Submission
No 350

INQUIRY INTO IMPLEMENTATION OF THE NATIONAL DISABILITY INSURANCE SCHEME AND THE PROVISION OF DISABILITY SERVICES IN NEW SOUTH WALES

Organisation: Australian Psychological Society

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Inquiry into the Implementation of the National Disability Insurance Scheme and the Provision of Disability Service

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1. Summary and recommendations

The operation of the National Disability Insurance Scheme (NDIS/Scheme) is underpinned by a philosophical stance that places participant autonomy (i.e., through choice and control in decision making about services) at its core. Operationally, it decentralises service delivery from past state government departmental and agency providers to the non-government and private sectors via various purportedly outcome(s)-based purchaser-provider fee-for-service mechanisms.

Consequently, the NDIS is a "landscape-altering" scheme for the provision of care to Australians with a physical, intellectual, sensory and/or psychosocial disability. The "market-based approach" under which it operates has potentially profound consequences for participants and practitioners who receive or provide NDIS services.

With respect to the Scheme and its operation in New South Wales thusfar, based on feedback from its New South Wales members, the APS makes the following observations and, where appropriate, recommendations.

There is clear evidence of serious emerging concern around the capacity of NDIS participants, their families and carers being able to exercise truly informed choice and control around their care. This is a matter of grave concern to the APS and it recommends that the National Disability Insurance Agency (NDIA) obtain and review independent evidence relating to the opportunities for the participants to make informed choice about their care and their satisfaction about same. [Term of Reference ("ToR") A.]

The APS strongly recommends the NDIA review the adequacy to date of the arrangements provided in NDIS plans pertaining to complex care and the support provided to participants in developing, enacting and reviewing NDIS plans. ["ToR" B.]

The APS perceives that in the rollout of the NDIS in New South Wales thusfar there is evidence of a serious problem in the accessibility of early intervention supports for child participants. It recommends that the NDIA promptly review progress in the delivery of early intervention supports in New South Wales to address this situation ["ToR" C.]

The APS believes that it is critical that the NDIA review the effectiveness of the NDIS roll-out and the impact of privatising government-run disability services for participants. It is especially important that this occurs for participants with complex intellectual, physical, sensory and/or psychosocial-disability needs, particularly as they relate to the need for psychology services. ["ToR" D.]

The APS recommends that specialist advisors for NDIS clients with complex needs, including accommodation arrangements, be appointed to better manage these specific needs. ["ToR" E.]

The failure of market stewardship will have detrimental consequences to participants and their families. The APS contends that these types of risk can only be minimised by the NDIA taking an active role in stewardship. [“ToR” F.]

The APS is of the view that there are already significant workforce issues in the Scheme in relation to Local Area Coordinators (LACs) and planners in terms of the highly variable quality of their planning and the impact of their advice on participants (and providers), particularly in relation to early intervention and behavioural supports and psychosocial disability. [“ToR” G.] The APS urge the NDIS to address the lack of understanding of planners/LACS in relation to complex behavioural and psychosocial disabilities as a matter of urgency and as an important risk management strategy.

The APS proposes that the costs applicable to psychologist service providers under the Scheme need careful consideration, and that it is critical that the NDIA review its communications and makes use of professional associations to better inform practitioners and participants about the Scheme. These communications will be most effective if they are included within a targeted communication strategy. [“ToR” H.]

The APS believes there is clear evidence of inadequate NDIS supports resulting in greater strain on other community services in New South Wales, especially those in the justice and health sectors. It further believes that it imperative that such trends are promptly addressed. [“ToR” I.]

The APS urges the NDIA to review the operation of new markets, the disability workforce, the impact of pricing, the required interventions to address the problem of thin markets, and the impact of the Quality and Safety Framework on transition into the Scheme and that identified issues are promptly addressed to prevent ongoing NDIS implementation failures. [“ToR” J.]

Beyond these specific terms of reference, the APS believes there are important questions that need to be addressed in the operation of the NDIS in New South Wales. These include:

1. Have the supports for individuals with physical, intellectual, sensory or psycho-social disability become harder to access/less available since the introduction of the NDIS?
2. What proportion of the specialist disability workforce formerly provided by State-based services in New South Wales, have remained in the disability sector? Has their expertise been lost to the sector? What strategies have been employed to maintain specialist practitioners in the workforce in New South Wales?
3. Are the processes for registration as a provider overly stringent and likely to deter the recovery of any lost expertise?

[“ToR” K.]

