

People with Disabilities WA
individual & systemic advocacy



Submission

The impact of changes to service delivery models on the administration and running of Government programs

Senate Legal and Constitutional Affairs References Committee

People with Disabilities (WA) Inc. (PWdWA) would like to thank the Senate Legal and Constitutional Affairs References Committee (the committee) for the opportunity to provide comment for their inquiry into the impact of changes to service delivery models on the administration and running of Government programs.

PWdWA is the peak disability consumer organisation representing the rights, needs and equity of all Western Australians with disabilities via individual and systemic advocacy.

PWdWA is run BY and FOR people with disabilities and, as such, strives to be the voice for all people with disabilities in Western Australia.

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People with disabilities WA (PWdWA)

Since 1981 PWdWA has been the peak disability consumer organisation representing the rights, needs, and equity of all Western Australians with a physical, intellectual, neurological, psychosocial, or sensory disability via individual and systemic advocacy. We provide access to information, and independent individual and systemic advocacy with a focus on those who are most vulnerable.

PWdWA is run by and for people with disabilities and aims to empower the voices of all people with disabilities in Western Australia.

Introduction

PWdWA welcomes the opportunity to provide comment to the committee on the impact of changes to service delivery models on the administration and running of Government programs. This submission will focus on the following sections of the terms of reference:

C. the broader outsourcing of functions in the Human Services portfolio and at the National Disability Insurance Agency (NDIA), including:

- ii. the impact of capped staffing numbers and the efficiency dividend at government departments/agencies, and
- iv. the impact outsourcing has on service provision.

People With disabilities WA receives both state and federal funding to provide advocacy around issues experienced by the community concerning the National Disability Insurance Scheme (NDIS). In particular we are funded by the Department of Social Services to provide support with NDIS Appeals. The NDIS Act 2013 acknowledges the role of advocacy in representing the interests of people with disability, in particular recognising and respecting that advocacy supports people with disability by:

- Promoting their independence and social and economic participation; and
- Promoting choice and control in the pursuit of their goals and the planning and delivery of their supports; and
- Maximise independent lifestyles of people with disability and their full inclusion in the mainstream community¹

People's fair access to supports under the NDIS is an extremely important aspect of PWdWA's advocacy work at both a systemic and individual level. As the peak consumer voice for people with disability in Western Australia (WA), our submission

¹ NDIS Act 2013, Part 2, 4(13)

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is compiled on the experiences of people with disability, their families and carers. We have provided case studies where appropriate to furnish our statements.

PWdWA is extremely concerned with the rising number of issues being considered by our advocates in relation to NDIS. The length of time for NDIS to respond to Requests for a Review of a Reviewable Decision (otherwise known as Internal Reviews or s100), Change of Circumstances, complaints and urgent matters involving imminent risk are issues that are prominent amongst the cohort of people with disability that we support. The length of time to get adequate, appropriate, and timely response by the NDIA and the NDIA call centre to the issues we raise is significantly impacted by lack of staff numbers, and the training and policy of those outsourced areas including the call centre.

This submission provides a number of recommendations that PWdWA strongly urges the committee to consider. These recommendations have been developed as a result of issues brought to our attention through our individual advocacy work and systemic NDIS work, including our NDIS Experience Survey. PWDWA in collaboration with Advocacy WA, Ethnic Disability Advocacy Centre, Explorability, Sussex Street Community Legal Service, and Your Say have provided a number of examples that illustrate the impact of outsourcing and capped staffing on people with disability their families and carers. Advocacy organisations are also extremely concerned that the number and complexity of cases relating to NDIS is increasing and we are unable to currently meet the demand.

Highlighted Issues

In the 2018-19 Financial Year, NDIS represented one third of all issues dealt with by PWdWA. While this encompassed a number of different types of issues related to NDIS there were common themes amongst cases. Themes included the length of time for NDIS to respond to a range of matters and issues with the NDIS Contact Centre. Issues with the NDIS Contact Centre have also been experienced by advocates which has impacted on their ability to provide timely and appropriate advocacy.

Issues with service provision of NDIS Contact Centre post outsourcing

In June 2018 the NDIS outsourced the management of its National Contact Centre to Serco Citizen Services Pty Ltd (Serco). The NDIA stated that the outsourcing of the central contact centre would ensure it could provide fast, accurate and effective advice to callers.

