



National Disability Award winner, Human Rights Commission Award winner

## **Transcript**

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# **Department of Social Services NDIS Reform: Legislation Webinar Getting the NDIS Back on Track Bill Information Session**

**11 April 2024**

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## Transcript

**SARA WHALE:** My name is Sara and I'm so pleased to be facilitating today's information webinar. Firstly, I would like to welcome around 185 people so far who have joined us online today. Thank you and welcome.

Today is a chance for all of us to hear directly from the Department of Social Services about the Getting the NDIS Back on Track Bill, recently introduced into Parliament. The session today is not a political forum, nor is it co-design. It's an opportunity to share information with people with disabilities and their families as well as the broader disability community. You will have the opportunity in the future to participate in a range of engagement activities that will support the broader NDIS reform over a longer period of time.

In a short moment today, I will introduce you to today's speakers. Before we start, I would like to acknowledge the traditional custodians of the lands on which we all meet today and recognise their continuing connections to land, water, culture, and community. I pay my respects to Elders past, present and emerging and extend that respect to all Aboriginal and Torres Strait Islander people who are joining us here today.

I also want to acknowledge the disability community, who over recent years have shared your experiences and input into the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Independent Review of the National Disability Insurance Scheme. This has been a long and sometimes painful process of sharing your experiences and we still have a long way to go to implement reform. Thank you for sharing. We are listening and we want to continue to work with you in a way that works for you. The purpose of today is to provide you with information about the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No.1) Bill, which was tabled into Parliament on 27 March this year.

So, we have a few people joining me here today. I would like to welcome the Co-Chair of the Independent Review into the NDIS, Professor Bruce Bonyhady. Bruce is also the father of two young men on the NDIS and joining Bruce today, are officials from the Department of Social Services, James MacIsaac and Julie Yeend.

Over the next 60 minutes, we will share information with you on the NDIS Act, but, more importantly, you will have the opportunity to ask your questions. I know many of you joining us here today have also participated in the NDIS

## Transcript

Review and the subsequent Town Hall events. Like then, it is really important that we understand how you are feeling about that first step of change introduced into Parliament and, critically, that you have the chance to ask your questions.

So for the next hour, we will go through the core elements of the Bill introduced. You will have the chance to ask some questions and let us know what you think, and at different points in the discussion, we will ask you for your feedback. Whilst I understand that the Bill has only just recently been introduced, many of you here today may not yet have had the opportunity to look at it in detail. I know there is a lot of information to digest and a lot of questions that you may already have.

I do want to ask you all today to make sure that we have a constructive and respectful conversation. You can ask your questions today in the forum by using the QR code which will be displayed on the screen now or you can go to [www.menti.com](http://www.menti.com) and enter the passcode displayed on the screen now: 3114 2413. We will post this a few times throughout the session to make it easy for you to access.

But right now, just a couple of warm-up questions to get you started for our records. How much do you know about the NDIS Bill introduced and how do you feel about the NDIS Bill changes? For each of these questions, I'd like to ask you to use a sliding scale. We will come back to these questions at the end of the discussion today and see whether or not the numbers have moved. So while you do that, I'm going to ask Bruce: can you share a little bit with us today about how we got here and why it is so important?

**BRUCE BONYHADY:** Thanks so much, Sara, and can I just say how delighted I am to be able to be here as part of this very important webinar. The NDIS Review was commissioned by all Disability Ministers and commenced on 22 October 2022. We provided our final report to all governments in October last year and the report was published in December. In total, the report contains 26 recommendations and 139 actions in response to our Terms of Reference, which required us to do three essential things. First of all, to put people with disability and their families back at the centre of the NDIS; second, to restore trust and confidence in the Scheme, both amongst the disability community and the wider Australian public; and, thirdly, to ensure that the Scheme is sustainable so it's there for future generations.

## Transcript

From the very beginning of the Review, we realised that we needed to do things differently. We did not want to just issue a discussion paper and seek submissions. We really wanted to engage deeply with people with disability and their families because we realised that without that engagement, we would not have the information we needed to reform the NDIS and to ensure that it meets the needs of people with disability and their family.

So we engaged with people with disability and their families in many different ways. There was a survey on our website. There were opportunities to write submissions, to participate in workshops and the submissions could be in written form. They could be taken over the phone or, in some cases, people wrote poetry or submitted artworks. We wanted to hear from people in a way that mattered and was most relevant to them.

In the end, we received nearly 4,000 submissions, which is more than three times the number of submissions the Productivity Commission received in 2010 and 2011 when they did their groundbreaking inquiry which led to the NDIS. That was a record for a Productivity Commission inquiry at the time. So more than three times that number gives you some sense of the extraordinary level of engagement that we managed to achieve. In total, we talked to more than 10,000 people. We averaged 26 engagements every month.

