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27 June 2023

Ms Libby Coker MP
Chair
Joint Standing Committee on the National Disability Insurance Scheme
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ndis.joint@aph.gov.au

Dear Ms Coker

NDIS General Issues Inquiry

My Office welcomes the opportunity to highlight to the Committee our recent work and publications relating to the National Disability Insurance Scheme (NDIS) and National Disability Insurance Agency (NDIA), which you may find relevant to your inquiry into the broad systemic issues related to the NDIS.

The purpose of the Office of the Commonwealth Ombudsman (OCO) is to:

- provide assurance that the agencies and entities we oversee act with integrity and treat people fairly, and
- influence systemic improvement in government administration.

We aim to achieve our purpose by:

- independently and impartially reviewing complaints and disclosures about government administrative action
- influencing government agencies to be accountable, lawful, fair, transparent, and responsive
- assisting people to resolve complaints about government administrative action, and
- providing a level of assurance that law enforcement, integrity and regulatory agencies are complying with legal requirements when using covert, intrusive and coercive powers.

My Office has a specific statutory role to monitor and report annually on the NDIA's performance against the Participant Service Guarantee (PSG). The PSG is comprised of principles to guide engagement with participants, service standards, and timeframes designed to improve the timeliness and quality of the NDIA's decision making and strengthen performance monitoring and reporting requirements.

The requirement for my Office to monitor and report is provided for in section 204A of the *National Disability Insurance Scheme Act 2013* (NDIS Act), which states that a report must be prepared on some or all of the matters prescribed by the National Disability Insurance Scheme Rules (The Rules). The Rules are not yet legislated and therefore this reporting has not yet begun. My Office, however, has published the following under the *Ombudsman Act 1976* in relation to the NDIA's performance against the PSG:

- In June 2022, my Office published its [NDIA's preparation to meet the Participant Service Guarantee \(PSG\)](#) report. [An easy read version](#) was also published in July 2022. That report focused on the work the NDIA had undertaken in 2020-21 to implement the PSG administratively through its Participant Service Charter, and identified that NDIA had made good progress, but more work was required, to enable the NDIA to report meaningfully on qualitative elements of the PSG.
- In February 2023, my Office published findings as an [Own Motion Investigation Statement](#), which focused on communication about PSG timeframes relating to access and planning. It identified that the NDIA had progressed its work on the PSG, but further work was required including in relation to policies and procedures. An [easy read version](#) was also published in March 2023.

More broadly, my Office considers complaints about the NDIA and its administration of the NDIS, and the NDIS Quality and Safeguards Commission (NDISQ) in relation to its regulation of service providers. My Office does not handle complaints about disability service providers.

[In the 2022-23 financial year to 31 March 2023, my Office received 458 complaints about the NDIA. In that reporting period, the most common issues identified by complainants were about participant plans, the management of service providers and service delivery. In 2021-2022, my Office received 858 complaints about the NDIA and the most common issues were about participant plans, reviews, and service delivery.]

Through the complaints we receive, as well as media and feedback from stakeholders, my Office identifies systemic administrative issues that may adversely impact NDIS participants. Our recent publications have broadly been focussed on timeliness of the NDIA's administrative decision-making, and the need to provide clear and transparent information to participants about its decision-making processes.

- In October 2022, my Office published its [Did They Do What They Said They Would? Volume 2](#) report, which considered the NDIA's progress implementing recommendations made by my Office in relation to:
 - Improving handling of assistive technology requests, with a focus on improving time taken to process requests, and improving communication to participants about the assistive technology process and expected timeframes for decisions on requests, in our [Administration of National Disability Insurance Scheme \(NDIS\) funded Assistive Technology](#) report, 2020. In that case, we found the NDIA had implemented or partially implemented 8 of the 12 accepted recommendations.
 - Improving handling of access requests and planning, with a focus on improving time taken to approve access requests and prioritisation, and improving guidance to staff around correct processes around access requests, in our [Investigation into the actions of the National Disability Insurance Agency \(NDIA\) in relation to Mr C](#), 2020. In that case, we found the NDIA had implemented or partially implemented 4 of the 5 accepted recommendations.
- In December 2022 and April 2023, my Office made a [submission](#) and [supplementary submission](#) to the Joint Standing Committee's Inquiry into the Capability and Culture of the National Disability Insurance Agency. The submissions highlighted the importance of the PSG in ensuring the NDIA has the capability to meet timeframes and the culture to engage well with participants.

My Office will continue to monitor your inquiry and looks forward to the Committee's report.

Yours sincerely

Penny McKay
Acting Commonwealth Ombudsman

Influencing systemic improvement in public administration