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Productivity Commission

Review of the National Disability Agreement

Productivity Commission
Study Report

January 2019

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Publications enquiries

Media, Publications and Web, phone: (03) 9653 2244 or email: mpw@pc.gov.au

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au).

Foreword

The National Disability Agreement (NDA) is one of several nationally significant sector-wide agreements between the Australian and State and Territory Governments.

This study is a review of the NDA, and is the first of the Productivity Commission's reviews of the agreements. The report sets out our proposals for a new, reinvigorated NDA that would unify all elements of the national disability policy landscape. Ultimately, agreement and implementation of a new NDA is the responsibility of the Australian and State and Territory Governments.

The Commission visited every capital city as part of its consultative processes. The Commission is grateful to the many individuals and organisations who have taken the time to contribute to this study, in particular, those who participated in visits, attended roundtables and provided submissions.

This includes the Australian Government and all State and Territory Governments, the Australian Local Government Association, the National Disability Insurance Agency and a number of groups representing people with disability and their carers, services providers and researchers.

Thank you for your assistance and contributions.

Robert Fitzgerald AM
Commissioner

January 2019

Terms of reference

I, Scott Morrison, Treasurer, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Commission undertake a review into the National Disability Agreement (NDA).

Background

The NDA is a high-level agreement between the Commonwealth and state and territory governments relating to the provision of disability services for people with disability. It is a key accountability mechanism for the achievement of outcomes in the disability services sector, supported by Commonwealth and state own source funding provided separate to the agreement.

It contains roles and responsibilities for each level of government and joins these efforts together through nationally agreed objectives and outcomes to measure performance in the delivery of services to people with disability, their families and carers.

Scope

The intent of this review is to consider:

- the relevance of the objectives, outcomes and outputs of the NDA in the context of contemporary policy settings
- progress against the performance framework of the NDA and the extent to which it has supported improved outcomes for people with disability, their families and carers including performance benchmarks and indicators, and associated timeframes and reporting responsibilities
- the roles and responsibilities of the Commonwealth, and state and territory governments under the NDA
- whether the NDA needs updating in light of these considerations, to reflect the changing policy landscape, including the introduction of the National Disability Insurance Scheme (NDIS) and the National Disability Strategy (NDS).

In undertaking this review, the Commission should have regard to:

- Current reform priorities including:
 - the NDIS rollout including the progressive transition of disability services to full-scheme arrangements (noting that not all jurisdictions are at the same point in transition)
 - implementation of the NDS.
- The interface between the NDIS and mainstream service systems, noting that many people who are unable to directly access the NDIS may access support through alternative service providers, mainstream services, and their communities.
- Responsibility for ensuring that people with disability have access to government services, provided by the Commonwealth and state and territory governments, together with development of agreed performance measures.

Process

The Commission is to consult broadly, including with people with disability, their families and carers, other stakeholders and the Commonwealth and state and territory governments, and report within eight months of receipt of the terms of reference.

The Hon Scott Morrison MP
Treasurer

[Received 25 May 2018]

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Abbreviations

| | |
|----------|--|
| ABS | Australian Bureau of Statistics |
| AIHW | Australian Institute of Health and Welfare |
| APTOS | Applied Principles and Tables of Services |
| ARA | Accredited Release Authority |
| COAG | Council of Australian Governments |
| CRC | COAG Reform Council |
| DRC | COAG Disability Reform Council |
| DS NMDS | Disability Services National Minimum Data Set |
| GP | General practitioner |
| IGA FFR | Intergovernmental Agreement on Federal Financial Relations |
| ILC | Information, Linkages and Capacity Building |
| JSC | Joint Standing Committee on the National Disability Insurance Scheme |
| NCCD | Nationally Consistent Collection of Data |
| NDA | National Disability Agreement |
| NDIA | National Disability Insurance Agency |
| NDIS | National Disability Insurance Scheme |
| NDS | National Disability Strategy |
| NIIS | National Injury Insurance Scheme |
| NIRA | National Indigenous Reform Agreement |
| NPA-TRAD | National Partnership Agreement on Transitioning Responsibilities for Aged Care and Disability Services |
| OID | Overcoming Indigenous Disadvantage |
| RoGS | Report on Government Services |
| SDAC | Survey of Disability, Ageing and Carers |
| SCRGSP | Steering Committee for the Review of Government Service Provision |
| SOWG | Disability Reform Council Senior Officials Working Group |
| SPP | Specific Purpose Payment |

