

**Administration of reviews under the  
*National Disability Insurance Scheme*  
*Act 2013***

REPORT ON THE NATIONAL DISABILITY INSURANCE AGENCY'S  
HANDLING OF REVIEWS

May 2018

Report by the Commonwealth Ombudsman,  
Michael Manthorpe, under the *Ombudsman Act 1976*

REPORT NO. **03 | 2018**

# CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>1. INTRODUCTION .....</b>	<b>4</b>
<b>2. BACKGROUND .....</b>	<b>4</b>
Types of review.....	4
The NDIA's work on reviews .....	5
<b>3. HANDLING REQUESTS FOR REVIEW.....</b>	<b>6</b>
Acknowledging requests and responding to enquiries.....	7
Internal reviews and plan reviews .....	8
<b>4. PROVIDING NOTICES OF DECISION .....</b>	<b>9</b>
Written notice of decision to conduct a plan review.....	9
Reasons for a decision.....	10
Notice of review rights .....	11
<i>Incorrect review rights.....</i>	<i>12</i>
<b>5. TIMELINESS .....</b>	<b>14</b>
Triage.....	14
<i>Prioritising reviews.....</i>	<i>15</i>
<i>Correcting errors.....</i>	<i>15</i>
Delays .....	15
<i>Allocating requests.....</i>	<i>15</i>
<i>Making decisions.....</i>	<i>16</i>
<b>6. CONCLUSION .....</b>	<b>17</b>
<b>APPENDIX 1: LIST OF RECOMMENDATIONS .....</b>	<b>19</b>
<b>APPENDIX 2: NDIA RESPONSE .....</b>	<b>22</b>

## EXECUTIVE SUMMARY

Between July 2016 and January 2018, the Office of the Commonwealth Ombudsman received 400 complaints that were, at least in part, about the NDIA's administration of reviews. This represents 32.5 per cent of all complaints made to our Office about the NDIA during this period.

Of particular concern is the issue of delays in completing reviews. In February 2018, the NDIA advised our Office it had around 8,100 reviews on hand, and it was receiving around 620 new review requests each week. The NDIA has acknowledged some reviews are taking up to nine months to be completed.

While the NDIA implemented a new dedicated national team in November 2017 tasked with addressing the backlog, to date this approach has not been adequate to quickly and effectively work through the outstanding requests. As of 30 January 2018 (12 weeks after the commencement of the backlog team), the NDIA had triaged around 3,400 requests and completed around 1,500 reviews.<sup>1</sup>

While we acknowledge the NDIA's efforts to address review delays, we consider more can and should be done to ensure administrative drift or under-resourcing does not prevent participants from readily exercising their review rights.

Complaints to our Office also highlight other systemic issues such as poor communication about review processes and outcomes. We have made a number of recommendations to help improve communication.

Without significant efforts to improve the timeliness of NDIA's administration of reviews and communication with participants, there remains a risk that participants' right to review will be undermined and review processes will continue to lack fairness and transparency and continue to drive a high volume of complaints.

---

<sup>1</sup> A further 4,000 reviews were 'removed' from the backlog and referred for consideration within an upcoming scheduled plan review.

## 1. INTRODUCTION

- 1.1. Since mid-2016, the handling of reviews has been a consistent theme in complaints made to the Office of the Commonwealth Ombudsman (the Office) about the National Disability Insurance Agency (NDIA).
- 1.2. During this time we have investigated many of the individual complaints and, in some cases, provided formal comments or suggestions to the NDIA under s 12(4) of the *Ombudsman Act 1976*.<sup>2</sup> We have also met with relevant business areas of the NDIA, as well as its National Complaints Team about the systemic issues arising from complaints and stakeholder feedback.
- 1.3. The purpose of this report is to further highlight those issues. We are aware the NDIA is already doing significant work (discussed in more detail in Background) to improve its approach to handling reviews. Wherever possible, we have acknowledged this work and offered recommendations for further improvement.
- 1.4. For ease of reference, a table of recommendations is included in [Appendix 1](#).
- 1.5. This report is based on information extracted from complaint investigations, stakeholder feedback, briefings provided by the NDIA, and the legislation, policy and procedural guidance relevant to the administration of reviews under the *National Disability Insurance Scheme Act 2013* (the Act).

## 2. BACKGROUND

- 2.1. A robust, transparent and accountable review mechanism provides an essential safety net for people who are affected by government decision making. This is particularly important where decision making is complex, subjective or has a significant impact on the daily lives of affected people. In the NDIS, all three of these factors are often in play, making an efficient and responsive review system vital.
- 2.2. Between July 2016 and January 2018, our Office received 400 complaints that were, at least in part<sup>3</sup>, about the NDIA's handling of a review. This represents 32.5 per cent of all complaints made to the Commonwealth Ombudsman about the NDIA during the period.

### Types of review

- 2.3. Under the Act, participants may seek a review of the NDIA's decisions on two grounds. The first, under s 48(1), provides for a participant to ask the NDIA to review their NDIS plan at any time (an 'unscheduled plan review'). Section 48(2) requires the CEO to decide whether to conduct a review. Guidance to staff on the circumstances in which a plan review should be conducted can be found in the NDIA's Operational Guidelines.

---

<sup>2</sup> At 18 April 2018, the Office had provided comments or suggestions to the NDIA about its administration of reviews in 15 complaints.

<sup>3</sup> The Office's complaints management system allows for more than one complaint issue to be recorded on a single record.

- 2.4. The second type of review, under s 100(2), relates to an internal review of a reviewable decision (an 'internal review'). While there are many types of decisions that are subject to internal review,<sup>4</sup> the bulk of the complaints to our Office involve decisions to approve a statement of supports (s 33(2)) or decisions on requests for an unscheduled plan review (s 48). The Act requires a request for internal review be made within three months of the participant being notified of the relevant decision.
- 2.5. If a participant is dissatisfied with the NDIA's decision on an internal review, the participant may appeal that decision to the Administrative Appeals Tribunal (AAT).

### The NDIA's work on reviews

- 2.6. The NDIA provided briefings to our Office on its approach to reviews in July 2016, January 2017, July 2017 and November 2017. Since January 2018, the NDIA has briefed our Office on a fortnightly basis. In each of these briefings the NDIA acknowledged its approach to reviews could be improved. NDIA staff also advised:
- The achievement of bilateral targets for access requests, plan approvals and scheduled plan reviews have been prioritised over internal reviews and unscheduled plan reviews.
  - Unscheduled, participant-initiated reviews are considered 'unplanned work'. The NDIA had anticipated, and resourced itself to handle a certain level of reviews, but the actual number has been around three times higher than anticipated.
  - The NDIA has accumulated a backlog of reviews, some of which were received up to nine months ago.
- 2.7. In its briefings to our Office on 2<sup>5</sup> and 8 November 2017,<sup>6</sup> the NDIA outlined a number of new and upcoming initiatives designed to improve participants' experience of the NDIS more broadly and of the review process specifically. These include:
- A trial of face-to-face planning with both a Local Area Coordinator and NDIA planner in two Victorian regions. The NDIA hopes this approach will improve the quality and communication of plans and, in turn, minimise the number of unnecessary reviews.
  - Changes to its ICT system to allow staff to make straightforward corrections to plans without the need for a full plan review.
  - Changes to its ICT system to allow staff to easily approve and add funding for assistive technology where the proposed expenditure is within acceptable benchmarks.

