the department) advised the ANAO that 'all major policy decisions and documents are based on extensive consultation with the states, territories and the NDIA, and to go forward must be agreed

by these same stakeholders.’ This approach seeks to draw on expertise across jurisdictions to create a shared policy vision, and allow for adjustments based on experience.

2.2 Given the shared responsibilities for the NDIS, the governance arrangements that were established for the early market design and transition phases of the Scheme were fit-for-purpose. However, the processes and timeframes for collective decision-making have proved to be inconsistent with the implementation timeframes set by governments. The impacts of these arrangements has increased the NDIS’ operational complexity and elevated risks for the market transition.

2.3 For example, the January 2015 *Capability Health Check of the National Disability Insurance Agency* noted that ideally ‘participants, existing providers, new entrants to the market and the NDIA would be given at least 12 months [that is by 1 July 2015] advance notice of the agreed details of transition to the full scheme ...’ in order to make necessary preparations. The report further noted that delays would impact the development of detailed implementation and operational plans; ICT system development and the provision of information to the market place about the location and timeframes for likely increases in demand. Yet, the Bilateral Agreements for transition to full Scheme were not signed until between September 2015 and May 2016.

2.4 Similarly, the May 2016 *Independent Review of the Readiness of NDIS for Transition to Full Scheme* noted that:

Interviewees highlighted concerns about constrained timelines on the finalisation of key policy decisions and settings ‘down to the wire’ as having potentially negative impact on scheme implementation. In some cases goodwill was being lost when the time needed to put the necessary focus on implementation was not available given the later than expected delivery of policy frameworks. In reality, this has meant that there has not always been sufficient time to adjust implementation and resolve any implications, including in areas such as ICT.

2.5 The department advised the ANAO that it ‘considers that the complexity of the governance arrangements, while cumbersome, is necessary, given the shared undertaking that the NDIS represents.’

2.6 The *Independent Review of the Readiness of NDIS for Transition to Full Scheme* also recommended changes to decision-making structures to facilitate timely resolution of critical system-wide strategic and implementation issues. At their 2 September 2016 meeting, the Disability Reform Council (Ministerial Council) discussed a number of changes to ensure a streamlined, flexible and agile governance structure for the NDIS to enable governments to respond and implement solutions quickly as issues arise over transition. These will be the focus of further negotiation.²⁸

28 COAG Disability Reform Council, *Communiqué*, 2 September 2016, p. 4, available at <<https://www.dss.gov.au/disability-and-carers/programmes-services/government-international/disability-reform-council/communique-2-september-2016>> [accessed 6 September 2016].

Are the roles and accountabilities of parties responsible for the market transition clear?

During the NDIS trial period there was a lack of clarity over the roles and accountabilities of government entities for managing the market transition. In September 2016 the Disability Reform Council agreed market-related roles and responsibilities for the Commonwealth, states and territories, and the NDIA. It would be useful for DSS and the NDIA to publish statements defining their respective 'market oversight' and 'market stewardship' roles, to improve transparency and support accountability for these responsibilities.

Defining roles and responsibilities for the market transition

2.7 The ANAO has previously identified that program implementation is more likely to succeed if it receives strong executive-level support, and there is a sound governance framework in place to oversight progress and respond, as appropriate, to any unexpected variations in performance. Governance arrangements need to be tailored to the requirements of the program with clearly defined roles and responsibilities, including decision-making responsibilities. This is important for allowing appropriate mobilisation of resources and addressing emerging problems in a timely and effective manner.²⁹

2.8 DSS advised the ANAO that 'the necessary complexity of the NDIS governance arrangements is a notable feature of the Scheme that means that DSS, or indeed the NDIA and DSS, have limited options for unilateral policy and program activity'. DSS further advised that 'states and territories hold many of the levers for successful market transition, over which the Commonwealth has little influence or control'. In this regard, the ANAO notes that shared decision-making was a known—and necessary—part of the NDIS' governance from the outset.

2.9 The roles and responsibilities of the Commonwealth, states and territories, and the Agency during the launch phase of the NDIS are set out in the *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*³⁰ (Intergovernmental Agreement). Under the Intergovernmental Agreement, jurisdictions share responsibility for policy development to support the design and implementation of the NDIS launch. In respect of the market transition, responsibility for funding sector and workforce development rests with the Commonwealth.³¹ Responsibility for supporting transition arrangements for existing providers rests with both the Commonwealth and the responsible state or territory, depending on the provider.³²

29 See for example: ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned, p. 175; and ANAO Audit Report No. 9 2010-11 *Green Loans Program*, pp. 51-52.

30 Council of Australian Governments, *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*, 7 December 2012, available at <<https://www.coag.gov.au/node/485>> [accessed 18 October 2015].

31 In October 2016 the department advised the ANAO that state and territory governments have also invested in sector and workforce development activities.

32 The Intergovernmental Agreement provides that: the Australian Government is responsible for supporting transition arrangements for existing providers of disability services that are Commonwealth entities or are funded by the Commonwealth; while the relevant state or territory government is responsible for supporting transition arrangements for those service providers that are state or territory government entities or are funded by the state or territory.

2.10 Under the Intergovernmental Agreement, the Agency has responsibility for delivery and management of the NDIS, consistent with its enabling legislation.³³ The relevant market transition functions of the Agency are set out in section 118 of the Act, and include to:

- (i) support the independence, and social and economic participation, of people with disability; and
- (ii) enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports; and
- (iii) ensure that the decisions and preferences of people with disability are respected and given appropriate priority; and
- (iv) promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and inclusion in the mainstream community; and
- (v) ensure that a reasonable balance is achieved between safety and the right of people with disability to choose to participate in activities involving risk.

2.11 The ANAO's review of documentation and stakeholder consultations indicates that there had been a lack of clarity over responsibility for different aspects of the market transition. There was evidence of officials from the Commonwealth, states and territories repeatedly discussing the need to clarify roles and responsibilities for both the development of the Strategy and market transition arrangements more broadly. During audit fieldwork, roles and responsibilities for the market transition were also not considered settled by all parties consulted by the ANAO. A number of state and territory officials raised issues regarding the authorising environment for the Agency's market work and where responsibility lies for matters that are not within the control of the Agency, for example industrial relations.

2.12 This lack of clarity resulted in the Agency receiving mixed messages from government stakeholders and delays in the work program for developing the (market transition) Strategy. For example:

- despite responsibility for the development of a market strategy resting with intergovernmental officials, in September 2014 the Disability Reform Council (Ministerial Council) wrote to the NDIA Board seeking a report back on strategies to develop the necessary market conditions to support the NDIS;
- the Market Readiness Working Group established by the Disability Policy Group in June 2014 did not meet for the first time until November 2014 and DSS advised the ANAO that confusion about who was responsible for taking forward the market transition work contributed to these delays.

2.13 The unclear authorising environment in which the Agency was operating was identified as an issue in a number of external reviews since 2014. These include: KPMG's July 2014 *'Interim report: Review of the optimal approach to transition to the full NDIS'*³⁴; the January 2015 'Health Check' of the NDIA, which identified role clarity as an ongoing issue; and a 2016 *Independent*

33 *National Disability Insurance Act (No. 20) 2013 (Cth)*.

34 KPMG, *Interim report: Review of the optimal approach to transition to the full NDIS*, p. 7, 16 July 2014, available at <http://www.ndis.gov.au/sites/default/files/documents/kpmg_paper.pdf> [accessed 10 January 2016].

Review of the Readiness of NDIS for Transition to Full Scheme that ‘heard repeatedly there was a lack of clarity in the roles and responsibilities of all parties in relation to the market and providers.’

2.14 The Agency advised the ANAO that while roles and responsibilities for the market transition have not always been clear, this was to be expected given the magnitude of reform, and the number of players involved. The Agency further advised that roles and processes have been evolving and adapting as the Agency learns from experience and this fluidity was not viewed by the Agency as a negative. The ANAO notes that while organisational agility and flexibility is important it does not negate the need for clear roles and responsibilities. Rather, role clarity in such circumstances is essential to mitigate risk and ensure accountability.

2.15 On 2 September 2016 the Ministerial Council agreed market-related roles and responsibilities of the Commonwealth, state and territory governments and the NDIA.³⁵ In this regard, during transition to full Scheme:

- the department has the lead ‘market oversight’ role, including in respect of national issues relating to the market, sector and workforce; and
- the NDIA is expected to take an active ‘market stewardship’ role to ensure that participants will be able to access services, manage Scheme sustainability, and embed the insurance principles of the Scheme. The Ministerial Council also noted that the NDIA’s role and responsibilities are expected to evolve over time.

2.16 Ministerial agreement to these clarified roles and responsibilities during the transition to full Scheme is a positive step. This development recognised that the NDIA and other parties need greater clarity about their market-related roles and responsibilities going forward. It would also be useful for both DSS and the NDIA to publish a clear statement outlining their ‘market oversight’ and ‘market stewardship’ roles, respectively, to provide greater definition, transparency and support accountability for these responsibilities. It is also likely that in practice there will still be some areas of ambiguity that will need to be resolved, bilaterally or multilaterally, from time to time. Given the pace of reform, it will be important for this to occur in a timely and responsive manner, informed by both policy and operational experience.³⁶

2.17 The Agency advised the ANAO that it plans to document and publish its market stewardship role, including levers it may use during the transition to full Scheme, in a Statement of Opportunities and Intent.

35 COAG Disability Reform Council, *Communiqué*, 2 September 2016, p. 3, available at <<https://www.dss.gov.au/disability-and-carers/programmes-services/government-international/disability-reform-council/communique-2-september-2016>> [accessed 6 September 2016].

36 In his report, *Learning from Failure*, Professor Peter Shergold, emphasised the importance of program management expertise in delivering government policy.

Is there a transition strategy that defines the market end state and transition pathway?

Over time, governments have considered a number of elements of the Scheme's market design, but key gaps towards establishing a well-functioning NDIS market remain. Certain regulatory arrangements—in particular on safety and quality—have progressed, but significant work remains. There is no evidence that the conflict of interest in the NDIA being both a price regulator and purchaser (on behalf of governments) has been considered.

In June 2015, an *Integrated Market, Sector and Workforce Strategy* was published—two years after the original trial sites commenced. This Strategy describes a vision for the disability services market under the NDIS, and high-level transitional supports, but does not commit jurisdictions to specific deliverables, accountabilities and milestones.

2.18 From the early days of the Scheme's development, building the capacity of the disability workforce and sector and assisting existing providers to transition to the NDIS environment were recognised by governments as priorities.³⁷ Other proposed elements of the Scheme's market design regularly considered by governments in the early planning phases included:

- regulatory arrangements, chiefly focused on a national approach to safety and quality;
- supply and demand side strategies; and
- transition arrangements, including for existing participants and providers.

2.19 In April 2012, the Prime Minister announced that the NDIS would commence in up to four trial sites from 1 July 2013, a year earlier than originally proposed by the Productivity Commission. In this context, officials and Ministers focused on agreeing those design aspects of the Scheme that needed to be in place prior to the trials commencing. Market structure and workforce development were identified as 'policy threshold issues to be resolved following launch.'

Structures for market regulation

2.20 Markets generally comprise regulators (who set/administer the market's rules), suppliers (such as existing disability service providers as well as new entrants) and purchasers (such as participants at the individual level, as well as the NDIA as the system-wide purchaser on behalf of governments). Markets require clear information and certainty on the regulatory framework, including pricing arrangements, to make informed investment decisions. Clear information on regulation and pricing also supports participants' ability to operate effectively in the market.

National Quality and Safeguarding Framework

2.21 The *National Quality and Safeguarding Framework* is the responsibility of the Commonwealth and state and territory governments, through the Ministerial Council. A key challenge for the *National Quality and Safeguarding Framework* will be to effectively regulate

37 W Swan (Deputy Prime Minister and Treasurer), J Macklin (Minister for Families, Housing, Community Services and Indigenous Affairs) and J McLucas (Parliamentary Secretary for Disabilities and Carers), Early Delivery of Foundation Reforms for National Disability Insurance Scheme, Joint media release, Parliament House, Canberra, 20 October 2011, available at <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/127.htm&pageID=003&min=wms&Year=&DocType> [accessed 20 June 2016].

diverse service providers, who differ in size, level of experience, and in the risk profile of the services on offer.³⁸

2.22 Consultations on a *National Quality and Safeguarding Framework* closed on 30 April 2015, and it was intended that the Ministerial Council would consider the draft framework by the end of 2015. This timeframe was not met, and an agreed framework was not available at the commencement of transition to full Scheme on 1 July 2016. The draft *NDIS Quality and Safeguarding Framework* was subsequently considered by the Ministerial Council in September 2016, with COAG to consider its agreement to the framework by the end of 2016.

2.23 Regulatory structures proposed include:

- an *NDIS Complaints Commissioner* who will receive and support the resolution of complaints about providers of NDIS-funded supports, receive and investigate serious incident reports, and investigate potential breaches of the *NDIS Code of Conduct*;
- an *NDIS Registrar* who will have responsibility for registering providers, managing the *NDIS Practice Standards and certification scheme*, monitoring provider compliance, and taking action as required;
- a *Commonwealth Senior Practitioner* who will oversee approved behaviour support practitioners and providers; provide best practice advice; receive, review and report on provider reports on use of restrictive practices; and follow-up on serious incidents that suggest unmet behaviour support needs. The states and territories will be responsible for approval processes to include restrictive practices in a behaviour plan; and
- *worker screening*, with the Commonwealth responsible for national policy and standards, while state and territory government will have responsibility for screening workers before they enter the workforce and for continuing to monitor whether workers are safe to support people with disability.

2.24 The draft Framework proposes that not all risks associated with the NDIS need to be addressed directly by the Framework. For example, complaints about the NDIA, or NDIA-funded Local Area Coordinators, could be addressed through existing regulation, such as the Administrative Appeals Tribunal and the Commonwealth Ombudsman. The draft Framework also sets out links with existing universal protections, such as police, fair trading bodies, consumer protections (e.g. under the Australian Consumer Law³⁹), and other regulatory and complaints systems.

2.25 The draft Framework should be settled as a matter of priority and released to the market. This Framework is intended to be operational by July 2018. The Framework, once agreed by COAG, is also a high-level strategy, and much work remains to agree the operational level details and establish the proposed regulatory functions within this timeframe.

38 For example, service providers may range from: small single practitioner businesses to large corporations; from providers with extensive experience in delivering disability services to new market entrants with no or limited experience; and from providers offering 24 hour care and assistance with all activities of daily living, to providers offering home maintenance services, such as cleaning and gardening.

39 Administered and enforced jointly by the Australian Competition and Consumer Commission and the state and territory consumer protection agencies, with the involvement of the Australian Securities and Investments Commission on relevant matters.

Other regulatory elements

2.26 Regulation (or otherwise) of prices also has a significant impact on the function of markets, affordability of goods and services (and the Scheme, as a whole), and decisions by both existing and potential providers and participants. Consistent with the Productivity Commission's 2010 report, the NDIA's role includes determining the 'efficient price' for NDIS services.⁴⁰ The Scheme's legislation also sets out the Agency's role including 'managing the financial sustainability of the Scheme' and making decisions on 'reasonable and necessary supports'.⁴¹

2.27 The Agency advised the ANAO that in a mature NDIS market, the price of disability services and supports is expected to be set by the market. While the disability services market is in transition, the Agency sets a maximum price that registered service providers may charge for funded supports included in participants' plans. These maximum prices are currently above the 'efficient price' identified by the Agency, in recognition that it may take some time for providers to adapt to the new arrangements. The NDIA has also indicated that it will consider moves to deregulate prices as the market matures.

2.28 The ANAO's interviews with service providers identified that NDIS pricing is a contentious issue. National Disability Services⁴² advised the ANAO that:

Growth in the current market may be restricted by the collapse of existing services as some NDIS prices are too low. A reasonable margin for funded supports is needed so that organisations can build a balance sheet and invest in service innovation that responds to changing demand. Organisations need to know what prices will be charged to enable planning.

