



## Submission to the NDIS Review

August 2023



**Jesuit  
Social Services**  
Building a Just Society

## Jesuit Social Services' submission to the NDIS Review

### Jesuit Social Services: Who we are and what we do

Jesuit Social Services is a social change organisation working to build a just society where all people can live to their full potential. For over 45 years, we have been working with some of the most disadvantaged and marginalised members of our communities, who often experience multiple and complex challenges. We work where the need is greatest and where we have the capacity, experience and skills to make the most difference. We deliver services across Victoria as well as in Western Sydney and the Northern Territory.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence people's lives and improve approaches to address long-term social challenges. We do this by working collaboratively with governments, business and the community sector to build coalitions and alliances around key issues and building strong relationships with key decision-makers and the community.

### How our work intersects with the NDIS

At Jesuit Social Services, we work with people who have complex needs, including mild to moderate intellectual or cognitive disabilities, psychosocial disabilities and acquired brain injuries (ABI). Our participants often experience a range of co-occurring and interrelated problems, including homelessness, mental illness, substance misuse, involvement with child protection and the justice systems, and experiences of trauma, including family violence. We also respond to the needs of specific population groups, including people with intellectual disabilities or an acquired brain injury (ABI), people in the youth and adult justice systems, and vulnerable young people, by offering individualised disability supports, services and accommodation.

Our NDIS-related programs include:

- **Perry House:** a specialist Forensic Disability Accommodation service providing 24-hour support for young people.
- **Specialist Support Coordination (Level 2&3):** a program in which we work actively with NDIS participants, their care teams, service providers, and support networks to achieve participants' personal goals, support them to understand and navigate the NDIS, increase their independence, and reduce barriers to accessing supports. Many of the people we support have complex needs and are working with other service providers, including justice, mental health and homelessness services.

## Introduction

Jesuit Social Services welcomes the opportunity to respond to the NDIS Review. We commend the Hon Bill Shorten MP for instigating the independent review seeking to put people with disability back at the centre of the NDIS.

The NDIS is currently so complex, inaccessible and specific in its requirements that many people do not get the support they need. In reality, this means that people needlessly experience social isolation, neglect, deteriorating health and other effects of the absence of care for disability. This must be addressed urgently.

Jesuit Social Services has witnessed first-hand some of the problems with the current NDIS service system. We have a decades-long history working alongside people with multiple, complex and intersecting needs. These are the people who experience the greatest difficulty in obtaining the support they need from the NDIS.<sup>1</sup> While we make comment and some recommendations that apply to the NDIS as a whole, this submission focuses on the experiences of people with multiple, complex and intersecting needs.

Our experience at Jesuit Social Services is that the NDIS is both too restrictive in its definition of disability and provision of support, and inadequate in collaboration with other mainstream services. Failing to collaborate with non-disability support services in areas such as housing and justice – whatever their source of funding – jeopardises the potential for disability support to be effective. This is both a waste of funding and, crucially, fails people who need support.

This submission discusses five problems with the current NDIS:

1. Narrow eligibility and inadequate service delivery provisions
2. Inaccessibility, severe complexity and poor communication
3. Inadequate funding and funding arrangements
4. Excessive wait times and low responsiveness
5. Inadequate safety standards and monitoring.

Each section discusses a problem, its effects, and a proposed solution in the form of a recommendation or recommendations.

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<sup>1</sup> Office of the Public Advocate (2018). The illusion of 'Choice and Control': the difficulties for people with complex and challenging support needs to obtain adequate supports under the NDIS. [Weblink](#).

## Our recommendations

We call on the Federal Government to implement the following recommendations.