---

<sup>4</sup> Section 99 of the *National Disability Insurance Scheme Act 2013*

<sup>5</sup> Pathway Reform briefing, 2 November 2017, by phone the National Complaints Team and General Manager, Participant Pathway Design

<sup>6</sup> Unscheduled Work Reduction Program briefing, 8 November 2017, by phone with the National Complaints Team and Director, Plan Review Project

- Implementation of a national team to address the outstanding backlog of review requests.
  - A trial of Early Solutions Teams in NSW, which are tasked with:
    - triaging and acknowledging review requests for allocation within the region
    - identifying alternatives to review (e.g. better explanation of decision, referral to a Local Area Coordinator to explain or activate a plan), and
    - conducting “light touch plan reviews”.<sup>7</sup>
- 2.8. It is not clear the national backlog team has been effective in addressing the backlog of reviews.
- 2.9. At 20 December 2017,<sup>8</sup> seven weeks after the national backlog team commenced, the backlog included around 14,000 reviews.
- 2.10. At 30 January 2018 the NDIA’s data showed, since its commencement 12 weeks earlier, the national backlog team had:
- triaged around 3,400 reviews, around 1,500 of which had been completed, and
  - removed around 4,000 requests for an unscheduled plan review from the backlog on the basis that the participant was due for a scheduled plan review within three months. It advised the planner or Local Area Coordinator would consider the issues raised in the original review request when completing the scheduled plan review.
- 2.11. In February 2018,<sup>9</sup> the NDIA advised around 8,100 reviews remained in the backlog and the national backlog team was clearing<sup>10</sup> around 200 reviews each week. The NDIA also advised it continues to receive around 620 new review requests each week, which are handled by regional review staff.

### 3. HANDLING REQUESTS FOR REVIEW

- 3.1. We have received complaints about the NDIA’s handling of participant-initiated requests for review. In particular, these complaints concern the NDIA: (1) not acknowledging requests for review; (2) not responding to enquiries about the status

---

<sup>7</sup> A ‘light touch plan review’ is a review with limited scope. Agreed criteria for light touch plan reviews are limited to: change of plan management type; adding/increasing assistive technology repairs; adding quotes for assistive technology (except home and vehicle modifications); correcting errors in plan construction affecting plan use; and ‘job in jeopardy’ situations.

<sup>8</sup> Regular weekly liaison meeting between Director, National Complaints Team (NDIA) and Director, Disability (Office of the Commonwealth Ombudsman)

<sup>9</sup> Regular weekly liaison meeting between Director, National Complaints Team (NDIA) and Director, Disability (Office of the Commonwealth Ombudsman)

<sup>10</sup> This includes deciding the review or identifying a review is no longer required.

of a request; or (3) actioning requests for an internal review as requests for a plan review.

### **Acknowledging requests and responding to enquiries**

- 3.2. Complainants have told us they requested a review in person, by telephone or in writing but did not receive acknowledgement of their request. As a result, these complainants were unsure if and when the NDIA had received their request, what to expect next or how long the review process would take.
- 3.3. Participants also complained they had sought updates on the receipt and/or progress of their requests by calling the Contact Centre and by telephoning or emailing local staff. They reported not receiving a response, leaving messages that were not returned and being told someone would contact them—but no one did.
- 3.4. When briefing our Office in July 2017, the NDIA confirmed it is ‘accepted best practice’ to acknowledge requests (usually by reply email or telephone) and it is confident most staff members do so. However, the NDIA advised it does not have formally documented procedures or a timeliness standard for acknowledging review requests.<sup>11</sup>
- 3.5. We are aware the Early Solutions Teams in NSW are tasked with contacting participants within two days of logging a review request.<sup>12</sup> However, we understand this approach is only in place in NSW and there is still no national guidance in place on acknowledgements at this time.
- 3.6. In our view, the absence of clear guidance to staff about the need to acknowledge receipt of review requests is concerning. Indeed, the large number of complaints to our Office where complainants are unclear about the status of their review indicates the lack of a standardised approach to acknowledgements is driving additional, unnecessary contact with both the NDIA and our Office.

#### **Case study 1: Communication about progress of request**

Sarah requested an internal review of a decision in October 2016 because of errors in the plan. Sarah complained to our Office in February 2017 about the time the NDIA was taking to complete her review. In addition, Sarah complained that repeated calls to the NDIA Contact Centre about the progress of her request were not returned. Records provided in the course of our investigation show Sarah spoke to an officer on 6 December 2016 who gave a commitment to follow up and contact Sarah again. The NDIA did not contact Sarah again until 3 February 2017.

Our Office provided comments to the NDIA on 18 June 2017. In its response, the NDIA acknowledged it had not communicated effectively with Sarah to keep her informed of the progress of her review request.

To remedy the situation, the NDIA advised it had created new teams responsible for managing requests in a more consistent and efficient manner.

---

<sup>11</sup> Written response provided in advance of the Review briefing, 26 July 2017

<sup>12</sup> Page 6 of materials about the Unplanned Work Reduction Program, provided by the NDIA on 20 December 2017

- 3.7. We recommend the NDIA establishes standard operating procedures requiring staff to acknowledge review requests within a specified timeframe. The acknowledgement should also include confirmation of the type (internal review or unscheduled plan review) of review requested, information about next steps, an anticipated timeframe for completion and a point of contact for enquiries. **(Recommendation 1)**
- 3.8. We are mindful the NDIA currently has a significant backlog of existing review requests that are being worked through by a national team. The above recommendation will likely work well in minimising requests for updates on new review requests, but may not be as easily achieved for those older reviews awaiting clearance. It is not clear to us what approach the NDIA is taking to manage requests for updates in those matters, but these are the reviews that are most likely to prompt enquiries and complaints.
- 3.9. We recommend the NDIA establishes standard operating procedures to guide Contact Centre, complaints and frontline staff in responding to requests for updates on review requests. **(Recommendation 2)** (This recommendation intersects with a similar recommendation regarding timeliness.)

