18 May 2023

NDIS Review Secretariat - Department of the Prime Minister and Cabinet
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Dear Sir/Madam

NDIS Review: Building a Strong Effective NDIS

The Actuaries Institute ('the Institute') welcomes the opportunity to provide input to the National Disability Insurance Scheme (NDIS/the Scheme) Review: Building a Strong, Effective NDIS. The Institute is the peak professional body for actuaries in Australia. Our members have had significant involvement in the development and ongoing management of the Scheme. We recognise the valuable role the NDIS has played in improving the welfare of hundreds of thousands of Australians with disability.

This submission addresses Part 1 of the terms of reference which examines the design, operations and sustainability of the NDIS covering issues outlined in the full-Scheme bilateral agreements between the Commonwealth and jurisdictions.

Insurance Principles of the NDIS

An important aspect of the NDIS is that it is based on insurance principles informed by actuarial analysis[1]. The NDIS Act defines the eligibility criteria for the Scheme and legislates reasonable and necessary supports, including early intervention supports, to all eligible participants[2]. As a result there is no cap on funding, as there was with the previous State and Territory disability programs. The resulting financial risk that any valid claim must be paid regardless of the total cost of the Scheme needs to be managed in a manner analogous to insurance schemes such as injury compensation schemes.

The insurance principles of the Scheme are described in more detail in the NDIS Insurance Principles and Financial Sustainability Manual[3] and include the concept of the control cycle – that is, analysis of emerging claims data to facilitate ongoing re-estimation of future costs, reconsideration of eligibility and entitlements, and review and improvements to the claims management process.

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[1] National Disability Insurance Scheme Act 2013, Section 3(2)(b)

[2] National Disability Insurance Scheme Act 2013, Section 3(1)(d)

[3] National Disability Insurance Scheme, Insurance Principles and Financial Sustainability Manual Version 5, November 2016

To ensure the financial risks of the Scheme are managed, the NDIS Act provides for annual actuarial assessments and transparent reporting by the Scheme Actuary on financial sustainability, risks to sustainability, and the causes of those risks and trends[4].

Financial sustainability is defined by the NDIS as a state where[5]:

1. The Scheme is successful on the balance of objective measures and projections of economic and social participation and independence, and on participants' views that they are getting enough money to buy enough high-quality goods and services to allow them reasonable access to life opportunities – that is, reasonable and necessary support; and
2. Contributors think that the cost is and will continue to be affordable, under control, represents value for money and, therefore, remain willing to contribute.

The annual actuarial assessments and reporting, the first of which was for the 2013-14 financial year, mean that there is now almost ten years of evidence-based understanding of the cost pressures on, and risks to the financial sustainability of, the Scheme.

The insurance principles of the original Scheme design can be implemented better. For example, objective and consistent data to make decisions is not in place. This has added to the management challenge as numbers of participants and costs trended higher than originally projected.

Risks to the Financial Sustainability of the NDIS

It has been evident for some years now that the expected future costs of the Scheme significantly exceed those in the original actuarial projections which were undertaken for the Productivity Commission and published in 2011[6].

The latest Annual Financial Sustainability Report[7] projects that total Scheme expenses will be $34.0 billion (1.48% of GDP) in 2022-23 rising to $89.4 billion (2.55% of GDP) in 2031-32. It is clear from recent public commentary that the Scheme does not currently meet the second financial sustainability criterion and that reforms are necessary, including potentially to eligibility and entitlements, and claims management. Reforms must, of course, be consistent with the first financial sustainability criterion.

The projected cost increases are driven by several factors, including:

- **Number of Participants:** It was originally envisaged that the Scheme would support the approximately 475,000 Australians with disability who have the highest support needs and that other disability services would support the remaining 3.8 million Australians with disability. In December 2022 the Scheme had 573,342 participants, projected to rise to

[4] National Disability Insurance Scheme Act 2013, Section 180B

[5] National Disability Insurance Scheme, Insurance Principles and Financial Sustainability Manual Version 5, November 2016

[6] Productivity Commission 2011, Disability Care and Support, Report no. 54, Canberra

[7] National Disability Insurance Scheme, Annual Financial Sustainability Report 2021-22. We note the 2023-24 Budget has a slightly lower growth trajectory.

1,017,522 by 2032. The increase arises from both a higher-than-expected rate of new entrants and a lower-than-expected rate of participants leaving the Scheme.