1. Ensure the NDIS includes a specialised complex needs stream, including:
  - a. Specialised assessors who can work flexibly and in a timely way
  - b. A holistic, wrap-around, trauma-informed, flexible and individualised approach to participants at every stage of the process
  - c. Flexible mechanisms for communicating and collaborating with support services outside the NDIS.
2. Ensure accessibility to the NDIS for people in custody and people exiting custody.
3. Introduce data collection and reporting on applications for and provision of services under the NDIS, both in and outside custodial care.
4. Improve the accessibility of the NDIS, including by:
  - a. Reducing the complexity and volume of assessments, reviews and evidence required for demonstrating disability and required support, especially for people with multiple, complex and intersecting needs
  - b. Providing additional support where appropriate for navigating the NDIS and applying for funding
  - c. Improving the nature and frequency of communication with participants, including increased responsiveness, accountability and proactiveness by the NDIS and improved complaint-handling processes.
5. Improve the funding model of the NDIS, including:
  - a. Amending the fixed pricing structure for activities to ensure they align with sector standards
  - b. Providing funding to build highly skilled workforces capable of supporting participants with multiple, complex and intersecting needs, including provisions for supervision, professional development and other relevant inclusions
  - c. Increasing flexibility in funding to improve collaboration with other services, respond quickly to changes in circumstances, and improve the speed of funding provision.
6. Reintroduce the Exceptionally Complex Support Needs Program for professionals working with at-risk participants with multiple, complex and intersecting needs.
7. Reduce wait times for assessments and reviews so that the wait does not negatively affect participants.
8. Reduce wait times for service provision so that the wait does not negatively affect participants.
9. Introduce minimum safety standards and requirements for sole support providers, including safety screening for children and people with disabilities.
10. Monitor and regulate unregistered service providers and introduce minimum safety standards for service provision.

## 1. Narrow eligibility and inadequate service delivery provisions

### Narrow eligibility criteria

For decades, Jesuit Social Services has been accompanying people who have multiple, complex and intersecting needs,<sup>2</sup> including people who have an acquired brain injury (ABI), people with intellectual, cognitive or psychosocial disability, and people who have experiences of poverty, homelessness, family violence, substance or alcohol misuse, and the child protection or criminal justice systems. In 2018, the National Disability Insurance Agency (NDIA) stated that an estimated 10-15 per cent of NDIS participants may require complex supports.<sup>3</sup> This review of the NDIS presents an opportunity to ensure that people with complex needs get the support they need.

The rigidity of the current NDIS eligibility requirements means that people with complex needs often do not neatly meet the criteria of any single NDIS pathway. As a result, they often miss out on support from all of them.

The first contributing factor to this is the narrowness and specificity of the eligibility criteria of the NDIS.<sup>4</sup> For example, a person with a condition that possibly will not cause them *permanent* disability may not qualify for support under the NDIS, even if their needs in a given year are identical to those of someone who has a permanent disability and has qualified for NDIS support.<sup>5</sup> A person in this situation may not be eligible for support from other sources, either.

### Unrealistic requirements

The second contributing factor is the requirement that a need for support be fully and unambiguously attributable to disability. People who experience complex needs often have co-occurring needs and an overlap in symptoms or behaviours that may be linked to disability, trauma, abuse, psychosocial disability and alcohol and other substance misuse (and often may indeed be linked to more than one of these), and they may not be able to be linked directly to a particular cause as required by the NDIS.

For example, change of circumstance requests have been rejected by NDIS planners when the forensic needs outlined in the request are not considered to match the participant's support criteria. This results in redirection from the NDIS to a different state department (such as the justice system) despite the ongoing need for an NDIS plan (one supplemented by additional wraparound support). A person in this situation may lose their disability support as a result of this.

These problems affect people with complex needs, as well as their families, carers and communities. At times, they lead to deterioration in health and social engagement, homelessness, increased risk of offending and re-offending, and an inability to obtain bail or parole and exit detention.<sup>6</sup>

### Poor integration and collaboration with other service systems

In addition to failing to provide needed supports itself, the NDIS does not have adequate mechanisms for cooperating, or facilitating cooperation, with existing services outside the NDIS, such as homelessness and alcohol and other substance misuse services.<sup>7</sup> People with complex needs may have multiple supports across state and federal service systems. However, these services are often siloed,

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<sup>2</sup> Multiple, complex and intersecting needs will be referred to in short as complex needs from here.

<sup>3</sup> NDIS (2018). Improved NDIS planning for people with complex support needs. [Weblink.](#)

<sup>4</sup> Problems relating to the requirements about the language used to describe or diagnose disability are discussed below in section 2.