### Internal reviews and plan reviews

- 3.10. Complaints to our Office have highlighted instances where staff have confused requests for unscheduled plan reviews<sup>13</sup> and requests for internal reviews of a decision to approve supports.<sup>14</sup>
- 3.11. In the course of preparing this report, we reviewed the Operational Guidelines and Guidance of Reviews to understand how NDIA staff are guided to identify which type of review a participant can access. This includes quite clear information about the timing of and reasons for the review request.
- 3.12. In simple terms, a participant who is dissatisfied with a plan (or other reviewable) decision may make a request for an internal review within three months of that decision. A participant may seek an unscheduled plan review at any time, but the Operational Guidelines indicate the participant is generally required to demonstrate a change of circumstances that would warrant a change in their funded supports.
- 3.13. Notwithstanding the guidance available to staff, we have identified situations where even when a participant has made a request within three months for an internal review of the decision to approve their statement of supports and made it clear they disagree with the original plan—participants have instead been subject to an unscheduled plan review. This meant that, if the participant remained dissatisfied with the outcome of the subsequent plan review, they had to seek an internal review of that decision before they could approach the AAT.

#### Case study 2: Request for internal review dealt with as a request for plan review

An advocacy organisation requested an internal review on behalf of their client, an NDIS participant, on 26 June 2017. The advocacy organisation complained to our Office in August 2017 that the NDIA had actioned the request for internal review incorrectly as a request for

---

<sup>13</sup> Section 48

<sup>14</sup> Section 100



a plan review. In a decision letter dated 30 June 2017, the NDIA denied the request on grounds that there was no change of circumstances that warranted a review and advised the complainant of their right to seek an internal review of that decision.

Following our investigation, the NDIA confirmed the planner had dealt with the request for an internal review incorrectly as a request for a plan review. To remedy this, the NDIA advised it provided further guidance to staff on how and when to apply the relevant review process.

- 3.14. The inaccurate classification of review requests creates issues for participants—who are required to await the outcome of two processes (rather than one) before they can access their right to external merits review; and the NDIA—which unnecessarily expends time and staff resources on additional review processes. As highlighted in our submission to the Productivity Commission’s inquiry into NDIS costs,<sup>15</sup> ‘double handling’ of reviews will likely also drive additional complaints to the NDIA, which are a further drain on resources.
- 3.15. We note the original content of the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017 included, in Schedule 2, proposed revisions to s 48 (and other relevant sections) of the Act, to refer to unscheduled plan reviews as ‘plan reassessments’ instead. However, in the final Bill, passed on 4 December 2017, Schedule 2 was removed. It is possible the proposed amendments to the Act will be re-enlivened at a later date, but in the absence of these changes, it is important the NDIA is mindful of the ease with which both participants and staff can confuse the two review types.
- 3.16. We recommend the NDIA updates its Operational Guidelines for reviews<sup>16</sup> to require staff to clarify with the participant whether they are seeking an internal review of decision or a reassessment of their plan. **(Recommendation 3a)** We further recommend decision letter templates be reviewed to ensure participants are explicitly advised of the type of ‘review’ that has been undertaken and the resulting review rights. (The latter is discussed further below, under Review letter templates.) **(Recommendation 3b)**

## 4. PROVIDING NOTICES OF DECISION

- 4.1. We have received complaints about the NDIA’s communication of review decisions. In particular, these complaints concern the NDIA: (1) not giving written notice of a decision to conduct a review; (2) not providing clear and sufficient reasons for a decision; or (3) providing incorrect advice on review rights.

### Written notice of decision to conduct a plan review

- 4.2. Some participants have complained about not receiving a response to their request for a plan review, despite the NDIA having already decided to accept their request. In

---

<sup>15</sup> [ombudsman.gov.au/data/assets/pdf\\_file/0024/43449/OCO-submission-to-PC-inquiry-into-NDIS-costs-March-2017.pdf](http://ombudsman.gov.au/data/assets/pdf_file/0024/43449/OCO-submission-to-PC-inquiry-into-NDIS-costs-March-2017.pdf), page 13

<sup>16</sup> This includes any existing or proposed guidance for plan reviews/plan reassessments.

one case, a participant did not know why her plan was changed because the NDIA had not told her it had accepted (and given effect to) her request for a plan review.

- 4.3. Under the Act, the NDIA is not required to give written notice of a decision to conduct a plan review. In contrast, if the NDIA decides not to conduct a plan review, it must give written notice within 14 days of that decision, because it is a reviewable decision. When briefing our Office,<sup>17</sup> the NDIA confirmed its staff generally notify participants of decisions to conduct a plan review but acknowledged this expectation is not formally documented.
- 4.4. Natural justice principles require that a person affected by a decision should be given the opportunity to provide relevant information. In the absence of clear advice that a review has commenced, participants may not have adequate opportunity to present their case prior to the review officer reaching their decision.
- 4.5. This is disappointing not only from a procedural fairness perspective, but also because if a participant does not feel they were heard, they are more likely to pursue a further review thereby fuelling additional work for the NDIA.
- 4.6. We recommend the NDIA implements a standard operating procedure requiring staff to advise participants of decisions to conduct plan reviews, either using telephone contact or a letter template. The contact should occur in a specified timeframe, and advise the participant of the next step in the review process, an expected timeframe and provide a point of contact for enquiries. **(Recommendation 4)**

## Reasons for a decision

- 4.7. We have received complaints about the NDIA not providing clear and/or sufficient explanation of reasons for a review decision. In particular, participants have received decision letters that referred them to the Operational Guidelines or the Act without explaining which part/s was applicable or relevant, did not clearly outline the information or evidence that was (or wasn't) relied upon, or did not engage (fulsomely or at all) with the specific grounds on which the participant sought a review.
- 4.8. In a 2018 decision, the AAT also raised the issue of the NDIA giving written notice of a reviewable decision without referencing the relevant section of the Act:

The delegate of the CEO for the respondent does not reference making the decision under a particular section of the Act. At this early stage of the implementation of the NDIS it would be unfair to be unduly critical in the wording of the decision of 3 November 2017. I have previously decided that the Act does not impose a statutory requirement for a decision-maker to refer to the statutory provision under which the decision is made. However in the future, ***it would be desirable to avoid any uncertainty if a decision referred to the statutory provision under which it was made.***<sup>18</sup> [our emphasis]

---

<sup>17</sup> Written response provided in advance of the Review briefing, 26 July 2017

<sup>18</sup> *Hassett and National Disability Insurance Agency* [2018] AATA 4 (4 January 2018), para 19 <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2018/4.html> [Accessed: 17 January 2018]

- 4.9. We have reviewed the letter template the NDIA uses for notifying participants of an unfavourable plan review decision.<sup>19</sup> We note the template provides guidance to staff on giving reasons for the decision by presenting three general reasons for staff to select from as applicable. For participants who would like more information, the template provides a link to the entire Operational Guidelines.
- 4.10. In our view, the letter template does not provide staff with sufficient guidance on providing a clear or sufficiently detailed explanation of the reasons for their decision.
- 4.11. Our experience indicates many review requests (and for that matter, complaints) stem from the affected person not properly understanding the reasons for the decision. We are aware the NDIA is focusing on providing participants with better explanations for original plan decisions and recommend it should also consider this approach for review decisions.

### Case study 3: Reasons for decision

Following the completion of a plan review on 9 March 2017, which rejected quotes provided for car modifications and a wheelchair, Jill requested an internal review. Jill complained to our Office on 28 March 2017 about the length of time the NDIA told her it would take to make a decision.