2. Introduction

The Australian Psychological Society (APS) welcomes the opportunity to provide a submission to the New South Wales Parliamentary Inquiry into the Implementation of the National Disability Insurance Scheme and the Provision of Disability Service Providers in New South Wales.

The APS is the largest professional organisation for psychologists in Australia representing over 24,000 members, of whom a significant portion deliver evidence-based psychological services to consumers, including those in the disability sector and/or participants in the National Disability Insurance Scheme.

This submission is based on feedback sought from New South Wales APS members (hereafter referred to as APS members unless otherwise specified) who are providing, or have provided, services to NDIS participants as sole providers or members of a service provider entity. It addresses the Inquiry's Terms of Reference ("ToR") as relevant to psychology and APS member feedback.

3. Response to Inquiry Terms of Reference

"ToR" A. The implementation of the National Disability Insurance Scheme and its success or otherwise in providing choice and control for participants with disability

The operation of the NDIS is underpinned by a philosophical stance that places participant autonomy (i.e., through choice and control in decision making about services) at its core. Operationally, it decentralises service delivery from past state government departmental and agency providers to the non-government and private sectors via various purportedly outcome(s)-based purchaser-provider fee-for-service mechanisms.

Consequently, the NDIS is a "landscape-altering" Scheme for the provision of care to Australians with a physical, intellectual, sensory and/or psychosocial disability. The "market-based approach" under which it operates has potentially profound consequences for participants and practitioners who receive or provide NDIS services.

Based on the operation of the NDIS thusfar, the APS perceives that there is an underlying assumption that current and potential NDIS participants and their families, carers or guardians have an inherent capacity to understand and navigate the NDIS and its markets. If such thinking is not guarded against and actively confronted there is unintended potential for the Scheme to leave some participants, their families and carers worse off than prior to the introduction of the Scheme. In this respect, feedback from members and publicly available comment from NDIS participants makes it clear that there is a significant variability in this capacity. In reality, participant "choice and control" of what is included in their plans and knowledge of what providers or practitioners are best placed to service that need is broadly inconsistent and that such participant decision making is often ill-advised and non-informed. This reflects a base-line disparity in "navigational inequity" that varies according to participant levels of disability, the incidence of disability within participant families, the individual capacity of participant families to work with bureaucracies in negotiating care plans and generally traversing the Scheme [e.g., due to the various impacts of Socio Economic Status (SES), such as fiscal impoverishment and attenuated educational levels]. From member feedback, it is apparent to the APS that the result is that NDIS participants with complex psychosocial disability issues and their families and carers typically struggle to make informed choices about preferred service providers and are differentially successful in obtaining desired outcomes.

Members also point to complicating supply-side factors that make identifying appropriate services difficult. These include "churn" in providers, the behaviour of providers who accept referrals regardless of whether their workers have the necessary experience for delivering the required service(s), the apparent failure of providers to offer training or support for their workers in complex psychosocial disability and the lack of quality, safeguards and auditing of participant plans. In this context, members have emphasised the risk of providers taking advantage of participants. Illustrative of this, they cite cases of providers taking on participants for whom they are ill-equipped to deliver such services (see "ToR" C, page 9 for further comment), claiming or booking entire plan budgets and Local Area Co-ordinators (LACs) and/or planners actively advocating against the inclusion of psychology services in participant care plans in clear contravention of NDIS policy.

In summary, based on New South Wales member feedback and APS knowledge of the operation of the Scheme in New South Wales thusfar, there is clear evidence of serious emerging concern around the capacity of NDIS participants, their families and carers being able to exercise truly informed choice and control around their care. This is a matter of grave concern to the APS and it recommends that the NDIA obtain and review independent evidence relating to the opportunities for participants to make informed choice(s) about their care and their satisfaction about their experience of the Scheme.

"ToR" B. The experience of participants with complex care and support needs in developing, enacting and reviewing NDIS plans

The APS and its members have considerable concern about the experience of current and prospective NDIS participants with complex needs. APS members have observed that several issues exist.

In the first instance, they have identified that the development of NDIS plans is not an easy process and can be very challenging for participants, their families and carers. In particular, they have emphasised that individuals are expected to gather a large amount of evidence about the existence of their disability when this information is neither accessible nor easily obtained and that NDIS *Access Request Forms* are arduous, take a long time to be processed and, when declined, the process for reapplying is similarly lengthy.

