

Independent Review of the National Disability Insurance Scheme

What we have heard: NDIS Review Interim Report

Occupational Therapy Australia submission

August 2023

Introduction

Occupational Therapy Australia (OTA) welcomes the opportunity to provide a submission to the Independent Review of the National Disability Insurance Scheme (NDIS) in response to the Review's Interim Report: *What We have Heard*.

OTA is the professional association and peak representative body for occupational therapists in Australia. There are over 27,000 registered occupational therapists (OTs) working across the government, non-government, private and community sectors in Australia¹. Occupational therapists are allied health professionals whose role is to enable their clients to engage in meaningful and productive activities.

Occupational therapists and the NDIS

Occupational therapy is a person-centred health profession concerned with promoting health and wellbeing through participation in occupation. Occupational therapists achieve this by working with NDIS participants to enhance their ability to engage in the occupations (activities) they want, need, or are expected to do; or by modifying the occupation or the environment to better support their occupational engagement. Occupational therapists provide services across the lifespan and have a valuable role in supporting participants living with developmental disorders; physical, intellectual, chronic and/or progressive disability; and psychosocial disability.

Occupational therapists have a critical role in providing services within the NDIS, supporting people living with physical, intellectual, psychosocial and other disabilities. Occupational therapists work in a diverse range of settings to deliver NDIS services, or support NDIS participants, including small, medium and large private practice, rehabilitation settings, paediatric services, and community services.

Occupational therapists help to unlock the value of the NDIS by working with scheme participants to identify goals and engage them with appropriate supports and services that promote independence, social connection, economic participation and protect and sustain physical and mental health. They deliver services including:

- functional capacity assessment;
- prescription and implementation of assistive technology and/or environmental modifications;
- positive behaviour support;
- disability-related chronic disease management;
- driving assessments (when specifically trained to do so); and
- targeted, goal-focussed capacity building, for example, activities of daily living (ADL), or ADL training with participants with physical and/or psychosocial disability.

Occupational therapists are highly skilled in assessing the degree to which a person's disability affects their level of function in daily tasks. Based on these assessments, occupational therapists make recommendations for, and then deliver, interventions that enhance and maintain an individual's functional capacity, and prescribe supports, aides and assistive technology that help everyday Australians live as engaged, valued and contributing members of society.

¹ Occupational Therapy Board of Australia (Australian Health Practitioner Regulation Agency), 2022; <https://www.occupationaltherapyboard.gov.au/News/Annual-report.aspx>

Feedback on key themes

OTA has already made a general submission to the NDIS Review in January 2023, and further submissions on the NDIS Quality and Safeguarding Framework, and NDIS Participant Safeguards in May 2023, and recently responded to the Review's Pricing and Payments issues paper in July 2023, which cumulatively address many of the questions and areas of focus within the Review's interim report.

OTA is providing this final submission to respond to some additional key focus areas in the NDIS Review interim report and recent comments from the NDIS Review Panel, and reiterate some key matters where we feel they require further discussion and acknowledgement.

Recognising the value of occupational therapy under the NDIS

OTA strongly refutes recent framing by the media and others that occupational therapists are acting unethically or overcharging NDIS participants. This commentary is inaccurate, contravenes the moral and ethical framework that occupational therapists operate within, reduces public trust in the OT profession, and undermines the critical role that occupational therapists play in supporting participants to meet their needs and achieve their individual goals.

Far from overcharging, occupational therapists provide value-for-money and essential services that help unlock the full value of the NDIS, by supporting participants to build their capacity and independence, through behavioural strategies, supported access to and use of equipment and modifications, and other therapeutic approaches. In some cases this has seen participants reduce their need for intensive supports, and reduces their need for ongoing NDIS spending in this area.

As detailed in OTA's July 2023 submission, many occupational therapists also report dedicating professional time that is unbilled/unremunerated, to the coordination and delivery of supports for participants, who require therapies and supports but have received inadequate packages or require additional communication, support and advocacy to access their NDIS supports.

This additional unfunded support which is unrecognised and unfunded within the NDIS, demonstrates the ethical and caring nature of the occupational therapy profession. OTA also notes that as a highly skilled AHPRA registered profession, occupational therapists are bound by a range of ethical and moral obligations that prevent overcharging or exploitation of clients.

OTA welcomes the NDIS Review's acknowledgement that the scheme lacks data and evidence on the benefits and outcomes that are being achieved under the scheme, and that more can be done to measure this to demonstrate the value that therapeutic interventions are delivering. However, OTA does not support the linking of outcomes to payments or remuneration for services, as detailed in our response to the NDIA Review Pricing and Payments issues paper. OTA would welcome opportunities to assist the NDIA to codesign an outcomes framework for therapy interventions to enable better measurement of these outcomes to build public trust in the scheme.