In the course of investigating Jill's complaint, we also identified the NDIA had not provided her with an adequate explanation of the reasons for the decision not to accept the quotes, particularly in relation to the car modifications. The NDIA provided a link to the Operational Guidelines in its decision but did not explain what rules applied to the support Jill had requested and how. The linked information was extensive and included multiple reasons why the NDIA may have rejected the funding.

In a September 2017 response, the NDIA acknowledged it did not communicate effectively with Jill to provide her with a clear explanation of the reasons for declining her request for vehicle modifications.

- 4.12. We recommend the decision letter template be reviewed to require staff to state explicitly the relevant assessment criteria and explain how the decision maker applied that criteria with specific reference to the request. **(Recommendation 5)**
- 4.13. We note the Operational Guidelines - Planning (section 15.2) provides four (4) general assessment criteria for determining whether the NDIA will accept a request and each criterion has several parts. The NDIA should incorporate this information into the letter template as appropriate. **(Recommendation 6)**
- 4.14. We further recommend that, instead of providing a link to the entire Operational Guidelines, decision makers should refer the participant to the specific parts relevant to their decision. Alternatively, the decision maker could provide excerpts from the Operational Guidelines in the letter text or as an attachment. **(Recommendation 7)**

### Notice of review rights

- 4.15. We have received complaints involving the NDIA advising a participant of the wrong review rights or failing to provide clear advice of review rights. Stakeholders have also

---

<sup>19</sup> Template provided by NDIA on 24 July 2017

told us they have heard from participants that NDIA staff and contracted providers (such as Local Area Coordinators and Early Childhood Partners) have discouraged them from exercising their right of review.

### ***Incorrect review rights***

4.16. In the course of investigating complaints about reviews, we have identified cases where the NDIA has provided incorrect advice regarding a participant's review rights, either verbally or in writing. There appear to be three main drivers for these errors: (1) human error; (2) incorrect or confusing template letters and (3) the interaction between plan review and internal reviews.

#### **Human error**

4.17. We acknowledge human error will occur in high volume environments such as the NDIA Contact Centre. To minimise the risk of these occurrences, we recommend the NDIA reviews the information available to Contact Centre and other frontline staff to ensure it provides clear, simple guidance about the review rights that are available for different types of decisions. **(Recommendation 8)**

#### **Incorrect or confusing template letters**

4.18. Our Office has received several complaints where, after having an internal review<sup>20</sup> conducted, participants have been sent letters advising a plan review<sup>21</sup> decision has been made. The letter advises the participant that, if they are unhappy, they may seek an internal review, despite having just been through the internal review process.

4.19. We have seen other cases where, after having an internal review conducted, participants have been sent both an internal review decision letter and a plan review decision letter. Confusingly, one letter directs the participant to seek an internal review while the other advises their right to appeal to the AAT.

4.20. In response to these complaints, the NDIA advised us its ICT system currently requires staff to input a plan review decision to give effect to an internal review decision. The decision maker is required to draft and send a s 100 letter, advising the outcome of the internal review, and should intercept the s 48 letter automatically generated by the system. If one or both of the steps required of the decision maker does not occur, the participant may end up with only one (incorrect) letter or two (conflicting) letters.

4.21. The NDIA has advised it anticipates a system update will take place in 2018 that will remove the requirement to use the plan review function to record internal reviews.

4.22. We recommend the NDIA:

- Prioritises the update to the ICT system to override the current manual 'workaround' needed to record internal review decisions. **(Recommendation 9)**
- Pending the ICT update, reviews its Operational Guidelines and task cards to stress the importance of ensuring only one (correct) letter is sent to participants following an internal review decision. **(Recommendation 10)**

---

<sup>20</sup> Section 100

<sup>21</sup> Section 48

### Review letter templates

4.23. We have reviewed the letter template the NDIA uses to give written notice of a decision not to conduct a plan review.<sup>22</sup> The letter template does not specify the type of review a participant is entitled to, but simply states:

If you disagree with the decision made by the NDIA, you can request a review of a decision within three months of receiving this notice.

4.24. We recommend the NDIA updates the template to specify that the review is an internal review of a reviewable decision pursuant to s 99 and s 100 of the Act. In addition, the letter should include clear information about how to make a request for review, either within the text or by including an attachment. **(Recommendation 11)**

4.25. We also reviewed the letter template the NDIA uses to give written notice of decisions under s 100 of the Act.<sup>23</sup> It refers participants who would like further information on their review rights to the AAT website and the National Disability Advocacy Program. In our view, it would be more helpful for participants if the letter included greater detail.

4.26. We recommend the NDIA considers including the AAT website address and telephone number in its letter template. We also recommend the NDIA consider adding links to the relevant parts of the Operational Guidelines (such as section 6 of Review of Decisions) and the Act, relevant to the external review process. Alternatively, the NDIA could attach key information as a factsheet or Frequently Asked Questions (FAQs). **(Recommendation 12)**

4.27. We have seen instances where the NDIA has failed to issue notice of review decisions within a reasonable period following the decision in question, or has failed to issue a letter at all.

4.28. We recommend the NDIA reviews its Operational Guidelines and relevant task cards to require staff to issue review decision letters on the date of decision or within a specified period following the decision. **(Recommendation 13)**

4.29. In our view, the recommendations above will help the NDIA ensure it is acting to make review rights more accessible, open and transparent for participants.

### Incorrect review rights after request for internal review results in a new plan

4.30. We have received complaints involving participants who have been dissatisfied with their supports, requested an internal review and received a new plan. The NDIA has notified these complainants that if they remain dissatisfied, they have recourse to internal review rights.

4.31. However, in a July 2017 teleconference, the NDIA advised that in such circumstances, complainants have external review rights, not internal review rights, because the new plan is a result of an internal review decision.

---

<sup>22</sup> Template provided by NDIA on 24 July 2017

<sup>23</sup> Template provided by NDIA on 24 July 2017

- 4.32. We have reviewed the Operational Guidelines and Guidance of Reviews, including the process map, and note that it is not clear that plans resulting from an internal review decision (but ‘given effect’ in the system through the plan review process) are reviewable by the AAT (instead of a further internal review).
- 4.33. We recommend the NDIA amends the Operational Guidelines and Guidance of Reviews to make this clear and communicates the changes to staff. **(Recommendation 14)**

#### Discouraging review requests

- 4.34. Several stakeholders have spoken to us about examples where their clients have been effectively discouraged from exercising their right to seek an internal review of a planning decision or seek an unscheduled plan review. A common theme in these stories is NDIA staff or contracted providers ‘warning’ participants their plan may be further reduced if they seek a review.
- 4.35. It is true that an unscheduled plan review is not limited to the elements of the plan the participant is dissatisfied with and must consider all aspects. However, it seems the explanation given to participants is often perceived as a threat or discouragement rather than a helpful explanation of the process. In our view, NDIA staff should be supported to more clearly explain to participants that a plan review requires all aspects of the plan to be considered in reaching a decision.
- 4.36. We recommend the NDIA reviews any scripts, task cards or other material which guides staff and contracted providers’ discussions with participants about their review rights to ensure they require staff to: (a) make it clear to participants they have a right to seek a review if they are not satisfied with a decision or their circumstances have changed, and (b) guide staff to explain that all elements of the participants’ plan will be considered in an unscheduled plan review. **(Recommendation 15)**

## 5. TIMELINESS

- 5.1. We have received complaints about the time taken by the NDIA to conduct reviews. In particular, these complaints raise concerns about triage and delays.