While we acknowledge that the wait time for the NDIS Contact Centre calls has significantly decreased since the outsourcing, the transition to Serco managing the NDIS Contact Centre has resulted in a multitude of other issues being experienced by both advocates and participants/potential participants. A clear indicator of the dissatisfaction from participants regarding the NDIS Contact Centre is seen in the results of the PWdWA 'Your NDIS Experience' survey. The survey has been open since the beginning of May 2019 and common and consistent trend in the feedback being provided is around issues with the call centre.

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The issues that have been raised by advocates, participants, nominees and carers are summarised below.

Being provided with Incorrect, False or Inconsistent Information and Advice

Both advocates and participants/nominees/carers have been provided with information which is incorrect, false or insufficient to answer the person's enquiry.

Many of the 'Your NDIS Experience' survey participants specifically spoke about the frustration of not being able to get the answer they needed to resolve their issue. They state that NDIS Contact Centre staff do not have access to the required information, cannot give them a straight answer, and are unable to offer a transfer through to someone who can answer their enquiry. In one case from our survey NDIA Contact Centre staff informed a participant that reviews hardly ever happen and the information gets lost in the system. This is clearly misleading, incorrect and is likely to deter people from seeking a review.

"Going through the call centre you have to continually repeat your story to different people."

"It is difficult to speak to people - the 1800 number is useless for information. I have never received the correct information when I've called them, even though 99% people on the phone have been very friendly and tried to help."

NDIS Experiences Survey 2019

Advocacy WA also reports that in all of their 41 cases involving NDIS clients experienced difficulties when contacting the NDIS Contact Centre.

There is no consistency in the quality of information with multiple calls to different call centre staff resulting in different answers. In many cases call centre staff are unable to find the required information to assist a person with their enquiry, claiming they do not have access to it or it does not exist. This is despite information being previously provided or available from other call centre staff. These issues result in confusion for people with disability and, in some instances, resulted in people with disability not being able to access their rights.

Issue with consent to enquire, or act on the behalf of a person with a disability

From the beginning of 2019 in particular, it has been increasingly difficult for nominees, family and advocates to seek information, get advice and act on behalf of the person with a disability even though consent is present. This includes where informed consent has been provided or the person seeking information is a nominee but not a legal guardian.

There has been an alarming trend of NDIS Call Centre staff advising parents and family of people with disability over the age of 18 to apply for Guardianship. There should be an inherent presumption of capacity for people with disability accessing the scheme. There is the ability for someone to be appointed a nominee under the Scheme. The Act also allows for the NDIA to appoint a nominee if the person with disability is unable to indicate their wishes or requires the support of someone to

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communicate and act on their behalf. There should be no reason that a person is required to apply for Guardianship to act on a person's behalf in relation to NDIS. Guardianship is a last resort option, which is not supported under the United Nations Convention of the Rights of Persons with Disabilities. It is a far more restrictive option than the appointment of a nominee by NDIA.

In addition to the issues faced by those accessing the NDIS, Advocacy agencies are also finding it increasingly difficult to enquire or act on behalf of participants. The important role advocates play in supporting people with disabilities to enjoy their full rights under the scheme is acknowledged in the NDIS Act 2013. However since the beginning of the year advocates have found it increasingly difficult to do the role they are funded for by government.

Advocates of funded advocacy organisations should be able to enquire and take action, such as submitting an Internal Review, on behalf of a participant with explicit consent. This consent is not required to be produced on an NDIA specific consent form and only requires consent be provided to the organisation, not the individual advocate.

Advocates have routinely been erroneously asked to provide 100 points of ID and personal details by NDIS Contact Centre staff. When advocates have rightly declined to provide this information NDIS Call Centre staff have refused to provide requested information and in some cases hung up on advocates.

Advocates are being instructed to send consent forms to the enquiries@ndis.gov.au email. Consents forms are taking an onerously long time to be uploaded to the system, and in some cases are not uploaded at all. On a number of occasions advocates have sent consent multiple times over a number of weeks only to be told it is not uploaded. The NDIS Contact Centre staff do not have access to the enquiries@ndis.gov.au so there is no way to provide consent forms at the time of the call to the contact centre staff.

In addition to issues with consent being received there is also inconsistency about whether consent is currently on the file once it has been received. An advocate will call one day and be told that consent is on file and will be able to speak to call centre staff. They will call again the following day only to be told that there is no consent on file and staff are refusing to provide information. In some instances advocates are being told that even with consent to advocate on file the participant is still required to provide verbal consent every time the advocate requests information.