2.29 Governments (and the Agency) are actively monitoring risks to the Scheme's financial sustainability. However, the NDIA's dual roles in the market as both a funder or 'purchaser' on behalf of governments, and as a price 'regulator' presents a conflict of interest which needs to be transparently managed. In other (largely public-provided) sector transformations such as the establishment of the national energy market, governments have progressively taken steps to establish independent pricing regulators, for all or part of the market's operations where public interest concerns remain. In a similar human service delivery market, the Aged Care Financing Authority provides independent advice to government on funding and financing matters.

2.30 In the context of entities' analysis of NDIS market arrangements, and advice to governments' on the NDIS market design, the ANAO could find no evidence that the implications of these dual market roles for the NDIA had been actively examined.

2.31 By July 2017, the Ministerial Council is expected to set out terms of reference for a Productivity Commission review of Scheme costs, with a report due by end December 2017. The review is expected to examine, amongst other things, the sustainability of Scheme costs, jurisdictional capacity, costs pressures, efficiencies that have been achieved, and levers to manage potential cost overruns. This review could also usefully re-examine the appropriateness of the

40 See Productivity Commission, *Disability Care and Support*, 31 July 2011, p. 401, available from <<http://www.pc.gov.au/inquiries/completed/disability-support/report>> [accessed 13 September 2016].

41 See *National Disability Insurance Act 2013*, Sections 34 *Reasonable and necessary supports* and 118 *Functions of the Agency*.

42 National Disability Services is Australia's peak body for non-government disability service organisations.

NDIA continuing to exercise a role in NDIS price setting, or whether this key regulatory role (if it is to continue beyond the transition phase) should reside elsewhere.

Integrated Market, Sector and Workforce Strategy

2.32 While Commonwealth, state and territory officials, as well as the NDIA, met regularly to progress elements of the Scheme design and market transition, it was not until April 2015 that the Ministerial Council agreed an *Integrated Market, Sector and Workforce Strategy* (the Strategy). This Strategy was published in June 2015—some two years after the original trial sites commenced. Prior to the release of the Strategy there was no nationally agreed framework to inform market development activities undertaken by jurisdictions and the Agency in NDIS trial sites or more broadly.

2.33 The Strategy's vision for the NDIS market is that 'people with disability exercise choice and control and have access to a full range of quality services and supports.'⁴³ It also lists the 'essential characteristics of a responsive and effective market structure'⁴⁴ as a means of depicting the desired end state for the NDIS disability services market. These characteristics include:

- informed and capable consumers who have access to information about supplier quality, performance and pricing;
- providers of goods and services take a holistic view of the person with disability and generate a diverse, vibrant, sustainable, competitive and fair market place;
- transaction costs are minimised, allowing consumers to readily move between service providers; and
- market regulation achieves a balance between providing protection, supporting choice, and understanding risk.

Transition pathway

2.34 Bilateral Agreements for the Transition to a NDIS set out the timeframes for transition in each jurisdiction and document how people with disability will move into the NDIS. These transitional pathways vary by jurisdiction, although arrangements are generally by age, by cohort, by geographical region, or a combination of these factors.⁴⁵

43 NDIS, *Integrated Market, Sector and Workforce Strategy*, June 2015, p. 10, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 12 September 2015].

44 *ibid.*, p. 11.

45 As at July 2016, the Commonwealth had signed bilateral agreements for the transition with NSW and Victoria on 16 September 2015; with South Australia and Tasmania on 11 December 2015; with Queensland on 16 March 2016, and with the Northern Territory on 5 May 2016. Full Scheme transition arrangements in the ACT were settled under the previously agreed trial agreement between the Commonwealth and ACT Government.

2.35 In terms of the market transition, the Strategy outlines that in a responsive and effective market structure:

- existing providers of goods and services are supported to make the transition to the Scheme and to ensure that social capital and skilled and experienced workers are retained within the sector;
- there is adequate support for people with disability to influence the design of supports, facilitating new ways of engaging support, including assessing levels of risk for the individual; and
- transitional arrangements are in place where there are supply gaps.⁴⁶

2.36 While establishing a national approach to the market transition, the Strategy does not provide a clear basis for coordinated actions, as it does not commit jurisdictions to specific deliverables, with agreed timeframes, accountabilities and milestones. DSS advised the ANAO that 'detailed timeframes and accountabilities will likely be captured in a bilateral context going forward, recognising the unique characteristics in each jurisdiction in terms of the market and workforce.'

2.37 A number of the service providers interviewed by the ANAO advised that they were reluctant to invest in revised systems and processes, or make decisions regarding service delivery offerings, because the future was too opaque. They further advised that they were eager for more information about a range of issues, including: NDIS pricing policy and when pricing would be deregulated; and timeframes for state and territory withdrawal from direct service delivery.⁴⁷ The peak body for non-government disability service organisations, National Disability Services, has stated that service providers need '... a clear map of the terrain ahead.' National Disability Services advised the ANAO:

Several strategies have been published (Assistive Technology, Rural and Remote, Market and Workforce). They provide directions but are light on implementation detail. For these strategies to inform the planning and investment decisions of service providers, they need to be underpinned by clear publicly-available plans.

2.38 Further detail about how the Strategy is to be operationalised, including specific actions and timeframes, would assist stakeholders, particularly service providers who need to make investment decisions. In July 2016, DSS advised the ANAO that it intends to develop a Strategy 'action plan' for 2016–17 and into the future. Publishing this action plan, including key priorities and initiatives, timeframes and milestones, may help to address stakeholder concerns.

46 NDIS, *Integrated Market, Sector and Workforce Strategy*, June 2015, p.11, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 12 September 2015].

47 The withdrawal of states and territories from direct service delivery was described by DSS as 'a key influence in the development of the market'. Decisions about the timing of withdrawal and the provision of information to the market about the withdrawal rest with the states and territories.

Have lessons from other relevant experiences been considered?

The approach to the NDIS market transition, including the *Integrated Market, Sector and Workforce Strategy*, was informed by learnings from the trial sites and other market transitions. There was no formal consultation with external stakeholders. There is benefit to be gained from consulting key non-government stakeholders in the context of any future iteration of the Strategy.

Learning from other market transitions

2.39 When implementing new programs, the ANAO has observed that entities should consider whether there is any international or interstate experience that would beneficially inform their consideration of program design and implementation.⁴⁸

2.40 In May 2014 the Disability Policy Group⁴⁹ considered analysis from other market transitions, in particular: early childhood education and care; aged care; Job Services Australia; and Out of Home Care NSW. Officials also reviewed analysis of issues affecting the viability of non-government and government service providers operating in contestable environments. In that context, the transition of foster care services to non-government organisations in NSW (the Out of Home Care program) was examined as a case study.

2.41 In February 2015, the NDIS Market Readiness Working Group⁵⁰ considered a draft Strategy that was informed by lessons from other major market transitions in Australia and internationally; and from other market transitions to individualised funding.⁵¹

2.42 During the course of the audit, the ANAO noted that officials continued to engage in learning and analysis. For example, in March 2016 Commonwealth, state and territory officials held a workshop on risks and challenges in the new NDIS market. The workshop considered, among other matters, a presentation from the Victorian Department of Education on the vocational education and training reforms and the challenge of regulating the VET-FEE Help market.

Learning from operational and stakeholder experience

2.43 The Agency regularly contributes its own experiences and analysis to inform governments' market policy considerations through the intergovernmental Market, Sector and Workforce Working Group.⁵² The ANAO's analysis indicates that the Strategy was also informed by the operational experience of the Agency.

48 See for example ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned, p. 177.

49 The Disability Policy Group comprises officials from the Commonwealth, states and territories. See Figure 1.1.

50 The NDIS Market Readiness Working Group, a sub-group of the Disability Policy Group, comprises officials from the Commonwealth, states and territories, and the NDIA.

51 'Individualised funding' refers to funding specifically allocated for the needs of a particular individual, rather than 'block funding' to service providers who then deliver services to a range of eligible clients. In this context, funding is generally only provided after the individual receives services and supports from the provider.

52 Previously known as the Market Readiness Working Group. It was established by the intergovernmental Disability Policy Group to develop the Integrated Strategy and to provide advice on how the market will respond under the NDIS.

2.44 The Strategy was not directly informed by consultations with key non-government stakeholders. However, the Market, Sector and Workforce Working Group did consider several reports formulated with input from stakeholders:

- the *Roadmap to a Sustainable Workforce* which was prepared by the peak body, National Disability Services, following interviews with key informants in NDIS trial sites and broader consultation with sector experts and stakeholders, including consumer advocates, service providers and peak bodies; and
- reports⁵³ commissioned by DSS on the sustainability of the disability workforce and disability sector which were informed by consultation with disability service providers, state government agencies, consumer groups and people with a disability.

2.45 Successive reviews of government administration have emphasised the importance of engaging with a range of stakeholders and experts in formulating policy and program development.⁵⁴ NDIS participants and service providers have key roles in the successful transition of the disability services market and workforce. There would be particular benefit in consulting key non-government stakeholders in the context of any future iteration of the Strategy.

Has the Sector Development Fund been used to support and inform the market transition?

There is limited evidence of the Commonwealth adopting a strategic approach to disbursements from the \$146 million Sector Development Fund in the first three years of the Fund's administration. Around one third of the Fund was committed prior to the publication of the *Integrated Market, Sector and Workforce Strategy* in 2015.

The ANAO's review of projects supported through the Fund to December 2015 indicates that a more strategic approach is warranted, informed by learnings identified through evaluation of funded projects. Publication of an Investment Strategy or similar document would increase transparency and inform stakeholders of the outcomes sought from projects assisted through the Fund.

2.46 The Sector Development Fund (the Fund) provides \$146 million (from 2012–13 to 2017–18) to support the NDIS market transition. As at December 2015, approximately \$80 million of the Fund remained uncommitted. The ANAO's review indicates that almost one third (\$45.5 million) of the Fund was committed by DSS and the Agency prior to finalising the *Integrated Market, Sector and Workforce Strategy* in April 2015.⁵⁵

53 For example, PricewaterhouseCoopers, *Planning for a sustainable disability sector* [Internet], PWC, 2012, available from <https://www.dss.gov.au/sites/default/files/documents/05_2014/fahcsia_sector_capacity_report_november_2012.pdf_-_adobe_acrobat_pro.pdf> [accessed 27 May 2016].

54 See for example, P Shergold, *Learning from Failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*, Australian Public Service Commission, Canberra, 2015, pp. 6, 17-18, available at <<http://www.apsc.gov.au/publications-and-media/current-publications/learning-from-failure>> [accessed 17 June 2016].

55 The ANAO has not assessed the administration of the Sector Development Fund against the Commonwealth grants administration framework.

2.47 Documentation provided by the department to the ANAO states that, as at December 2015, approximately \$65.8 million of the Fund was expended, committed or set aside for a range of projects (see Table 2.1). Within this amount, DSS records indicate that, as at December 2015, there were sixteen current SDF project commitments totalling \$26.4 million. This included \$10 million set aside for a Specialist Disability Accommodation Initiative from 2015–16 to 2016–17.⁵⁶

Fund purpose and administration

2.48 Budget Paper No. 1 (2012–13) stated that the purpose of the Fund was:

to increase the capacity of the disability services sector to deliver NDIS services and supports. The disability support workforce will undergo a fundamental change and will expand significantly under the NDIS. This funding will assist the sector to make the transition.

2.49 This general statement was expanded in the *Sector Development Fund: Strategy and operational guidelines*⁵⁷ (Fund Guidelines). The Fund Guidelines state that the Fund:

aims to support the market, sector and workforce to transition to the new NDIS operational environment of full scheme by funding activities that assist individuals and organisations so:

- there is an efficient, responsive and innovative market that meets the diverse needs of people with disability and their families
- people with disability are able to effectively exercise choice and control to shape the nature of the market.

2.50 As illustrated in Figure 2.1, between 2012–13 and 2015–16, the Fund’s administration has moved between DSS and the Agency. In 2012–13 the Fund was administered by the NDIS Taskforce located in the department.⁵⁸ The Fund Guidelines indicate that the department established initial outcomes and priorities for the Fund in consultation with state and territory governments although no evidence of this consultation was provided to the ANAO. During 2012–13, the NDIS Taskforce committed \$30.7 million from the Fund, of which \$19.5 million was allocated to state and territory governments, including \$16.1 million to the ACT Government for sector development and Tier 2 projects.⁵⁹ The remaining \$11.2 million of Fund monies committed by the NDIS Taskforce was allocated to a range of sector development projects. The ANAO found no evidence that the allocation of the Funds’ monies during this period was underpinned by a documented strategy or process.

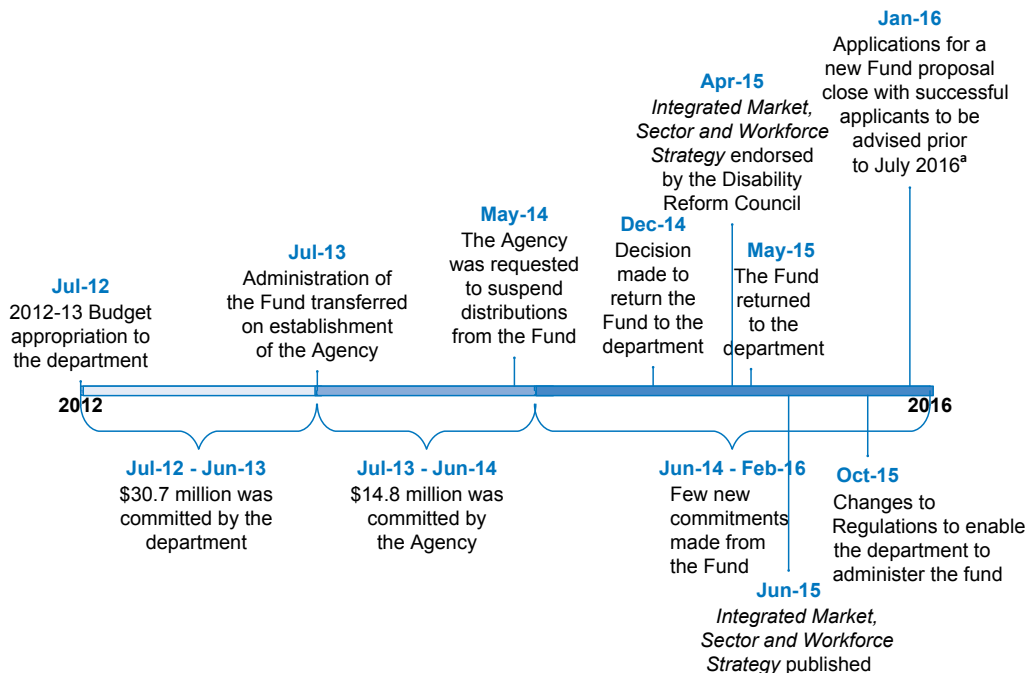
56 Announced in December 2015, the Specialist Disability Accommodation Initiative is designed to help address immediate community need for specialist disability housing.

57 The Fund Guidelines are available from <<https://www.ndis.gov.au/html/sites/default/files/documents/SDF-Strategy-Operational-Guidelines-Dec-2015.pdf>> [accessed 28 October 2016].

58 Following machinery of government changes in September 2013, the Department of Families, Housing, Community Services and Indigenous Affairs was renamed the Department of Social Services (DSS). The NDIS Taskforce was responsible for administering the Fund during 2012–13. Responsibility for the Fund was transferred to the Agency from 1 July 2013, and transferred back to DSS on 1 May 2015.

59 Formerly known as Tier 2 supports, Information, Linkages and Capacity Building (ILC) is a key component of the NDIS insurance model. ILC activities are intended to contribute to the sustainability of the NDIS by building the capacity of the community, people with disability, their families and carers to access support options within generic and community support groups and services.