### Triage

- 5.2. Complaints have raised the following triage issues:
- the NDIA not identifying and prioritising urgent cases (for example, where a participant may be at risk of harm or homelessness), and
  - the NDIA not having a process to correct simple or clear errors quickly and easily.
- 5.3. It is clear that reviews take significant time and resources to complete and are being received at a much higher rate than the NDIA anticipated. The NDIA has acknowledged it currently has a significant backlog of reviews, some of which were received up to nine months ago.

### ***Prioritising reviews***

- 5.4. These delays are concerning to all participants, but pose a particular risk to those who may be at risk of losing services or experiencing deterioration in their capacity if their plan is not adjusted quickly. In turn, it is important that NDIA staff are empowered and guided to triage reviews to identify which should be prioritised.
- 5.5. When briefing our Office,<sup>24</sup> the NDIA advised it assigns priority to cases involving safety risks. It does this based on triage principles that apply across all stages of the pathway, including reviews. These principles are set out in the section of the Operational Guidelines on timeframes for preparing a participant's plan<sup>25</sup> but not specifically included in the Reviews section of the Guidelines.
- 5.6. We recommend the NDIA references the triage and prioritisation principles in sections of the Operational Guidelines or in task cards that specifically focus on triaging reviews. This would make it clear to staff they can and must prioritise certain types of reviews. **(Recommendation 16)**

### ***Correcting errors***

- 5.7. When we asked the NDIA about its arrangements for quickly correcting clear or simple errors in July 2017,<sup>26</sup> it advised regions have developed and implemented local procedures to prioritise these cases. At a later briefing,<sup>27</sup> NDIA staff also advised a prioritisation matrix had been established for use by the Early Solutions Teams in NSW and it was hoped this approach would eventually be implemented nationally.
- 5.8. In addition, the NDIA advised it is in the process of updating its ICT system and processes to enable participants and staff to make simple changes or corrections to a plan without the need for a full review. In our view, this will make a significant difference to improving timeliness in correcting clear and simple errors and we look forward to receiving confirmation this new approach has been implemented.

### **Delays**

- 5.9. Our Office monitors and reports on complaint themes each quarter. Review delays was the top complaint issue for all four quarters in 2017.

### ***Allocating requests***

- 5.10. When asked about timeframes for allocating review requests to a staff member for decision,<sup>28</sup> the NDIA advised that it is 'accepted best practice' to do so within 14 days of the decision to conduct a plan review. For internal reviews, it aims to allocate them to a decision maker 'as soon as practicable'. However, NDIA staff acknowledged timeframes for allocating reviews are not formally documented.

---

<sup>24</sup> Written response provided in advance of the Review briefing, 26 July 2017

<sup>25</sup> Paragraph 6.2 Operational Guideline on Planning, *Prioritising participants with urgent circumstances*

<sup>26</sup> Reviews briefing, 26 July 2017

<sup>27</sup> Unscheduled Work Reduction Program briefing, 8 November 2017, by phone with the National Complaints Team and Director, Plan Review Project (NDIA)

<sup>28</sup> Reviews briefing, 26 July 2017

5.11. Under s 48(3) of the Act, the NDIA is required to facilitate a plan review within 14 days of the decision to conduct a review. We recommend the NDIA reviews its Operational Guidelines and task cards to make it clear to staff that plan reviews must be (at least) allocated within 14 days after being accepted for review, to ensure the agency complies with its legislative obligations. **(Recommendation 17)**

### ***Making decisions***

5.12. Some participants have told us they have been waiting for up to eight or nine months for a decision on their review request, without any update on its progress or explanation of the time taken.

5.13. In some instances, the participant's existing plan has expired before the NDIA has made a decision on their request for review. As review decisions can only be made prospectively, it can mean a participant must go through the whole process for the new (routinely reviewed) plan if they remain unhappy.

5.14. The NDIA should do everything it can to ensure that participants' rights to a review are not affected by administrative delay.

5.15. If it has not already done so, we recommend the NDIA:

- obtains legal advice regarding its obligation to decide reviews of plans that have ended by the time a decision maker considers them **(Recommendation 18a)**; and
- develops guidance for planners and Local Area Coordinators to consider the content of recent or live review requests from a participant when developing a new plan. **(Recommendation 18b)**

5.16. The NDIA's briefings and responses to our investigations have acknowledged the NDIA has a significant backlog of review requests and it is receiving several hundred new requests each week. The NDIA told us higher than expected volumes have made it difficult for staff to complete reviews quickly and resources have necessarily been directed to working through the backlog. In other cases, the NDIA acknowledged delays occurred because it did not allocate reviews for action in a timely manner or reviews were handled by several officers before being finalised.

5.17. Under the Act, the NDIA must complete plan reviews and internal reviews 'as soon as reasonably practicable' (s 48(3) and s 100(6) respectively). However, the NDIA does not currently have formal timeliness standards for the completion of unscheduled plan reviews or internal reviews. The NDIA has acknowledged timeliness standards are potentially valuable but advised, due to its current workloads and the limitations of its current data about review outcomes and timeliness, it is not yet in a position to decide or work towards defined service standards.

5.18. We understand that, when triaging cases and completing 'light touch plan reviews' the Early Solutions Teams in NSW are working to informal standards of 14 days for urgent cases and 28 days for standard cases. We further understand this approach may eventually be expanded to other regions, but at the time of this report, the NDIA does not have formal national timeliness standards.