The result of these ongoing issues for advocacy agencies is that it is taking an inordinate amount of time to seek information on the person's behalf and progress their advocacy issues. This is not only impacting on the resources available to advocacy organisations but also the person with a disability themselves who are being denied access to a critical services to ensure their rights are being upheld. There have been instances where these delays have led to participants and advocates putting requests for internal reviews in late.

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Issues with lack of follow-up after contacting the call centre

A common trend in the feedback from the PWdWA 'Your NDIS Experience' survey was around call backs from the NDIA. A number of survey participants spoke about the NDIA Contact Centre staff being unable to answer their questions and promising the person a call back from the appropriate NDIA staff member which never came.

“No return contact after contacting NDIS call centre for help multiple times.”

“It is absolutely impossible to contact anyone from NDIS. You can phone and email multiple times without any success.”

NDIS Experiences Survey 2019

Issues with escalation of urgent matters

Participants, nominees, guardians and advocates are all experiencing issues with escalating priority matters. This includes urgent issues where there is imminent risk to the wellbeing of a participant. While the systemic issues about the length of time it takes for NDIA to action certain processes will be discussed in more detail, the NDIS Contact Centre is further compounding these problems. We have a number of examples where the NDIS Contact Centre has been alerted to an urgent matter by an advocate and have been advised by the Contact Centre that they have priority escalated the issue. In all the cases that PWdWA has been involved with a priority escalation through to NDIS Contact Centre there has been no action by the NDIA. On a number of occasions further follow-up has shown that the NDIS Contact Centre staff did not priority escalate the matter despite advising that they would.

Impact of staff capping on the timeliness and quality of services

An ongoing trend in NDIS matters brought to advocacy organisations includes the lack of a timely response by NDIA. The staff cap imposed is clearly restricting the NDIA's ability to respond in a timely manner. This is again impacting on the level of service being received by participants, and in some cases placing them at significant risk. The impact on the mental wellbeing of participants and their families due to delays is also significant, with some people reporting suicidal ideation as a result of the long, ongoing battles with NDIA for reasonable and necessary supports.

Advocacy organisations have experienced issues in the timeliness of responses by NDIA relating to the following areas:

- Uploading of information and response to email enquiries
- Providing a planning meeting after being found eligible
- Providing NDIS plan after planning meeting

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- Responding to and actioning Internal Reviews
- Responding to and actioning Change of Circumstances
- Responding to and actioning complaints with 21 days
- Responding to and actioning issues flagged as urgent where there is real and imminent risk to the participant

Additionally the information provided by 'Your NDIS Experience' survey participants shows clear dissatisfaction with the wait times and delays for reviews, AT applications, receiving plans and responses to complaints.

"I had to go through a very rigorous and expensive process to get my Application finalised and handed in....to be told there could be a 6-9 month wait before I even hear if I am eligible!!"

"We waited 5 months to be reimbursed our out of pocket expenses. Not to mention the time wasted and the frustration caused having to re-submit the same documentation."

"...still waiting for any response from NDIA after almost 4 months."

"Long wait times for documentation to be assessed and approved by NDIA."

NDIS Experiences Survey 2019

Uploading of information and response to email enquiries

As discussed above the time taken for advocacy consent to be added to participant's files can be excessively long. In some cases NDIA has acknowledged receiving consent over a month after it has been provided by email, and after the persons case has been closed. The lengthy delays in processing and responding to emails means that advocates are unable to progress a participants issue, which could include ensuring they have been able to submit an Internal Review within the required timeframe.

Providing a planning meeting after being found eligible

A number of advocacy agencies report lengthy delays of up to 4 months for planning meetings to occur after a person has been found eligible. In at least two instances people have waited more than 12 months for planning meetings.

Providing NDIS plan after Planning Meeting

'Your NDIS Experience' participants as well as advocacy agencies across the state have stated that delays between planning meetings taking place and plans being received can be very long. Some of the survey participants indicated a period of 2-4 month delays from planning meetings to receiving a plan. Additionally PwDWA has experienced plans being provided months after being created effectively leaving little, if no, time for an s100 Internal Review to be lodged.