Figure 2.1: Administrative responsibility for the Sector Development Fund (2012–13 to 2015–16)



Note a: As at 14 September 2016, the results of the January 2016 funding round were not publicly available online.
Source: ANAO analysis of DSS documentation.

2.51 Following the transfer of Fund administration to the Agency in July 2013, the NDIA Board considered several iterations of a strategy to underpin allocations from the Fund. This work was overtaken by the Ministerial Council's decision to develop the *Integrated Market Sector and Workforce Strategy*. Notwithstanding the absence of an agreed Strategy, the Agency published Fund guidelines (in February 2014 and November 2014) and committed a further \$14.8 million to a range of projects. In May 2014, under authority from the Assistant Minister for Social Services, DSS (verbally) asked the Chair of the NDIA Board for the NDIA to suspend making further commitments from the Fund while the department and Agency 'liaise to develop a strategic approach for the remaining unspent funds'. There was a pause in the commitment of Fund monies from that time.

2.52 The Fund's administration was transferred back to DSS on 1 May 2015. The department was not able to commit any Fund monies until October 2015, when amendments to Schedule 1AB of the Financial Framework (Supplementary Powers) Regulations 1997 were approved. The department advised the ANAO that these amendments were necessary to provide legal authority for the department to administer the Fund.

Projects

2.53 As noted in paragraph 2.46 the majority of current and completed projects supported by the Sector Development Fund were funded before the *Integrated Market, Sector and Workforce*

Strategy was agreed in April 2015. The *Strategy* notes that Fund activities to that date had been aligned with one of four outcome areas: building participant capacity for choice and control; developing the market; workforce growth and development; and research and data. Table 2.1 outlines Fund projects by outcome area (as at December 2015).

Table 2.1: Sector Development Fund projects by outcome area (as at December 2015)

Sector outcomes	No. of projects	Funds committed or set aside (\$) million	Proportion of total funds committed (%) ^a
Building participant capacity for choice and control	21	\$17.0m	26
Developing the market	32	\$30.6m	46
Workforce growth and development	8	\$10.0m	15
Research and data	5	\$8.2m	12
Total	66	\$65.8m	100

Note a: Figures have been rounded, and may not total 100%.

Source: ANAO analysis of DSS documentation.

2.54 The ANAO's review indicated that funding allocations were largely consistent with the four outcome areas identified in the *Strategy* and that a number of projects were funded in order to develop an evidence-base to inform future policy and strategy development or to support national approaches to known areas of need. But the review indicated that there remains scope for a more strategic approach in order to identify lessons learned through evaluation and linking activity. In particular the review identified:

- a number of similar projects were funded either directly through the Fund, or through Fund allocations to the states and territories. The ANAO found no evidence that there was coordination or linking across similar projects, nor was there a mechanism in place to analyse and capture thematic learning from these projects to inform future investment; and
- limited evidence of evaluation of some higher cost projects, including projects implemented by some jurisdictions with Fund monies, for effectiveness and national applicability.

2.55 In October 2016, the department advised the ANAO that it was further developing its Sector Development Fund performance reporting to reflect thematic outcomes from projects and issues or areas for further work. The department further advised that this will inform the next range of projects commissioned through the Sector Development Fund.

2.56 The ANAO's review also identified a number of instances where funds were committed for purposes inconsistent with the stated purpose of the Fund. For example: \$3.3 million to conduct the NDIS evaluation; and approximately \$4.4 million for the ongoing conduct and extension of the Australian Institute of Health and Welfare's Survey of Disability, Ageing and Carers, neither of which directly related to the Fund's aim at the time that the funds were committed. This represents approximately 12 per cent of Fund commitments to December 2015.

Fund Guidelines and Investment Strategy

2.57 The Fund Guidelines⁶⁰ set out five outcome areas and two secondary outcomes, which are broadly consistent with the outcome areas identified in the *Integrated Market, Sector and Workforce Strategy*. Part 2 of the Fund Guidelines states that it ‘is not envisaged that open selections will be used to formulate project proposals.’⁶¹ Rather, the Guidelines state that proposals will primarily come from the: *Integrated Market, Sector and Workforce Strategy*; Quality and safety (sic) strategy; disability sector; state and territory governments; and the NDIA. The Guidelines do not provide advice on how projects identified in these strategies are to be prioritised, or the mechanism by which proponents can bring forward a proposal for consideration. DSS advised the ANAO that it intends to publish information on the NDIS Sector Development Fund webpage informing mainstream and disability sector organisations how they may apply for grants under the Sector Development Fund.⁶²

2.58 In April 2016, DSS developed a *Sector Development Fund Investment Strategy* as an ‘internal planning document’ that sets out DSS priorities for the Fund. The Investment Strategy proposes to allocate approximately \$43 million (around 55 per cent of the remaining uncommitted monies) to a range of projects targeting provider readiness and workforce development. The Investment Strategy indicates that the balance of Fund monies—approximately \$35.7 million—will be available for emerging priorities in 2016–17 and 2017–18.

2.59 The Investment Strategy was not informed by an evaluation of outcomes from previously funded projects, although the department advised ANAO that it drew on learnings from past projects. Publication of the Investment Strategy or similar document would increase transparency and inform stakeholders of the outcomes sought from projects assisted through the Fund.

60 The guidelines are available at <<http://www.ndis.gov.au/sector-development-fund>> [accessed 12 March 2016]. An earlier version of this document was released in June 2015.

61 Department of Social Services, *Sector Development Fund Strategy and operational guidelines*, December 2015, p. 12, available from <<https://www.ndis.gov.au/html/sites/default/files/documents/SDF-Strategy-Operational-Guidelines-Dec-2015.pdf>> [accessed 28 October 2016].

62 For instance the Specialist Disability Accommodation Initiative round was announced via the Sector Development Fund webpage.

3. Implementing the market transition

Areas examined

This chapter examines whether the Department of Social Services (DSS or the department) and the National Disability Insurance Agency (NDIA or the Agency) have in place a program of work to transition the market. It also examines how lessons learned from the NDIS trials were used to inform NDIS policy and implementation, and whether risk management arrangements are in place to identify and mitigate risks associated with the market transition.

Conclusion

Both the department and the NDIA have captured, analysed and used lessons from the trial sites to develop market policy and operational settings in response to feedback and experience.

While the department did not have a clearly documented work program to implement its disability workforce development responsibilities, the Agency documented a program of activities to operationalise its market transition responsibilities. However there was no published overall work plan which sets out timeframes and deliverables.

There is a high degree of executive oversight of NDIS risks within both DSS and the NDIA but opportunities remain to enhance both intergovernmental and Commonwealth risk management.

Area for improvement

The ANAO has recommended that the Department of Social Services produce and publish a disability care workforce action plan as soon as practicable.

Do the Agency and the department have in place a program of work to implement their market transition responsibilities?

In October 2016 the department developed a draft NDIS Transition Program Plan that documents a program of work to support its broader market oversight role during transition to full Scheme. However, the department did not have a clearly documented program of work to operationalise its disability workforce development responsibilities, although priorities for investment in workforce development are now documented in a *Sector Development Fund Investment Strategy*. There are common issues and linkages between the quality and supply of the disability, aged care, health and child care workforces. An Interdepartmental Committee is examining how entities can work together to use mainstream policy settings and programs to support an adequate labour supply.

The disability care workforce is a major risk to the NDIS rollout, which needs to be carefully monitored and managed. Workforce development initiatives would be strengthened by the department developing and publishing a targeted action plan.

The National Disability Insurance Agency has a documented program of work to operationalise key areas of activity and projects to support the market transition. Information about aspects of the Agency's market readiness work is also public. There is no published overall work plan relating to the transition of the disability services market which sets out specific timeframes and deliverables. Publishing information on the Agency's market stewardship role and its approach to steering the disability services market towards the desired end state would be beneficial.

Department of Social Services

3.1 As noted in Chapter 2, under the market transition roles and responsibilities agreed in September 2016 by the Disability Reform Council (Ministerial Council), the department has the lead role in addressing national issues relating to the market, sector and workforce. This role includes identifying national workforce issues and working with relevant Commonwealth programs to develop a suitable workforce pool from which providers can attract, train and retain sufficient workers with appropriate skills to meet the needs of NDIS participants.

3.2 Prior to this Ministerial Council decision, the *Integrated Market, Sector and Workforce Strategy* noted that the expansion and diversification of the disability care workforce is a shared responsibility between the Commonwealth, state and territory governments and the disability sector. In this strategy, the department was identified as the lead Australian Government entity with responsibility for disability workforce development. The relevant departmental area's 2015–16 Business Plan includes implementation of 'aspects of [the] Market, Sector and Workforce Strategy ...' as one of its objectives, but does not contain any specific deliverables relating to workforce development.

3.3 With respect to investment activities, the April 2016 *Sector Development Fund Investment Strategy – Market and Workforce Development* identifies workforce growth and development as a priority for funding and identifies a number of investment opportunities including an Innovative Workforce Fund, 'to stimulate and disseminate new, more efficient and effective ways of existing providers engaging, developing and utilising workforce to meet the needs of NDIS participants.'⁶³

3.4 In March 2016, the Department of the Prime Minister and Cabinet convened an Interdepartmental Committee (IDC) on the Care Workforce. The role of this IDC is, among other matters, to provide advice to Government on how entities can work together to use mainstream policy settings and programs to support an adequate labour supply for the aged, health, child care and disability workforces (care workforce). The draft Terms of Reference for the IDC include identification of 'possible initiatives that the Commonwealth (and state/territory governments) could take to address these [identified care workforce] issues.' There are linkages between the disability care workforce and the aged care workforce, and benefit in developing a coordinated approach, informed by stakeholder consultation.

3.5 While some responsibilities for market transition have recently been clarified, the department nonetheless did not have a clearly documented program of work to operationalise its agreed disability workforce development responsibilities. DSS advised the ANAO that its work was guided by the *Integrated Market, Sector and Workforce Strategy* and associated 2015-16 action plan⁶⁴; the *Sector Development Fund Investment Strategy*; and the requirements of a shared

63 In October 2016, the Government announced a \$5 million Innovative Workforce Fund—an initiative under the Sector Development Fund—to identify ways of building and managing the NDIS workforce. The Innovative Workforce Fund will be managed by the peak body, National Disability Services, with \$1 million allocated towards researching and developing different workforce models that can be applied to the disability sector, and the remaining \$4 million available for innovative workforce related projects over the two years.

64 Intergovernmental officials developed a 2015-16 Market, Sector and Workforce Action Plan to support the Strategy. The action plan listed key priorities and initiatives to be pursued by each jurisdiction during 2015-16, but did not specify any timeframes or milestones. The action plan was provided to the Ministerial Council at its November 2015 meeting but was not approved.

Commonwealth-state approach through the Disability Reform Council. In October 2016 the department developed a draft Project Plan that documents a program of work to support its broader market oversight role during transition to full Scheme (see paragraphs 4.12 to 4.15).

3.6 The disability care workforce will need to more-than-double in size between 2013 and full Scheme implementation (2019–20).⁶⁵ Inadequate growth in the disability care workforce has the potential to impact access by NDIS participants to quality services and supports and to create inflationary pressures that may undermine Scheme sustainability. The disability care workforce is, therefore, a major risk to the NDIS rollout which needs to be carefully monitored and managed. Workforce development initiatives would be strengthened by developing and releasing a targeted action plan. Such a plan could usefully set out agreed initiatives to develop and expand the disability care workforce, and related deliverables, timeframes and accountabilities. This plan will likely also need to set out particular strategies at the national, bilateral, and sector-specific levels, to take account of the varying workforce demands in different market environments that will evolve as the transition to full Scheme progresses. It should also include an agreed mechanism for monitoring and reporting on progress.

Recommendation No.1

3.7 The Department of Social Services should produce and publish a disability care workforce action plan as soon as practicable, which includes specific actions, timeframes, accountabilities, and monitoring arrangements for implementation.

Department of Social Service’s response: *Agreed.*

3.8 *DSS agrees with this recommendation and recognises that workforce action plans that take into account the individual characteristics of geographic and cohort markets will be valuable during the transition period. Work at the bilateral level, in particular, will be critical to ensure that the workforce responses in each jurisdiction are matched to the specific characteristics and needs of the local market. DSS is currently working with State and Territory Governments and the NDIA to operationalise Bilateral Agreements to Transition to a full scheme NDIS. Each Bilateral Agreement includes a System and Sector Readiness Schedule, which sets out agreed activities to prepare the market and workforce, and respond to any sector or system readiness issues in each state or territory. This work will assist DSS in capturing workforce issues and risks that are jurisdiction-specific, and together with the relevant jurisdiction, develop effective strategies to mitigate these problems.*

National Disability Insurance Agency

3.9 The *Integrated Market, Sector and Workforce Strategy* as well as roles and responsibilities during transition agreed by the Ministerial Council in September 2016 set out key responsibilities—particularly in relation to service providers and participants—which the NDIA is expected to progress in order to support a successful market transition. These responsibilities

⁶⁵ Department of Social Services, *Integrated Market, Sector and Workforce Strategy*, June 2015, p. 19, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 26 August 2016].

include: supporting existing providers; ensuring information on demand/population and service data is available to suppliers to highlight market opportunity; supporting the needs of specific cohorts, including Indigenous Australians and people in rural and remote areas; and building the skills and confidence of participants.

3.10 The Agency has a program of work underway to facilitate participant, market and provider readiness to transition to the Scheme. The NDIA has invested in initiatives to: enhance consumer understanding of, and confidence in, the Scheme; increase the capacity of participants to exercise choice and control; and build skills to engage with the NDIS. This work is ongoing.

3.11 In respect of the market and service providers, work-plans for key projects, such as the *Remote and Indigenous 2015–16 Work Plan* (unpublished), document key deliverables and time frames. Information about aspects of the Agency’s market readiness work is in the public domain, but there is no published overall work plan relating to the transition of the disability services market which sets out specific timeframes and deliverables.

3.12 The Agency advised the ANAO that it is developing a ‘Statement of Opportunities and Intent’ to set out its responsibilities for managing the market transition which it describes as a market stewardship role (see paragraph 2.17), with the aim of helping ‘to take people on the journey with them.’ The Agency further advised that this Statement will: describe the NDIA’s approach to the market, including its roles and responsibilities; what it perceives as the key market opportunities and risks; and ‘what the market can therefore expect, and not expect, the Agency to be focussed on in the NDIS market in the immediate future and as the market develops.’ In addition, the Agency advised the ANAO that the Statement of Opportunities and Intent would be released publicly ‘once the authorising environment is clear’ and the document had been agreed by the NDIA Board and DSS.

3.13 A well-designed Statement of Opportunities and Intent would assist in providing more clarity about the Agency’s approach to steering the disability services market towards the desired end state and assist existing and potential service providers in their planning. As such, the document should be finalised and released as soon as practicable.

Have lessons from trial sites been captured, analysed and used to inform the market transition?

Both the department and the NDIA have captured, analysed and used lessons from the NDIS trial sites to develop market policy and operational settings in response to feedback and experience.

At the operational level, the NDIA has used learnings from the trial sites to support the market transition. The ANAO’s review of Agency records and consultation with stakeholders indicated that, in response to trial site experience, the Agency had implemented measures to better support both participants and service providers to transition to the NDIS market.

3.14 The Intergovernmental Agreement for the NDIS launch states that lessons from the first stage of the Scheme will inform governments about when and how to proceed to the full

Scheme.⁶⁶ The Agreement also states that governments will work collaboratively to develop policy that supports the design and implementation of the launch and to monitor ‘launch progress, results and outcomes to inform the transition to a full-scheme’.⁶⁷ In this context, both DSS and the Agency are involved in capturing and analysing learnings from the trials.