- 5.19. In our view, the lack of timeliness standards or even acknowledged average completion timeframes, is problematic for both the NDIA and participants. In particular, the NDIA is not able to manage the expectations of participants about the time it will take to complete their request for review. As has already been pointed out, this lack of certainty is a key driver of complaints to the NDIA and our Office.
- 5.20. We acknowledge reviews will vary in complexity and some will need to be prioritised over others. We also acknowledge the current backlog of reviews means the NDIA may not wish to publicise the current average timeframes for reviews. However, in the interests of transparency and managing participants' expectations, we believe the NDIA should make this information publicly available on its website and in written and verbal communication with participants.
- 5.21. At a briefing to our Office on 8 November 2017, the NDIA advised it is aiming to reduce the current backlog to zero within nine months, by around the end of July 2018. This timeframe would see many participants' plans expire or due for a scheduled review before a decision is made and, in turn, seems to be unreasonably long for participants to wait for an outcome.
- 5.22. In the short term, we recommend the NDIA:
- identifies a clear course of action and timeframe for clearing the existing backlog, including but not limited to increased resourcing for the national backlog team (**Recommendation 19a**)
  - provides guidance to Contact Centre and other frontline staff about how to communicate likely review timeframes to participants lodging new reviews and participants seeking updates on existing reviews (**Recommendation 19b**), and
  - makes information on average timeframes for reviews publicly available. (**Recommendation 19c**)
- 5.23. In the longer term, we recommend the NDIA:
- establishes national KPIs or agreed service standards for completion of unscheduled plan reviews and internal reviews, and communicate these publicly, and (**Recommendation 20a**)
  - develops its data collection capability to boost capacity to analyse review volumes, timeframes, drivers and outcomes and use this intelligence to inform its practice and measure and improve performance. (**Recommendation 20b**)

## 6. CONCLUSION

- 6.1. In its discussions with our Office, the NDIA advised the current backlog and associated delays, arose due to other areas of its business, especially access and planning processes, being prioritised over reviews. We acknowledge the NDIA's resources are limited and, since commencement of the national rollout, the Agency has been under considerable pressure to ensure it meets its various bilateral targets.

- 6.2. This pressure is likely to continue for several years, until the Scheme is fully implemented; however, it should not be used as a reason to deprioritise or delay other work, especially where the decisions in question affect participants' daily lives.
- 6.3. It is clear from this report there are a number of areas in which the NDIA can, and should, improve its administration of participant-initiated reviews. Without significant efforts to improve the timeliness of its approach and its communication with participants, there remains a risk that participants' right to review will be undermined and the review process will continue to be unwieldy, unapproachable and the driver of substantial complaint volumes.
- 6.4. In March 2018 we provided the NDIA with the opportunity to comment on our draft report and recommendations. The NDIA's response dated 13 April 2018 is included in full at Appendix 2.
- 6.5. We are pleased the NDIA accepted all 20 recommendations and has already started work to improve its communication and timeliness when handling reviews. Our Office will monitor the NDIA's implementation of the recommendations in the coming months.

## APPENDIX 1: LIST OF RECOMMENDATIONS

No.	Recommendation	Page
<b>Handling requests for review</b>		
1	Establish standard operating procedures requiring staff to acknowledge review requests within a specified timeframe. Acknowledgement should include confirmation of the type of review (internal review or unscheduled plan review) requested, information about next steps, an expected timeframe for completion and a point of contact for enquiries.	6
2	Establish standard operating procedures to guide Contact Centre, complaints and frontline staff in responding to requests for updates on review requests.	6
3a & b	a) Review its Operational Guidelines on reviews, to require staff to clarify with the participant whether they are seeking an internal review of decision or a reassessment of their plan. b) Review decision letter templates to ensure participants are explicitly advised of the type of ‘review’ that has been undertaken and the resulting review rights.	7
<b>Providing notices of a decision</b>		
4	Implement a standard operating procedure requiring staff to advise participants of decisions to conduct plan reviews, either by telephone contact or a letter template. The contact should occur in a specified timeframe and advise the participant of the next step in the review process, an expected timeframe and provide a point of contact for enquiries.	8
5	Amend the decision letter template to require staff to state explicitly the relevant assessment criteria and explain how the decision maker applied that criteria with specific reference to the request.	9
6	We note that the Operational Guidelines-Planning (section 15.2) provides four (4) general assessment criteria for determining whether the NDIA will accept a request and each criterion has several parts. The NDIA should incorporate this information into the letter template as appropriate.	9
7	Instead of providing a link to the entire Operational Guidelines, decision makers should refer the participant to the specific parts relevant to their decision. Alternatively, the decision maker could provide excerpts from the Operational Guidelines in the letter text or as an attachment.	9
8	Review the information available to Contact Centre and other frontline staff to ensure it provides clear, simple guidance about the review rights that are available for different types of decisions.	10
9	Prioritise the update to the ICT system to override the current manual ‘workaround’ needed to record internal review decisions.	10
10	Pending the ICT update, review the Operational Guidelines and task cards to stress the importance of ensuring only one	10

	(correct) letter is sent to participants following an internal review decision.	
11	Update the template to specify that the review is an internal review of a reviewable decision pursuant to s 99 and s 100 of the Act. In addition, the letter should include clear information about how to make a request for review, either within the text or by including an attachment.	11
12	Include the AAT website address and telephone number in its letter template. Add links to the relevant parts of the Operational Guidelines (such as section 6 of Review of Decisions) and the Act, relevant to the external review process. Alternatively, the NDIA could attach key information as a factsheet or FAQs.	11
13	Review Operational Guidelines and relevant task cards to require staff to issue review decision letters on the date of decision or within a specified period following the decision.	11
14	Amend the Operational Guidelines and task cards to make it clear to staff that plan reviews must be (at least) allocated within 14 days after being accepted for review, to ensure the agency complies with its legislative obligations.	12
15	Review any scripts, task cards or other materials which guide staff and contracted providers' discussions with participants about their review rights to ensure they require staff to: <ul style="list-style-type: none"> <li>a) make it clear to participants they have a right to seek a review if they are not satisfied with a decision or their circumstances have changed, and</li> <li>b) guide staff to explain that all elements of the participants' plan will be considered in an unscheduled plan review.</li> </ul>	12
<b>Timeliness</b>		
16	Reference triage principles in sections of the Operational Guidelines or in task cards that specifically focus on triaging reviews.	13
17	Amend the Operational Guidelines and task cards to make it clear to staff that plan reviews must be (at least) allocated within 14 days after being accepted for review, to ensure the agency complies with its legislative obligations.	14
18a & b	<ul style="list-style-type: none"> <li>a) Obtain legal advice regarding its obligation and/or capacity to decide reviews of plans that have ended by the time a decision maker considers them, and/or</li> <li>b) Develop guidance for planners and Local Area Coordinators to consider the content of recent or live review requests from a participant when developing a new plan.</li> </ul>	14
19a, b & c	In the immediate term: <ul style="list-style-type: none"> <li>a) identify a clear course of action and timeframe for clearing the existing backlog, including but not limited to increased resourcing for the national backlog team</li> <li>b) pending completion of the existing backlog, provide guidance to Contact Centre and other frontline staff about how to communicate likely review timeframes to participants lodging new reviews and participants seeking updates on existing reviews. (This is an extension of the</li> </ul>	15

	<p>recommendation made under ‘acknowledging requests for review’), and</p> <p>c) make information about current average timeframes for reviews publicly available.</p>	
20a & b	<p>In the longer term:</p> <p>a) establish KPIs or agreed service standards for completion of unscheduled plan reviews and internal reviews, and communicate these publicly, and</p> <p>b) develop its data collection capability to boost capacity to analyse review volumes, timeframes, drivers and outcomes and use this intelligence to inform its practice and improve performance.</p>	15

## **APPENDIX 2: NDIA RESPONSE**

Mr Michael Manthorpe PSM  
Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Dear Mr Manthorpe

Thank you for the opportunity to respond to the draft issues paper of 5 March 2018 about the National Disability Insurance Agency's (NDIA) administration of reviews.