OTA is pleased that the NDIS Review has recognised the high rate of burnout in the NDIS workforce. OTs working within the NDIS report high levels of burnout, which is exacerbated with feelings of anxiety, helplessness and disappointment when commentary about their important role suggests that they are acting unethically or not in the best interests of their clients.

Recommendation: The NDIS Review final report and other commentary to government and the Australian public explicitly refutes suggestions that occupational therapists are overcharging NDIS participants and recognises the valuable service they offer to Australians with disability.

Guiding principle of the NDIS

OTA strongly supports the central foundational principle of the NDIS, that participants have choice and control over the supports and services they can access. Any reforms contemplated by the review, including the stated intention to dissolve the current three tier approach, must ensure that they continue to expressly uphold this principle, and changes must not compromise the provision of individually tailored, goal-oriented, and reasonable and necessary disability supports for NDIS participants who can exercise choice and control.

OTA does not support any review outcomes that result in the blanket capping or restriction of funded hours in NDIS plans to access occupational therapist provided assessments or therapies, in legislation, guidance or NDIA policy. This would directly contradict the central tenets of the scheme, which is meant to uphold participant choice and control, and direct supports and funding based on individual need, and may impact the services that participants can access, and stymie efforts by qualified therapists to provide these in tailored ways that suit individual participant needs.

Recommendation: That the NDIS Review recommendations do not reduce participant choice and control, and do not expressly or implicitly introduce capping or maximum amounts for therapeutic supports and services, including assessments.

Alignment with disability focussed approaches

OTA welcomes acknowledgement by the NDIS Review chairs at a 22 August 2023 event, that they are considering better alignment of the NDIS to the International Classification of Functioning, Disability and Health (ICF). This framework takes a non-medical, social approach to the classification of disability based around individual functional needs, and is considered best practice in recognising the skills and abilities of persons with disability, and determining needs for individual supports.

A stronger focus on ICF principles would mean a move away from diagnosis-focused assessment and support identification of functional needs. This approach has also been recommended by the Productivity Commission 2011 Disability Care and Support Inquiry Report²:

Recommendation 7.1 Working within the framework of the International Classification of Functioning, Disability and Health (ICF), the assessment process undertaken by the NDIA should identify the supports required to address an individual's reasonable and necessary care and support needs across a broad range of life activities, and should take account of an individual's aspirations and the outcomes they want to achieve."

This would better consider needs presented by an individual's specific circumstances, and not rely on the 'primary disability' approach that is currently preferred by NDIA in determining budgets and plans, which does not adequately consider needs associated with secondary of

² Australian Productivity Commission (2011), <https://www.pc.gov.au/inquiries/completed/disability-support/report>

co-occurring disability, especially psychosocial disability, and can limit access to funding for needs linked to non-primary disability.

Occupational therapists already work within the ICF framework and are especially skilled in its use and application, and OTA welcomes any opportunity to work with the NDIS Review Panel to codesign approaches and solutions in the future, to better align NDIS policy and processes with this approach.

Proposed reforms to tiered support

In its Town Hall address on 22 August 2023, the NDIS Review Panel flagged a proposed approach to reform the scheme, by possibly dissolving the current three tier approach, and instead delivering more foundational supports for all Australians, with individualised support packages to be built on top of this foundational support.

OTA supports more equitable access to disability supports, that is accessible, not waitlisted and designed to meet participants' individual needs and aspirations. However, any transition away from the current market-based approach and service delivery framework has the risk of significantly disrupting the current NDIS market, as providers have adapted to deliver service in individualised contexts in line with individual plans, which has included significant investment in business structures, staff and business practices. If more foundational and community supports are delivered via bloc funding arrangements, which replicate public health or community health approaches, and this reduces the volume of services delivered to individual participants, this will impact current business models and risks financial impact for providers.

OTA is keen to receive more detail on this proposal to understand how this is proposed to operate in practice, and is keen to ensure:

- The delivery of capacity building supports remains accessible and funded to appropriate levels, via individualised NDIS packages, so that participants and their families can continue to exercise choice and control in selecting their preferred therapist, and existing therapeutic relationships are not impacted. Any moves towards a key worker model, especially in early childhood settings, must still be accessible via individualised plan funding, to enable selection of preferred therapist/provider (not just an allocated one from a bloc funded provider), while also delivering coordinated care.
- Any reforms have significant lead time to implement gradually and in a sustainable way to enable markets to adapt without financial detriment and reduce the risk of market disruption or provider collapse.
- It will also be important that consideration is given to ensure service delivery is integrated, seamless and that different tiers or access thresholds are not fragmented, duplicated, or create administrative burden, or barriers to access, for participants, or service delivery, for providers.

Recommendation: Before commencing any significant reforms, the NDIS Review works with governments, participants, providers and other key stakeholders to map out the proposed service delivery ecosystem, and considers all proposed supports and access pathways to ensure that that providers like occupational therapists can still be accessed easily and to their full scope of practice, and that all services and supports can be well integrated to reduce siloing, duplication of systems, and barriers to access, to meet participant need and reduce administrative burden for providers. This should also include modelling to predict disruptions

to current markets, and seek to reduce these as much as possible, to ensure provider sustainability, and reduce disruption for participants.