<sup>5</sup> NDIS (n.d.). Am I Eligible. [Weblink.](#)

<sup>6</sup> Victoria Legal Aid (2022). Explainer – National Disability Insurance Scheme and market failure. [Weblink.](#)

<sup>7</sup> DSC (2020). Exceptionally Complex Needs Support Program. [Weblink.](#)

and this can undermine the accessibility of any and all supports a person needs. In its report titled “What we have heard,” the NDIA identified the need for “a complete and joined up ecosystem of support” within and outside the NDIS.<sup>8</sup> This has not been achieved to date.

### **Historical and current NDIS provisions for people with complex needs**

In 2016, the NDIS published a practice guide which included details about ‘Intensive’ and ‘Super-Intensive’ streams. The guide stated that if a participant was involved in multiple jurisdictions due to complex needs – for example, justice, housing and health – they would be allocated by practitioners to the ‘Super-Intensive’ stream.<sup>9</sup>

In November 2018, the government announced the commencement of a new NDIS Complex Support Needs Pathway (CSNP) in response to sector recommendations in the 2017 NDIS Review.<sup>10</sup> The CSNP was designed for NDIS participants who experience additional challenges such as homelessness, involvement in the criminal justice system, and experience with the mental health system. This pathway was intended to provide participants with specialist support coordinators to assist and advocate for them.<sup>11</sup> Coordinators would have the necessary networks, skills and familiarity with government and community services for working collaboratively with and achieving the level and kind of multi-dimensional support required by participants.<sup>12</sup>

Jesuit Social Services contacted the NDIA to seek clarification about the status of the CSNP, and received a number of different responses regarding whether this pathway continues to run.

Regardless, the reality is that participants with complex needs are not being provided the support they need.

### **Recommendation**

1. Ensure the NDIS includes a specialised complex needs stream, including:
  - a. Specialised assessors who can work flexibly and in a timely way
  - b. A holistic, wrap-around, trauma-informed, flexible and individualised approach to participants at every stage of the process
  - c. Flexible mechanisms for communicating and collaborating with support services outside the NDIS.

### **Inaccessibility to people in prison with an acquired brain injury**

People with disabilities are significantly overrepresented in the criminal justice system, with a particularly high overrepresentation of people with an acquired brain injury (ABI) or an intellectual disability.<sup>13</sup> In 2011, 42 per cent of men and 33 per cent of women in Victorian prisons were estimated

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<sup>8</sup> Australian Government (2023). What we have heard - Moving from defining problems to designing solutions to build a better NDIS. NDIS Review. p. 8. [Weblink.](#)

<sup>9</sup> National Disability Insurance Agency (2016). Practice Guide – Intensive Super Intensive Participants: Guidance for Planners, LACs and delegates. [Weblink.](#)

<sup>10</sup> National Disability Insurance Scheme (2018). Improved NDIS planning for people with complex support needs. [Weblink.](#)

<sup>11</sup> Cohealth (2023). Exceptionally complex support needs program. [Weblink.](#)

<sup>12</sup> DSC (2020). Exceptionally Complex Needs Support Program. [Weblink.](#)

<sup>13</sup> Victorian Auditor-General’s Office (2023). Correctional Services for People with Intellectual Disability or an Acquired Brain Injury. [Weblink.](#)

to have an ABI, compared to the general population rate of around 2 per cent.<sup>14</sup> In 2023, the Victorian Auditor-General's Office (VAGO) reported that the Victorian Department of Justice and Community Safety does not know how many prisoners have an ABI or an intellectual disability, nor how many of these require specialised support.<sup>15</sup> There is also currently no data on the number of prisoners receiving NDIS support during and after their time in custody. This is particularly concerning given that the corrections system itself does not meet the needs of people with an intellectual disability or an ABI.

In 2018, Jesuit Social Services partnered with the Centre for Innovative Justice to produce the report 'Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury'. The findings of this report demonstrate the barriers faced by people with complex needs who are trying to access support from the NDIS. The report found that:

- Under the Individual Support Plan model, people with a mild ABI, or an ABI in combination with other needs, experienced barriers to accessing the NDIS.
- People with a mild ABI coupled with other complex needs, such as mental ill health or substance and alcohol misuse, were failing to qualify for assistance from the NDIS. This was because the NDIS did not consider the impacts of co-occurring needs in determining the level of support required where those needs did not themselves meet the definition of 'disability' under the NDIS Act (even if they increased the level of support needed for the ABI).
- Participants often failed to qualify for support if they could not distinguish between behaviours caused by their ABI and those caused by a co-occurring need.<sup>16</sup>

The report argued that people in prison should be able to apply for, access and continue to receive their NDIS support package on the same basis as those not in prison, and recommended that NDIS applications and package funding be fully integrated into post-release planning and support.<sup>17</sup> Additionally, the report recommended that funding be provided to assist people with an ABI and complex needs in prison to better access the NDIS. While some recent changes have been made on this front in Victorian prisons (see the next subsection below), the barriers to successfully accessing the NDIS for people in custody remain immense.