In addition to that, we also worked with a small group of people with disability from representative organisations to work together and engage deeply on some of our recommendations, particularly in relation to the planning process. I also gave a number of speeches during the course of the Review because we wanted to make sure that people were aware of where we were going and had an opportunity to give us feedback and so there would not be any major surprises in the final report.

We also engaged disability representative organisations to reach out directly to their members and, in that way, we were able to hear from people that you normally do not hear from in a Review of this type. So we heard directly from people with intellectual disability, from people in the criminal justice system and people in boarding houses.

The reality is that we could not have done this Review without this extraordinary engagement and we're immensely thankful to the disability

## Transcript

community for your engagement but also, equally importantly, for the trust and confidence you placed in us to accurately reflect what you think needs to change in order to ensure that the NDIS reaches its full potential.

It won't come as a surprise to any of you on this call that the number one issue on which we received feedback was the planning process. The best we heard about it was that it was 'inconsistent' and 'stressful'. The worst we heard was that it was 'inhumane' and 'traumatising'. So many of our recommendations go to the core issue of how should this planning process change so that it is more personal and is also fairer.

The Review makes a number of recommendations into changes in what we call the 'participant pathway', but essentially the changes are that we need to break it up into its key components and then make sure that people with disability and their families get the support they need at each stage of the process.

The first step is obviously setting the access criteria, the eligibility criteria, for the NDIS. Since the Scheme began, there has been a focus on medical diagnosis. That was never the intention of the Scheme. The Scheme was always designed to support people with the most significant functional impairments. So what we want to see is a return to that original vision and then a simple and straightforward application form that enables people to readily put all of their information into that form and, where there is a need for additional reports that people might need in order to ascertain whether they're eligible for the Scheme, the NDIA should commission and pay for those reports, because one of the unfair aspects of the NDIS today is that some people are able to pay for those reports while many, many participants and potential participants are unable to do that. Once you're in the Scheme, we want there to be a better, more structured way to collect information about you, and that can come from you or from your family or from your supporting practitioners.

So we are recommending an assessment process that is going to be based on support needs. The reason that we wanted to focus on support needs is because that is the best and fairest way to make sure that people who are in the Scheme get the right budget. It needs to be a comprehensive process. It needs to be undertaken by a really well-trained needs assessor and they need to have enough time to meet with the person and collect the necessary

## Transcript

information. Ideally, they should meet with the person in the environment where they live because those environmental factors can have a major impact on what is a reasonable and necessary support. Finally, what we've recommended is that it is that person who has collected the information, the needs assessor, who in most cases will be the decision maker and will be able to tell the participant exactly what they're going to be receiving as part of the budget.

Then once people have their budget, apart from a couple of what are called 'stated items', these are large, discrete items such as high-cost assistive technology, home modifications and eligibility for specialist disability accommodation. Apart from those items, we want the budget to be fully flexible so that people have got much more opportunity to use the budget in the ways that best meets their individual needs. So no more line-by-line planning and ending up with a plan which has got the wrong line items in it. We want the budget assessed at the whole-person level and then give people as much flexibility as possible in order to implement that budget.

In order to give effect to these recommendations, there is a need to change the NDIS Act, and the changes that have been introduced into the Parliament on 27 March are entirely consistent with the recommendations from our Review. So what we have in this legislation is an enabling structure to make sure that the recommendations from our Review can now be implemented with these necessary legislative changes.

I really want to also say that I deeply understand that people with disability and their families are worried by change, are worried by any change, and so these changes, I know, are causing stress and uncertainty for people. But, I also want to reassure you that these changes are absolutely essential if we're going to get an NDIS that is fair, that is transparent and that is sustainable because today the NDIS is not fair and it's not transparent.

Specifically, the legislation provides for access to be based on functional assessments rather than on medical diagnosis. It provides a strengthened pathway, early intervention pathway, to improve outcomes. Budgets will now be based on reasonable and necessary supports at the whole-person level rather than on a line-by-line basis. There's going to be a clear and transparent process for setting budgets so they're consistent and fair. Today we have a situation where people with exactly the same needs get very different budgets.

## Transcript

Budgets will then be flexible apart from those stated items I mentioned earlier. There'll be a trust-based approach to plan management but with clear powers for the Agency to step in and help guide participants if they're not able to manage the budget themselves.

There's also a capacity for new rules within the legislation, and these are particularly important because it means that decisions that have been made at the operating level will now be clear and transparent through those rules. Then, finally, there's some commonsense changes designed to improve the integrity of the Scheme and improve safeguards. Thanks so much, Sara. Back to you.