Planning process

OTA welcomes comments from the NDIS Review Panel made in late August 2023 that it is considering unlinking the budget and planning processes. The stated intention to provide budget funding that is non-specific (in line-by-line items or approaches) will support individual choice and control, and reduce administrative burden on participants, and providers, to seek approval from NDIA to access specific services and supports, and enable the more efficient delivery of services without added bureaucracy.

OTA supports a budget setting process that is based on information and evidence that is specific to that individual, based on ICF principles that identify individual participant needs and goals, and is informed by the participant's trusted supports (including carers, families, and existing treating therapists). OTA continues to have concerns about the use by NDIA of algorithms and internal processes to set budgets and plans that are not transparent, and result in averaged 'typical support packages' based on arbitrary or non-individualised functional capacity assessments, rather than individualised decisions made by humans for humans.

The NDIS planning process needs to utilise skilled NDIA staff and delegates, who understand disability, understand the allied health ecosystem, and consider independent advice from the participant's preferred treaters and therapists, in determining a participant's budget and plan needs.

Participants should be centred in both the budget and planning process and OTA recommends NDIA pursues a participant led care planning process that places them at the centre of the process, which can enable participant empowerment, information sharing and supported decision making, and strengthen natural safeguards.

Reasonable and Necessary

OTA welcomes more clarity and transparency about the way in which NDIS interprets the 'reasonable and necessary' supports that are available under the scheme. Access to reasonable and necessary disability support is a key feature of the NDIS and is underpinned by the NDIS legislation, and this right must not be frustrated or reduced.

Any changes that are contemplated by the Review to alter the NDIS legislation, operational guidelines or the implementation of reasonable and necessary criteria must be made public, consulted upon and co-designed by people with disability and the disability sector, including occupational therapists.

OTA members report that they experience difficulty in receiving consistent and clear advice from NDIA staff and delegates in relation to what they define as 'reasonable and necessary' when making decisions. Trying to understand 'reasonable and necessary' has been described by one OT as "*invisible, ever changing, and like trying to catch mist*". There is a significant opportunity for NDIA to improve scheme efficiency and effectiveness by enhancing its definition and guidance on 'reasonable and necessary', and also to build its staff and delegate capability to ensure that these definitions and criteria are fully understood by NDIA staff, providers and participants, and are applied consistently and transparently in NDIA decision-making.

OTA has previously noted that difficulties in understanding what is 'reasonable and necessary' by NDIS participants and their families can lead to expectations from participants about what they can request as part of their plan funding. Where a therapist is not able to clinically justify the participant's expectation, this can create tension and client dissatisfaction, which is attributed to the therapist, rather than the NDIA's guidance and decision-making.

Occupational therapists will assess a client's functional capacity and through evidenced-based clinical reasoning, provide clinical recommendations for equipment, therapies and other supports that will assist a participant to meet their individual needs and goals. OT's are guided by NDIA's current guidance and examples of what will and won't be funded. OTs report that they have seen decisions from NDIA that are inconsistent with the guidance (i.e. rejecting recommendations that appear to clearly meet the criteria, while other times some supports are accepted, when they sit outside the criteria).

Translation of this definition into plain easy to understand language, that reflects evidenced based practice, industry and clinical guidelines would enable therapists to make recommendations that consistently meet the criteria. For example, Reasonable could be linked to clear accepted clinical guidelines that reflect "fair and sensible" and Necessary as 'essential'.

OTA encourages further clarity from NDIA via evidenced based guidance and education for participants, and the service providers who support them, to assist service navigation in the scheme and improved understanding of the types of supports available, particularly in relation to Assistive Technology options.

Changes in participant expectations of the scheme and what they can access has in some cases changed the scope of the OT role from the traditional provider of clinically informed therapeutic interventions and recommendations, to that of a consumer driven equipment supplier or gatekeeper for the funded support the participant is seeking. This is contrary to the approach whereby an OT assesses the client's functional capability and recommends assistive technology based on clinical needs and individual circumstance. OTs are now being approached and asked to provide endorsement of specific equipment requests from participants and support coordinators.

Improved guidance would assist to address the current issues where participants express dissatisfaction, anger and frustration towards Occupational Therapists, in situations where the requested assistive technology item cannot be clinically justified/recommended, and/or funding is not approved by the NDIA.

It is important that this is guidance is clinically informed and principle based and not just a standard list of what is accepted/not accepted, as this risks reducing participant choice and control and reduces the ability for participants to access tailored solutions that meet individual needs and goals.