The NDIA acknowledges issues raised in the issues paper and appreciates your recognition of the unique operating environment during the period of transition to full scheme.

The NDIA is committed to improving its administration of reviews and acknowledges the review mechanisms under sections 48 and 100 of the National Disability Insurance Scheme Act 2013 are an important feature of our legislation that provide participants with the right to seek a review of a decision made by the NDIA.

The NDIA strives to deliver a National Disability Insurance Scheme (NDIS) that empowers participant outcomes through effective planning and review processes. As you have noted, participant numbers will continue to grow as NDIA delivers on the bilateral agreements signed by the Commonwealth and state/territory governments. This means that the number of requests for plan reviews will also increase. The NDIA is working to balance the scale up during transition with building quality plans that support participants in achieving their goals.

The NDIA notes the items and recommendations raised in the issues paper regarding administration of reviews. The NDIA accepts the merit of each of the recommendations, and has started determining the most practical way to implement responses, including timeframes for resolution.

I am pleased to advise that work has commenced on a number of initiatives to improve the administration of reviews. A summary of actions is attached. The NDIA will continue to liaise with your office to provide visibility and updates on the progress of these actions.

In your letter, you acknowledge the establishment of dedicated NDIA team to manage the backlog of reviews. This team was established in November 2017, and has had positive impacts beyond working through the volume of reviews – it has given the Agency better insight into the issues contributing to increasing numbers of plan review requests. This improved visibility has placed the Agency in a position to develop targeted strategies to identify and address specific root causes, thereby reducing the inflow of review requests.

Further, the NDIA is developing nationally consistent benchmarks and processes for acknowledging, managing and resolving requests; additional resources will be either re-deployed or engaged to resolve currently pending requests, and ensure new requests are resolved in a timely manner. The NDIA is in the process of reviewing letters and resource materials relating to reviews. Your recommendations will further inform this work.

The NDIA recognises that requests relating to assistive technology and home modification drive a notable portion of review requests. In response, we have established the Assistive Technology and Home Modification Redesign Project, as well as interim improvements to existing processes. These will address many of the concerns around delay for these supports, and build on the work of dedicated teams and planned changes to the NDIS Business System shared during briefings to your office in November 2017.

We recognise work must be done to decrease the volume of reviews through improved planning processes, and note the significant work undertaken through the program of improvements to the participant and provider pathway experience. The NDIA is currently piloting pathway improvements with a view to roll out improved processes nationally.

We have provided updated figures on the volumes of work referenced throughout the draft issues paper. These have been agreed by your team and an updated version has been provided to you with this letter. These figures present a more accurate view of the work in question. We acknowledge the original figures included were reflective of advice to your office at the time. We appreciate your agreement to update them in the final report

Thank you for your letter and attention to this matter. Please contact me at any time if you would like to discuss this important issue.

Yours sincerely



**Robert De Luca**  
Chief Executive Officer  
National Disability Insurance Agency



## **ATTACHMENT A: Response to recommendations**

### **NDIA response for publication**

The Office of the Commonwealth Ombudsman (OCO) has provided 20 primary recommendations in regard to the NDIA's handling of reviews. The NDIA agrees that all recommendations reflect best practice. NDIA have established a dedicated business improvement team attached to the Unscheduled Work Program. This team are developing an issues register and action plan, and have identified a number of actions to improve the administration of reviews.

Work has commenced which will address some recommendations made by the OCO, and the NDIA intends to undertake further work as an immediate priority to address the remainder of the recommendations.

The NDIA appreciates the work of the OCO, the report and the value it provides in delivering a more robust National Disability Insurance Scheme.

### **NDIA detailed response to specific recommendations**

The recommendations fall into six broad categories:

1. Standard Operating Procedures and guidance (n12)
2. Letters (n6)
3. Key Performance Indicators and performance standards (n5)
4. Systems (n2)
5. Agency position policy (n1)
6. Strategy (n1)

The table set out below provides a response to the recommendations grouped by the these categories.

No.	Recommendation	Response
<b>Operating Procedures and guidance</b>		
1	Establish standard operating procedures requiring staff to acknowledge review requests within a specified timeframe. Acknowledgement should include confirmation of the type of review (internal review or unscheduled plan review) requested, information about next steps, an expected timeframe for completion and a point of contact for enquiries.	<p>The NDIA have established a dedicated business improvement team attached to the Unscheduled Work Program. This team will take the following actions to improve the administration of reviews:</p> <ul style="list-style-type: none"> <li>- Review and re-design end-to-end process and supporting guidance for requesting and completing reviews</li> <li>- Review contact centre scripts and publish them for all frontline staff to access</li> <li>- Develop practice guides and templates for capturing key information to support decision makers</li> <li>- Develop script to assist first responders in explaining unscheduled review process to participants; to be incorporated in practice guides</li> <li>- Engage with Partners in the Community (PITC) and regions to ensure that PITC are conducting unscheduled plan reviews.</li> <li>- Ensure all regions have processes in place to refer approved unscheduled plan reviews to PITC</li> <li>- Develop guidance for planners and Local Area Coordinators (LACs) to consider the content of recent or live review requests from a participant when developing a new plan</li> <li>- Review practice guides and develop scripts and talking points for front of house, business support officers, the Centralised Regional Response Team (CRRT) and National Call Centre (NCC) staff to help participants understand review process and pathway</li> <li>- Develop and implement process for contacting participants who have a pending request in the national backlog and inform them of the process moving forward</li> </ul>
2	Establish standard operating procedures to guide Contact Centre, complaints and frontline staff in responding to requests for updates on review requests.	
3	Review its Operational Guidelines on reviews, to require staff to clarify with the participant whether they are seeking an internal review of decision or a reassessment of their plan. (Review decision letter templates to ensure participants are explicitly advised of the type of 'review' that has been undertaken and the resulting review rights.)	
4	Implement a standard operating procedure requiring staff to advise participants of decisions to conduct plan reviews, either by telephone contact or a letter template. The contact should occur in a specified timeframe, and advise the participant of the next step in the review process, an expected timeframe and provide a point of contact for enquiries.	
8	Review the information available to Contact Centre and other frontline staff to ensure it provides clear, simple guidance about the review rights that are available for different types of decisions.	