### **Inaccessibility to people in prison with disability**

Information regarding access to NDIS services for incarcerated people is convoluted and inconsistent. Many NDIS services are suspended while a person is in prison, despite the significant proportion of people in prison who have an ABI, intellectual disability, neurodiversity or other disability.<sup>18</sup> Victoria

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<sup>14</sup> Victorian Department of Justice (2011). Acquired Brain Injury in the Victorian Prison System. Corrections Research Paper Series Paper No. 04 April 2011. pp. 8-22. [Weblink.](#)

<sup>15</sup> Victorian Auditor-General's Office (2023).

<sup>16</sup> Centre for Innovative Justice & Jesuit Social Services (2018). [Weblink.](#)

<sup>17</sup> Ibid.

<sup>18</sup> Doyle, C., Dodd, S., Dickinson, H., Yates, S. & Buick, F. (2022). 'There's not just a gap, there's a chasm' The boundaries between Australian disability services and prisons. [Weblink.](#) and Victorian Department of Justice (2011). Acquired Brain Injury in the Victorian Prison System. Corrections Research Paper Series Paper No. 04 April 2011. pp. 8-22. [Weblink.](#)



Legal Aid has reported that people with a disability spend disproportionately long periods in custody.<sup>19</sup> Many people also report experiencing significant delays in the reinstatement of their NDIS packages upon release from prison. For those who enter prison without NDIS access, it can be particularly difficult to gather evidence, determine eligibility and create a plan for NDIS entry while incarcerated. A 2022 report found that even mainstream NDIS service delivery is only possible in prisons if staff and individual advocates are particularly persistent, or if multiple factors align to facilitate a specific outcome.<sup>20</sup> These challenges relate to NDIS services broadly; for people with complex needs, gaining access to support from the NDIS in prison becomes more difficult accordingly. Unfortunately, there is little data on this.

Some support services have been established in recent years in Victoria, such as the Disability and Complex Needs Services trial at Dame Phyllis Frost Centre (a maximum-security women's prison in Melbourne), which commenced in 2020 to support women in prison with complex needs and/or disabilities in accessing supports or therapies and in applying for the NDIS. The trial is currently scheduled to continue until June 2024. The Prison Disability Support Initiative in Victorian prisons commenced as a trial in 2021 and is currently running until 2026. The program seeks to assist people in Victorian prisons access NDIS support packages. However, the Victorian Auditor-General's Office found that due to high demand and insufficient places available, many people exit prison before they can access the programs.<sup>21</sup>

These trials are a positive start. However, additional funding, resourcing and a widespread rollout are required to enable the NDIS to address the needs of people with complex needs in prison.

Overall, people with a disability in prison currently do not receive the support they require; may be incarcerated for longer as a result of lack of clarity about responsibility for support provision; may have the reinstatement of their support delayed once they exit prison; may suffer worsening disability while in prison, and generally worse health and wellbeing outcomes;<sup>22</sup> may experience increased marginalisation; and may as a result be more likely to reoffend.<sup>23</sup>

There is no justification for denying a person disability care due to their incarceration.

### **Case study: Charlie\***

Charlie has a range of needs requiring specialist service support, with disabilities including cognitive impairment and psychosocial disability, as well as drug and alcohol misuse, and involvement with the justice system. After spending ten weeks in prison, Charlie came to a Jesuit Social Services' residential-based living skills program. When he was released from custody, Charlie was expected to navigate a complex system that he had no prior knowledge of in order to secure an appropriate NDIS plan to fund services, including Home and Living supports and specialist assessments. The complexity of this process and the significant wait times involved left him without the necessary supports to adequately address the challenges he faces, including his offending behaviour.