It is also important for NDIA to continue to strengthen the safeguarding practices, proactive risk assessment and responsive risk mitigation/management related to participants at risk of harm, in its interpretation of reasonable and necessary, and ensuring that this is consistently understood and implemented by NDIA service delivery and planning teams. OTA is aware of many instances where therapists have recommended supports to address immediate risk of harm for a participant and this has been rejected (without reasons given) despite a clearly reasoned recommendation from the therapist.

An example of this is people with urgent assistive technology needs, where NDIA delays or declination decisions result in pressure injuries and preventable hospital admissions. Another

example is where there is a risk of harm due to inappropriate housing or risk of homelessness due to poor NDIA responsiveness.

This is further evidenced in this example provided by an OTA member:

"I trialled a range of strategies to enable my client with complex psychosocial disability to cook safely and independently. He lives alone, and he has a history of self-harm so sharp knives are not appropriate to have in his home. He has a history of setting fires – often unintentionally due to leaving the stove unattended. He has previously blown a fuse due to inappropriate use of the microwave. There were no viable safe cooking methods that would enable him to cook a decent meal independently. I provided evidence to the NDIS planner that there are considerable risks to this client when cooking in the kitchen. Still, NDIS refused to fund a support worker to assist him with preparing meals; and declined to subsidise meal- delivery. I would like to know if and how my risk assessment was considered in this decision."

In the case of complex participant needs, NDIA also needs to be proactive and take a coordinating role to proactively engage with the relevant team/stakeholders, (eg complex care conference opportunity) at an individual level, as complex situations require a coordinated response to achieve outcomes. Refinements to the Intergovernmental agreement that have also been flagged also need to account for the need for shared responsibility and accountability for complex participant needs at a systemic level, to enable sharing of information, responsibilities and appropriate escalation of risks.

Recommendation: NDIA provides further evidenced based guidance around how it defines and operationalises the legislative definition of 'reasonable and necessary', that is informed by accepted clinical and industry practice, legal advice, precedence case decisions made at the AAT, NDIA operational guidelines and decision-making practice and relevant key stakeholders.

Recommendation: NDIA provides clear examples of how reasonable and necessary criteria relates to 'choice and control' in the use of funding, particularly around selection of assistive technology, including information on the role of OTs and how and when they assist in this process. For example, an OT can assist in helping a participant identify reasonable and necessary options that are clinically justifiable and the participant can exercise choice and control to select their preferred solution. It is essential that participant choice and control remains the guiding principle, and that any changes continue to enable the provision of individually tailored, goal-oriented reasonable and necessary disability support for NDIS participants.

Decision-making

OTA's previous submission to the review in January 2023 identified some deficiencies in NDIA staff and delegate decision-making including the need for transparency in how a decision has been arrived at, and feedback on what is lacking where a decision is to decline a request for a recommended item or service is made by NDIA. NDIA can build provider understanding on reasonable and necessary, and ensure more transparent decision making, by providing a feedback loop by providing information that explains the NDIA decision, including grounds for refusal.

Recommendation: NDIA provides clarity on the role and utilisation of functional capacity assessment provided by occupational therapists, in informing NDIA decision making, to improve the focus and quality of OT reports.

Recommendation: When NDIA and delegates issue decisions, these provide reasons and grounds for why the recommendation was declined, which will inform allied health professionals, stakeholders and the participant, and enable efficient consideration for further appeal/resubmission of evidence, where this is appropriate.

OTA's January 2023 submission also recommended additional professional development and training for NDIA staff and delegates, to develop their understanding of the skillset, scope and qualifications of allied health providers, and their ability to use clinical reasoning to provide clinically justified assessments and recommendations for a participant's plan. OTA also recommended additional training and capability in disability for these staff, to ensure good outcomes and experiences for participants. These skills and capabilities will be even more important if the potential reforms that were announced at an NDIS Review Town Hall event on 22 August 2023, whereby NDIA staff, rather than Local Area Coordinators (LACs), determine what is reasonable and necessary.

In addition to better transparency in decision making, NDIA can also enhance decision making through fostering greater collegiate information sharing and collaboration to assist in the implementation of what is 'reasonable and necessary'. One of the recurring tensions related to NDIA assistive technology decisions, identified in multiple past Government reviews, is the inefficiency of current practices where the NDIA funds professional assessments from occupational therapists regarding assistive technology, often requiring many hours to identify the recommended solution, only to have an NDIS planner (often without any qualifications or assistive technology experience) to reject either all/or part of the professional recommendations, based on their interpretation of reasonable and necessary.

The NDIA currently has an internal service delivery/planner delegation framework, that includes planners needing to seek input from the Technical Advisory Team (TAT) to provide "internal guidance" to planners about more complex disability supports, including assistive technology. One of the limitations of this internal "advice" model is that the assessing occupational therapist is not afforded the opportunity to have a "peer to peer" discussion to clarify complex information, and there is no outward facing accountability for the TAT team to liaise and provide written declination clinical reasons for their decisions. This creates a disjointed process and lost quality improvement opportunity, which is inconsistent with other compensable insurance and Government department models such as Comprehensive Third Party injury management advisors, icare NSW, TAC or DVA, where experienced and often trusted advisors (who are allied health qualified) liaise with the assessing therapist, and can clarify and negotiate an agreed solution. This outward facing model of "technical advice" rather than an internal model, addresses and in many instances mitigates an adversarial approach, as there is opportunity for communication, increased transparency and a shared solution focussed approach to meet criteria.

