

Joint Standing Committee on the NDIS  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Via email: [ndis.sen@aph.gov.au](mailto:ndis.sen@aph.gov.au)

Dear Secretary,

The Northern Territory Office of the Public Guardian welcomes the opportunity to contribute to the Joint Standing Committee's inquiry into the scheme implementation and forecasting for the National Disability Insurance Scheme (NDIS). It is the intention of the Office of the Public Guardian to provide a detailed submission to the Committee for consideration in their final report, however there is one issue in relation to the interface between the NDIS and Justice services that requires attention as a matter of importance.

Established under the *Guardianship of Adults Act 2016* (NT) the Office of the Public Guardian is an independent office committed to safeguarding and promoting the human rights of people with impaired decision-making capacity by providing adult guardianship services, information and advocacy that is responsive to the needs of the Northern Territory community and reflects contemporary, best practice guardianship principles within a human rights framework.

There are approximately 390 represented persons<sup>1</sup> involved with the Public Guardian who are current NDIS participants. The Office of the Public Guardian has attended many, if not all initial and review planning meetings for these participants in addition to the initial and review planning meetings of past participants. This involvement has provided considerable insight into the experiences of participants with impaired decision making capacity<sup>2</sup>.

In the last 12 months the Office of the Public Guardian has witnessed a hardening of the NDIA position in respect of the NDIS supports which might be viewed as reasonable and necessary to meet

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<sup>1</sup>For the purpose of this submission represented person means a person who is under a guardianship order and the Public Guardian is appointed with decision-making authority for this person.

<sup>2</sup> As guardianship orders come into effect when a person reaches the age of 18, all experiences of the Office of the Public Guardian in relation to the NDIS is with participants over the age of 18.

the needs of a person with cognitive disability in the community on release from prison. This can be at odds with the level of supports required to help keep a participant with complex behaviours and the community safe. The Office of the Public Guardian is caught between the conflicting policy positions of Correctional Services in the Northern Territory and the NDIS in advocating successfully for the interests of participants in such matters. At issue is agreement as to the responsible authority for funding interventions which provide for the disability needs of the participant while satisfying the judicial conditions of release.

There are complexities also in the timing and provision of draft participant plans by the NDIS for consideration by the Parole Board of the Northern Territory which may impact a person's early release. The NDIS will not provide a draft participant plan until a release date has been set by the Parole Board, but it is difficult for the Parole Board to consider how a person may meet their conditions of parole without details of the funded support that would be included in a draft participant plan. In some instances this will result in a person with cognitive disability who might otherwise meet the conditions for early release being forced to serve out their sentence in full. A level of foresight is also required in respect of participant plans developed in a prison rather than community setting, which may not meet the individual's ongoing needs. The interface between the NDIS and Justice services should be addressed so that participant plans can be built prior to a release date being set for people who are eligible for parole.

The Office of the Public Guardian welcomes the opportunity to contribute to further discussions regarding this interface between the NDIS and Justice services.

Yours sincerely

Beth Walker  
Public Guardian



29 October 2021