Department of Social Services

3.15 The department is responsible for two principal mechanisms for capturing NDIS trial learnings:

- the NDIS evaluation⁶⁸, which is being conducted by the National Institute of Labour Studies at Flinders University; and
- a review of lessons learned undertaken by Commonwealth, state and territory officials.

NDIS evaluation

3.16 The NDIS evaluation will examine the Scheme’s impacts on: people with disability, and their families and carers; the disability sector and its workforce; selected mainstream providers and services; and the wider community. The evaluation findings are being reported in stages.

3.17 The Initial Report was originally scheduled to be delivered in July to October 2014. This was then rescheduled to July 2015. The department received the draft Initial Report in late August 2015. The two remaining reports were initially scheduled for delivery in December 2014 to April 2015 and December 2015 to June 2016 respectively, but these reporting timeframes were also subsequently revised. In July 2016, DSS advised the ANAO that the final version of the Intermediate report had been received. The draft Final Consolidated report is due in September 2017 with a final version expected in December 2017.

3.18 The intermediate evaluation report was not available to inform NDIS transition arrangements. Nonetheless, iterative evaluation findings were available to the department to inform its advice and support governments’ decision-making at various points. Findings from the interim evaluation briefings were also considered and incorporated into the Review of Lessons Learned reports (discussed below).

Review of Lessons Learned

3.19 On 1 December 2014, the Senior Officials Working Group⁶⁹ endorsed a *Strategy for Review of Lessons Learned* (Lessons Learned Strategy). The Lessons Learned Strategy sets out:

- objectives for the Review;
- the information to be collected to inform the review;
- the mechanism for collecting the information, namely a Govdex⁷⁰ database;

66 Council of Australian Governments, *Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch*, 7 December 2012, paragraph 3, available at <<https://www.coag.gov.au/node/485>> [accessed 18 October 2015].

67 *ibid.*, sub-paragraph 15c.

68 *ibid.*, paragraph 106.

69 The Senior Official Working Group (SOWG) comprises officials from relevant Commonwealth, state and territory Disability and Treasury departments and is the body responsible for providing advice to the Disability Reform Council.

- reporting requirements and outputs (an interim report was due by end December 2015, a draft report by early April 2016, and a final report by mid-June 2016); and
- roles and responsibilities.

3.20 The department has overall responsibility for managing the Lessons Learned Strategy, including establishing and maintaining the Govdex database and preparing relevant reports. Govdex acts as a repository for reports and includes links to relevant reviews. States and territories and the Agency are responsible for loading relevant information onto the Govdex database. Use of the Govdex database has been ad hoc, and some jurisdictions have not nominated an official to provide contributions. There is, therefore, a risk that the database will not be used to collect and share learnings across jurisdictions as intended.

3.21 The department produced an interim review report in January 2016 which captured and analysed learnings from 1 July 2013 to 1 October 2015. A (draft) final report, capturing lessons learned during the complete NDIS trial period (1 July 2013 to 30 June 2016), was provided to the ANAO in August 2016. The department advised that the Review of Lessons Learned final report ‘provides the narrative of how learnings have informed changes to the scheme progressively and how learnings have informed government decision-making and the design of the NDIS transition.’ The reports identify a range of learnings in respect of the market, sector and workforce transition and detail implemented or planned actions in response to these learnings. For example, during the trial period, the Commonwealth, states and territories, and NDIA used these learnings to inform aspects of the national *NDIS Quality and Safeguarding Framework* for full Scheme.

National Disability Insurance Agency

3.22 The ANAO’s review of documentation and consultation with stakeholders indicates that the Agency has mechanisms in place to collect, analyse and use learnings in respect of the market transition.⁷¹ At the operational level, this learning process has involved:

- collecting and analysing quantitative data;
- collecting and analysing qualitative data;
- participating in, or reviewing, external reviews and reports; and
- adjusting and refining approaches in response to feedback and identified issues.

Quantitative data collection and analysis

3.23 The Agency has developed a data collection strategy that supports its monitoring of the disability services market. The Agency collects a range of data relating to participants, service providers, and transactions.⁷² This quantitative data is analysed and tabulated for a variety of

70 Govdex is an online collaboration mechanism for use across government. It is a secure, private web-based space that helps agencies share documents and information.

71 The NDIA describes its approach to implementation as ‘Listen, Learn, Build, Deliver’.

72 Participant data sets include: demographics; disability types; and the type and value of supports included in participants’ plans. Service provider data sets include characteristics of registered service providers, such as organisation type, location, and the range of services they are approved to provide. Transactional data sets include claiming and billing information.

purposes, including the preparation of the Agency's quarterly and annual performance reports; actuarial reports; and dashboards.⁷³

3.24 The Agency also uses this data to examine other aspects of the Scheme's implementation. For example, the NDIA analysed both quantitative data from its IT system and qualitative information extracted from client files to understand why some participants had waited months before activating their plan, or had not done so at all. This analysis identified that some participants required support to implement their plans and resulted in a number of operational changes (see paragraph 3.31).

3.25 In addition, the Agency has developed an Outcomes Framework to measure participant outcomes, by collecting longitudinal data across a number of domains (such as choice and control, activities of daily living, social inclusion, employment, education, health and housing).⁷⁴ The Outcomes Framework aims to assist the Agency identify what factors drive participant outcomes, including potentially identifying those service providers who achieve good outcomes. The Framework was piloted in the first three months of 2015 and informed the further development of the Framework. In July 2016 the Agency advised the ANAO that the Outcomes Framework was finalised and that data collection commenced from March 2016. The Agency further advised that results will be analysed on an ongoing basis.

Qualitative data collection and analysis

3.26 The Agency established arrangements to support the collection and analysis of qualitative data from trial sites. These included: identifying staff in each trial site responsible for liaising with service providers and other stakeholders and gathering local intelligence; regular meetings between Agency staff in trial sites and national office; and the Single Point of Contact—an online platform that allows Agency staff to share information.

3.27 In addition to these formal processes, the Agency collects operational experience and anecdotal data from providers and participants through public forums, meetings with service providers and peak bodies, consultative processes and complaints mechanisms. The NDIA also administers surveys to participants on their planning experience. The Agency advised the ANAO that these survey results are then: reported in the quarterly reports prepared by the Scheme Actuary; considered by the NDIA Executive and Board; and utilised by NDIA regional offices to inform continuous improvement.

External reviews and reports

3.28 The NDIA collects and uses information from external reviews and evaluations to adjust operational elements of the NDIS. For example, information and advice provided to the Agency by the Independent Advisory Council⁷⁵ resulted in the re-design of participant plans and changes to material for Agency planners to use in guiding discussions with participants. Similarly, the NDIA

73 Dashboards are a visual representation of key NDIS statistics such as: how many people were participants in the NDIS at a point in time; some of the characteristics of these participants; and the types of supports that participants have been accessing.

74 There are different Outcomes Frameworks for different participant life stages.

75 Established under the *National Disability Insurance Scheme Act 2013*, the Council's purpose is to provide independent advice to the NDIA Board on how the Agency performs its functions. See also Figure 1.1.

has undertaken work in response to recommendations of the Joint Standing Committee on the NDIS, including improving Agency planning material.⁷⁶

Adjusting and refining market approaches in response to feedback

3.29 The ANAO's review of Agency records and consultation with stakeholders indicated that the Agency had used learnings from the trial sites to better support both participants and service providers to transition to the NDIS market.

Investment in initiatives to build the capacity of participants

3.30 The vision for the NDIS market is one in which 'people with a disability exercise choice and control and have access to a full range of quality services and supports.'⁷⁷ During the initial roll out of the NDIS trials, emerging evidence, including higher than expected numbers of 'no claim plans'⁷⁸, indicated that many participants lacked the capacity to put their plans into action and to fully engage with the Scheme.

3.31 In response the Agency implemented a number of measures aimed at better supporting participant readiness and building participant capacity to plan, develop and make informed choices regarding access to supports. Initiatives included: introducing pre-planning sessions and resources to build participant confidence and understanding; funding support-coordination⁷⁹ in participants' plans; and simplifying complex Agency documentation.

Responding to pricing issues

3.32 The NDIA has indicated that in a mature NDIS market it is expected that the prices participants pay for the supports included in their plan will be set by the competitive market place. While the market is transitioning from its current state to a mature market, the Agency sets a maximum price that registered service providers may charge for funded supports included in participants' plans. The Agency views the process of setting maximum prices for supports as a balancing act:

If price limits are set too high (relative to an efficient benchmark) providers will not face adequate incentives to review practices and operations in an effort to be more efficient. As a result, participants, and the Scheme in general, would not get value for money from expenditure on supports. On the other hand, if price limits were set too low, providers would be unable to

76 A Joint Standing Committee on the National Disability Insurance Scheme was established on 2 December 2013. The Committee comprised six Members and six Senators, and its roles included: reviewing the implementation of the NDIS; the administration and expenditure of the NDIS; and any matter in relation to the NDIS referred to the committee by a resolution of either House of the Parliament. The Committee ceased following the dissolution of the Senate and the House of Representatives on 9 May 2016. A new Joint Standing Committee on the NDIS was formed on 1 September 2016.

77 NDIS, *Integrated Market, Sector and Workforce Strategy*, p. 10, June 2015, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 30 March 2016].

78 No claim plans relate to circumstances where a participant has an agreed funded individual support plan with the NDIA but has not used it to access any supports or services.

79 Support coordination aims to strengthen participants' abilities to coordinate and implement supports and participate more fully in the community. There are now three levels of support-coordination, reflecting differing complexity levels.

recover even efficient costs. This could result in a significant share of providers leaving the sector and/or a lack of new investment in disability services.⁸⁰

3.33 In setting maximum prices for the trials, the Agency sought to ensure that NDIS pricing was similar to pricing in comparable schemes⁸¹ operating in the trial sites, so as not to compete with these schemes and inadvertently disrupt the market.⁸² In response to concerns from service providers and the peak body, National Disability Services, about pricing of some items, the NDIA partnered with National Disability Services, assisted by experts in pricing, accounting and economics, to re-examine the relevant unit costs. A number of recommendations were made regarding an interim pricing strategy to assist the sector to transition to a competitive market, resulting in changes to the NDIS pricing policy during 2014 and 2015. These changes included:

- increasing, by approximately 10 per cent, the hourly rate in some NDIS trial sites⁸³ for both self-care and community support. These ‘transition prices’ were set at a higher level than the Agency’s assessment of ‘efficient prices’. The intent was that ‘transition prices’ would be gradually reduced in order to achieve the ‘efficient price’, thus giving service providers time to implement more efficient business practices;
- allowing service providers to charge participant’s packages, in defined circumstances, where the participant cancelled personal care or community support services without adequate notice;
- increasing the kilometre rate payable where service providers transport a participant (in defined circumstances); and
- introducing an establishment fee to help service providers of attendant care and community support address the upfront costs of entering into a new support arrangement with an NDIS participant.

3.34 The Agency has continued to develop and refine its approach to pricing throughout the NDIS trial period. This is discussed further in Chapter 4.

Are processes in place to identify, manage and report emerging risks?

The ANAO’s consultations with entities and review of entity records indicate that there is now a high degree of executive oversight of NDIS risks within both DSS and the NDIA. A framework for the identification, management and reporting of risks has been developed which reflects that the NDIS is a shared intergovernmental responsibility. A May 2016 *Independent Review of the Readiness of NDIS for Transition to Full Scheme* made a number of recommendations aimed at enhancing collective risk identification and management, including: changes to decision-making structures to facilitate timely resolution of critical system-wide strategic and

80 NDIS, *Personal Care and Community Participation 2016/17 Price Review Discussion Paper*, Section 3.2, 22 March 2016, available at <<http://www.ndis.gov.au/providers/pricing-and-payment/ndis-price-reviews-personal-care>> [accessed 30 March 2016].

81 For example, the Victorian Transport Accident Commission Scheme, which pays for treatment and benefits for people injured in transport accidents.

82 NDIA and National Disability Services, *Final Report of Pricing Joint Working Group*, (undated) p. 6, available at <<https://myplace.ndis.gov.au/ndisstorefront/document/pricing-joint-working-group-final-repor.html>> [accessed 26 August 2016].

83 Existing prices in SA, the ACT, WA and later the NT were already marginally higher than the new rate.

implementation issues; joint scenario planning to strengthen risk mitigation and contingency plans; and scheduling of structured reflection points. Implementation of these recommendations would strengthen collective risk management and responsiveness, as well as the department's own risk management.

The NDIS Commonwealth Board plays a key role in overseeing NDIS risk to the Commonwealth. The Commonwealth Board has increased its risk focus since May 2015. Documenting accountabilities and timeframes (where applicable) for mitigation strategies—in the NDIS Transition Dashboard Reports provided to the Commonwealth Board by the department—and reporting progress in implementing mitigation strategies would allow increased transparency and accountability for risk management.

COAG Disability Reform Council (Ministerial Council)

3.35 The Ministerial Council and its advisory body, the Senior Officials Working Group, considers NDIS risks on an ad hoc basis, both in the context of individual issues and more broadly. In respect of the market transition, the Ministerial Council's March 2014 report to the Council of Australian Governments (COAG) addressed in detail risks associated with the readiness of individuals and existing specialist disability service providers to transition to the NDIS. It made recommendations about a number of actions to help mitigate these risks.

3.36 In December 2014 the Ministerial Council considered options for the transition to the full Scheme. The supporting paper also summarised emerging risks from the trial period and identified mitigation strategies for the transition from trials to the full Scheme. The readiness of the market and service providers to transition was identified as a key risk. Papers provided to the Ministerial Council indicated that further detailed risk assessment and reporting would be undertaken as part of the transition and operational planning processes and reported back to the Ministerial Council. The ANAO's review of papers from subsequent Ministerial Council meetings, to March 2016, found no evidence that this had occurred.

3.37 Previous ANAO audits have found that the assessment of a program's risk profile often changes during further development of a policy proposal and its implementation. This reinforces the importance of departments continuing to keep Minister(s) abreast of significant changes in risks and any revised mitigation strategies.⁸⁴

3.38 As the NDIS commenced transition to full Scheme from 1 July 2016, there would be value in officials giving timely advice to Ministerial Council members on key risks and their proposed management. In this context, DSS advised the ANAO that a review of readiness of the NDIS to transition to full Scheme (see paragraph 3.41), which also examined transition risks, was provided to the Disability Reform Council ahead of its September 2016 meeting.

Bilateral agreements

3.39 Under the Bilateral Agreements for the NDIS Transition the relevant state government and the Commonwealth are required to '... continually monitor and review risks including, but not limited to: market, sector and system readiness to transition to the NDIS ...' If risks emerge, parties

84 ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned, p. 175.

are expected to work together to develop agreed mitigation proposals. The Agreements also outline the agreed escalation process for resolving disagreements.

3.40 Bilateral Operational Plans between the NDIA, jurisdictions and the Commonwealth set out the governance arrangements for the transition to the NDIS in each jurisdiction, including risk management responsibilities.⁸⁵ The department advised the ANAO that through Bilateral Steering Committees, to be established in each jurisdiction under the Bilateral Agreements for transition and associated Operational Plans, regular risk analysis and reporting is provided to each monthly meeting and actioned through that governance mechanism.

3.41 The *Independent Review of the Readiness of NDIS for Transition to Full Scheme*, conducted in April-May 2016, made a number of recommendations aimed at enhancing collective risk identification and management, including: changes to decision-making structures to facilitate timely resolution of critical system-wide strategic and implementation issues; joint scenario planning to strengthen risk mitigation and contingency plans; and scheduling of structured (6 monthly) reflection points. Implementation of these recommendations would strengthen collective risk management and responsiveness. In October 2016, DSS advised the ANAO that it is working with state and territory officials to implement the recommendations of this review and ongoing monitoring of implementation would be undertaken.