OTA strongly encourages the NDIA to adopt an outward facing "technical advisory team" model, which will provide increased transparency in NDIA decision-making criteria/framework, and require NDIA decision makers to provide reasons for their decisions, with detailed references outlining when supports are not considered to meet reasonable and necessary criteria. This is consistent with contemporary quality improvement models, and will contribute to increased shared understanding and trust and assist individual therapists, and the sector to increase knowledge of agreed NDIA policy and processes, and facilitate more efficient work practices and concise reporting.

Recommendation: NDIA adopt a transparent outward facing Technical Advisory Team model to build trust and facilitate consistent decision-making framework/criteria used to implement 'reasonable and necessary', that promotes consistent and fair decision making, and shares this publicly, so that providers and participants understand it clearly and the sector benefits from a quality improvement approach.

Early Childhood Intervention

Best practice approaches for early childhood interventions for developmental delay should be child and family centred and care and supports should be funded based on need with coordinated and seamless services that are built around the needs of the child (and their family). The barriers that exist between NDIS plans, Tier 2, health, education and other systems all create complexity and challenges in accessing services and create artificial barriers (eg between funding bodies) that impact access to necessary care and supports. OTA welcomes recent signals from the NDIS Review team of plans to reform early childhood service delivery to enable a foundational level of support for all Australian families with children, to meet the needs of families who currently receive no support, or limited supports, and ensure equitable access.

Is it important that any revised approach still enables flexibility and support to accommodate the individual needs of families that support their specific and personal needs. This approach should also utilise occupation as a key driver for a meaningful life, by identifying child and family activities and goals to work towards.

OTA is keen to ensure that the important role that occupational therapists play in delivering best practice early childhood supports and services is supported and maintained throughout any scheme reforms and would welcome the opportunity to assist in planning for an integrated approach across federal and state systems of care.

Coordination of multi-disciplinary care

The need for joined up coordinated support is particularly important in an early childhood setting where parents may be impacted or overwhelmed due to caring responsibilities, adapting to a child's diagnosis, and navigating the complex bureaucracy of the NDIA and other services. Any delay to the start of treatment can have lasting impacts for the child and their family.

OTA notes the intention to provide more integrated mainstream services and supports via scheme reforms, including signals to adopt a key worker approach. It is important that these ensure that there is adequate funding or provision of services that enable coordination of care and multiple supports. The potential use of a key worker, as flagged in the recent NDIS Review Town Hall, is a positive step, but must ensure that this nominated role is also to ensure coordinated services and integration with any NDIS funded (individual plan) supports, as well other mainstream and foundational supports that sit outside an NDIS plan.

NDIA should build clear expectations around the role of key workers in coordinating and sharing information for shared care, and introduce the concept of shared-care planning to enable multiple providers to collaborate and view planned supports to assist with care planning and delivery, and communication with a child's family. As noted above, if a key worker model is introduced, this must still enable client choice and control, and be delivered by a variety of services accessible under NDIS plans.

NDIA should also look to promote the use of digital solutions which enable individual choice and control and coordination of supports. For example some families are using an app called

Same View, which enables multiple therapists to communicate around supports and services. The cost of this software typically comes from a participant's individual funds, and is an additional expense that some families do not prioritise in their decision making as they want to use all available funds for therapy supports. NDIS could utilise its buying power to provide access to these kinds of options at little or no cost, to enable a better coordinated experience for participants and their families. This could also apply to adult NDIS participants who receive multiple supports as well.

Recommendation: With appropriate privacy considerations, NDIA should provide coordinated processes and digital platforms that enable sharing of information and clinical records.

Mainstream integration

NDIA early childhood services can be better designed and funded to integrate with other services and mainstream supports. NDIA should consider ways to better coordinate individual supports in group settings such as pre-school/school settings and integration with education systems. NDIA should also work with states and territories to adopt clear policies and processes to integrate NDIS supports into the school environment. Currently systems don't talk to each other and it is challenging for OTs to provide supports in schools, with varying approaches and policies on external providers accessing school environments.

It is common for OT access requests to required to be granted at the individual school level, leading to complex approval processes and inconsistent approaches depending on geographic location, which can be highly variable both from state to state and school to school. Many of these policies create huge administrative workloads for the external providers (and individual schools), even where access might be an option.

For example at some schools there is a complete ban on external OTs and other providers being able to work within the school system. This can create considerable frustration for families as well as OTs who can see the many benefits of a cooperative relationship between schools and external providers. To achieve best practice, OTs seek to work in a person's natural environments such as school, the home and in the community.