Many APS members are concerned about variability in quality of the plans developed for participants and the quality of support provided for those plans. They point to the fact that that some LACs/planners have limited understanding of the functional impact or chronic or episodic nature of psychological conditions and of the supports needed to assist an individual who displays challenging behaviours. Not surprisingly, members have expressed disappointment with, not only the unwillingness of LACs and planners to include psychological supports in plans - including even the most complex cases - but often advocate against its inclusion or propose that other professions who lack the appropriate skills be funded at a lower cost by the NDIS to provide psychological services.

Members have expressed concern over planners having markedly different understandings of disability-related conditions and a lack of appreciation of the daily impact of these conditions on participants. They have also cited the lack of 'specialist' planners with expertise in various conditions. One member cited the experience of attempting to discuss with an LAC/planner the complex needs of a participant who had sustained spinal and brain injuries. She indicated that the NDIS advised her they had no specific expertise in these area(s) and that planners could only do generic work in relation to the plan, but would not accept or call upon her considerable expertise and knowledge of the client to contribute to the plan. It is also apparent to the APS that many staff in NDIS planning and co-ordination roles fail to understand the episodic nature of psychosocial disability. Based on the New South Wales experience, it is apparent that the way the Scheme is being implemented is to provide support for consistent functional needs, not for participants who can be well and then become extremely unwell. Members have reported that the result of this is "needing to present the participant on their worst day to obtain funding", which, as they observe, is not in line with strengths-based practice.

The lack of understanding by planners of the chronicity and episodic nature of many behavioural and psychosocial disabilities is compounded the annual planning and funding cycle as it not possible to increase funding when issues escalate. In this gap, members consistently report that NDIS LACs/planners often direct participants that they <u>must</u> use Medicare entitlements to access additional psychological services first, and thereafter NDIS funded psychology sessions. This presents a challenge for participants with significant disability, in that they typically cannot afford to pay the gap fee for a private psychologist for 10 sessions of treatment. Moreover, a general private practice is not an appropriate setting for many participants with a disability. Such recommendations also appear contrary to the choice and control provisions of the Scheme.

On the basis of such problems, APS members have thus observed that "some planners are a waste of money - the parent could do it … often participant funds are eaten up by NDIS coordinators who charge exorbitant fees to coordinate the services required … [and] … LACs/planners do not always understand that conditions such as Autism Spectrum Disorder do not change readily or promptly and that progress towards goals can be very slow". One member summarised this situation, stating that

> *I have concerns about the behaviour of all the support providers that I have come across. I do not have enough time to advocate for, or case manage, all of my participants' cases when there are problems, and at any rate, I do not know who to advise or contact to try to resolve difficulties for all my participants.*

The APS urges the NDIS to address the significant skill/knowledge gap among planners/LACs as a matter of priority and an important risk management strategy for the organisation.

Alongside these reports of individual members, it is the APS's persistent experience that, when policy and practice matters are raised with the NDIA, it responds with generic policy re-confirmations, statements and advice to refer back to weblinks, rather than any indication action will be taken to correct the misinformation spread by those LACs and planners. This is part of a pattern of a problematic communication the APS has raised several times with senior NDIA and NDIS staff as part of discussions around the nature of communications and messaging in the NDIS space. The APS has, in those discussions, made clear its view about the need for the NDIA/NDIS to be more inclusive, responsive and direct in its communications with psychologists and the APS as their peak representative body. It has brought to the attention of the NDIA/NDIS what appears to be the often-preferential communication that it gives to service provider organisations and the need to be better engaged with the APS and other allied health practitioner peak representative bodies given that many providers are in the private sector.

Examples of communication issues specifically raised by the APS relate to the considerable problem members have experienced with the NDIS Contact Centre, and in particular the inadequate level of training of NDIS Contact Centre staff appear to receive in relation to psychological matters, the inconsistency of information provided by such staff to practitioners, their (un)willingness to communicate with practitioners (there are administrative issues with re-obtaining consent to speak for or about participants, even when provided previously in conversations with other NDIS staff) and the user unfriendliness of the NDIS portal - APS members report that many NDIS participants, their families and carers still find it very difficult.

In a similar vein, members have repeatedly indicated the non-responsiveness of the email and telephone enquiry functions of the provider tenement areas of the NDIS. Thus, many providers have indicated to the APS that when they have tried to contact NDIS provider line they were on hold for hours and received no resolution to their problems.

Many practitioners have commented upon lack of, too much or confusing and contradictory information being provided from the NDIS/NDIA about various aspects of the Scheme. Examples include whether NDIS participants may avail themselves of funding for the treatment of health and disability-related psycho-social disability issues using both Medicare and the NDIS.

