



Review of the NDIS Act

October 2015

The Dietitians Association of Australia (DAA) is the national association of the dietetic profession with over 5800 members. DAA is a leader in nutrition and advocates for better food, better health, and wellbeing for all. DAA appreciates the opportunity to provide feedback on the Review of the NDIS Act to Ernst & Young for the Australian Government.

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DAA interest in this consultation

As the leading organisation of nutrition professionals in Australia, DAA is concerned that the nutrition requirements of people with disability are recognised and that people with disability have access to services which will support their independence and social and economic participation. DAA supports the objects and principles of the National Disability Insurance Scheme (NDIS).

The Accredited Practising Dietitian (APD) program administered by DAA provides a public assurance of safety and quality to people with disability and the Australian public. APDs are the health professionals with the food and nutrition expertise to support people with disability directly to achieve their nutrition goals and aspirations, and to work with their family, other health professionals and support workers.

Key messages

DAA agrees with the objects and principles of the NDIS Act and acknowledges that the design of the legislative framework is intended to provide flexibility to develop and amend operational aspects of the NDIS.

Reasonable and necessary, access to supports

While flexibility is advantageous, DAA is concerned about the variation in interpretation of aspects of the NDIS Act and the NDIS Rules to the detriment of people with disability. This is particularly the case with interpretation of 'reasonable and necessary'. For example, some participants in trial sites are being denied access to dietetic services in their packages, or to sufficient dietetic hours to achieve their goals. DAA would argue that dietetic services for those participants are consistent with the disability or early intervention requirements.

DAA has received reports of the withdrawal of State government services ahead of the rollout of the NDIS which leaves people with disability with lack of certainty about access to services. In some cases neither health nor disability services are accepting responsibility for people with disability to access dietetic services. This and denial of some people with disability to access of nutrition services in NDIS packages leads DAA to conclude that at this point the access criteria are not enabling government to further the objects and principles of the NDIS Act.

While professional organisations have a role to play in supporting long term market development to meet the needs of people with disability, the National Disability Insurance Agency (NDIA) and government agencies need to do more to operationalise the NDIS Act to ensure that people with disability can access the services they need to do well in the short and long term.

Exercise choice

DAA supports people with disability exercising choice but has anecdotal evidence already that this is not being sufficiently implemented for NDIS participants. As outlined previously, more is needed to operationalise principles of the NDIS Act.

Registered providers of supports

The discussion paper states that ‘Under the Registered Providers of Supports Rules’ that ‘registered providers are not required to report to the NDIA on a periodic basis’ and ‘Under the NDIS Act, it is not intended that all providers will be registered with the NDIA.’ These provisions are not well understood. In the case of providers of Early Childhood Intervention, there are currently expectations of at least six reports across 12 months, which is onerous and detracts from the time allocated to care.

One DAA member was advised that they would not be able to register as a provider because they are located outside of a trial sites even though they are willing to travel to participants in the trial site. That member has since been able to register with the NDIA as a provider but they report that the process was difficult. If the NDIS Act and NDIS Rules remain, then clearer downstream operational policies and processes are needed regarding registration of providers and reporting by providers.

Nominee provisions for choice and control

The NDIS Act includes provision for nominees to make choices for the participant ‘in a manner that promotes the personal and social wellbeing of the participant.’ This provision is important for ‘major’ issues but DAA is concerned that more is needed to ensure ‘minor’ decisions in everyday living made by support workers or others balance duty of care of participants with other considerations. Such decisions sometimes come into play with food choices for example, where support workers may think it unkind to deny a food which is contrary to the nutrition priorities for a participant. If issues related to duty of care are not described in the NDIS Act, it might be addressed through the safety and quality framework, and through training of providers.