Similarly, provision of therapeutic interventions in other natural settings such as community play groups, and other community and council funded programs can be beneficial and any scheme reforms should consider these as part of the ecosystem and settings where early childhood interventions are delivered and embedded.

NDIS should ensure that provision of therapeutic supports are delivered in natural settings wherever possible. However it is noted that, to enable this, the NDIS Review must address the current issue whereby therapists' travel is not adequately supported and funded, impacting therapists' viability. Currently caps on travel time are set arbitrarily by NDIS and do not reflect the actual time spent travelling to the therapy setting (with caps of up to 30 minutes and 1 hour based on the metro or regional status of the location) which is often inaccurate and does not reflect the real time taken, and opportunity cost of providing the support. This issue has been highlighted in OTA's July submission to the Review.

Recommendation: NDIS Review and NDIA seek formal intergovernmental agreement and commitment to embed the arrangements for access of allied health therapeutic interventions in all education settings (including early childhood), and other community-based settings, to enable efficient, effective delivery of therapeutic supports in natural settings.

Recommendation: The NDIS Review ensures that travel time to deliver therapy in natural settings is funded at the full amount of time lost to travel, and at the equivalent service rate.

Best practice approaches

OTA noted the Review's commentary that "*There are few incentives and no mechanisms to make sure early intervention providers deliver evidence-based supports or adopt best practice when supporting children and their families*".

OTA is keen to ensure that the Review's final report and findings includes clarification to ensure that this statement is not attributed to the occupational therapy profession, where OTs utilise best practice approaches in their day to day practice, and are bound by their Code of Ethics to deliver supports that are appropriate to the client's need.

OTs are required to meet the criteria and standards set by their Australian Health Practitioner Regulation Agency (AHPRA) Registration requirements, including the Code of Conduct and Standards and in accordance with their scope of practice.

Best practice requires clinicians to conduct thorough assessments of their client that informs the trial and adoption of evidence-based interventions. Comprehensive documentation of this process will demonstrate the therapeutic pathway has been taken with the client at the centre and provides insight into the clinical rationale for the decisions made around intervention/treatment. It also requires continued review and evaluation of the intervention to determine it is addressing the assessed need. NDIS plans must accommodate the full therapeutic process to support clinicians to deliver high quality, best practice clinical services. This includes provision of adequate clinical hours and funding and the ability to refer in specialist input as required.

Factors impacting achievement of best practice

It is noted that currently, therapists' ability to deliver best practice approaches are challenged when NDIA plans do not provide adequate funding for participant need, and do not include the required additional supports and services that would provide more holistic support for participants and families.

Best practice approaches are also impacted through NDIA decision making, and participant purchasing behaviour in some cases, which require concerted reform and action by NDIA to embed better approaches and provision of information to guide participant and family decision making and expectations.

Poor NDIA decision making (eg inadequate funding approved that is inconsistent with clinical recommendation), and delayed decision-making impact the timeliness of accessing therapy supports, and may result in provision of levels of support that are clinically ineffective for the child's need.

Fears held by families and caregivers about funding scarcity and withdrawal of funds at the point of NDIA plan review are leading to poor therapeutic outcomes in some cases, due to purchasing behaviour, for example:

- Inadequate NDIS funding for therapy supports is leading parents to ration supports (for example, monthly sessions spread out over a year) at intervals that are not therapeutically beneficial.
- Parents who are concerned about travel costs eating into planned funds are seeking therapy from in-office providers, rather than more natural settings, to ensure all funds

are spent on therapy. This means the child is not supported in their natural environment and interventions may not be as targeted or effective.

- Some families are focussed on obtaining therapy and prioritise use of therapy interventions, meaning they may not use planned funds to access other available services which may assist with holistic care and support for the child, for example social work supports.

Best practice is also impacted to a degree by the structure of NDIS pricing, and stagnant pricing rates, which makes it more challenging for therapy providers to support the professional activities that form a core requirement of their AHPRA registration (including supervision, training, continuous professional development etc), which are not directly supported by the fee for service model. OTA continues to advocate for an increase to the therapy support item cap to accommodate inflation and increased business costs, and this is detailed in OTAs July submission to the Review specifically on pricing.

Flexible, family focussed planning options

There needs to be better acknowledgement of the needs of families for children with disabilities. In addition to adequate funding and assistance with coordination of supports, the NDIS should enable joined up family planning for families where there is more than one member with an NDIS plan. Currently individualised approaches make it hard to coordinate care that suits a family's needs and schedules and places restrictions which can severely impact participant everyday life. For example, an OT was supporting a child with disability, and their parent also had an NDIS plan. The father could obtain funding for taxi transport, but this did not accommodate his son's accessible travel needs too so they could not travel together which is highly unsuitable.

OTA understands that NDIA does not support access to respite care for children under 2 years of age. This type of support can assist families who need support/break time, and should be considered and one of the ways in which families can access supports.