No.	Recommendation	Response
10	Pending the ICT update, review the Operational Guidelines and task cards to stress the importance of ensuring only one (correct) letter is sent to participants following an internal review decision	<ul style="list-style-type: none"> <li>- Implement process to ensure multiple (conflicting) letters are not sent to participants post-review</li> <li>- Formalise process for prioritising urgent cases</li> <li>- Develop streamlined process for correcting simple plan errors</li> <li>- Review and revise practice guides and task cards for: information-gathering activities; guided planning questionnaire; integrations and note-taking</li> <li>- Develop scripts and talking points for undertaking guided planning and ensure LACs and planners understand the context of each question</li> <li>- Develop handover template for pre-planning</li> <li>- Develop guidance and practices that ensure participants are provided with an adequate explanation for decisions relating to unscheduled plan reviews</li> </ul>
13	Review Operational Guidelines and relevant task cards to require staff to issue review decision letters on the date of decision or within a specified period following the decision.	
14	Amend the Operational Guidelines and task cards to make it clear to staff that plan reviews must be (at least) allocated within 14 days after being accepted for review, to ensure the agency complies with its legislative obligations.	
15	<p>Review any scripts, task cards or other materials which guide staff and contracted providers' discussions with participants about their review rights to ensure they require staff to:</p> <p>(a) make it clear to participants they have a right to seek a review if they are not satisfied with a decision or their circumstances have changed, and will not be subject to adverse action for doing so; and</p> <p>(b) guide staff to explain that all elements of the participants' plan will be considered in an unscheduled plan review.</p>	
16	Reference triage principles in sections of the Operational Guidelines or in Task Cards that specifically focus on triaging reviews.	
17	Amend the Operational Guidelines and task cards to make it clear to staff that plan reviews must be (at least) allocated within 14	

No.	Recommendation	Response
	days after being accepted for review, to ensure the agency complies with its legislative obligations.	
18 b)	Develop guidance for planners and Local Area Coordinators to consider the content of recent or live review requests from a participant when developing a new plan.	
<b>Letters</b>		
3	(Review its Operational Guidelines on reviews, to require staff to clarify with the participant whether they are seeking an internal review of decision or a reassessment of their plan.) Review decision letter templates to ensure participants are explicitly advised of the type of 'review' that has been undertaken and the resulting review rights.	<ul style="list-style-type: none"> <li>- Undertake a process to improve letters sent by the NDIA to participants regarding reviews to ensure clarity and accessibility of information</li> <li>- The NDIA is also improving guidance for planners and internal reviewers to support the production of consistent, high quality decision letters</li> </ul>
5	Amend the decision letter template to require staff to state explicitly the relevant assessment criteria and explain how the decision maker applied that criteria with specific reference to the request.	
6	We note that the Operational Guidelines – Planning (section 15.2) provides four (4) general assessment criteria for determining whether the NDIA will accept a request and each criterion has several parts. The NDIA should incorporate this information into the letter template as appropriate.	
7	Instead of providing a link to the entire Operational Guidelines, decision makers should refer the participant to the specific parts relevant to their decision. Alternatively, the decision maker could provide excerpts from the Operational Guidelines in the letter text or as an attachment.	

No.	Recommendation	Response
11	Update the template to specify that the review is an internal review of a reviewable decision pursuant to s 99 and s 100 of the Act. In addition, the letter should include clear information about how to make a request for review, either within the text or by including an attachment.	
12	Include the AAT website address and telephone number in its letter template. Add links to the relevant parts of the Operational Guidelines (such as section 6 of Review of Decisions) and the Act, relevant to the external review process. Alternatively, the NDIA could attach key information as a factsheet or FAQs.	
<b>Performance Standards</b>		
1	Establish standard operating procedures requiring staff to acknowledge review requests within a specified timeframe. Acknowledgement should include confirmation of the type of review (internal review or unscheduled plan review) requested, information about next steps, an expected timeframe for completion and a point of contact for enquiries.	<p>The NDIA commits to develop performance standards and monitoring for requests for unscheduled plan reviews and internal reviews, including under the following actions:</p> <ul style="list-style-type: none"> <li>- Review and re-design end-to-end process and supporting guidance for requesting and completing reviews</li> <li>- Review practice guides and develop scripts and talking points for front of house, business support officers, the Centralised Regional Response Team (CRRT) and National Call Centre (NCC) staff to help participants understand review process and pathway</li> <li>- Develop and implement process for contacting participants who have a pending request in the national backlog and inform them of the process moving forward</li> <li>- Formalise process for prioritising urgent cases in national backlog</li> <li>- NDIA is currently undertaking work to review agreements arising from grants and grant-like processes; this body of work will include a review of Key Performance Indicator and deliverables within</li> </ul>
4	Implement a standard operating procedure requiring staff to advise participants of decisions to conduct plan reviews, either by telephone contact or a letter template. The contact should occur in a specified timeframe, and advise the participant of the next step in the review process, an expected timeframe and provide a point of contact for enquiries.	
13	Review Operational Guidelines and relevant task cards to require staff to issue review decision letters on the date of decision or within a specified period following the decision.	

No.	Recommendation	Response
19 b); c)	<p>In the immediate term:</p> <p>b) pending completion of the existing backlog, provide guidance to Contact Centre and other frontline staff about how to communicate likely review timeframes to participants lodging new reviews and participants seeking updates on existing reviews. (This is an extension of the recommendation made under 'acknowledging requests for review'.)</p> <p>c) make information about current average timeframes for reviews publicly available.</p>	<p>those agreements, and NDIA aims to have outcomes in place prior to future LAC grant rounds</p> <ul style="list-style-type: none"> <li>- NDIA is in the process of reviewing its approach to performance reporting and improvement</li> </ul>
20 a)	<p>In the longer term:</p> <p>a) establish KPIs or agreed service standards for completion of unscheduled plan reviews and internal reviews, and communicate these publicly</p>	
<b>Systems</b>		
9	<p>Prioritise the update to the ICT system to override the current manual 'workaround' needed to record internal review decisions.</p>	<ul style="list-style-type: none"> <li>- NDIA is considering and prioritising ICT needs and requirements and will incorporate this recommendation into the consideration process</li> </ul>

No.	Recommendation	Response
20 a)	<p>In the longer term:</p> <p>a) develop its data collection capability to boost capacity to analyse review volumes, timeframes, drivers and outcomes and use this intelligence to inform its practice and improve performance.</p>	
<b>Policy</b>		
18 a)	<p>a) Obtain legal advice regarding its obligation and/or capacity to decide reviews of plans that have ended by the time a decision maker considers them;</p>	<ul style="list-style-type: none"> <li>- NDIA is considering this recommendation to ensure best future action is taken, including implementing communications and processes to ensure planners and LACs correctly consider recent or live requests for review of a decision when undertaking unscheduled or scheduled plan reviews</li> </ul>
<b>Strategy</b>		
19 a); b)	<p>In the immediate term:</p> <p>a) identify a clear course of action and timeframe for clearing the existing backlog, including but not limited to increased resourcing for the national backlog team</p> <p>b) make information about current average timeframes for reviews publicly available.</p>	<ul style="list-style-type: none"> <li>- A dedicated NDIA has been established to manage the backlog of reviews, including a process for resourcing</li> <li>- Part B is under consideration to ensure best future action is taken</li> </ul>