**SARA WHALE:** Thank you, Bruce. It's really important to understand how we got here, and we are here today to talk about the changes to the NDIS Act that will be made by this Bill and we'll talk a little bit more about those changes in more detail shortly. However, I'm sure that you are here to try to get a better understanding of what impact these changes will have on you as an individual, as a family or as part of an organisation that provides support to people with disability.

So before we do talk about the changes themselves, I would like to hand over to Julie, who will explain in general terms the changes made by the Bill and how they will impact on the way decisions are made by the things that matter most to you. So welcome, Julie.

**JULIE YEEND:** Thanks very much, Sara. As some of you may know, the NDIS Act is not the only thing that governs how decisions are made about matters relating to the NDIS, such as access and planning. There are also a large number of legislative instruments generally known as NDIS Rules, as well as the NDIA's published Operational Guidelines and CEO Directions. So, decision makers have to follow all of these in order of importance. So the Act is the most important, followed by legislative instruments, or Rules, and then the Operational Guidelines and CEO Directions. At the moment, the NDIA Act is not very detailed. Some of that missing detail is in legislative instruments but a lot of the missing detail is included in the Operational Guidelines and CEO Directions. The structure means that the law is not very detailed, which leaves a lot up to the individual decision maker, and this has partly contributed to the inconsistent decisions being made and unfair outcomes for lots of people.

## Transcript

So one of the biggest reforms recommended by the Review, which is a key part of the changes made by the Bill, was to move this missing detail out of NDIA guidance documents and to put it in the NDIS Act or legislative instruments. This will mean that decision makers are all reading from the same playbook and important decisions that will impact on the people with disability won't be different, depending on who happens to make the decision. You'll have much more certainty about how decisions will be made, about important things like access to the NDIS and what goes into your plan.

Having this detail in the Act and legislative instruments means it will be overseen by Parliament and can't be easily changed once it becomes a law. This is an important step in ensuring certainty for people with disability now and into the future. So the NDIS Review, as Bruce has said, was focused on deep engagement with the disability community, and the Government is committed to continuing that process while the future of the NDIS is developed.

A lot of the changes that are proposed by this Bill are going to need new rules to be made. The changes just simply won't be able to operate without them. We did this deliberately so that we would have time and opportunity to engage with the disability community, along with State and Territory Governments, about how the NDIS should operate in the future. We want to make sure that we take the time to get this right, and your input will be crucial to that process.

When each Rule, or legislative instrument, is made and tabled in the Parliament, it will have an Explanatory Statement outlining all of the changes and why they are necessary, just like the Explanatory Memorandum that explains the Bill. A number of other changes made by the Bill are moving the NDIA's Operational Guidelines into the Act. This is an important step in making sure all people with disability are receiving fair and consistent decisions about the things that matter most.

You may have read in the NDIS Review report the quote "A human right which cannot be sustained is a human right denied". In recognition of this, it's important that the Bill includes some changes that support the long-term sustainability of the Scheme so that it can continue to support Australians with disability for as long as they need it. These changes are all intended to bring the NDIS in line with its original intention, to support Australians with a

## Transcript

significant and lifelong disability as part of a broader ecosystem of supports available. Thanks, Sara.

**SARA WHALE:** Thank you, Julie, and to Bruce, for providing that very important context upfront for us. So now we're going to hear more about the amendments. James, are you able to share with those online today more about these amendments to the Bill?

**JAMES MACISAAC:** Thanks, Sara. Yes, there's a few areas I wanted to touch on today that are all outlined in the Explanatory Memorandum, as Julie has just outlined. The first goes to the areas of access. If passed, the Act will now require the NDIA to tell participants whether they have accessed the Scheme by meeting either the disability requirements or the early intervention requirements or both. This is a small change but it is an important way of making sure people get the supports that are best suited to their needs.

The only immediate change that a participant will see is that the access decision will state what requirements you have been assessed as meeting, providing more transparency and clarity for new participants. Longer term, though, it will facilitate the new early intervention pathway. It is important to note that the new early intervention pathway cannot be established until new NDIS Rules, as Julie has just outlined, are agreed by all States and Territories and have been made. Until then, this change will have no substantive impact.

The Bill also expands the types of NDIS Rules that can be made in relation to the access provisions. This is another important step in setting out a more transparent decision-making framework. The new Rules will set out in more detail what needs to be considered when someone makes a request to access the Scheme and make it clearer what things like 'permanent' or 'substantially reduced functional capacity' mean. The Rules will also identify the kinds of supports that are early intervention supports funded by the NDIS, again to make it clearer when a person meets the early intervention access criteria. Having this level of detail in the Rules will make sure prospective participants have a clearer understanding of the criteria they need to satisfy to become a participant in the Scheme.