Scheme sustainability

Occupational therapists provide clinical assessments and recommend and deliver therapeutic interventions that are targeted at identifying and building participant capacity and independence.

In certain contexts, this skillset and approach has the additional impact of reducing reliance on funded supports over time, including reduced high support needs, increased independence in daily living, and increased participation in employment, travel, social settings and other areas of life.

Occupational therapists also utilise strategies such as participant-led care planning and participant led (and OT enabled) worker training, which can target core supports to actual support needs, reducing the need for inappropriate or ineffective funded supports.

Occupational therapists need to remain an accessible and central element of NDIS service delivery, and be supported and encouraged to delivery of the full scope of the OT skillset, to deliver scheme sustainability, and continue to unlock value within the scheme, and achieve meaningful outcomes for participants.

It is noted that more support from the NDIA for OTs to practice to the full scope of their role and capabilities would create even greater economic efficiencies that would benefit

participants and reduce scheme spending overall. For example, if NDIA integrated evidence and information from OT reports and recommendations into planning for participant packages and this meaningfully informed the levels of support and capacity building interventions a participant could access, this would significantly increase the potential for participants to increase their capacity and live more independently, enhance participant safeguarding, and promote strategies to reduce behaviours of concerns and reduce restrictive practices. Similarly, this could reduce the need for out of schedule plan reviews and reduce delays in accessing the right therapy at the right time.

The NDIS market

OTA has provided a range of feedback on the limitations of the current NDIS market and highlighted issues with a number of proposed market reforms, in our recent response to the NDIS Review Pricing and Payments paper. This includes highlighting a range of issues with proposal to link enrolment and outcomes-based payments to therapy supports, and the proposal to pursue preferred provider arrangements both of which are not supported by OTA.

Any proposed market interventions must not limit participant choice of provider, especially access to small and medium sized providers and sole traders, who comprise a significant portion of the therapy market. For example, for psychosocial disability, 60% of all NDIS support is provided by independent sole traders. The choice to engage an independent sole trader is often intentional, and based on relational, community and personal factors, and this aspect of the national workforce is critical to the consistency of support experienced by people with psychosocial disability. The most efficient and effective delivery of therapy services under the NDIS is via fee for service arrangements, that are billed at an hourly rate.

OTA is currently undertaking a Workforce Development Project which will look at strategies to address issues in supply, skillset and sustainability of the occupational therapy sector across Australia, including in the NDIS market. OTA would be pleased to brief the NDIS Review panel, or other members of government working on NDIS workforce planning, when this work is concluded later in 2023.

Achieving long term outcomes

OTA supports signals from the NDIS Review team and government that there will be moves to extend NDIS plan lengths longer than 12 months, which will reduce participant anxiety about plan reviews and the need to exhaust funding in a plan cycle, reduce the number of assessment reports required to review plans and funding, and enable the identification and achievement of longer-term outcomes.

Longer term plans will ideally reduce the need for NDIS to request reports provided by allied health providers, and enable funding to be used instead for therapeutic interventions and other capacity building activities.

Supporting driving outcomes

One area that has very long term outcomes is enabling participants to achieve driving goals. Obtaining a driving licence is often a primary goal for NDIS participants, and the safe achievement of this can lead to lifelong benefits for participants across relationships, work, study, recreation, and social and community involvement and other enhanced areas of life, as well as reducing NDIS travel costs.

OTA has previously noted the important skillset and service provided by driver trained OTs (DTOT) under the NDIS. DTOTs are Occupational Therapists who undertake additional training and qualifications to assess driving ability and prescribe driving equipment and modifications to enable a participant to operate a vehicle, and lessons in how to operate modified vehicles. Some OTs are also specialised driving instructors (SDIs), supplying a modified vehicle for a participant to learn in (which is registered, insured and maintained at the instructor's expense). Assessing a participant's actual driving capacity has high risk factors and requires careful graded approach and robust risk management, which trained DTDA/SDIs have developed to maintain safety.

DTOTs and SDIs are an important element in the pursuit of participant independence in the area of driving, and have the potential to reducing scheme costs by reducing costs for long term travel needs. However, this area of service provision remains a poorly understood practice area, leading to poor decision making on the scope and quantity of service that are funded under NDIS, leading to poor participant outcomes, and outlay of scheme funds for little or no benefit.

OTA has specifically recommended that NDIA work with representatives of DTOTs and OTA to identify and resolve a number of key issues that are experienced in the delivery of DTOT services, which are primarily around the best way for participants to engage with DTOT services. There are also issues with the current NDIS fee schedule which does not adequately remunerate this specific skill set, and the additional skills and qualifications that an DTOT possesses.