Commonwealth risk management

NDIS Commonwealth Board

3.42 The NDIS Commonwealth Board (the Board) plays a key role in overseeing NDIS risk to the Commonwealth. In April 2013, the Commonwealth Board discussed a ‘pre-mortem’ exercise that examined possible scenarios of failure following the NDIS launch. The biggest risk identified through that process ‘was the failure to anticipate and manage multiple risks at one time, the multiplier effect of the risks and at what stage is there a “tipping point”’. The analysis highlighted the importance of focusing on the interactions and dependencies between risks and also on their combined impact. Throughout 2013 the Board monitored both identified and emerging risks across the NDIS, with risk management appearing as a standing item on meeting agendas.

3.43 Between March 2014 and May 2015, the Commonwealth Board continued to consider risk, but primarily in the context of individual issues, for example ICT development. Since May 2015, the Board has broadened its risk focus and regularly reviewed NDIS Transition Dashboard Reports that document risks and mitigations across the Scheme. The department advised the ANAO in July 2016, that in addition to including risk as a standing item on Commonwealth Board agendas, transition performance and financial sustainability would also be considered at each meeting.

3.44 This broader focus by the Commonwealth Board on NDIS risks is timely as the transition to full Scheme will see the NDIS grow rapidly as it expands to multiple sites nationally, occasioning a period of increased risk. However, Board dashboards do not, in most instances, document timeframes and accountabilities for identified risk mitigation strategies and are therefore of limited use in facilitating monitoring by the Commonwealth Board of risk mitigation actions and outcomes.

⁸⁵ As at end May 2016, the ANAO had reviewed the NSW and Victorian operational plans, which were the only plans in place as at that time.

Similarly, many of the mitigation strategies had not changed between October 2015 and March 2016—a critical timeframe in the lead up to full Scheme launch from July 2016. Table 3.1 sets out some examples.

Table 3.1: Extracts of key risks and mitigation strategies from Commonwealth Board dashboard reports—October 2015 and March 2016

Key risk	Key issues	Sample mitigation strategies	
		23 October 2015	30 March 2016
NDIA capability	ICT Solution	Detailed implementation schedule currently being developed. A multi-level risk management strategy is also being developed.	Detailed implementation schedule currently being developed. A multi-level risk management strategy is also being developed.
Risks to participants	Commonwealth mental health programs & the NDIS	Interactions between the NDIS and mental health services to be refined to avoid potential service gaps for people who are ineligible for the NDIS.	Interactions between the NDIS and mental health services to be refined to avoid potential service gaps for people who are ineligible for the NDIS.
Implementation risks	Risk of inconsistent decision-making across the NDIA	DSS and NDIA to refine and publish scheme policies, guidelines and FAQs, along with the development of reference packages to improve decision-making.	DSS and NDIA to refine and publish scheme policies, guidelines and FAQs, along with the development of reference packages to improve decision-making.

Source: NDIS Commonwealth Board Reports—Transition to Full Scheme, 23 October 2015 and 30 March 2016.

3.45 It is reasonable to assume that the risk mitigation strategies over this five month period would be reviewed, adjusted and updated as necessary to account for changing risk profiles, new Bilateral Agreements being signed, and in response to market and Scheme developments over the period leading up to the launch of the Transition phase on 1 July 2016.

3.46 Risk monitoring would be enhanced by documenting accountabilities and timeframes (where applicable) for mitigation strategies in the NDIS Transition Dashboard Reports provided to the Commonwealth Board by the department and by ensuring that progress in implementing mitigation strategies is noted in these reports.

3.47 In his report, *Learning from Failure*, Professor Peter Shergold, emphasised the importance of program management expertise in delivering government policy.⁸⁶ The Chief Executive Officer of the program management arm of the NDIS, the Agency, is an ex-officio member of the Commonwealth Board and attends meetings for particular items. The continued attendance of the NDIA at the Commonwealth Board will ensure that operational issues are fully considered in the ongoing development of Commonwealth NDIS policy and risk management approaches.

86 P Shergold, *Learning from Failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*, Australian Public Service Commission, 2015, Canberra, p. vii and pp. 45-51, available at <<http://www.apsc.gov.au/publications-and-media/current-publications/learning-from-failure>> [accessed 17 June 2016].

Department of Social Services

3.48 The department advised the ANAO that ‘the complexity and scale of the reform that the NDIS represents cannot be overstated’.

3.49 The departmental executive has a line of sight of the NDIS and associated risks through a range of mechanisms. The department’s Secretary chairs the NDIS Commonwealth Board, while the Deputy Secretary with responsibility for the NDIS chairs the Senior Officials Working Group. The Deputy Secretary also holds regular (approximately every three weeks) video conferences with the NDIA Chief Executive Officer.

3.50 The department has identified ten enterprise risks applicable to the range of programs administered by DSS. Program specific risks are identified through business planning and project management. The department’s *Risk Management Guidelines* advise that a ‘formal risk plan should be a part of all of DSS plans including Group, Branch and State Office business plans, project plans and activity plans.’ The department’s NDIS Group undertook an assessment of risks that may impact the achievement of its objectives as part of its 2015–16 business planning. This risk assessment was reviewed and revised in February 2016.

3.51 The Branch within the NDIS Group with responsibility for areas including the *Integrated Market, Sector and Workforce Strategy* and the *National Quality and Safeguarding Framework* did not include a risk assessment as part of its 2015-16 Business Plan—the crucial period preceding transition to full Scheme—and was therefore non-compliant with the department’s own guidelines.⁸⁷ As the area which provides ‘guardianship and oversight’ of the NDIS and is responsible for some of the key transition risks for the NDIS market, omitting a risk assessment in the Business Plan may result in risks not being routinely and comprehensively identified, assessed and managed at this level.

3.52 The department also had in place a NDIS Program Plan, which includes a risk assessment, for the period 1 July 2013 to 30 June 2016. An assessment of Program risks and issues is reported bi-monthly and, where significant risks are identified, these fed into an Enterprise Risk Register for consideration by the department’s Executive Management Group (comprising the Secretary and Deputy Secretaries).

3.53 There is cross over, but no direct alignment, between the risk assessments prepared by the department for various purposes, reflecting their different focus and intent. In the documentation reviewed by the ANAO, there was no evidence that DSS, as the lead Commonwealth policy entity, routinely produced and reviewed a consolidated assessment of Scheme risks prior to May 2015, when it re-instituted regular production of dashboard reports for consideration by the Commonwealth Board.

3.54 The department has also sought to identify and manage NDIS risk, including risks associated with the market transition, through commissioning external reviews as part of an ongoing assurance program. The most recent review—the *Independent Review of the Readiness of NDIS for Transition to Full Scheme*—conducted in April-May 2016, sought to provide an insight ‘into existing or emerging risk areas to the NDIS during transition that warrant joint or individual focus and efforts in the immediate, short and medium term.’ The review made 12

87 The relevant branch had a risk assessment as part of its 2014-15 Branch plan.

recommendations, including that the department adopt a major project roll-out focus, including system-wide issues and risk management processes. Risk management within the department could be strengthened by implementing this recommendation. The department advised the ANAO in July 2016 that the review recommendations are being considered by the Commonwealth Board. Further, in October 2016, the department provided the ANAO with a draft NDIS Transition Program Plan (see paragraphs 4.13 to 4.15) which sets out its proposed approach to risk management during this key phase of the Scheme.

National Disability Insurance Agency

3.55 The NDIA’s 2015–19 Corporate Plan outlines the Agency’s risk management approach, strategy and governance arrangements.⁸⁸ This Corporate Plan is supported by a Risk Management Framework that identified 14 strategic risks for 2015–16, against three key goals, namely:

- people with disability are in control and have choices, based on the United Nations Convention on the Rights of Persons with Disabilities;
- the NDIS is financially sustainable and governed using insurance principles; and
- the community has ownership, confidence and pride in the NDIS and the NDIA.

3.56 Of the 14 strategic risks identified, several relate to the transition of the disability services market. Examples of two key risks identified in respect of the market transition, along with the NDIA Board’s risk tolerance guidance and expectations, are provided in Table 3.2.

Table 3.2: Examples of 2015–16 NDIA Strategic Risks related to the transition of the disability services market

Strategic risk	Risk tolerance guidance and expectations
The Agency fails to build the capacity of people with disability to exercise choice and control.	<p>The Board’s expectation is the rating can be reduced to Moderate over the next 3-years. To manage the risk, the following guidance is provided:</p> <ul style="list-style-type: none"> • Support for participants to exercise choice and control is a key priority. It is recognised that in exercising choice and control a minority of funds may not be spent effectively. • Guidelines are issued to planners and a robust compliance program maintained as controls.
Insufficient specialist and mainstream supply emerges at reasonable prices in markets.	<p>The Board’s expectation is the rating can be reduced to Moderate over the next 3-years. To manage the risk, the following guidance is provided:</p> <ul style="list-style-type: none"> • A strong and sustainable market is fundamental to choice and control objectives and improved outcomes. Markets take time to respond and it is likely that a minor level of failure will occur in the transition phase. • Close monitoring and support for market initiatives is maintained.

Source: NDIA, National Disability Agency Risk Management Framework, September 2015, pp 6–7.

88 NDIA, *2015–19 Corporate Plan*, pp. 18-20, available from <<http://www.ndis.gov.au/about-us/information-publications-and-reports>> [accessed 13 February 2016].

3.57 The NDIA produces a quarterly Strategic Risk Report which monitors the status of each strategic risk. The report documents: the lead accountable person for each risk; mitigation strategies currently in place; additional strategies for managing the risk; and timeframes for implementing these strategies. It also reports against key risk indicators that have been identified for each strategic risk.

3.58 Separate program status reports are also prepared monthly, including for the Markets and Sector program. These reports document an overall risk rating for the program, as well as for individual work projects. Progress against project milestones and timeframes are also reported.

3.59 The Agency's records indicate that there is a high degree of engagement by the Board and executive in monitoring and managing risk. For example:

- the quarterly Strategic Risk Reports are provided to the Agency's Audit, Risk and Finance Committee for consideration prior to being forwarded to the NDIA Board;
- NDIA Board papers and minutes reflect regular reporting of program level risks by the Chief Executive Officer, Deputy Chief Executive Officer and the Agency's Project Management Office; and
- the NDIA Board considers risk in a range of contexts. For example: when reviewing Scheme sustainability; in the context of the Board's risk management declaration; and in considering ICT development.

3.60 The May 2016 *Independent Review of the Readiness of NDIS for Transition to Full Scheme* noted that:

While the NDIA is building capability quickly, it is still maturing as an organisation and developing the integrated leadership needed to manage the NDIS and inherent risks holistically.

It was evident that the NDIA had built its project, risk and issues controls over recent months and had commenced distributing a greater level of detailed information (dashboard style) to the States and Commonwealth. This was a strong indication that the NDIA was quickly moving into a major project implementation roll-out phase with strong internal governance and committee structures to oversight issues and risk. The NDIA has adopted risk management standards applied by the Australian Prudential Regulatory Authority (APRA) to commercial insurers to support best practice corporate governance.

4. Meeting future market challenges

Areas examined

This chapter examines the organisational arrangements and mechanisms to support the market transition and entities' responsibilities. It reviews processes and systems for the continued collection and analysis of data and market learnings. It also examines whether barriers to a successful market transition have been considered and addressed.

Conclusion

Both the Department of Social Services (DSS or the department) and the National Disability Insurance Agency (NDIA or the Agency) have recently changed their organisational arrangements to improve their ability to meet their responsibilities.

In October 2016, DSS developed a draft NDIS Transition Program Plan to support its market oversight role in the NDIS market transition.

The NDIA's transition planning provides for continued collection of data, and mechanisms are in place, or under development, to improve data collection.

Finalising the national *NDIS Quality and Safeguarding Framework* and its supporting infrastructure and implementation arrangements needs to be a priority to improve regulatory certainty and address market transition risks.

The deployment of a new NDIS ICT system from July 2016 experienced significant problems. Timely and accurate communication is essential in such circumstances.

4.1 The National Disability Insurance Scheme (NDIS or the Scheme) represents a fundamental change to the way in which disability services are accessed, funded and delivered in Australia. It is anticipated that a fully mature NDIS market may take up to a decade to realise. The transition of the disability services market and workforce has consistently been identified as a high risk to the successful implementation of the NDIS. Most recently, an *Independent Review of the Readiness of NDIS for Transition to Full Scheme* noted that:

All interviewees expressed concern about the lack of depth in the market, the fragmented and under-developed sector and the fact that the disability providers and workforce are unlikely to be able to expand quickly enough in transition to meet demand.

4.2 The department advised the ANAO that it will continue to monitor the market and identify emerging issues, in partnership with the NDIA, and will act to address gaps and shortages as appropriate.

4.3 The transition to full Scheme that commenced from 1 July 2016 represents a period of elevated risk that places additional demands on the department, the NDIA and the disability services market. The 2015 *Competition Policy Review* (the Harper Review) noted that policy in human services cannot simply be set and then forgotten:

Governments cannot distance themselves from the quality of human services delivered to Australians—they will continue to have an important role as market stewards in human services sectors, including through policy and funding decisions.⁸⁹

4.4 The Harper Review also found that the market stewardship function means that governments retain responsibility for overseeing the impact of policies on users. In particular, the Harper Review identified that disability services is an area where ongoing government stewardship may be required.⁹⁰

Have roles and responsibilities been considered in organisational planning?

Both the department and the NDIA have recently implemented revised organisational arrangements and structures to support their respective market oversight and stewardship roles.

As the NDIS market develops over time, both entities will need to continue to invest in their organisational capabilities to enable the Government to maintain its ability to oversee the impacts of the NDIS on stakeholders.

Department of Social Services

4.5 On 2 September 2016, the Disability Reform Council (Ministerial Council) agreed revised roles and responsibilities for DSS, the NDIA and other parties for the disability services market during the period of transition to full Scheme (see also paragraphs 2.15-2.17). The Commonwealth, as represented by the department, has the lead role in addressing national issues relating to the market, sector and workforce, including:

- leading the development of a NDIS ‘market oversight’ function, including: prudential oversight of financial viability of providers; risk based audits; and identification of longer term market risks;
- identifying key strategic pressure points and analysing risks that may impact transition;
- developing action plans to address strategic pressure points and risks;
- monitoring the *Integrated Market, Sector and Workforce Strategy*;
- maximising intelligence and oversight of NDIS market development from existing commonwealth consumer and market regulatory bodies;
- leading national workforce development activities, and coordinating and facilitating responses to workforce challenges, including coordinating Commonwealth agencies to provide a comprehensive approach to workforce supply.

4.6 Since the Scheme design and implementation phases, DSS largely had one Division managing its NDIS policy and related responsibilities. In July 2016, the department advised the

89 I Harper, P Anderson, S McCluskey and M O’Byrne, *Competition Policy Review Final Report*, Commonwealth of Australia, March 2015, Canberra, p. 229, available at <<http://competitionpolicyreview.gov.au/final-report/>> [accessed 27 August 2016].

90 *ibid.*, p. 224.

ANAO that it was implementing organisational changes to support an increased effort around market, sector and workforce in the transition to full Scheme. The department has created a second Division with NDIS responsibilities—the NDIS Market Reform Group (in addition to its NDIS Transition Oversight Group). The NDIS Market Reform Group is comprised of three Branches focussed on: Program Transition; Market Regulation (Quality and Safeguards); and Market Oversight. As at October 2016, the NDIS Market Reform Group had approximately 55 full time equivalent staff, of which approximately 25 were specifically focused on managing the market transition.

4.7 The ANAO's analysis indicates that these revised organisational arrangements are generally aligned with the department's roles and responsibilities for the development of the market during transition to full Scheme.