The next set of changes go to the new planning framework which follow on again from some of the recommendations of the Review that Bruce outlined earlier. Critically, the Act will include a new approach to planning that is

## Transcript

centred around participants receiving a reasonable and necessary budget, no longer a line-by-line budget, as Bruce talked about earlier. For example, if you are an NDIS participant, your reasonable and necessary budget will include a flexible budget which will replace most of what is in your current plan with a single budget you can choose to spend on the supports that best meet your needs. There will also be stated supports, where your funding must be spent on certain supports, such as home and living, home modifications or major assistive technology. The reason that these will be stated supports is that they are generally quote based or high cost and will not change over the course of the plan and are critical to a participant.

NDIS Rules again, to be agreed by all States and Territories and the Commonwealth will set out what kinds of supports will be stated supports. Participants will receive funding based on whether they accessed the Scheme on the basis of impairments that meet the disability requirements or the early intervention requirements or both. This will ensure individuals who are likely to benefit from early intervention receive targeted early intervention supports, with regular check-ins by the NDIA, or people whose needs are stable will continue to receive the level of support they require until there is a reason to reassess their circumstances and level of funding.

The Act will set up a comprehensive needs assessment process which will be used to assess a participant's need for supports and calculate their reasonable and necessary budget, including any stated supports. The actual needs assessment will be included in a legislative instrument to be determined by the Minister which will be developed over coming years with input from many different experts and deep engagement with the disability community.

If you are an NDIS participant, you will participate in an assessment which will take account of a range of factors, including the impairment for which you were granted access to the NDIS and any environmental factors such as where you live or your informal supports. You will be able to provide the assessor with any information you have that you think is relevant to your support needs and they will take this into account.

The person completing the needs assessment will have appropriate training and qualifications in how to complete the assessment. They will be focused on understanding you and what kinds of supports the participant is likely to need.

## Transcript

The needs assessor can also ask for additional information if they feel that they do not have sufficient information to understand your needs.

Once the needs assessment has been completed, a needs assessment report will be used by the planner to calculate a total budget. The method for calculating your budget will be included again in a legislative instrument. If a participant identifies that the amount in their reasonable and necessary budget does not meet their needs or the assessment report does not accurately reflect the needs and circumstances, they can, of course, request that a new needs assessment be conducted as part of the review application process. This doesn't mean, of course, that the entire assessment will need to be completed again but this will depend on the information provided by the participant seeking review. If the updated assessment identifies different support needs, then this may mean that the reasonable and necessary budget is changed.

Under the new planning framework, if a participant is not satisfied with any aspect of their Statement of Participant Supports, including the support needs assessment, they will only need to make one review application. This avoids the situation of a participant needing to make multiple applications for review of different aspects of their plan, as it will all be considered under one review application. The same principle will apply for internal review in the NDIA and external review by the AAT or its replacement. Back to you, Sara.

**SARA WHALE:** This is really great to hear, James, and thank you. As you mentioned, it does tie in really well with what Bruce mentioned earlier about what was important to people with disability, in particular NDIS participants through the NDIS Review, was about how they access the Scheme and the planning process, in particular how their budgets are managed. So I'm really pleased to hear that this is one of the key amendments to the Bill that's being proposed. So what else is in the amendments that we do need to share with everybody joining us online today?

**JAMES MACISAAC:** Thanks, Sara. There's a few other areas I want to cover very briefly. One is the area of NDIS supports. The Bill inserts a new concept of NDIS supports into the Act. This has two parts to it but the most important part of this definition is that it is specific to an individual participant. Of course, what is a NDIS support for one person in the Scheme may not be an NDIS support for somebody else. This is because it's related to each individual and the support they need in regard to their disability and the impact of their

## Transcript

impairment. This, of course, is inconsistent with the intention of the Scheme and the recommendations of the NDIS Review.

The first part of the definition of 'NDIS Supports' ties directly to the Australian Constitution. This is incredibly important, as it ensures the NDIS Act is legally valid and can legally authorise supports being provided to people with disability. For the most part, the NDIS Act relies on the Convention for the Rights of Persons with Disability, otherwise known as the CRPD, for its constitutional support. While the CRPD is quite extensive, only certain Articles can be relied on to make laws. This is because the Constitution only permits the Australian Government to make laws under Articles that very specifically set out a certain right. Each Article that meets this test has been included in the definition of 'NDIS Supports'.

The Government is also allowed, under the Constitution, to make laws about a wide range of things to assist Australian people. This is generally known as the 'social welfare' power, which includes something known as 'sickness benefits'. We acknowledge the language there is fairly outdated but, from a legal perspective, it is important this is included in the definition of 'NDIS Supports'. This is because it will allow the NDIS to fund different types of supports that don't fall specifically into the CRPD.