With respect to the enacting of NDIS plans, members make the point that for participants with psychosocial disability, it is not as simple as them receiving their plan and starting with a service provider or practitioner. They have emphasised that there are often significant challenges with engagement that lead to cancellations of appointments or delays in choosing a service provider or engaging with practitioners. Thus, they observe that when the participant returns a year later for plan review, the NDIS accordingly fails to understand why the allocated funding has not been spent, and if not used in that year, adopts the view that such funding is not needed in the next year's plan. One member has explained:

> *There are frequent changes to plans of participants where money is taken from the plan and no communication takes place with the provider who has made a service booking. This seems to be particularly problematic at the start of the new financial year where bookings are suddenly changed and money disappears. Sometimes the change is because the planned booking is revised on a pro rata basis and the amount reduced to cover the proportion of the plan time left without consultation regarding planned service provision. Sometimes there is no identifiable reason for the changes. However, the changes impact the planned services, frustrate service providers, and add to the service provider's workload in sorting this out.*

Members have observed that such delays in part reflect the behaviour of NDIS LACs and planners seeking to approve items in plans that are properly the prerogative of the participant, their family and carers. They report that typical of this, LACs and planners often influence participants to seek mainstream health services outside their NDIS plans, when Services often subsequently refuse to accept such referrals. Members cite the example of participants with ASD-related disabilities and the negative impact of plan limitations and the consequent impact of early intervention failure on participants. They have commented that this is a clear contradiction of the principle of control that defeats the original goal of the NDIS to provide participants with optimal informed choice when selecting services.

They also point out that if the participant's plan is not funded adequately or missing funding (e.g., for psychosocial disability interventions), the internal review process can take between three and six months to complete. In the meantime, participants often cannot access supports they require or expend funds relating to existing supports. APS members have emphasised that if participants are not funded for support coordination in the future, they will be unable to manage their plans. This has obvious, potentially dire consequences for participants and the viability of the Scheme.

As observed in "ToR" A (see page 2), members have observed that it is difficult to know which services are of quality when new services are created so often through "churn". Evident of this, one member indicated that an NDIS-funded support worker had rung the psychologist enquiring about what to do for a participant experiencing a mental health crisis. The member indicated that she advised the NDIS worker to refer the participant to *the mental health line*, but the worker did not know what that Service was.

Simultaneously, the APS is aware that risks can also apply to NDIS funded support workers, in that they are not provided with information relating to participants who pose a risk to themselves or others. Members have indicated that "choice and control" can create real concerns for providers and practitioners, with some feeling pressured to accept participants who may not be suitable for their Service (e.g., on the basis that participants know of other participants who had been accepted for the provision of services by that provider).

Members have expressed their disquiet around the needs of participants with complex intellectual, behavioural and psychosocial disabilities. They have stated that this is an ongoing area of concern in that it is often difficult to know 'what is happening' with respect to individual cases and how challenges for this participant group are going to be better handled in the future. **The APS has had more issues raised by New South Wales APS members about inappropriately forcing participants to receive psychology services in the public and private health systems than in any other state.**

In summary, based on the rollout of the NDIS in New South Wales, the APS strongly recommends the need for the NDIA to review the adequacy to date of the arrangements provided for in NDIS plans pertaining to complex care and the support provided to participants in developing, enacting and reviewing NDIS plans.

"ToR" C. The accessibility of early intervention supports for children

The APS and its members have considerable concern about the accessibility of early intervention supports for children and how they are being implemented in New South Wales. Members have identified several issues.

Members have expressed disquiet that NDIS planners are determining the nature of the psychology intervention(s) required, rather than the psychologists themselves. As one member observed,

> *many of my clients have been given 'improved relationships' funding and the NDIS requires that this funding is used to develop and implement a behaviour plan. However, this is often not what is needed and is not the most evidence-based intervention given the clients presentation. For example, I have many clients who are school refusing and experiencing significant anxiety. The NDIS determines that they require a behaviour plan, which will cost the family a significant amount of money and delay the ability of the practitioner to provide an evidence-based service.*

Generally, the APS is aware that the often inadequate level of disability-specific-supports provided to participants has placed great strain on the education and health sectors, especially when it comes to the management of challenging behaviour through positive behaviour support. Currently, in the education arena, children with language and specific learning disorders are not able to obtain support through the NDIS and currently rely on the New South Wales Education

Department to meet their needs. Members have observed that

> *This is putting a huge strain on schools and many children are simply not getting the support they need. This is particularly a problem in smaller schools and regional, rural and remote schools, where the availability of support services to the school is limited. There are huge impacts of these disabilities on learning and future academic success that can be reduced if support services are provided at an early age.*