National Disability Insurance Agency

4.8 The NDIA is expected to take an active 'market stewardship' role to: ensure that participants will be able to access services; manage Scheme sustainability; and embed the insurance principles of the Scheme. As agreed by the Ministerial Council in September 2016, its lead responsibilities incorporate a range of market development and stewardship functions including:

- setting pricing and price controls;
- communicating market signals, informing stakeholders, and shaping and driving the NDIS e-market, including developing market position statements;
- designing the provider benchmarking function;
- assisting existing and potential participants and providers to engage with and transition to the NDIS;
- analysing best practice, market share, pricing and emerging risks; and
- acting to ensure supply of supports in limited, thin, or underperforming markets, such as in rural and remote markets.

4.9 The NDIA was only established in July 2013 and the organisation is still developing and maturing in its capabilities. As its operational roles grew during the trial and transition phases, so the organisation has also grown. In considering its preferred Service Delivery Operating Model for transition to full Scheme, the NDIA Board agreed a model based on the Agency's functions rather than geography. As part of this model, the NDIA established 14 regional offices, with each office having regional responsibilities for sector and market development. The model operates in a 'hub and spoke' structure with engagement teams focused on local connections and intelligence gathering in each region.

4.10 In September 2016, the NDIA established revised organisational arrangements to support its market transition responsibilities, Scheme administration, and other priorities. Its Stakeholder Relations and Organisational Capability group includes a number of market-related divisions or branches including: Market and Providers Division; Community Linkages Division; and Branches focussed on Markets and Pricing, Market Commissioning, and Information, Linkages and Capacity Building. At 30 September 2016, the Market and Providers and Community Linkages Divisions

together formed 15 per cent of the NDIA's National Office, with approximately 68 full time equivalent staff.

Do entities' planning, data collection and monitoring systems support the market transition?

DSS has developed a draft NDIS Transition Program Plan aligned to its market-related roles and responsibilities for the NDIS market transition phase, including setting out its plans to establish the capability to collect, analyse and monitor key data to inform its lead 'market oversight' role.

In planning for the transition to full Scheme, the NDIA—supported by the Scheme Actuary—has established mechanisms to collect and analyse data and other information to: monitor the emerging markets to support its operational and market stewardship responsibilities; and inform governments and market participants. The Agency is continuing to build its data analytics capacity.

4.11 To support the market transition, continued planning, data collection and monitoring is an important aspect of market oversight and market stewardship.

Department of Social Services

4.12 As discussed in paragraph 4.5, the department is expected to monitor the *Integrated Market, Sector and Workforce Strategy*, and coordinate responses to any risks to market development that arise during transition. DSS is also leading oversight of the overall Scheme evaluation and the 2017 Productivity Commission's review of Scheme costs and sustainability. Delivering on these monitoring and market oversight responsibilities will require proper planning, and the establishment of, or linkages to, data collection and monitoring mechanisms.

4.13 In October 2016, DSS developed a draft *Program Plan for National Disability Insurance Scheme Phase 2: Transition* (the Program Plan). The purpose of the Program Plan is to set out DSS' strategy to manage its market oversight roles and responsibilities, including a program of work to support the NDIS transition phase (2016–17 to 2018–19).

4.14 The Program Plan is aligned with DSS' market, sector and workforce related roles and responsibilities, in particular, their lead NDIS 'market oversight' role (see paragraph 4.5). The Program Plan sets out arrangements for: governance; stakeholder engagement and communication; key market milestones and timelines; supporting projects; issues and risk management; responsibilities and accountabilities; and monitoring and reporting. It also details the management processes expected to support the market transition.

4.15 The Program Plan is further supported by a high-level Program Schedule of planned deliverables and projects, accountabilities, and critical timeframes. It includes key market areas such as: the quality and safeguarding framework; market oversight; and market development.

National Disability Insurance Agency

4.16 The Bilateral Agreements signed as at July 2016⁹¹ include provisions for the parties to monitor market sector, participant, workforce and system readiness through a range of mechanisms. The Agreements generally assign responsibility for building a picture of provider characteristics, numbers and capabilities to the NDIA, alone or in a shared role with the relevant state or territory.

4.17 During the trial phase, the Agency—supported by the Scheme Actuary—routinely collected and analysed participant, provider and service utilisation data drawn from its systems. This information was used for public and internal reporting, including market and participant dashboard reports⁹², and strategic risk reports.

4.18 During 2014–15 and 2015–16, the Agency took a range of actions to support its market monitoring role, including:

- commissioning a Market Architecture framework—a conceptual framework to assist with monitoring the development and maturity of the market over time;
- commissioning a market analysis tool, using publicly available data⁹³ supplemented by data from a range of sources, including the NDIA’s own data bases and those of states and territories. The tool is used by the Agency to undertake analysis, modelling and scenario testing;
- publishing Market Position Statements⁹⁴; and
- developing an Outcomes Framework to measure participant outcomes, by collecting longitudinal data across a number of domains.⁹⁵

4.19 The NDIA anticipates that its capacity to monitor the disability market will be improved by the Agency’s new ICT system once it is fully implemented. In particular, the development of an eMarketplace⁹⁶ is expected to provide an additional source of data for analysis, including: demand for different types of services; supply gaps; and pricing. In the business case for its new ICT system, the NDIA set out the case for enhanced functionality to support data analytics and reporting. The Scheme Actuary has carriage of the data model and a number of actuarial analysis tools which will be built into the new ICT system. The NDIA has advised the ANAO that the Actuary is closely involved in the design of the new ICT system.

91 As at July 2016, the Commonwealth had signed bilateral agreements for the transition with NSW and Victoria on 16 September 2015; with South Australia and Tasmania on 11 December 2015; with Queensland on 16 March 2016, and with the Northern Territory on 5 May 2016. Full Scheme transition arrangements in the ACT were settled under the previously agreed trial agreement between the Commonwealth and ACT Government.

92 National Disability Insurance Agency, *9th Quarterly Report Dashboards*, available from <<http://www.ndis.gov.au/about-us/information-publications-and-reports/quarterly-reports/9th-qr-dashboards>> [accessed 14 April 2016].

93 For example, data collected and published by the Australian Bureau of Statistics (ABS) and the Australian Institute of Health and Welfare.

94 Market Position Statements are discussed in more detail at paragraphs 4.43 to 4.48.

95 There are different Outcomes Frameworks for different participant life stages.

96 See paragraphs 4.38 to 4.39 for further discussion.

4.20 As discussed in Chapter 3, the NDIA also collected both qualitative and quantitative data from trial sites about the market transition to inform continuous improvements to the Scheme. Much of this information was gathered directly by NDIA staff through routine contact with participants and service providers, and was then shared through data bases, regular meetings and reporting arrangements.

4.21 As noted in paragraph 4.9, the NDIA's Service Delivery Operating Model provides for market and sector engagement teams within each region. This approach is intended to facilitate the collation of local level learnings regionally, which can then be fed into its National Office. The success of this approach will rely on market intelligence being continually collected at the local level and fed into regional offices for collation and analysis, as well as clear lines of accountability between regional and central offices.

4.22 The Service Delivery Operating Model also provides for the outsourcing of some NDIS functions, such as Local Area Coordination Services and/or Early Childhood Early Intervention Services, to 'Partners in the Community'. The scope of services to be delivered by Partners in the Community providing Local Area Coordination services includes: undertaking pre-planning and planning activities with selected Scheme participants; assisting selected Scheme participants to implement their plans and monitoring and reviewing progress; and capacity building, including engaging with service providers about participants' needs and identifying gaps in the market place. As such, Partners in the Community will be well placed to gather both market demand and supply data.

4.23 In order to ensure timely access to this data by the NDIA, Partners in the Community delivering Local Area Coordination services are required to:

- use the Agency's ICT systems to record information collected or created in delivering the Local Area Coordination role, including:
 - client data and participants' plans,
 - records of contacts with service providers and community organisations,
 - complaints and feedback;
- use the tool developed by the Scheme Actuary (as part of the Agency's Outcomes Framework) to capture outcomes data from participants; and
- prepare regular reports, including on: lessons learned; factors impacting service delivery; and recommendations for improvement.

4.24 These arrangements provide a basis for collecting valuable quantitative and qualitative data, including demand for services, and gaps experienced by participants in the availability or quality of these services.

4.25 Going forward, it is also timely for DSS and the NDIA to review the suitability of their NDIS market monitoring mechanisms to align with their recently defined market transition roles and responsibilities.

Market interventions

4.26 In monitoring the market transition and responding to emerging market risks, the NDIA's market stewardship role includes 'acting to ensure the supply of supports in limited or

underperforming markets', including through provider of last resort, market commissioning and other market interventions.

4.27 The NDIA has indicated that 'the long-term vision for market stewardship should be non-interventionist and predominantly focused on monitoring and informing the market of the activities of participants and providers.' The ANAO observed that a 'non-interventionist' approach presumes that the market, including its regulatory arrangements, is functioning well.

4.28 In the short to medium term, the Agency has been active in a number of specific market sectors, including assistive technology, specialist disability accommodation and early childhood early intervention. During the trials, the Agency intervened in the market on a number of occasions to address identified issues, examples of which are outlined below.

Case study 1: Examples of NDIA market interventions

Market expansion: During 2014–15, within the Barkly trial site (Northern Territory), one of the least densely populated regions, there was a very low number of registered NDIS service providers (around eight). To build and encourage supply, the Agency advised the ANAO that it sought to source additional providers to register for the Scheme, and embarked on a process of actively inviting organisations to submit proposals for expanded service delivery. To encourage interest, the Agency also flagged that (subject to meeting expected criteria) transition grants may be offered to individuals or organisations selected to fill additional service delivery needs. As at 30 June 2016 there were 42 active registered service providers in the Northern Territory.

Market stimulus: During 2013–14, in response to the ACT Government's decision to withdraw from provision of early childhood intervention services and to encourage new providers, the NDIA conducted a request for tender. As the ACT Government had been a key provider of these services historically, the NDIA sought to reduce the risk of service gaps for families during the two year withdrawal period from January 2015. The tender also specified the types of early intervention services required, with a view to embedding evidence-based practice.

Does transition planning address identified barriers to a successful market transition?

The Agency is implementing measures to address identified barriers to a successful market transition. This includes improving the availability of market information and investing in initiatives to build participant capacity to act as informed consumers. The NDIA is developing an improved evidence base to inform its responsibilities for pricing decisions, and intends to establish clear market review cycles to underpin decision-making in respect of Scheme pricing.

The national *NDIS Quality and Safeguarding Framework* is still to be considered by the Council of Australian Governments. The Framework and its supporting regulatory infrastructure and implementation arrangements need to be settled as a matter of priority.

Existing quality and safeguarding arrangements will continue to operate during transition but there are concerns about the capacity of existing regulatory systems to respond effectively as the NDIS market expands. Delays in the registration of providers have emerged in the lead up to transition, and provider registration may remain a pressure point for the Agency during the transition. Ongoing monitoring and reporting of performance against benchmarks should be considered.

4.29 The successful transition of the disability services market requires both active and informed consumers and a diverse and sustainable disability services sector. The ANAO's consultations with NDIS stakeholders identified issues that may influence the growth and transformation of the disability services market including:

- the ability of Scheme participants to exercise choice and control;
- the quality of Scheme data;
- the availability of useful market information for participants and service providers; and
- regulation and NDIS pricing.

Participant choice and control

4.30 The Agency has identified that building the capacity of participants is a key lever to stimulate market growth and responsiveness. As discussed in Chapter 3, the Agency has put in place a number of measures to support participants to actively engage with the planning process and to better exercise choice and control over the NDIS supports that they receive. The Agency will need to actively monitor the effectiveness of these initiatives during the transition to full Scheme.

Data quality

4.31 A key consideration for the market transition is the quality of data relating to the potential demand for services and the available supply of those services. The NDIA's December 2013 *Quarterly Report to COAG Disability Reform Council*, notes that the baseline estimates of NDIS participant numbers and costs were 'highly uncertain' and 'administrative data collected on people currently receiving disability services are poor—understanding exactly how many potential participants receiving existing services are in trial sites (and nationally) is difficult.'⁹⁷ Similarly, two independent reviews conducted in 2016 identified significant problems with the availability and quality of data on existing disability services clients.

4.32 Bilateral Agreements for the transition to full Scheme recognise that the NDIA will need:

access to data from governments and providers that is in the form, and quality, required to support the transition of people in existing programmes into the NDIS; ... including data from current programmes that allows the NDIA and governments to understand the characteristics of clients and the support they receive ...⁹⁸

4.33 The NDIA is working with jurisdictions and service providers to obtain more accurate data on clients of existing (Commonwealth, state and territory) disability services and the types of

97 NDIA, Quarterly Report to COAG Disability Reform Council, 31 December 2013, p. 6, available from <<http://www.ndis.gov.au/about-us/information-publications-and-reports/quarterly-reports>> [accessed 23 June 2016].

98 For example, NDIS - Bilateral Agreement between Commonwealth and NSW - 16 September 2015, Schedule E, p.1, available at <<http://www.coag.gov.au/node/525>> [accessed 23 June 2016].

supports that they are receiving.⁹⁹ The NDIA is also working with jurisdictions on data quality and data exchange requirements and processes.

4.34 More broadly, the NDIA advised the ANAO that jurisdictions are in the process of collecting data on clients currently funded within the existing disability services system, for provision to the NDIA. Improved data could assist in enhancing the Agency's planning, market stewardship role, and in providing more accurate demand data for its Market Position Statements (see paragraphs 4.43 to 4.48).

Market information

4.35 The availability of information to inform choice and decision-making by both consumers and service providers is a necessary feature of well-functioning markets. As part of its market stewardship role, the NDIA is implementing measures to address information asymmetries and support decision-making.

Scheme participants

4.36 In order to act as informed consumers, it is important that Scheme participants (and/or their families or carers) can readily access market information, including on the range of services available and the price and quality of those services. The search facility available to participants to locate suitable service providers during the NDIS trial did not provide an effective platform to connect participants and service providers. It did not allow registered service providers with multiple service outlets to include information about each outlet and, as a result, key information of relevance to NDIS participants, such as the availability of local service outlets and of amenities, like disabled parking and wheelchair access, was not available in many service provider records.

4.37 The NDIA advised the ANAO that enhanced search functionality has been built into 'MyPlace', the new participant and provider portal which was launched on 1 July 2016. According to the NDIA, when making a service booking participants will be able to view and locate providers by location, service outlet, and registration group, including information about hours of operation and contact details.

4.38 In addition, the NDIA is developing an eMarket platform. The Agency describes the eMarket as an 'online trading platform of goods, services, ideas and opinions' which, once fully deployed, will:

- allow NDIS participants to search for providers, supports, and services, as well as post reviews and ratings on the quality of service they received;
- allow service providers to create and maintain an eMarket store, including information about the products and supports they offer, locations, availability, hours of operation, and contact details; and

99 The ANAO has previously noted that difficulties in forecasting demand levels can result in consequences for program resourcing, including both budget implications and staffing capacity. Where practicable, and as part of the planning process for demand-driven programs, modelling and sensitivity analysis should be undertaken to forecast anticipated levels of demand and identify program management approaches that are able to influence, or respond to, the actual levels of demand. See ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned, p. 174.

- provide for payment transactions, digital interfaces with providers, and the extension of the eMarket capabilities to people with disability who are not eligible for the NDIS but are being assisted by the Agency through Information, Linkages and Capacity¹⁰⁰ building activities.

4.39 As at July 2016, the eMarket had not been implemented. The NDIA advised that the actual delivery dates for the implementation of the eMarket technology capabilities are yet to be agreed.

Service providers

4.40 Experience from other market transitions indicates that making information available about the market, including demand for services, facilitates market growth and adaptation. An analysis undertaken for DSS observed that:

Understanding the current demand for services, by geography/region, by service type and other demographic characteristics is critical information that will aid the transition of services and assist in the alignment of service providers towards the NDIS and ongoing viability as they move towards operating under contestable market conditions.