The second part of the definition of 'NDIS Supports' refers to things that are the responsibility of the NDIS to fund. A new set of rules will be made in the future which will involve, again, extensive consultations with State and Territory Governments and other Commonwealth bodies to ensure everyone is clear on what type of supports are their responsibility. This will help people with disability know where they need to go to get a particular support they need.

Until those new Rules are made, this part of the definition will refer back to the existing principles that determine responsibility of other service systems. This is otherwise known as the APTOS, which is a document that I'm sure many of you are familiar with. We acknowledge there are concerns with the APTOS and what it covers, and the NDIS Review, of course, again covered some of these concerns. We are aware and listening for your views around how we might consider how we can improve and strengthen some of these arrangements. Most importantly, we need to work together with other State and Territory

## Transcript

Governments around how we get better coordination of supports both in and outside the Scheme.

The next set of changes go to protecting participants. The Bill includes a number of changes focused on this area both now and into the future. These include some smaller changes to the existing planning provisions, which will make things clearer now for NDIS participants. One of the important changes in the Bill that will start immediately is to allow the NDIA to specify in a plan the total amount of funding that will be provided either for the whole plan or for specific supports or types of supports.

Although plans currently include a dollar amount, the NDIS Act does not specifically include this as something to be put in a participant's plan. This can make it confusing for participants to understand what they are actually receiving through their plan. This is one of the things that contributes to unfair outcomes because some participants already review the amount in their plan as a maximum and purchase their supports accordingly, while others view it only as a guide and purchase supports at a rate higher than the plan was intended to provide.

If you are an NDIS participant now, when you receive your plan, you can be sure that the amount of funding specified in the plan is the maximum amount you have been allocated for reasonable and necessary supports. This does not mean that you cannot seek a review or a later reassessment if your circumstances change, leading to higher support needs.

The Bill also clarifies limitations on how a participant can use funding provided in their plan. This reflects the reasonable expectation that participants should spend up to their limit specified in their plan and should not spend money on supports that the NDIS wasn't intended to fund. For the vast majority of participants, who have always done the right thing, this change will not mean anything in practice. The change will only impact participants that intentionally spend more money than the NDIA consider reasonable and necessary or purchased supports that the NDIA did not consider to be reasonable and necessary for them, and we'll make it clear moving forward that neither of things is acceptable.

A new criteria being inserted into Section 34 of the Act to ensure that a participant's plan only includes supports that are necessary as a result of

## Transcript

impairments that meet access criteria. This again is consistent with the NDIS current operational practice and is an important change to ensure all participants are able to access the support they require as a result of their disability. This is a key change in ensuring that the Scheme operates in line with the way that it was originally intended to operate.

Another safeguarding measure is the Bill will also clarify the circumstances in which a participant will be at risk with a particular type of plan management. This will allow the NDIA to change a participant's plan management type more easily if they are at risk of exploitation or coercion from another person.

Finally, there's a set of changes around quality and safeguards, and the Bill includes some additional measures there to expand the powers of the NDIS Commission. These are focused on allowing the Commission to better regulate NDIS providers, which will better protect participants and other people with disability.

Finally, just in terms of the structure of the Bill, there are two Schedules to the Bill. The first Schedule sets out the new definition of 'NDIS Supports' and includes those changes relevant to access and planning that I covered earlier. The second Schedule includes the quality and safeguard changes. I know that's a lot to take in, Sara, but I'll hand back to you.

**SARA WHALE:** Thank you, James. Yes, it is absolutely lots of information and lots of detail for our audience to take in. So if I can just recap a little, within this Amendments Bill, there are some specific changes that are proposed. These are driven through the work of the NDIS Review and are the first in a series of legislative changes that the Australian Government will make. Other recommendations that are likely to become legislative changes and that includes the changes to the NDIS Rules, will be considered into the future following engagement with the disability community.

I think this is a really important reminder to everybody who is joining us today that government will work with people with disability as we design together the changes that are required to keep the NDIS here for the long term and that not all of the changes that the Government will consider from the NDIS Review will actually require legislative changes.

## Transcript

Once again, a reminder for you to pop your questions into our Menti tool. It is important for you to have the opportunity to ask those questions. We will read out and answer as many as we can in today's session, but if your question is not answered today, please don't be too concerned. We're taking all of your questions and these will be used to inform our ongoing work. We will be adding further Frequently Asked Questions onto our website and we'll add your question's theme to that page over time if they're not there already. We will also send responses to the questions from this webinar series to our subscribers, so jump onto our website [dss.gov.au](https://dss.gov.au) and subscribe for updates and consultation information.