- **New Entrants:** A high proportion of recent new entrants to the Scheme have a higher level of function than existing participants. This leads us to question whether the Scheme is supporting the intended population. The original design of the Scheme included a strong and robust network of support for people with disability with lower support needs (Tier 2 population) provided by the States and Territories, including education, health, vocational training, and aged care. However, the States and Territories have typically ceased to provide services to the Tier 2 population, potentially causing them to apply for participation in the NDIS when they might otherwise have accessed other programs. The interface between mainstream supports and the NDIS needs clarification because the NDIS is an uncapped demand-driven Scheme and other programs are not.

- **Participants Living with Autism:** The number of participants living with autism has increased markedly, and now represents almost one third of new entrants. It is unclear whether the cause is a real increase in prevalence of autism, or that the criteria for diagnosis have broadened, or a combination of both. For example, Andrew Whitehouse, Professor of Autism at the Telethon Kids Institute, has said "it was without question that clinical behaviour had become biased towards making certain levels of an autism diagnosis in order to provide families a better chance at receiving the support they need through the NDIS". We note, and support, Recommendation 3 in the 2021-22 Annual Financial Sustainability Report:

  The Agency should seek to better understand the drivers of the increasing prevalence of autism, and specifically the higher-than-expected numbers of participants entering the Scheme with autism or with developmental delay who are then diagnosed with autism. This work would also help clarify to what extent the high rates of new entrants with autism may persist going forward.

  There is a mismatch between the legislation's wording, which uses definitions from a social model of disability, and the way the Scheme operates using definitions from a medical model of disability. The Review should provide clarification around significant and permanent functional impairment for access to the Scheme, and who would benefit from NDIS individualised funding versus receiving support through the community.

- **Participants Leaving the Scheme:** It was originally envisaged that supports provided by the Scheme, particularly early childhood early intervention, would enable some participants to leave the Scheme after a period of time. The number of participants leaving is lower than expected. This is in part due to the societal disruption of the COVID-19 pandemic, but it is also the case that early childhood early intervention has not been as effective as expected. It is unclear whether the cause is that the initial assumptions were wrong, or that improvements are necessary to the supports provided. In part this is because outcomes before and after early childhood early intervention have not been measured. Further, participants and families are not incentivised to leave the Scheme given the lack of Tier 2 supports.

- **Superimposed Inflation:** Plan to plan inflation is significant and continues to rise. There are several (often inter-related) reasons for this, for example participants run out of funds and providers draw down more than expected. Public commentary focuses on provider fraud, extortionary pricing behaviours, and participants using unreasonable and unnecessary therapies, including holidays, retreats, extracurricular therapies for children - supports that are being taxpayer funded rather than self/parent funded. Clarification of the definition of reasonable and necessary supports and tighter controls around their application would assist the Scheme to better manage superimposed inflation.
- **Provider Market:** The provider market is a free market and operates in a way that maximises shareholder value where repeat customers are preferred over high quality of care with measured outcomes for customers. Changes to Scheme design are needed to address this. A consideration of the way insurance principles are embedded in other care sectors such as workers compensation and lifetime care would be appropriate.

  We also question whether setting price limits is always the best mechanism to create an efficient market of suppliers. Other ways of operating, common to insurers, include for example the use of panels for some services. These could also be relevant to the NDIS. This would also allow better measurement of provider performance and value for money.
- **Fraud and Non-Compliance:** There has been much recent public commentary on the extent of fraud and non-compliance within the NDIS. We support efforts to reduce fraud and non-compliance. However, this will not of itself return the NDIS to a position of financial sustainability.

Conclusion

Reforms are necessary to re-establish the financial sustainability of the NDIS. We urge the review panel to adhere to the insurance principles of the Scheme, including the control cycle principle, and ensure that any recommendations about future reforms are based on the actuarial analysis and recommendations set out in the 2021-22 Annual Financial Sustainability Report. We recommend that the review panel gives particular focus to whether the Scheme is supporting the intended population, including exploring additional State-based programs for people living with disability with low support needs.

It will be challenging to balance society's obligations towards the community of people living with disability with financial sustainability but the best way to do this is to use the extensive data, collected over an almost ten-year period, for good.

We would be pleased to discuss this submission or to provide further information. If you would like to do so, please contact Elayne Grace, Chief Executive Officer of the Actuaries Institute, on (02) 9239 6100 or executive@actuaries.asn.au.

Yours sincerely

Signed

Naomi Edwards
President