4.41 During the NDIS trials, the NDIA provided information to service providers through a range of mechanisms, including: forums and webinars; price guides; newsletters; and tool kits. Nevertheless, many service providers and peak bodies consulted by the ANAO advised that they were seeking greater information about the market opportunities presented by the NDIS, and expressed concern about the lack of available information.¹⁰¹

4.42 Data about the current demand for services in the trial sites is available through the quarterly reports to COAG prepared by the NDIA and the quarterly reports on the sustainability of the NDIS prepared by the Scheme Actuary. This data needs to be interpreted, however, and cannot necessarily be extrapolated to other regions. The Agency has responded to concerns expressed by stakeholders about the lack of accessible data on the NDIS market. In 2015–16, the NDIA developed participant and market analysis 'dashboard' reports for each trial site, to accompany its publicly available quarterly reports, as a means of improving the accessibility of the data.

Market Position Statements

4.43 The Agency is responsible for building 'a robust framework to monitor local sector capacity, including the development of indicators in supply gaps.'¹⁰² To support this function, the NDIA is developing a Market Position Statement (MPS) on each state and territory, along with regional modules, which will include information on expected market growth that could be used by service providers to inform their business planning. According to the NDIA, these modules will provide information on the unique characteristics of the region, including: key demographics;

100 Formerly known as Tier 2 supports, 'Information, Linkages and Capacity Building' (ILC) is a key component of the NDIS insurance model. ILC activities are intended to contribute to the sustainability of the NDIS by linking people with disability, their families and carers with appropriate disability, community and mainstream supports. ILC services are also intended to enhance the capacity of the community and mainstream services to better support people with disability.

101 The ANAO's stakeholder consultations were conducted during September 2015–February 2016.

102 Department of Social Services, *Integrated Market, Sector and Workforce Strategy*, June 2015, p. 17, available from <<https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>> [accessed 26 August 2016].

current providers; market concentration; and provider readiness. In releasing the first MPS (for NSW), the NDIA stated that:

This MPS aims to help providers, as well as participants and service intermediaries such as plan management and support co-ordination agencies, understand the developing local markets they operate in, so that they can make informed decisions now and identify challenges and opportunities for the future.

4.44 Market Position Statements on each state and territory use data from a range of sources, including the Scheme Actuary, to provide estimates, by region, of: demand for supports (in terms of participant numbers and dollar value); current supply of supports; required growth in supply; and required growth in workforce.

4.45 Between March and September 2016, the NDIA released Market Position Statements for NSW, Victoria, Queensland, South Australia, Tasmania, and the ACT.¹⁰³ The Statements for NSW, Victoria, Queensland, and the ACT included regional modules on: Western Sydney; North East Melbourne; Townsville, Charters Towers and Palm Island; and Southern NSW, respectively.

4.46 Early indications are that the release of the Market Position Statement for NSW, with a regional module on Western Sydney has helped to address concerns expressed by service providers about inadequate market information. For example, in evidence provided to the Parliamentary Joint Standing Committee on the NDIS in April 2016, the Queensland State Manager of National Disability Services, advised that:

From what I understand, the response to Western Sydney's data in this state has been very positive. I think that is good data; I think it is quite comprehensive. If we can see that kind of data being available to the Townsville region in the coming months, that will be most useful for service providers.¹⁰⁴

4.47 The Agency advised the ANAO that, following completion of baseline Market Position Statements for each state and territory, it will commence a program of work that focuses on 'market' modules. These modules will capture market analysis on service types, themes or regions. The Agency advised the ANAO that the production of market modules will be based on its assessment of market development priorities, consistent with the NDIA's role in attracting new suppliers to the disability services market. Examples of modules cited by the NDIA include: specialist disability accommodation; assistive technology; allied health; support intermediaries; or remote service delivery.

4.48 It will be necessary for market modules to be developed and released in a timely way so as to maximise their usefulness in informing providers' business planning and investment decisions, particularly during the transition to full Scheme.

103 Market Position Statements are available from <<https://myplace.ndis.gov.au/ndisstorefront/market-position-statements.html>> [accessed 24 August 2016].

104 Joint Standing Committee on the National Disability Insurance Scheme, *Proof Committee Hansard*, 6 April 2016, p. 6, available from <http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/JNDIS-44th/Public_Hearings>.

Regulation of quality and safeguards, and pricing

Quality and Safeguards

4.49 A *National Quality and Safeguarding Framework* is currently under development for the full Scheme, and is the responsibility of the Australian and state and territory governments, through the Ministerial Council. At its 2 September 2016 meeting, the majority of Disability Reform Council members agreed to a draft Framework.¹⁰⁵ It is expected that COAG will consider the final draft Framework later in 2016.¹⁰⁶ (See paragraph 2.21-2.25 for further details.)

4.50 Existing quality and safeguarding arrangements are expected to continue to operate during transition.¹⁰⁷ A recent *Independent Review of the Readiness of NDIS for Transition to Full Scheme* commissioned by DSS, identified concerns about the capacity of existing systems to respond effectively, given the variation in existing state accreditation, regulatory structure and resourcing for these activities across jurisdictions. In particular, accreditation of new entrants (and new support types) could be constrained by resources and both states and the NDIA recently indicated that delays to provider registration may result. This has emerged as an issue in the lead up to transition and is discussed in paragraphs 4.60 to 4.63.

4.51 The Independent Review recommended that governments take steps to quickly finalise outstanding/unresolved actions and accountabilities for quality and safeguarding arrangements for transition, including registration of new providers. The department advised the ANAO that, as at July 2016, working arrangements for quality and safeguarding during transition had been agreed with Queensland, New South Wales and Victoria and were under development with other jurisdictions.¹⁰⁸ The department further advised that a series of fact sheets are being developed for service providers and participants with a view to making the quality and safeguarding arrangements more accessible.

4.52 The Framework notes that it is 'intended to be a high-level policy framework with significant work still to be done on the implementation design and roll out ...'. The *NDIS National Quality and Safeguarding Framework* is intended to be operational by July 2018 in New South Wales and the Australian Capital Territory (and South Australia if agreed) and by July 2019 in all other jurisdictions. Existing and potential providers need adequate notice of these (and other) regulatory arrangements to inform their planning and investment decisions. In the context of the extended timeframes experienced in the collective decision-making arrangements to date, the draft Framework, its supporting regulatory infrastructure and detailed implementation arrangements needs to be settled as a matter of priority and released to the market.

105 South Australia and the Northern Territory noted the Framework agreed to by other jurisdictions.

106 COAG Disability Reform Council, Communiqué, 2 September 2016, p. 2, available at <<https://www.dss.gov.au/disability-and-carers/programmes-services/government-international/disability-reform-council/communique-2-september-2016>> [accessed 6 September 2016].

107 The *NDIS Terms of Business for Registered Providers* provides that Registered Providers must comply with relevant Commonwealth, state and territory quality and safeguarding arrangements regardless of whether they are bound by such requirements under the applicable law. The Terms of Business are available at <<https://www.ndis.gov.au/html/sites/default/files/documents/Provider/TOB.pdf>> [accessed 24 October 2016].

108 As at 18 October 2016, quality and safeguarding transitional working arrangements for Queensland, New South Wales and Victoria were available at <<https://www.ndis.gov.au/providers/provider-toolkit.html>> [accessed 18 October 2016].

Pricing

4.53 In a well-functioning NDIS market, the price of disability services and supports is expected to be set by the market. During the transition phase, the Agency sets a maximum price that registered service providers may charge for funded supports included in participants' plans. These maximum prices are currently above the 'efficient price' identified by the Agency, in recognition that it may take some time for providers to adapt to the new arrangements.

4.54 Pricing has been a vexed issue throughout the trials. A number of service providers advised the ANAO that in some instances the NDIA price did not cover the cost of service delivery and service providers were cross-subsidising from other clients and/or block-funded services. As the NDIS expands nationally, this approach will no longer be viable. Service providers also advised the ANAO that price was an important factor in deciding what type of services they would provide. These findings are consistent with other reviews, including a February 2016 review of the transition of Commonwealth programs.

4.55 The Agency's approach to pricing has been developed and refined throughout the NDIS trial period and it has an ongoing program of work in place to ensure that pricing decisions are regularly reviewed and informed by evidence. The Agency advised the ANAO that they are working to establish clear market review cycles to underpin decision-making around Scheme pricing, including open consultation with the disability sector. For example, a discussion paper on the 2016–17 price review of personal care and community participation was released on 22 March 2016.

Benchmarking

4.56 The Agency also advised the ANAO that it was working to improve the evidence base that it can draw upon to inform decisions in relation to pricing, as well as market design and support for ongoing market development. The Agency is developing a benchmarking function for the disability services sector, with data and metrics covering:

- market characteristics (e.g. location, size);
- business characteristics;
- service cost and operating metrics; and
- financial performance.

4.57 The key objectives of benchmarking is to:

- increase the information available to providers about efficient, best practice service delivery for disability supports, to help them gauge their performance against peers and support transition into the Scheme; and
- provide the NDIA with the financial and operational information it needs to effectively undertake its market stewardship role and develop a vibrant, responsive and sustainable market for the benefit of participants and inform decision-making.¹⁰⁹

109 National Disability Insurance Agency, *Benchmarking Function – Design*, available from <<https://myplace.ndis.gov.au/ndisstorefront/news/benchmarking-function-design.html>> [accessed 4 August 2016].

4.58 In August 2016, the peak body representing non-government disability service providers—National Disability Services—indicated that it would recommend participation in benchmarking to its members only if concerns about governance and data management could be resolved.

Are the NDIA’s operational systems and processes effective in supporting the market transition?

The introduction of a new ICT system for the NDIS on 1 July 2016 was expected to provide enhanced functionality for Scheme participants and new and existing service providers. However, the rollout of this new system experienced significant problems. During periods of uncertainty and change in particular, timely and accurate communication is essential to build understanding and reduce frustrations.

NDIS systems and processes

4.59 Service providers consulted by the ANAO indicated that a number of NDIS systems and processes contributed to higher than anticipated transaction costs. These included the process to register as a provider of NDIS supports; and claiming fees for services.

Registration

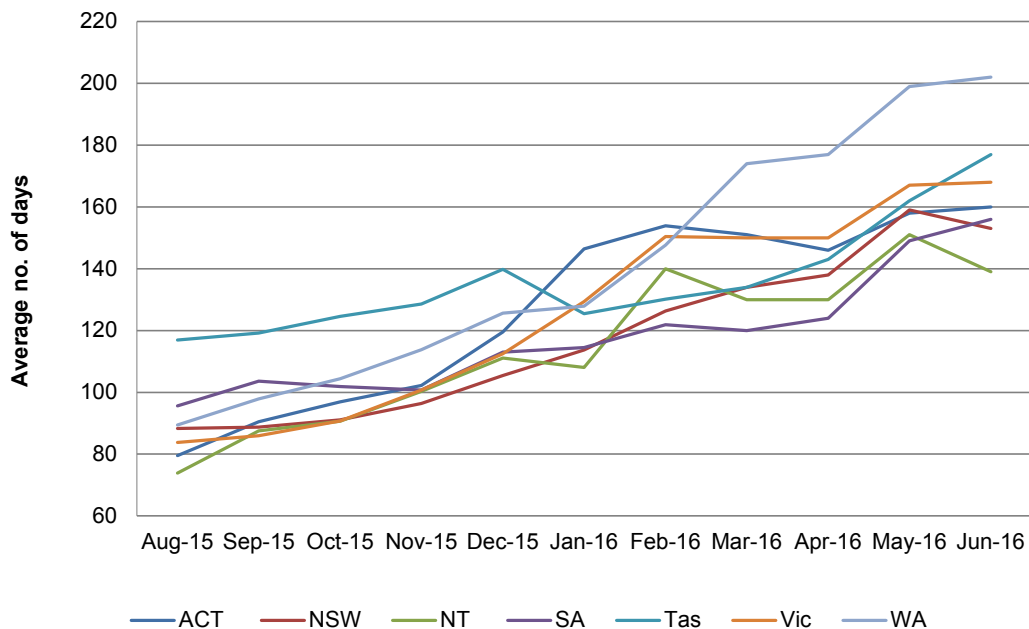
4.60 In order to supply services to NDIS participants, a provider must be registered with the NDIS for the specific types of support that they wish to supply.¹¹⁰ Registration involves submitting documentation to the NDIA through the MyPlace portal, including proof of compliance with state/territory quality and safeguarding arrangements, where applicable. This proof may be issued either by the relevant state(s) and/or territory(ies) or an authorised Third Party Verifier.

4.61 Ahead of the commencement of transition to full Scheme from July 2016, NDIA dashboard reporting highlighted a growing backlog of provider registrations that needed to be processed for transition. As shown in Figure 4.1, between August 2015 and June 2016, the average time for an application for registration to be approved increased in all jurisdictions. The NDIA advised the ANAO that over the May-June 2016 period additional resources were deployed to work through the applications pending registration. In total, this work cleared over 1 000 of the pending applications. At the same time however, the applications for registration continued to accelerate. As at 30 September 2016, the number of registration applications on hand was 6 857 (as compared to 2 606 as at 6 April 2016¹¹¹). Of these applications, 2 117 could not be processed as they were awaiting information from the applicants.

110 The exception is for participants who elect to self-manage their NDIS funds. Self-managing allows a participant to purchase supports from suppliers that have not registered with the NDIA.

111 The NDIA advised the ANAO that, of the 2 606 applications on hand at 6 April 2016, 1 743 were not able to be processed as these applications were awaiting further information from the service provider.

Figure 4.1: Average number of days for provider registration approvals, by jurisdiction



Source: ANAO analysis of NDIA data.

4.62 In April 2016, the NDIA advised the ANAO that it has implemented a number of measures to address the registration backlog and improve responsiveness and timeliness. These measures include:

- increasing staffing in the provider support team¹¹² (from 6.6 full-time equivalent staff in September 2015 to 13 full-time equivalent staff as at April 2016);
- extending the hours of operation of the 1 800 number so that they are consistent across all time zones with coverage provided by the Department of Human Services' call centre from 8:00am to 5:00pm local time (including Western Australia);
- prioritising registration applications for new sites; and
- reviewing information materials to assist providers with the registration process.

4.63 The number of active registered service providers is expected to increase from its current level (3 519 as at 30 June 2016) to between 13 500 - 40 000 providers at full Scheme. Provider registration may, therefore, remain a pressure point for the Agency during the transition. Ongoing monitoring and reporting of performance against benchmarks should be considered. There would also be value in publishing data on average registration approval timeframes in the Public Market Dashboards accompanying the Agency's quarterly reports, to enable service providers to factor approval timeframes into their business planning.

¹¹² The NDIS service provider call line operated by Human Services receives around 700 calls per week; of these around 43 per cent are then escalated to the NDIA Provider Support Team for response. This is the same NDIA team responsible for processing the backlog of registration applications.

Claiming payment for services delivered

4.64 A number of the service providers consulted by the ANAO raised concerns about the NDIA's claiming process. Providers acknowledged that the process had improved over the course of the trials but still considered the invoicing process to be administratively burdensome, both in terms of entering data (if claiming individually) or trying to find the source of error where claims were rejected (when bulk billing). Providers also noted that they were unable to claim against a client's plan while the plan was being reviewed, resulting in delays in payment.

4.65 The source of many of the problems experienced by service providers and participants in registration, payment requests (claiming) and related information processes was the NDIA's ICT system.¹¹³ As a result of the commencement date for NDIA trials being bought forward by one year, the NDIS was supported by an interim ICT system, which was 'the best available at short notice' but considered 'not fit for purpose'.¹¹⁴ The ICT system was managed by DSS, and was designed to support around 30 000 participants during the trials. This interim ICT system was not easily scalable to support the NDIS at full Scheme and did not provide the full range of capabilities needed to support people with disability, their families and carers.

4.66 The Agency, in co-operation with the Department of Human Services and DSS, developed a new ICT system which was implemented from 1 July 2016 to coincide with the transition to full Scheme. The Australian Government has committed \$143 million over four years, from 2015–16, to support the development of the new ICT system, and the Department of Human Services is managing the implementation and integration. At full Scheme the new system is expected to support around 460 000 participants and handle approximately 20 million payment transactions per annum.