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<sup>19</sup> Victoria Legal Aid (2021). People falling through the cracks between the NDIS and mainstream services. [Weblink](#).

<sup>20</sup> Doyle, C., Dodd, S., Dickinson, H., Yates, S. & Buick, F. (2022). Where specialist and mainstream service systems collide: The National Disability Insurance Scheme in prisons. *Australian Journal of Public Administration*, 81(4), pp. 611-628. [Weblink](#).

<sup>21</sup> Victorian Auditor-General's Office (2023).

<sup>22</sup> Yates, S., Dodd, S., Doyle, C., Buik., & Dickinson H. (2022).

<sup>23</sup> Centre for Innovative Justice, Jesuit Social Services (2018). [Weblink](#).



*\*Participant name has been changed to protect privacy.*

## **Recommendations**

2. Ensure accessibility to the NDIS for people in custody and people exiting custody.
3. Introduce data collection and reporting on applications for and provision of services under the NDIS, both in and outside custodial care.

### **2. Inaccessibility, severe complexity and poor communication**

#### **Case study: Kevin and Richie\***

Kevin and Richie are both participants residing in our Specialist Forensic Disability Accommodation, Perry House. Kevin and Richie present with similar challenges and vulnerabilities, including involvement with the justice system. Our team at Jesuit Social Services supported both Kevin and Richie with individual funding applications to the NDIS for assessment, presenting the same type of evidence for both. However, while Kevin's application was accepted, Richie's was rejected. The reason provided by the NDIS for rejecting Richie's application was that the supports requested for Richie relate to his justice system involvement, and not to his disability.

*\*Participant names have been changed to protect privacy*

#### **Inconsistency in decision-making**

Decision-making by NDIS assessors is often inconsistent, both between different participants and across the duration of a single person's contact with the NDIS. Kevin's and Richie's experiences with the NDIS in the case study above are representative of a common experience among participants.

This is in part attributable to the lack of continuity of staff in decision-making processes, which, coupled with inadequate specialisation in the context of people with complex needs (discussed in section 1 above), leads to variable outcomes on decisions regarding service provision. Consistency and quality of decision-making and resulting support vary with individual assessors and support coordinators, spanning initial support provision, reviews and appeals.

There appears to be an absence of clear and consistent criteria or guidance on what the NDIS will fund and under what circumstances. This is exacerbated by an apparent absence of internal communication within the NDIS.

In addition to increased stress, instability and the inability to make adequate plans for long-term care, this can lead to a deterioration in health outcomes for participants.

#### **Inconsistency of advice**

In addition to inconsistent decision-making, participants and others often receive conflicting advice from the NDIS. That it is unclear whether a CSNP stream currently exists (as noted in section 1 above), and that the NDIS itself provides conflicting advice on this, is a case in point. This compounds the problem of inconsistent decision-making described above.

#### **Excessive self-advocacy requirements**

The current NDIS model aims to empower participants by enabling them to make decisions about the services they need. This is important and effective when it is applied in appropriate circumstances. However, as discussed above, the NDIS is extremely complex, to the extent that at times even professionals (such as doctors and specialised business managers) find it onerous and fail to navigate it successfully. Requiring participants to self-advocate and organise their own support

services is unacceptable in these circumstances. Participants should be the decision-makers regarding their own lives; but they should not be required to navigate complex bureaucracies in order to do this.

The impenetrability of the process is compounded for people experiencing complex needs. Often, a person with complex needs, such as someone with cognitive impairment or mental health concerns, may lack the capacity to self-advocate in the way required, to the extent required, or to devote the time required to successfully navigate the NDIS system. If they are from a culturally or linguistically diverse background, they may lack the language skills or understanding of systems and processes to do so.

Participants may need support from carers, family or a support network to successfully navigate the NDIS. However, they may not have a reliable support system to support them through the process, and may have fractured family relationships. Family members, caregivers and guardians do not always make decisions or act in the best interests of the care recipient in relation to NDIS funding and services. This model of 'needing support to access support' creates a further barrier to accessing needed services.

Participants may also lack the requisite documentation – for example, if they are experiencing homelessness – and may experience added barriers to participation in the NDIS if they are incarcerated (see section 1 above).