So, Julie, I'm going to ask you to come back now to answer the next part of this, if that's OK. So we know that on 27 March, the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No.1) Bill was tabled in Parliament. But now what happens next?

**JULIE YEEND:** Thank you, Sara. The Bill has been introduced, as you said but that's only the first step on the road because the Bill doesn't become a law until it's agreed to by both the House of Representatives and the Senate. This process can take a few months because the Parliament only sits a few weeks every season and both the House and the Senate need time to consider and debate the Bill.

The Bill will first be considered and voted on by the House of Representatives before it's considered by the Senate. Amendments to the Bill can be made in both the House and the Senate. Parliamentary amendments can be moved by the Government or, in fact, any Parliamentarian.

The Bill has been referred to the Senate Community Affairs Legislation Committee, as well as a Parliamentary Joint Committee on Human Rights, and the Senate Standing Committee on the Scrutiny of bills. These are normal steps in legislation being considered, particularly when it's as important as this Bill is.

The Senate Community Affairs Legislation Committee is already taking submissions in relation to the Bill and that submissions process is open until 26 April 2024. The Committee will then consider all the submissions received, as well as the Bill itself, and give a report to the Senate by 20 June 2024. It's pretty unlikely that the Bill will be considered by the Senate until after that

## Transcript

report has been tabled, so it's important that Parliament takes the time it needs to consider the Bill in detail before agreeing to it becoming law. But this, of course, means that we can't clearly predict when the Bill is going to pass but we think it's unlikely to happen before July this year.

So if the Bill is passed, the Governor-General needs to sign off on it, and we call this giving 'Royal Assent', and then the Bill would become the law 28 days after that happens because that's what the commencement provisions in the Bill itself require.

So the details of where you can lodge a submission to that Senate Community Affairs Legislation Committee should be on the screen for you now but I'll read it out. Submissions should go to the Committee Secretary, Senate Standing Committee on Community Affairs, PO Box 6100, Parliament House, Canberra, ACT 2600. I'll send it back to you, Sara.

**SARA WHALE:** Thank you, Julie. Thank you for providing this context. It is important that throughout this whole process, people with disability know where they can provide their submissions to. Bruce, before we move on to questions, I'm hoping that you might be able to come back and share a little with us all about what the ongoing engagement looks like that will continue for people with disability.

**BRUCE BONYHADY:** Thanks very much, Sara. As I have outlined, deep engagement with the disability community was an essential part of our Review. We really took very seriously the Terms of Reference which required us to put people with disability and their families back at the centre of the NDIS. As part of our recommendations, we recommended that all the work that would need to follow our Review would employ the same sort of deep engagement with people with disability and their families.

I know from my discussions with Minister Shorten, with the Department of Social Services and the National Disability Insurance Agency that everyone is committed to ongoing, deep engagement. The first step of that, of course, is deep engagement with the disability community in relation to this legislation, but if it passes, there then will need to be deep engagement in relation to the Rules, the NDIA Operational Guidelines and the CEO Directions. All of this is absolutely essential and it should involve engagement that suits people with

## Transcript

disability, so roundtables, submissions, workshops, whatever works for people with disability and their families.

There's also going to be a need for further deep engagement if other parts of our Review are accepted; in particular, our recommendations in relation to foundational supports, our recommendations in relation to early intervention for children and the early intervention pathway for children, ensuring better outcomes for people with psychosocial disability, reforms to home and living, our proposed market reforms, and then also our reforms in relation to quality and safeguards.

What's really essential now is that the NDIA and the DSS work really closely with the disability community, with States and Territories, to make sure that all of these recommendations which governments ultimately decide on, are prioritised and sequenced and delivered in the appropriate way and that that process involves deep engagement with people with disability and their families. It's also important to recognise that there are important co-dependencies, and I particularly want to highlight the importance of foundational supports. We said in our Review that foundational supports must be implemented side by side with any changes to access and budget setting.

There is obviously an enormous amount of work to do. I appreciate that people with disability and their families are tired, that they're exhausted, but we really need everyone engaged on this journey to make sure that the NDIS can reach its full potential and is there for future generations. Thanks so much.

**SARA WHALE:** Thank you to Bruce, to James and Julie for providing us with all of that information and giving us a little bit of detail to consider today. So after all of that information, we're now going to dive into some questions. So the way that we are taking our questions is we are asking you to enter your questions into the Menti app. There are already a whole bunch of questions that are coming through so let's get stuck in.

So our first question that's come through today, Julie, this might be a question for you. We've had lots of questions about navigators. Can you tell us a little bit more, mainly around will we be able to choose our navigators, how will they differ from LAC, or local area coordinators? Can we have a plan manager and a support coordinator as well or instead?