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Responding to and actioning s100 Internal Reviews

The May 2018 Report by the Commonwealth Ombudsman highlighted the issues with lengthy delays with Internal Reviews.² The report noted that at the time one third of all complaints it received about the scheme were to do with the lack of timely handling of Internal Reviews. The NDIA in their response committed to:

- Develop and implement process for contacting participants who have a pending request in the national backlog and inform them of the process moving forward
- Develop streamlined process for correcting simple plan errors
- A dedicated NDIA team being established to manage the backlog of reviews, including a process for resourcing

Currently there is still a long wait for Internal Reviews to be processed. Advocacy organisations across WA are aware of NDIA still taking up to 7 months to action Internal Reviews. Participants of the 'Your NDIS Experience' survey also indicated wait times of 3-9 months for Internal Reviews to be actioned.

Where the Internal Review has been submitted close to the 3 month deadline this means that a person is left under-supported for almost the entirety of their plan. In some cases annual reviews have occurred before the Internal Review have been considered. Due to the extremely long delays in actioning Internal Reviews and the growing demand for advocacy support many of the WA advocacy organisations are also forced to close cases without a resolution being known, so that people on waitlists can be assisted.

There is a high level of frustration where simple planning errors such as a mistake in the number of hours cannot go through a streamlined process to be corrected quickly and efficiently. Despite a 'light touch review' mechanism existing many people are being told by NDIA Contact Centre staff to complete an Internal Review, which is taking months.

Responding to and actioning Change of Circumstances

Advocacy organisations have received a number of complaints about Change of Circumstances not being actioned by NDIA. In many circumstances this involves a significant change to the availability of informal supports in a participants life and if not actioned quickly will place the person at risk. In some cases it has taken months for any acknowledgement or action to take place – often only after multiple complaints or escalation by advocacy agencies through specific crisis escalation points. The impact of not responding in a timely manner to change of circumstances will be felt, and is being felt, by the hospital and health systems.

² Commonwealth Ombudsman, May 2018, *Administration of reviews under the National Disability Insurance Scheme Act 2013: Report on the National Disability Insurance Agency's Handling of Reviews*.

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Responding to and actioning complaints with 21 days

Another common complaint by participants and their carers and family is the lack of response and action to complaints. NDIA advises that it will respond to a complaint within 21 days.

In some cases the NDIS Contact Centre have failed to record a complaint. Contact Centre staff are also unable to provide information on where a complaint is sitting, whether it has been actioned and cannot effectively escalate it.

In other cases where complaints have been made it has taken in excess of 2 months for complaints to be responded to or actioned and in some cases no response is ever received. PWdWA assisted one person who had been waiting 95 days for their complaints to be addressed.

In many cases where PWdWA have assisted people to follow-up on complaints, these are usually in relation to urgent matters where there is a risk to the participant.

Responding to and actioning issues flagged as urgent where there is real and imminent risk to the participant

Advocacy organisations are highly concerned with the length of time it takes for NDIA to respond and take action where there is imminent risk to the participant or their informal supports. PWdWA have support people on 3 recent occasions to flag Internal Reviews as priority where it still took over 1 month for the Internal Review to be actioned.

Participants and their families are flagging urgent and priority issues with NDIA at the time they have submitted documents like Internal Reviews, by multiple contact with the NDIS Contact Centre and through complaints. Even with all of these avenues being actioned the response is slow.

We are finding that we increasingly need to use advocacy specific escalation pathways to ensure urgent matters are being actioned. While this helps people who are accessing advocacy it leaves us concerned for those who are not and are in similar situations.

Recommendations

PWdWA has made a number of recommendations below.

Recommendation 1

PWdWA recommends that the NDIA staff cap be removed or significantly increased to ensure NDIA can respond to and action matters in a timely manner.

Recommendation 2

PWdWA recommends that the NDIS Contact Centre is brought under the remit of the NDIA and staffed by NDIA trained employees who have access to relevant information required to answer enquires to ensure quality of service.

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Recommendation 3

PWdWA recommends that the National Disability Insurance Scheme Act 2013 be reviewed with the view of setting down specific timeframes for actioning matters such as Internal Reviews, Change of Circumstances, and Priority Escalations etc.

Recommendation 4

PWdWA recommends that the NDIA introduce public guidelines and training for NDIA staff on how to work with advocacy organisations.

Recommendation 5

PWdWA recommends that NDIA introduce public guidelines and training for all NDIA staff on when to recommend a person seek Guardianship.