Allied to this, and of additional concern, APS members have reported that paediatricians in private practice are using objective diagnostic measures for children in primary school with parents only present and not asking the teacher to complete the proforma. The result, according to them, is that some children are receiving NDIS for early intervention who do not need it and others who need it are missing out on such support. Similarly, schools with school counsellors are applying for integration funding support via the New South Wales Education Department. Thus, members have observed that while the NDIS is great for parents who could not previously have afforded occupational therapy and speech therapy, some very needy families who would have qualified for home support with intensive family support options with the New South Wales Department of Ageing, Disability and Home Care are unable to receive this support as there is a long waiting list.

Members report that there are also difficulties in participant children with early intervention plans accessing services in the private sector, particularly in regional, rural and remote areas where there are limited providers. Participants and their families are travelling significant distances to access services.

In summary, based on member feedback, the APS perceives that in the rollout of the NDIS in New South Wales there is a serious problem in the accessibility of early intervention supports for child participants. It recommends that the NDIA promptly review progress in the delivery of early intervention supports in New South Wales for the necessity of introducing revised arrangements and any augmenting funding required to improve the situation.

“ToR” D. The effectiveness and impact of privatising government-run disability services

The APS, in successive submissions to various reviews conducted by the Federal Parliament and Government Agencies (e.g., the Productivity Commission), has expressed its concern about the likely impact of the decentralisation of service delivery from past state government departmental and agency providers to the non-government and private sectors. Since the initiation of the interim and post implementation arrangements in New South Wales, members who have long provided services in the disability sector have reported to the APS their alarm that the skills, knowledge and expertise available to present and future participants have markedly diminished since privatisation.

They express significant concern about the intersection of the health and disability

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sectors around psychosocial disability. Based on their advice to the APS, it appears the gaps in services for participants with psychosocial disabilities appear to be widening and may continue to do so with the full implementation of the NDIS. This is an area that will require significant ongoing attention in the coming years to ensure people who may not meet the NDIS eligibility requirements do not miss out on critical service provision to meet their needs.

One area where members have expressed considerable concern relates to "complex needs" and the role of LACs, planners and support coordinators. As noted under "ToR" B (p 3), members have expressed significant concern about the tendency among LACs, planners and support coordinators to improperly advise and sometimes, according to them, influence participants into plans that are inadequate for their needs, especially around psychosocial disability and behavioural support needs.

Members have expressed considerable concern about the move to a system based on a privatised model without adequate quality and safety mechanisms. Evident of this, the APS has been informed by members that the withdrawal of state-funded services occurred before participants of such services were assessed for their eligibility to receive services under the NDIS. In this space, members have emphasised that the provision of behaviour support for complex needs requires medium-to-long term involvement.

They have stressed that the roll out of services in New South Wales as it is occurring is quickly demonstrating itself "to be inadequate for implementing genuine person-centred practice aimed at improving quality of life". Illustrative of this, members have observed that NDIS plans request behaviour support interventions to be developed with limited time and little to no provision for the need to train staff, family members and provide support to teams to build capacity. They have stated that there are no/few avenues to request for additional funding to support the individual and that is dependent on the experience or lack thereof of the support coordinator. According to members, under state-based funding, assessments were reviewed and opportunities to discuss best practice and enhanced delivery were available. They have advised that this is not available under the NDIS as it currently exists in New South Wales.

Members have also observed the impact of this change in terms of the:

- development of leadership and expertise in the field, in that (a) state-based services formerly provided tertiary levels of support, particularly in the area of complex needs, (b) no provision has been made for training in the sector in the face of this loss of resource, (c) there is the little obvious recognition of this serious gap, and (d) a similar lack of recognition around the need for integrated supports for participants with complex needs
- consequent loss of capacity-building across the sector in terms of professional development, strategic partnerships, clinical support to providers and practitioners
- absence of an agency that will 'do whatever it takes' to support participants with extremely complex disability and their families and carers. Thus, there are participants with some of the highest level of needs, families and carers

who have been supported by several agencies, each of which are no longer willing to provide that support because it is too challenging.

Returning to the case example cited under “ToR” C (see page 9), the practitioner commented that many years of speech therapy for the child concerned have resulted in very little progress and that the child will not function in a typical kindergarten classroom very well without significant supports and resources. As reported to the APS, his mother also has a mild intellectual disability and difficulty understanding the significance of her son’s issues and articulating those concerns. Remarkably, she was permitted to meet with the NDIS planners involved without an advocate and on her own.