### **Excessive evidence-gathering requirements**

The evidence-gathering process is also very lengthy, time consuming and challenging. This includes evidence-gathering for an initial NDIS assessment, for a change of circumstances review and an end of plan review. In our experience, by the time sufficient evidence is gathered and the assessment or review is processed, the time of the NDIS plan is often nearing its end. The amount of evidence required is significant and the language and terminology the NDIS requires to demonstrate a disability, support needs or set goals is specific and inflexible.

Participants often do not understand or are unable to produce the specific evidence required by the NDIS to prove a disability, and may be unaware of what they are entitled to.<sup>24</sup> Service providers and allied health professionals, too, are often uncertain about the precise evidence requirements, which in turn can in fact be inconsistent.<sup>25</sup> Further, people with life-long disability are required to prove this repeatedly at regular intervals.<sup>26</sup>

This acts as a significant barrier for people with complex needs obtaining the support they need.

### **Deficit focus**

The way in which NDIS assessments are conducted, and its deficit focus – emphasising the worst form a person's disability can take – can significantly affect people's mental health and self-esteem, and can be experienced as dehumanising and eroding of their dignity. Some of our participants, who

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<sup>24</sup> Carey, G., Malbon, E., & Blackwell, J. (2021). Administering inequality? The National Disability Insurance Scheme and administrative burdens on individuals, *Australian Journal of Public Administration*, 80(4), pp. 854-872. DOI: 10.1111/1467-8500.12508. [Weblink.](#) and Yates, S., Carey, E & Hargrave. (2021). 'Faceless monster, secret society': Women's experiences navigating the administrative burden of Australia's National Disability Insurance Scheme, *Health and Social Care in the Community*, 30(5), pp. 2308-2317. DOI: 10.1111/hsc.13669

<sup>25</sup> Australian Government (2023). Report: What we have heard - Moving from defining problems to designing solutions to build a better NDIS. NDIS Review. p. 10. [Weblink.](#)

<sup>26</sup> NDIS (2022). Reporting and participant plan reviews. [Weblink.](#); NDIS (2022). Plan duration guidance. [Weblink.](#)

may be eligible for NDIS support and would benefit from it, choose not to engage with the process as it appears traumatising, difficult and long.<sup>27</sup>

## **Recommendation**

4. Improve the accessibility of the NDIS, including by:
  - a. Reducing the complexity and volume of assessments, reviews and evidence required for demonstrating disability and required support, especially for people with multiple, complex and intersecting needs
  - b. Providing additional support where appropriate for navigating the NDIS and applying for funding
  - c. Improving the nature and frequency of communication with participants, including increased responsiveness, accountability and proactiveness by the NDIS and improved complaint-handling processes.

### **3. Inadequate funding and funding arrangements**

#### **Inadequate funding**

The existing NDIS pricing structure does not cover the cost of the highly qualified and skilled workforce and infrastructure required to effectively support the diverse range of participants that engage in the NDIS.

As previously mentioned, a significant proportion of NDIS participants have complex needs. It is therefore essential that the funding is accordingly flexible and enables staff to receive commensurate training and ongoing professional development, and to be appropriately remunerated. In the absence of this, Jesuit Social Services has observed a decline in care quality, high staff turnover and, in some instances, NDIS programs closing their doors. The resulting inconsistency and instability of support for people already experiencing vulnerability is deeply concerning.

One way in which this could be addressed is through reinstating funding for the Exceptionally Complex Support Needs Program. Launched by the NDIA in 2020, the Program provided support and resources to support coordinators, disability service providers and mainstream services who were working with at-risk NDIS participants with complex support needs.<sup>28</sup> While the Program was found to enable greater collaboration across local systems to address complex needs, as of October 2021 it was no longer operational due to a lack of ongoing funding.<sup>29</sup>

In addition to its insufficient pricing structure, the market-based model that underpins the NDIS is threatening the financial viability of services and their capacity to provide complex and relational support. The complex life circumstances experienced by many people with disability who face a number of intersecting challenges can lead to difficulties in engaging with services. It can therefore take time to establish relationships of trust and safety. However, in the fee-for-service model that underpins the NDIS, inconsistent participant engagement results in a reduction of income for services and therefore threatens service viability. While a fee-for-service pricing model is

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<sup>27</sup> Australian Government (2023). Report: What we have heard - Moving from defining problems to designing solutions to build a better NDIS. NDIS Review. p. 6. [Weblink.](#)

<sup>28</sup> McKenzie, K. & Smith-Merry, J. (2023). Responding to Complexity in the Context of the National Disability Insurance Scheme. [Weblink.](#)

<sup>29</sup> DSC (2020). Exceptionally Complex Needs Support Program. [Weblink.](#)

appropriate for some kinds of service provision, it is insufficient on its own for organisations providing ongoing specialised support that requires higher and more stable funding.