4.67 On 16 June 2016 the old portal was closed in preparation for transition to the new system, with service providers unable to make claims until the new system, known as MyPlace, was implemented on 1 July 2016. Following implementation of MyPlace some service providers and self-managed participants experienced problems with the new payments portal. National Disability Services, the peak body for non-government disability service organisations, stated:

The malfunctioning portal has prevented disability support providers claiming payments owed to them, resulting in undue financial pressures. Additionally, providers have the administrative burden of trying to navigate the delays and obstacles caused by the portal.¹¹⁵

4.68 On 8 July 2016, the Agency decided to make available emergency payments for providers having financial difficulties. A survey of providers was conducted by the National Disability Services in early August 2016. 110 providers responded—92 were providers with participants in

113 The ANAO has previously noted that IT capability is likely to be a critical success factor in the implementation of many programs. See for example: ANAO Audit Report No. 12 2010-11 *Home Insulation Program*, Chapter 9—Lessons Learned, p. 176; and ANAO Audit Report No. 9 2010-11 *Green Loans Program*, paragraph 3.42, p.67.

114 Whalan J., Acton, P. & Harmer J., *A review of the capabilities of the National Disability Insurance Agency*, January 2014, p.5, available at <https://www.ndis.gov.au/html/sites/default/files/documents/capability_review_2014_3.pdf> [accessed 24 October 2016].

115 *Govt To Review NDIS IT System*, Pro Bono Australia, <<http://probonoaustralia.com.au/news/2016/08/govt-review-ndis-system/>> [accessed 11 August 2016].

the NDIS and 18 were providers trying to register. National Disability Services reported that, in respect of the 92 providers with participants in the Scheme, the survey results indicated that in the seven week period from closure of the old portal to the time of the survey response:

- over \$20 million in services were provided to 10 151 NDIS participants;
- on average, only 10 per cent of claims on the portal had been successful; and
- 23 providers had claimed emergency payments.

4.69 The 18 service providers with no participants in the Scheme raised issues in respect of registration, including missing and incorrect data.

4.70 On 5 August 2016, the Government announced a review of the implementation of the MyPlace portal ‘to ensure the system is meeting the agreed expectations of NDIS participants and providers’.¹¹⁶ On 2 September 2016 the Ministerial Council considered the results of this review:

The Council acknowledged there have been significant issues in the first two months of transition to full scheme roll out of the National Disability Insurance Scheme (NDIS) since 1 July 2016. These include issues arising from implementation of the new National Disability Insurance Agency (NDIA) ICT system, particularly the myplace portal, which have had serious impacts on participants and providers around Australia whose payments have either failed or been delayed.¹¹⁷

4.71 The Council noted that in response to the issues that had arisen since the commencement of transition on 1 July 2016, the NDIA had:

- established an NDIS Transition Management Team to address all outstanding portal issues, plan approval targets and communication with the sector;
- appointed a Chief Operating Officer to oversee all of the NDIA’s operational matters during the transition to full scheme roll out;
- ensured more robust reporting is undertaken on key metrics around portal issue resolution and plan approval rates; and
- established stronger information sharing arrangements between the NDIA, Commonwealth, State and Territory Agencies.¹¹⁸

4.72 Further, the NDIA will provide monthly reports to Disability Reform Council members on key metrics, including on payment portal performance and plan approvals.¹¹⁹

4.73 ICT is a significant area of risk for the NDIS as it provides the platform for the delivery of key Scheme functions such as provider invoicing and registration, and the collection and reporting of data. Learnings from other market transitions indicate that the size and capability of service

116 C Porter (Minister for Social Services) and J Prentice (Assistant Minister for Social Services and Disability Services), ‘Review of the Implementation of the NDIS MyPlace Portal’, media release, Parliament House, Canberra, 5 August 2016, available at <<http://christianporter.dss.gov.au/media-releases>> [accessed 28 August 2016].

117 COAG Disability Reform Council, *Communiqué*, 2 September 2016, p. 1, available at <<https://www.dss.gov.au/disability-and-carers/programmes-services/government-international/disability-reform-council/communique-2-september-2016>> [accessed 6 September 2016].

118 *ibid.*, pp. 1-2

119 *ibid.*, p. 2.

providers can vary significantly and service providers can be extremely sensitive to variations in their cash flow. Disruptions to claiming systems, as occurred with the introduction of MyPlace, can place financial pressure on service providers, and in turn, may result in participants missing out on vital services and funded supports.

4.74 Key stakeholders, including National Disability Services, voiced concerns about the timeliness and accuracy of NDIA communications in respect of the ICT system issues. The *National Disability Insurance Scheme MyPlace Portal Implementation Review—Final Report* also raised concerns about NDIA communication in respect of the MyPlace portal rollout and impact of the NDIS more broadly.¹²⁰

4.75 During periods of uncertainty and change in particular, timely and accurate communication is essential to build understanding and reduce frustrations.



Grant Hehir
Auditor-General

Canberra ACT
9 November 2016

120 PWC, *NDIS MyPlace Portal Implementation Review—Final Report*, 31 August 2016, p. 1, available at <<https://www.dss.gov.au/disability-and-carers/publications-articles/general/ndis-myplace-portal-implementation-review-final-report>> [accessed 6 September 2016].

Appendices

Appendix 1 Entity responses



Australian Government
Department of Social Services

Finn Pratt AO PSM
Secretary

Dr Tom Ioannou
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Dr Ioannou *Tom*

Australian National Audit Office Performance Audit of the National Disability Insurance Scheme – Management of the transition of the disability services market

Please find enclosed the Department's response to the proposed report on the audit of the *National Disability Insurance Scheme – Management of the transition of the disability services market*. Thank you for providing the Department of Social Services (the Department) with the opportunity to respond to the proposed report, issued under section 19 of the *Auditor-General Act 1997*.

Thank you for the collaborative approach you and your team have taken to the conduct of this audit, and for your patience and diligence in reviewing the vast amount of information required to understand a reform as complex as the National Disability Insurance Scheme (NDIS).

The Department acknowledges the findings of the report and agrees with the recommendation, which reflects the direction the Department is already taking in its ongoing role as lead policy agency with responsibility for the NDIS. The Department will continue to work closely with the National Disability Insurance Agency (NDIA), and our state and territory counterparts to develop, implement and publish, as appropriate, policy directions and activities which go towards achieving an efficient and effective disability services market and workforce.

The Department recognises that workforce action plans, that take into account the individual characteristics of geographic and cohort segments, will be valuable during the transition period. Work at the bilateral level, in particular, will be critical to ensure workforce responses in each jurisdiction are matched to the specific characteristics and needs of the local market. While there are areas where the Department can play a direct influencing role, such as in national policy areas that affect the workforce like higher education, many other areas require collective effort from the Commonwealth, states and territories, and the NDIA.

It is the Department's view that the complexity and scale of the NDIS reform cannot be overstated, and we appreciate that the Australian National Audit Office (ANAO) has acknowledged this in the report. As the audit report points out, the governance arrangements for the NDIS are necessarily complex, with the positions of stakeholders being integral to decision-making on all issues. This inevitably results in long lead times in progressing key work while principles and policies, and subsequently, implementation arrangements, are settled and agreed with all parties. The Department understands these delays can result in the compression of timeframes for delivery, but this is an unavoidable side-effect of the consensus-based model that underpins the NDIS, and recognizes that many levers required to effect transition of the market and workforce sit with state and territory governments.

It is also important to note that we are still in the early stages of transition to full scheme NDIS. As the audit report notes, we do not yet have a mature market, and consequently any market issues and workforce shortages are not national or entrenched, as there is not yet a critical mass of participants with plans in place, outside trial sites. The Market Position Statements released by the NDIA provide a valuable illustration of how the market and workforce are expected to grow as we head towards full scheme, but it will be critical for the Department, the NDIA and the states and territories to maintain close monitoring of local and systemic issues in the nascent market to ensure a comprehensive and timely response.

It is the Department's view that the audit report has been helpful in highlighting areas that will require focus going forward, and will assist the Department to continue to fulfill its shared market and workforce responsibilities in a deliberate and measured way, to ensure that solid evidence is available prior to making any potentially distortionary intervention in the market. In many instances, it may be preferable to let the providers respond as the market evolves, unless there is a compelling case for intervention. The Department considers that a stronger basis for intervention in the market is likely to emerge in the later part of the transition to full scheme – noting that work that has already been undertaken or identified to assist existing providers to transition, to build the capacity of people with disability, and their families and carers to become informed consumers, or to explore systemic issues such as shortages of allied health professionals.

I note the ANAO indicates a concern around limited evidence that expenditure of the Sector Development Fund (SDF) has been strategic. The movement of the SDF from the NDIA to the Department was in part due to the recognition that a more strategic approach to expenditure of the SDF was required as transition approached. I am confident that SDF expenditure is in line with the Department's strategic intent for the NDIS, as outlined in the SDF Strategy and Operational Guidelines. As we head towards full scheme, targeted, effective investment through the SDF will become of even greater importance, and as the audit report notes, the Department has developed an Investment Strategy to inform future expenditure allocations of the SDF.

I note the ANAO's concerns about timing of key strategic documents, some of which were delivered after the commencement of trials. The 'learn and build' approach has been a key pillar of the approach to the NDIS. While we have made efforts to be aware of cautionary experiences emerging from other market transitions, the NDIS is a ground-breaking reform to offer life-long, multi-service support to people with disability, which does not lend itself easily to comparisons with other reforms. Similarly, while it was critical to capture the learnings from trial sites to inform the development of

strategies and approaches, the information derived from the trials is limited to geographic areas or participant cohorts, and does not provide a sound basis for forming judgments about the wider market. Given the emerging nature of the market, a definitive plan and vision at this point is not possible. It will need to evolve as the market matures.

Finally, I note the ANAO highlights finalising the NDIS Quality and Safeguarding Framework as a key priority. I am pleased to report that an NDIS Quality and Safeguards Framework was agreed by the Commonwealth, New South Wales, Queensland, Victoria, Western Australia, the Australian Capital Territory and Tasmania at the Council of Australian Governments (COAG) Disability Reform Council meeting of 2 September 2016 (South Australia and the Northern Territory noted the Framework and may opt in later once their governments have considered it). The Framework will proceed to COAG later this year.

A summary of the Department's overall response to the proposed report is provided at [Attachment A](#), and a detailed response to the recommendation is outlined at [Attachment B](#).

If you would like further information or clarification on the Department's overall response, please do not hesitate to contact Ms Margaret McKinnon, Group Manager of the NDIS Market Reform Group on 02 6146 5257 or via email at margaret.mckinnon@dss.gov.au.

Yours sincerely



Finn Pratt

18 October 2016

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Dr Tom Ioannou
Group Executive Director
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Dear Dr Ioannou

Australian National Audit Office (ANAO) – management of the transition of the disability services market

Thank you for your email dated 23 September 2016 regarding the NDIS – management of the transition of the disability services market performance audit.

While there are no formal recommendations for the National Disability Insurance Agency (NDIA), the report's findings will benefit the Agency's current and future market transition activities.

A summary of the NDIA's response is at (**Attachment A**).

We would like to take this opportunity to formally thank the ANAO for the time and resources they have allocated to the audit.

If you would like to discuss our response to the audit report, please contact Mr Paul O'Connor, Chief Risk Officer on 03 5272 7875.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Bowen', written over a horizontal line.

David Bowen
Chief Executive Officer
National Disability Insurance Agency

21 October 2016

Attachment: Summary of NDIA response

Delivered by the

National Disability
Insurance Agency

Appendix 2 NDIS transition arrangements by jurisdiction and NDIS data (as at 30 June 2016)

	Trial Period			Transition to Full Scheme			Full Scheme	Estimated participant numbers at Full Scheme
	2013–14	2014–15	2015–16	2016–17	2017–18	2018–19	2019–20	
NSW	Hunter trial (≈ 12 111 participants incl. Nepean)			Transition to full Scheme: geographical and client cohort			full Scheme	152 103
		Early transition Nepean children aged 0–17						
South Australia	State wide trial; Children aged 0-14 years (≈ 8 500 participants—trial and early transition)			Transition to full Scheme: age and geographical			full Scheme	34 240
Victoria	Barwon Trial (≈ 5 102 participants)			Transition to full Scheme: geographical			full Scheme	111 878
Tasmania	State wide trial people aged 15-24 years (≈ 1 125 participants)			Transition to full Scheme: age and priority			full Scheme	11 121
ACT		Territory wide trial (≈ 5075 participants) ^a			Transition to full Scheme			7 544
NT		Barkley trial (≈ 149 participants)		Transition to full Scheme			full Scheme	6 808
Queensland				Transition to full Scheme from July 2016. Early Transition from January 2016: Townsville; Charters Towers; Palm Island			full Scheme	96 449
Approximate number of participants when the above jurisdictions reach Full Scheme								420 143
WA				NDIS Trial Perth Hills ^b		Agreement on full Scheme rollout from July 2017 under negotiation (as at September 2016)		
				MyWay Trial				

Note a: Note a: The Bilateral Agreement for NDIS launch between the Commonwealth and the ACT provides for all eligible ACT residents to have access to the Scheme from 2016-17.

Note b: In Western Australia, trials of two different models of disability service delivery are running in parallel. The NDIS and My Way trials are being evaluated and the outcomes will inform how disability services in Western Australia are provided in the future. In April 2016 the WA and Commonwealth governments announced the extension and expansion of the NDIS trials in WA. Existing trials were extended by 12 months to 30 June 2017. On 1 October 2016 the WA MyWay trial was expanded to include three new local government areas: Armadale, Murray and Serpentine-Jarrahdale. From 1 January 2017 the NDIS trial will expand to include the local government areas of Bayswater, Bassendean, York, Chittering, Northam and Toodyay.

Source: Based on ANAO analysis of: Heads of Agreement; Bilateral Agreements for the Transition to an NDIS; information available on the NDIS website <<https://myplace.ndis.gov.au/ndisstorefront/about-us/our-sites.html>> [accessed 1 September 2016] and data provided by the Department of Social Services.

Table A.1: NDIS data as at 30 June 2016

	NSW	SA	Tas	Vic	ACT	NT	QLD	WA	Total
No. of access requests ^a	12 402	10 368	1 484	6 668	6 390	185	763	3 263	41 523
No. of participants approved as eligible	10 109	9 436	1 321	5 715	5 149	158	537	2 651	35 076
No. of participants with approved plans ^b	9 609	7 118	1 162	5 284	4 098	155	361	2 494	30 281
Number of active registered providers	1 467	522	260	896	261	42	139	255	3 519^c
Funding (\$million) available in participants' plans (2015–16)	\$343.0	\$102.2	\$64.0	\$196.8	\$135.4	\$5.2	\$1.1 ^d	\$68.0	\$915.7

Note a: The Act requires a person to make a request to the Agency to become a NDIS participant. If the CEO of the Agency is satisfied that the person meets the access criteria specified in the Act, the person becomes a participant in the Scheme.

Note b: An approved plan is one that is agreed between the participant and the NDIA, and includes the types and values of funded supports.

Note c: As at 30 June 2016, there were 3 519 NDIS registered service providers. The total number of active service providers by jurisdiction (n=3 842) exceeds this number, as some service providers operate in multiple jurisdictions.

Note d: Queensland did not participate in the NDIS trials. Transition to full Scheme commenced in North Queensland (Townsville City, Charters Towers and Palm Island local government areas) on 1 April 2016.

Source: National Disability Insurance Agency, *Quarterly Report to COAG Disability Reform Council 30 June 2016, Report on the sustainability of the scheme* and 12th quarterly report market dashboards. Reports and dashboards are available at <<http://www.ndis.gov.au/about-us/information-publications-and-reports/quarterly-reports>> [accessed 30 September 2016].