## Transcript

**JULIE YEEND:** Thanks very much, Sara. Navigators, I think Bruce was saying earlier, was a very essential part of the Review's recommendations because people need to be supported in the new processes, and that's something that government is currently considering. So the question about whether people would be able to choose their navigators, choice and control is pretty fundamental to the way the Scheme operates and we believe that that will continue to be the case. The navigator's role is different to local area coordination because it is really focused on the participant and their needs, and connecting them with services.

The question about plan managers and support coordinators, those roles are not disappearing from the system but it's possible that the navigator might be able to take a role in both of those endeavours but that's not to say that these will not continue in a separate role. However, government hasn't made decisions about navigators as yet. That's something that is currently being considered by government. But the issue of choice and control will be central to that discussion. Thanks, Sara.

**BRUCE BONYHADY:** Sara, if I could just jump in. As Julie has indicated, governments have not made any final decisions on anything of this, but the Review was very clear that participants should have a choice of navigator and that everyone should get a navigator. Today, only 50% of participants get access to a support coordinator, and so the recommendations we made are designed to address a fundamental unfairness in the current way the system operates.

**SARA WHALE:** Great. Thank you, Julie, and thank you to Bruce for that additional context as well. Our next question up now, James, we might throw to you for this one. So why is it a reasonable and necessary budget and not reasonable and necessary supports?

**JAMES MACISAAC:** Thanks, Sara. Very good question. So this goes to the changes that we talked about earlier that Bruce also talked about in terms of one of the key recommendations from the Review, and this was the finding from the Review that there was lots of unfairness and inconsistency in decision making in and around the way that planning decisions are undertaken for participants, leading to unfairness and inconsistency often for participants who have the same or a very similar level of need.

## Transcript

So the new process is to set out a more flexible whole-of-person budget that is consistent with the original intent of the Scheme that would apply to provide more certainty linked to the comprehensive needs assessment process that will be another key part of the design and deep engagement process that we undertake with the disability community and other relevant experts. So that comprehensive needs assessment will provide a more robust and consistent approach to assessment that will set out what an overall budget is at a whole-of-person level to provide that level of flexibility to a participant to be able to spend their plan, not based on any requirements of what is set out line-by-line in a plan, and that would enable the participant that choice to be able to purchase those supports that they need, in addition, of course, to any of the supports that were stated in their plan. And, I talked a little bit about that earlier around those types of one-off supports that are more specific, one-off and sometimes high-cost that would be still stated in a participant's plan. Thanks, Sara.

**SARA WHALE:** Thank you so much for that information, James. Our next question is through now. This one we might throw back to Julie. So, Julie, will the NDIS Review and complaints process be improved, because plans are often inefficient, which is why people need multiple plans in a year? Is this likely to be the same under the new framework?

**JULIE YEEND:** Thanks, Sara. That's a good question. So what I can say that in relation to the review rights that participants can have in relation to their plans is that the review rights are pretty much the same. So for your plan currently, the decision about your plan is reviewable both internally and externally, and that continues to be the case in relation to the budget that you will get under the new planning framework.

But the new review processes are going to reflect a change in that budget setting from the line-by-line method that James and Bruce were talking about before to this budget setting based on a whole-of-person needs assessment and the impairments that you receive the NDIS access for.

So under the current old planning framework, every line item in a participant's plan is subject to internal and external review and potential adjustment, but under the new planning framework and this comprehensive needs assessment which determines that budget, the participant is going to be able to seek both internal and external review if they think that the needs assessment report

## Transcript

hasn't accurately reflected their needs and their circumstances. So because of the flexibility of the budget that a participant will have, instead of wrangling about a line in a budget which might not be the type of support that the participant now realises they need, they can spend the money on what matters to them most, and so in that way, I think the need for review for many things would be reduced because of that plan flexibility, and so that, I think, is a significant improvement under the new planning framework. Back to you, Sara.

**SARA WHALE:** Great. Thank you so much again, Julie. Our next question up and back to you, James, I think for this one. So, James, we've had some questions about engagement. Also when do you expect to see the new Rules and Operational Guidelines?

**JAMES MACISAAC:** Thanks, Sara. So Bruce touched on a little bit about the engagement going forward. We're very keen that the voice of people with disability is at the heart of all of these reforms and the future work that we'll undertake around the development of the various elements of the reforms to access and budget-setting and the development of Rules.

Importantly, the voice of people with disability has been crucial to the Review findings and the responses to date in terms of the focus of the initial legislation in the Bill. We will be undertaking a range of design and deep engagement activities with the disability community at multiple levels, together working with the NDIA and State and Territory Governments as well. We know that that deep engagement is going to be crucial to the success of the reforms and getting the detail right.