Supporting Evidence

PWdWA has collaborated with the Ethnic Disability Advocacy Centre, Sussex Street Community Legal Service, Your Say and Explorability to provide the inquiry with a number of case studies that illustrate the impact of changes to service delivery models on the administration and running of Government programs. For the purposes of this submission people have been de-identified from the following examples:

Case Study 1

A parent who submitted an Internal Review on behalf of their son called the NDIS Contact Centre 4 months after it had been submitted and asked for the Internal Review to be priority escalated. The call centre staff indicated they would action this. She called again a week later after receiving no response and was told the priority escalation had not been actioned and that the call centre staff would action it. On this occasion the call centre staff also refused to provide the dates when the parent had previously contacted the call centre stating they were required to complete an FOI application. Two weeks later she called again, only to be told that it had not been priority escalated and the person on the phone would complete that action. To date she has had no response.

Case Study 2

An advocate supported a participant to submit an Internal Review in early December. In late February the advocate requested on the participant's behalf that the Internal Review be priority escalated due to the risk of suicide, and the lack of psychological supports provided in the plan. There was no response from NDIA. It was escalated again with NDIS Contact Centre staff in mid-April and the call centre staff member advised they had flagged the issue as urgent and there would be response within 48 hours. It was finally escalated through advocacy specific escalation pathways a week later due to significant concerns for the participant's wellbeing and new plan was finally issued in mid-June.

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Case Study 3

A primary carer had advised NDIA, through a Change of Circumstances, that they would not be able to care for their spouse (who required 24 hour care) due to upcoming surgery. The carer provided NDIA with 3 months' notice, requesting that the participants plan have an unscheduled review to ensure reasonable and necessary supports were available. Two weeks before the surgery NDIA had still not responded to the Change of Circumstances. The carer was concerned that his spouse would be at real risk of harm if adequate supports were not implemented. With the support of an advocate escalating the matter through a specific escalation pathway the Change of Circumstances was finally actioned, but not before the delay had caused significant distress to the carer.

Case Study 4

A priority Internal Review had been requested by a participant with the help of their advocate. A meeting to discuss the Internal Review was set down 5 weeks later. Following the meeting there was no further communication or action for a number of weeks. A complaint was made in the weeks following the meeting but nothing was actioned in regards to providing a new NDIS plan until 4 months after the Internal Review was submitted.

Case study 5

A parent was unhappy with the supports received in her sons NDIS plan as there appeared to be an obvious error with the funding amount. When the NDIS Contact Centre was asked if an Internal Review could be submitted over the phone they said no, it had to be submitted on the correct form. The parent was finally able to submit the Internal Review over the phone after calling back and speaking to a different call centre staff member. An advocate followed-up on the request for an Internal Review and had to call back multiple times before they found a call centre staff member who would accept that they had permission to enquire on behalf of the participant. At this point in time the advocate was informed there was no Internal Review request in place. The parent then had to urgently call the NDIS Contact Centre to request an Internal Review again because the deadline for the request was that day. The advocate called again the following day and was informed that despite the parent having requested an Internal Review twice there was no review currently in place.

Case Study 6

The mother and guardian of an NDIS participant (child) submitted a Internal Review form immediately after receiving the NDIS plan. She received no response for 5 months until it was escalated by an advocate through a recently established dedicated escalation pathway. The participant was encouraged to by NDIA accept an early plan review (now 6 months after the initial appeal and plan start date). By this point, the participant was forced to miss out on essential therapies and support due to a lack of funding, such as speech pathology and behavioural support, which was at the core of the appeal. This was negatively affecting the child's development and behaviour, as well as family functioning and ability of the family to cope with

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increasingly challenging behaviours. The mother thought this offer of an early plan review was the result of her appeal. However, she was not informed that by accepting an early plan review, without a notice of decision, this would remove the participant's right of appeal. She was actively discouraged by NDIA to wait for the decision of the internal review.

Conclusion

The evidence provided for this inquiry clearly shows there are significant issues in the quality and timeliness of NDIS services which we believe are in part the result of outsourcing the National Call Centre and staff capping. The impact of these issues is placing participants at significant risk of harm and effecting the health and wellbeing of both participants and their support networks. Staff within the NDIS are under immense pressure to meet the demand for the scheme and cannot keep up, which is creating a backlog. The recommendations cited in this report are based on experiences of people with disability, their families and carers who have contact PWDWA and other advocacy agencies for support. PWdWA strongly advises that the committee considers these recommendations which are presented to help alleviate some of the pressures on the system which is causing many people anxiety and placing people at risk.

For further information or to speak at a hearing please contact our Executive Director Samantha Jenkinson.