The practitioner indicated that copies of assessment reports from the child participant’s health therapists were sent to support his plan. The planners indicated in response that there was little point in doing a plan just for 12 months because “he’ll need an intellectual disability diagnosis when he is six … and maybe lose his NDIS at that time”. The practitioner further indicated that that “we’ve advocated really hard for this child …this has meant many hours of additional work for health clinicians … [but] there is a significant delay (many months) since initial planning meeting … [and at the time of this submission] … that the child still doesn’t have a plan”. She argued that “quite clearly, this completely goes against the “early intervention” idea … [and] … ignores the benefit that good NDIS support providers could have in helping with transition in kindergarten. She reported that the planners indicated:

> *From the information gathered when I met with XXX and XXX she was only concerned with his language and communication which is now severely delayed. Socially she was not concerned even thoughit will be when he attends school. She had no other concerns with XXX. I can only put through information that has been provided. Going of this information he would not be eligible for an NDIS package. Another thing to keep in mind is if XXX was to get a package …. once he is 7 years old he will be required to have a formal diagnosis of a disability and… then he would need to go back on a Health waitlist.*

Many practitioners have commented upon the lack of, too much or confusing and contradictory information being provided from the NDIS/NDIA about various aspects of the Scheme. Examples include whether NDIS participants may avail themselves of funding for the treatment of health and disability-related psycho-social disability issues using both Medicare and the NDIS and the confusion and distress this causes participants and their families.

The APS observed in its 2018 Submission to the Federal Parliament Senate Sub-committee that there is grave potential for the market to seek to meet service demand via for-profit organisations and large Non-Government Organisations (NGOs) using a low cost and low capacity workforce. As further articulated in “ToR” H (see pages 13-14), there is already evidence psychologists are also choosing to not provide NDIS services because of the inability to deliver best practice interventions to participants. This occurs most frequently in relation to behaviour management, and is primarily due to the development of plans for

NDIS participants that do not reflect what is needed to develop and implement a behaviour management plan for a participant with complex needs. Individuals with complex care and support needs require clinicians who have experience and access to supervision and mentoring to maintain the integrity of individual, the sector and the profession. Funding models limit this provision.

In summary, based on the evidence available to it from the New South Wales experience, the APS believes that it is critical that the NDIA review the effectiveness of the NDIS roll-out and the impact of privatising government-run disability services for participants. It is especially important that this occur for participants with complex intellectual, physical, sensory and psychosocial-disability needs, particularly as they relate to the need for psychology supports.

"ToR" E. The provision of support services, including accommodation services, for participants with disability regardless of whether they are eligible or ineligible to participate in the National Disability Insurance Scheme

The APS offers little comment in relation to his "ToR". It is pertinent to note, nonetheless, that members report that since the privatisation of accommodation services in New South Wales, there have been routine instances of participants with very complex and challenging behaviours being taken to the emergency departments of public hospitals. This action not only causes distress to those individuals, their families and carers, but worsens behaviour. It is also the direct result of inadequate behavioural management being provider by providers and in facilities.

Additionally, based on member feedback, the APS is aware that there are serious issues with the supported independent living and assistive technology aspects of NDIS. One issue is the significant delays one member cited in relation to a participant waiting for a wheelchair since November 2017. She stated that the New South Wales NDIS are holding this up, have not submitted the quote and yet no resolution is offered.

The APS recommends that specialist advisors in a range of service for NDIS clients with complex needs, including accommodation arrangements, be appointed to better manage those specific needs.

"ToR" F. The adequacy of current regulations and oversight mechanisms in relation to disability service providers

Market stewardship is a vital NDIS function that requires due attention by the NDIA. This will inevitably involve the NDIS Quality and Safety Commission.

As noted throughout this submission, concerns have been expressed about the roll out of the Scheme in New South Wales. The NDIA has acknowledged in discussions involving the APS, that there are already instances known to it of over or highly inappropriate servicing driven by the profit motivation of disability organisations in the field. It is the understanding of the APS, that some of these practices may result in prosecutions.

The failure of market stewardship will have detrimental consequences to participants and their families. The APS contends that these types of risk can only be minimised by the NDIA taking an active role in stewardship.

“ToR” G. Workforce issues impacting on the delivery of disability services

The APS has foreshadowed to successive federal governmental inquiries into the NDIS that the way in which the NDIS was being rolled out was likely to have unintended, but considerable negative impacts upon not only participants, but providers, workers and practitioners. The experience of the APS New South Wales membership suggests that such consequences are now being witnessed.