There is on our DSS Engage website an opportunity to subscribe, which we'll come back to again and highlight before we finish the webinar. So you can subscribe to the DSS subscription approach there, and we'll be providing more updates around those opportunities to everyone who subscribes to the site.

In terms of the Rules and when some of that work will commence, that will depend a little bit on some of the different elements of the updated Rules or new Rules that are created but, importantly, in regard to the critical work around developing a comprehensive needs assessment, that's likely to occur very soon in terms of the next few months, when we'll be talking to you more about the opportunities there. That's going to be a deep engagement process

## Transcript

where there'll be extensive consultation and activity at a National and State and Territory level over the next year while we develop those Rules. Thanks, Sara.

**SARA WHALE:** Great. Thanks again, James, for that response. Our next question now, I think we'll throw to Julie for this one. How will you determine who is a qualified needs assessor and how will you ensure that there are sufficient assessors in the community to provide this support? Can you tell us a little bit more about how the needs assessment will work?

**JULIE YEEND:** Thanks, Sara. Good question. The needs assessment process is one of the things that we will be engaging with the community about because the concept of a needs assessment in the NDIS is new. So we know absolutely that anyone that becomes a needs assessor, once we've worked out what the needs assessment process is, will need to be trained, and the question of a sufficient work force is always something at the top of mind because this process has to operate across the country.

It's likely that when we're thinking about how the NDIA is going to move people from the old-current system to the new system, that there will be a phased transition process, and so there will be requirements for needs assessors sufficiently with the training and the staff to implement that new process at that time. But because it's all new and we're yet to work out what the needs assessment looks like, let alone the training that will be required for someone to deliver it, this is all something that's going to be part of the process of engagement with the disability community and with our State and Territory colleagues about how this is going to work. So it's novel and we want people to be involved.

**BRUCE BONYHADY:** Sara, if I could jump in.

**SARA WHALE:** Sure.

**BRUCE BONYHADY:** As Julie said, there's an enormous amount of work to be done with the disability community on this particular point but there were a couple of key issues that arose during the Review which are important in addition to formal qualifications. That is the need for a trauma-informed approach, the need for a culturally appropriate work force, and it's part of a much bigger set of issues around work force planning and development that's

## Transcript

absolutely essential for the NDIS to deliver for all those people who are on the Scheme, but there's also a set of work force issues in relation to foundational supports and supporting the whole disability ecosystem. Thanks, Sara.

**SARA WHALE:** Yes, very important to acknowledge that. Thank you so much, Bruce. I think we have time for one last question now, so for this one I'm going to throw to James. So, James, we did have a question earlier on about participants having sometimes multiple plans within a single year. Is that going to be the same under the new framework?

**JAMES MACISAAC:** Thanks, Sara. One of the key changes in the Bill is that it outlines a framework for planning that would allow for much longer plans. So the Bill provides for changes that would allow up to a five-year plan, where if the circumstances of a participant in the Scheme were stable and this is the case for many participants in the Scheme, there wouldn't need necessarily to be the regular updates to plans on an annual basis. That, of course, doesn't mean that all plans will be five years. There may be plans that are shorter and plans that may be even less than 12 months, but that would be based on the particular circumstances and the assessment of the NDIA of that individual participant particular to their circumstances, and, of course, that would reflect whether the needs of a particular participant were changing on a more regular basis and would need that more regular check-in in terms of reviewing the plan. Of course, that still sits alongside the opportunity for any reassessment if a participant wants to initiate a plan review; for example, for a person on a longer term plan of five years, the participant could still seek that initiated review at any point they felt that their needs needed to be reassessed. Thanks, Sara.

**SARA WHALE:** Thank you so much, James, and thanks again to all of our panel today: to Bruce, to James and to Julie. That's all the time that we have for questions today. I would like to thank you all for submitting your questions and please be assured that we have captured all of them today.

Now, once again, as we've mentioned throughout the session today, if you do want to subscribe for updates on the NDIS reforms, keep up-to-date on legislation and the NDIS Rules, or to be part of ongoing engagement activities, then head to our website [www.dss.gov.au](http://www.dss.gov.au), head to the Disability and Carers page and here you will find the 'Subscribe Here', or you can scan the QR code that is appearing on your screen now.



**National Disability Award winner, Human Rights Commission Award winner**

## **Transcript**

Before you do go, and you can finish this at any time today, we'd love a little bit more information from you through our Menti tool. One is just about how you felt about today. I'd love you to answer the same questions as at the beginning of the session, whether you feel well-informed, whether you support the findings, and one extra: whether you'd like to be involved in more discussions like this one. We will also leave the questions open, so if something else comes to mind after today's session, you can certainly add it in right up until the end of today. I know it's been a lot of information to take in today but thank you so much for joining us.