One key issue is poor understanding (by NDIA staff, delegates and participants and their families) of the process to pursue driving independence which that leads to the setting of unrealistic goals around driving independence, and decisions and plan spending on activities and services that are not going to build capacity or result in outcomes. NDIA current guidance is unclear and the information provided regarding supports and the need for an Occupational Therapy Driving Assessment (OTDA) appears heavily weighted towards OTDA supports being required primarily only for those participants who require vehicle modifications, which may create a view for planners, that this is the only time that an OTDA is required.

NDIS and representatives at times appear to underestimate the complexity of driving and there seems to be a belief that driving instruction can be provided by parents, guardians or even support workers, which can place the participant, support workers, employer and the community at risk.

Ideally, a case manager would identify that a participant wants to pursue driving, and then arrange for an OTDA by an DTOT which can inform this process and set goals and activities to build capacity in this area. Case managers are sometimes not pursuing an OTDA, which can lead to potentially misleading/setting unrealistic expectations for participants and carers about their scope to drive independently.

Plan managers are also engaging driving instruction for participants (OTA is aware of up to 40 hours of funding being provided) for non-specialised driving instruction and activities that are not aligned with an OTDA, often resulting in no progress towards an OTDA (if one exists), no feedback to the case manager, and little or no progress towards independence. Ideally, an OTDA would be obtained first, and then an SDI would be engaged (who works with people with a wide range of disabilities), with a DTOT monitoring driving lessons and progress towards goals to ensure these are being delivered in a suitable way.

There is also poor understanding by NDIA staff and delegates about the process that needs to be undertaken to assess a participant's Fitness to Drive (FTD), and the need for refer a participant to a medical review (when required). Case managers should engage with DTOTs around the need for participants to sit driving tests, and work through this complex process to help guide participants' expectations and reduce the need for inappropriate presentations by participants to customer service centres for licence tests, and lack of support or accommodation for participants if needed, during driving tests (leading to failure).

Any reforms that seek to place a cap on the number of funded hours for driving assessments may impact the delivery of OTDAs or provide unsuitable or unsafe assessments, that do not meet participant need. OTDAs require detailed and tailored approach based on participants' needs, which can vary based on individual needs and the time that is required to develop one cannot be prescribed.

Additionally, there are a range of issues in the process to assess, recommend and commission vehicle modifications, which is lengthy and complex, which also need addressing via a coordinated approach by NDIA and other stakeholders.

Recommendation: OTA reiterates its recommendation that NDIA meets with OTA and DTOT representatives to identify and address key issues in providing driving supports that are best practice and create beneficial outcomes for participants and best value for the NDIS scheme.

Participant Safeguarding

OTA has provided submissions to the NDIS Review specifically on NDIS Quality and Participant Safeguarding framework and polices in May 2023. OTA is providing some additional brief comments on additional information and to consider since these submissions, including recent research and further submissions made by key stakeholders.

Recommendation: The NDIS Review considers the recent research report published by the Disability Royal Commission titled Restrictive practices: A pathway to elimination³, as a priority to ensure that its recommendations and findings (including the call for an immediate end to the use of restrictive practices) are considered and integrated into the NDIS Review **recommendations**, and all possible steps are taken to further reduce restrictive practices for people with disability.

OTA has noted in previous submissions that a strategy that can reduce the use of restrictive practices is the increased acceptance of sensory modulation approaches and environmental modifications (where clinically supported), as a way to reduce behaviours of concern.

Recommendation: NDIS Review refer to the submissions made by the NDIS Mental Health Occupational Therapist Community of Practice in June 2023, regarding participant safeguarding and the evidence base for sensory modulation, and ways this can be better utilised under the NDIS, which can be found [here](#).

OTA notes that the NDIS Review is looking at the regulation of providers and has flagged a possible tiered registration approach which is proportionate to the setting and participant risk. OTA's view is that, as an AHPRA registered profession, OTs are subject to extensive checks

³ Accessible here: <https://disability.royalcommission.gov.au/publications/restrictive-practices-pathway-elimination>

and balances via their professional registration, which duplicate many of the registrations and requirements set by the NDIS scheme, and this could be an opportunity to reduce registration requirements for this cohort, due to their certified level of skill and expertise, and advanced legal and ethical standards and safeguarding of client welfare.

Occupational therapists play an important role in upholding safeguarding and constructing developmental safeguards, drawing on AHPRA-regulated practice standards and duty of care obligations. OTs provide high quality assessment and support-needs identification, which can ensure suitable levels of support to enable safe care in activities of daily living and other high-risk settings.

NDIS Commission Regulations and registration obligations are better focused on professions and roles that are not underpinned by comparative registration obligations or regulatory frameworks, alongside training and additional safeguards, which are enacted in higher risk settings.

Recommendation: The NDIA strengthen the understanding of NDIS staff, planners and delegates in understanding the need to balance dignity of risk with vulnerabilities of participants to engage unregistered providers, (particularly support workers), where there is significant cognitive, intellectual or psychosocial disability that impacts capacity, and intersections with other state based supported decision-making authorities, such as Guardianship and Financial Administration.

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