Members have informed the APS that there was insufficient knowledge and skills in the New South Wales intellectual disability sector, especially around participants with forensic issues and severe and persistent psychosocial disability, prior to NDIS rollout. However, and as observed above (see “ToR” “D”, page 8), state-based arrangements provided opportunities for interagency meetings and programs to bridge the gap across sectors. They have emphasised that the model of the NDIS being rolled out in New South Wales limits opportunity for comprehensive assessment and collaboration across sectors and agencies and ultimately impacts on the individual’s ability to access appropriate and effective supports that promote quality of life.

They have also referred to the need to untangle disability and psychosocial disability-related issues in the Scheme. This is because psychosocial disability, by its very nature, requires a mixture of evidence-based psychological interventions and broader social support for individuals. Some individuals will also require a psychiatric response. Equally, it is important to recognise that many psychosocial disabilities have their roots in physical disabilities; for example, a participant with a severe physical disability is likely to experience psychosocial disability (e.g., depression and anxiety) directly related to their physical disability. In both cases, it is challenging (and in many cases not possible) to identify the components of disability which warrant a health-response as opposed to those that merit a broader approach such as NDIS response. To maintain the original intent and integrity of the NDIS in relation to the distinction between disability and health will require applicants with psychosocial and physical disability to be assessed by skilled, appropriately trained and qualified assessors with considerable expertise in psychosocial disability and a familiarity with the needs of individuals transitioning into the Scheme.

In summary, based on evidence from the rollout of the NDIS in New South Wales, the APS is of the view that there are already significant workforce issues in the Scheme in relation to the variable knowledge and skills of the LACs and planners and the impact of their advice to participants and/or providers around early intervention and behavioural supports and psychosocial disability generally.

“ToR” H. Challenges facing disability service providers and their sustainability

Members are very concerned about the late and inconsistent communication from the NDIS about the transition to the National Safety and Quality Framework. This brought with it a significant change, that is, that all providers would be required to become registered with the Commission if they provide early childhood supports or specialist behaviour support. Yet only months before the commencement of the Framework, the NDIS had been contacting providers telling them that they would be de-registered if they did not complete a Third-Party Verification (TPV). Many members complied with the NDIS request then found a completely new process was required under the Framework. For example:

> *I am a sole provider and in response to a call from the NDIS, I spent a great deal of energy and time trying to determine whether the TPV they requested I complete would be accepted by the Commission when it was established. She [NDIS worker] was unable to clarify this. Fearing loss of income, I engaged an approved service to complete the TPV, did all the preparation for the process, completed it mid-May, was awarded TPV early June,* at a significant cost, *and was then told at the end of June that I would need to register again under the NDIS Quality and Safeguards Commission.*

Members report the cost of registration under the new Framework is high and the administrative burden significant for small private practices, many of who have significant expertise in early intervention and behavior support. Several members report that the costs are such that they have begun informing participants that they will no longer be able to provide services. This not only creates distress for existing families but will have a long term impact on access to quality services for the most vulnerable participants.

For psychologists who moved from state-funded services to private practice, those that remain willing to provide psychology services under the Scheme have described their waiting lists as extensive and that they have had to close their books. Others have commented that:

> *The significant administrative demands of working with NDIS meant that I had to employ a part time admin assistant to deal with NDIS payments, bookings, problems etc. This has significantly impacted on my financial status (and I do not have the ability to increase fees to make up for this) and the growth of my small business.*
>
> and
>
> *to keep my business “afloat” - I had to request that all participants use “self-managed” funds to see me to ensure that I could get paid. This was distressing for participants who had to often argue with planners about their ability to be self-managed. This created additional stress on families that are already very vulnerable.*

In summary, the APS highlights the challenges facing disability service providers around the sustainability of their practices. It proposes that the costs applicable to psychologist service providers under the Scheme need careful consideration. In its July 2017 submission to the Productivity Commission position paper on NDIS costs, the APS indicated that there are limited incentives for psychologists to provide services to NDIS participants. It argued that this is unlikely to improve in the foreseeable future unless remedial action is taken by the NDIA. There is now clear evidence the psychology workforce is being forced out of the NDIS due to registration/certification barriers (and associated cost and time factors involved in the protracted and complex registration process), bureaucratic red tape, remuneration that is under the market rate for many services and plans that prevent delivery of best practice.