Services like ours which provide ongoing, specialised support from highly trained staff for participants with specific needs require funding that covers not just a base hourly fee, but also associated organisational costs (such as overheads including rent, coordination and administration), transport, training and additional management and other staff. This can substantially increase the costs associated with service provision. It is not consistent with the current funding provisions by the NDIS.

### **Inflexible funding**

On an individual level, NDIS plans tend to be inflexible. As one example, when funding is not used in a plan, it does not roll over to the next funding review. Consideration may in that instance not be given to whether the participant still needs that amount. This can also create pressure and inappropriate incentives to spend or plan funding use based not on a person's support needs but on the likely funding outcomes and timeframes.

### **Damaging carer funding incentives**

The NDIS funding structure creates incentives or pressures on care workers to choose less specialised, lower-complexity work over support work for people with complex needs. This occurs for a number of reasons. One of these is that the hourly rate offered by NDIS tends to be lower. For example, the difference in hourly rate between the NDIS basic rate of DSW1 (Disability Support Worker Level 1), at \$34.22, and Jesuit Social Services' basic rate of CW12 (Case Worker level 12), 41.52, is approximately \$7, or roughly 20% lower.<sup>30</sup> Lower wages disincentivise care workers from engaging in more complex, difficult work, and work that requires higher and more specialised training.

Secondly, the NDIS funding model does not tend to include provisions for training or specialisation. This naturally creates a barrier and disincentive to care workers from seeking further specialisation or training.

This has led to a shortage in appropriately trained staff to work with people with complex needs. It has also created a shortage in a diversity of staff, such as in the number of care workers who can support people from culturally and linguistically diverse (CALD) backgrounds.

### **Challenges to funding Perry House**

For a number of years, our Specialist Forensic Disability Accommodation for young men aged 17-25, Perry House, has been block-funded by the Victorian Department of Family, Fairness and Housing (DFFH). Perry House supports participants who have involvement in the justice system in addition to experiencing neurodiversity or having a diagnosed mild or moderate intellectual disability. These young people have often also experienced grief, trauma and abuse, and at times this can manifest in developmental delays, including of emotional management and coping skills. They require specialist, trauma-informed support that assists them to work on these and other skills.

The level of block funding received for Perry House over the past 10 years has not increased to match the rising operational and service costs, and this has put the service at risk. More recently, Jesuit Social Services has experienced a number of challenges with the move to the NDIS and the transition to a blended funding model for Perry House. The experiences and unique challenges that

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<sup>30</sup> Based on 2020 figures. Funding has not substantially changed since.

people with complex needs face, including our participants at Perry House, do not necessarily align neatly with NDIS criteria, and the NDIS does not cater for each of these unique needs. As a result, obtaining NDIS funding for Perry House has become complex and tenuous. Jesuit Social Services has not yet been able to successfully claim any NDIS funding. The Victorian Government has appointed a consultancy agency to review the funding model for Specialist Forensic Disability Accommodation. Perry House is the only program of its type for young people in the state.

Jesuit Social Services has self-funded an NDIS Business Manager to manage the transition process and to plan for financial viability under the NDIS. However, even with a designated Business Manager, we have yet to successfully fund services delivered at Perry House under the NDIS.

Participants who arrive at Perry House with an existing NDIS plan do not have provisions under the NDIS for the kind of service provision Perry House provides. The lengthy and complex nature of change of circumstance and review processes compound this.

## Recommendations

5. Improve the funding model of the NDIS, including:
  - a. Amending the fixed pricing structure for activities to ensure they align with sector standards
  - b. Providing funding to build highly skilled workforces capable of supporting participants with multiple, complex and intersecting needs, including provisions for supervision, professional development and other relevant inclusions
  - c. Increasing flexibility in funding to improve collaboration with other services, respond quickly to changes in circumstances, and improve the speed of funding provision.
6. Reintroduce the Exceptionally Complex Support Needs Program for professionals working with at-risk participants with multiple, complex and intersecting needs.

### 4. Excessive wait times and low responsiveness

The Disability Royal Commission's Interim Report, released in 2020, found that many participants felt they had been let down by the NDIS. Participants reported that it was intimidating, difficult to navigate and involved long wait times.<sup>31</sup> These challenges were echoed in the NDIS Review report in June 2023.<sup>32</sup> For organisations, too, the NDIS process is long, bureaucratic and difficult to navigate.

Currently, each step in the NDIS process may take several months. Even in metropolitan areas, the wait time for an allied health assessment may take up to 12 months, as can evidence-gathering for an application. The initial assessment can itself take a number of months, and accessing funding and service, even once approved, can also take a number of months. If additional funding for support is required, the change of circumstances review takes a number of months as well.

Jesuit Social Services has observed significant wait times in particular for specialised services and behavioural supports, and particularly for participants in regional and rural areas.

### Wait times for incarcerated participants

People with disability in prison experience particularly lengthy wait times for NDIS support. The Victorian criminal justice system is an example of this. As discussed above, there is no available data

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<sup>31</sup> Commonwealth of Australia (2020). Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Interim Report. Canberra. [Weblink](#).

<sup>32</sup> Australian Government (2023). NDIS Review: What we have heard. Moving from defining problems to designing solutions to build a better NDIS. [Weblink](#).

on the number of people with a disability currently in prison. Of those who *have* been identified to have a disability and need support, as of 31<sup>st</sup> March 2023 there were 151 people in Victoria’s Prison Disability Support Initiative (DPSI) stream<sup>33</sup> who are on the waitlist to receive disability support, including through the NDIS.<sup>34</sup>

The independent report by VAGO found that the needs of people with disability in prison to access these programs is greater than what can be provided, and people with disability in prisons are therefore unable to access disability services, including the NDIS.<sup>35</sup> This extends to people with disability who are exiting prison and urgently need funding – for example, for transitional support. This effectively sets people up to fail upon exiting prison.

## Recommendations

7. Reduce wait times for assessments and reviews so that the wait does not negatively affect participants.
8. Reduce wait times for service provision so that the wait does not negatively affect participants.

### 5. Inadequate safety standards and monitoring

Private and unregistered service providers, including sole operators and for-profit providers, are currently not regulated. There are no minimum requirements, pre-training requirements, safety screening checks (such as a Working with Children Check or vulnerable-person-related employment check<sup>36</sup>) or police checks for working with people with disabilities, including children and young people. This poses a significant safety risk to people with disability, whether this be of acts of harm (including concerns of child safety), negligence or inadequate care.

The lack of regulation leaves a gap for providers to exploit and to profit from people who are already vulnerable, at risk and often unable to self-advocate. People with disability, including children and young people, constitute one of the most vulnerable cohorts in society, and experience some of the highest rates of abuse. Ensuring there are adequate safeguards in place is crucial.

Implementing minimum safety screening requirements and monitoring is urgently needed for all service providers.

## Recommendations

9. Introduce minimum safety standards and requirements, including safety screening for children and people with disabilities.
10. Monitor and regulate unregistered service providers and introduce minimum safety standards for service provision.

For further information, contact:

**Julie Edwards, CEO, Jesuit Social Services**

T: 03 9421 7600

E: [julie.edwards@jss.org.au](mailto:julie.edwards@jss.org.au)

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<sup>33</sup> DPSI is a service stream run in all prisons in Victoria for people with disabilities. See [VAGO’s report](#) for further information. p. 6.

<sup>34</sup> Victorian Auditor General’s Office (VAGO). (2023). Correctional Services for People with Intellectual Disability or an Acquired Brain Injury. Independent assurance report to Parliament 2022–23:22. p. 25. [Weblink](#).

<sup>35</sup> Ibid.

<sup>36</sup> This example is based on individual states and territory screening tools, including the South Australian ‘vulnerable-person related employment check’. [Weblink](#).