Also, and noted previously as part of "ToR" B (see pages 5 and 6), members have identified there are significant NDIS communication problems. Based on the evidence available to it, the APS believes that it is critical that the NDIA review its communications and makes use of professional associations to better inform practitioners (and hence participants) about the Scheme. These communications will be most effective if they are included within a targeted communication strategy.

"ToR" I. Incidents where inadequate disability supports result in greater strain on other community services, such as justice and health services

Many members have highlighted to the APS the transitional problems that have arisen with the implementation of the NDIS. It is important to note that the APS has provided considerable input into a range of NDIS inquiries on this matter and predicted such incidents were likely to occur. Those predictions now appear to be occurring. Among the problems identified by members are:

- Supports directed to families (rather than the participant) previously provided by New South Wales Department of Family and Community Services (e.g., counselling and supports to sustain carer roles) are not funded in NDIS plans and must be obtained elsewhere, largely in the health system
- Large gap in services in New South Wales in relation to supports for people with psychosocial disabilities created by the closure of existing services and the large numbers of people with psychosocial disability who will not meet eligibility criteria for the NDIS. This has significant potential to place burden on government departments like health, justice and corrections. As one member observed:

  > *the varying levels of service that participants receive puts pressure on the public health system to case manage their difficulties. That system, of course, is not funded to do this, and it is a poor use of the public funding for our level of qualifications and hourly rate.*

The APS is aware, for example, that there are many former participants of the state disability service in New South Wales who previously received psychological services as part of their care. These individuals have not been offered equivalent services under the NDIS and have, instead, been directed to obtain these services from mainstream health services. However, due to the difficulty in accessing such services there, these individuals are now obtaining considerably less psychological support than was previously available to them under state-funded services.

In summary, the APS believes there is clear evidence where inadequate NDIS supports have result in greater strain on other community services, such as justice and health services. It further believes that it is imperative that such trends are promptly addressed.

"ToR" J. Policies, regulation or oversight mechanisms that could improve the provision and accessibility of disability services across New South Wales

The NDIA/NDIS should given consideration to implementing a consultancy model whereby behavioural analysis and behaviour management is undertaken by expert psychologists and implementation is undertaken by workers with other qualifications, potentially under the supervision of a psychologist. Such a model would be particularly relevant for participants with complex needs and those in rural and remote regions and could reduce the risk facing the NDIS in terms of providing appropriate evidence-based supports for participants displaying challenging behaviours.

The development of a disability workforce that provides for a matching of the supply of psychologist providers against demand for psychological services requires the NDIA to act on a range of issues including:

1. The cost of TPV, especially for small practices with small customer bases
2. Exempt practices and practitioners from TPV based on existing regulation, expertise, specialist knowledge, peer acclamation/recognition (e.g., as evidenced by tertiary-level teaching)
3. Reduce unnecessary red tape and burden of administration in service delivery
4. Curtail the already apparent trend toward NDIS planners/LACS recommending against the use of registered psychologists in favour of lesser-qualified providers of psychology interventions
5. Developing competency-based training and building expertise in the sector, especially with regard to planners/LACs.

In summary, the APS urges government to review the operation of new markets, the disability workforce, the impact of pricing, the required interventions to address the problem of thin markets and the impact of the Quality and Safety Framework on transition into the Scheme. These issues must be addressed to prevent ongoing NDIS implementation failures. It is important to recall the stated intention of the NDIS and for the NDIA to act in a timely and consultative fashion with key stakeholders to address existing and emerging concerns so that the Scheme's goals can be effectively realised.

"ToR" K. Any other related matters

Based on member feedback, the APS has other concerns about the implementation of the NDIS and the impact on the quality of service provision across New South Wales. It believes there are important questions that need to be addressed to ensure that the objectives of the Scheme are realised. These include:

1. Whether supports for individuals with physical, intellectual, sensory or psychosocial disability have become harder to access/less available since the introduction of the NDIS?
2. What proportion of these specialist workers have remained in disability services? Has their expertise been lost to the sector?
3. Is there adequate support or guidance for specialist practitioners wanting to stay in the field, but who are experiencing pressure to review their commitment? Are the processes for registration overly stringent and likely to deter the recovery of any lost expertise?

4. Conclusion

As foreshadowed in previous submissions by the APS to different government bodies, and detailed in this submission, the APS has a range of concerns about the roll out of the NDIS in New South Wales (many but not all of these concerns are evident in other jurisdictions). It contends that if these issues are not addressed, they will have the potential to severely impact on the Scheme's capacity to improve the quality of life for people with a disability and hence act as an unintended barrier to the achievement of its vision and goals. It is imperative that the issues identified within this submission are addressed by government at all levels.