OVERVIEW

Key points

- The current National Disability Agreement (NDA) no longer serves its purpose, has a weak influence on policy, and its performance targets show no progress in improving the wellbeing of people with disability. A new agreement is needed to promote cooperation, enhance accountability and clarify roles and responsibilities of governments.
- The disability policy landscape has changed markedly since the NDA was signed in 2008.
 - The National Disability Insurance Scheme (NDIS) commenced in 2013, focusing on supports for approximately 475 000 people with significant and permanent disability. And the National Disability Strategy (NDS), which covers all people with disability (approximately 4.3 million), was endorsed by all Australian Governments in 2011.
- Improving the wellbeing of people with disability and carers across the nation requires a collaborative response from all levels of government, extending well beyond the NDIS to many other service systems, such as housing, transport, health, justice, and education.
- There is an important role for a new NDA that has at its core, the wellbeing and needs of *all* people with disability and their families and carers. The purpose of a new NDA would be to provide an overarching agreement for disability policy, to clarify roles and responsibilities, to promote cooperation and to enhance accountability. The new NDA should:
 - set out the aspirational objective for disability policy in Australia — *people with disability and their carers have an enhanced quality of life and participate as valued members of the community* — and acknowledge and reflect the rights committed to by Australia under the United Nations Convention on the Rights of Persons with Disabilities
 - outline the roles and responsibilities of governments in progressing that objective; the outcomes being sought for people with disability; and a nationally consistent performance reporting framework for tracking progress against those outcomes.
- The NDS should continue to play the essential role of articulating policy actions, with these actions explicitly linked to the new NDA's outcomes. The agreements governing the NDIS would remain separate to the NDA, but should be referenced throughout so that the NDA is reflective of the whole disability system.
- Roles and responsibilities in the NDA need to be updated to reflect contemporary policy settings, to reduce uncertainty and to address gaps in several areas — including in relation to advocacy, carers, and the interface between the NDIS and mainstream service systems.
- To facilitate greater clarity in responsibilities, governments should articulate and publish which programs they are rolling into the NDIS and how they will support people with disability who are not covered by the NDIS. They should also (through the COAG Disability Reform Council (DRC)) undertake a comprehensive gap analysis, with the new NDA outlining responsibilities for addressing any gaps. A gap analysis should be undertaken every five years.
- NDA performance reporting needs strengthening to improve transparency and accountability.
 - There should be a single person-centred national performance reporting arrangement across the NDA and NDS, with performance indicators and targets agreed to by the DRC.
 - A 'National Disability Report' should be tabled in Parliament biennially, outlining progress against the NDA's outcomes and performance metrics, and including the perspectives of people with disability and findings from policy evaluations undertaken as part of the NDA.
- A new NDA should be agreed by the start of 2020. It should be a living document, with updates made to schedules as required, and should be independently reviewed every five years.

Overview

In 2008, the Australian and State and Territory Governments agreed on a new framework for federal financial relations, to provide a foundation for collaboration on policy and service delivery, and to facilitate the implementation of reforms in areas of national importance. The centrepiece of this arrangement was the establishment of six National Agreements covering disability, education, health, housing, Indigenous reform, and skills and workforce development.

The Australian Government has asked the Productivity Commission to review nationally significant sector-wide agreements, beginning with the National Disability Agreement (NDA) (box 1). The Commission was asked to consider the relevance of the agreement in the context of contemporary policy settings and whether it needs updating in light of these.

1 The context has changed: the NDA is outdated

The disability policy landscape has changed markedly since the NDA commenced a decade ago, and much of what is in the NDA is now outdated. In particular, the NDA does not reflect the implementation of the National Disability Insurance Scheme (NDIS), and the resulting transfer of responsibilities for many disability services from the Australian, State and Territory Governments to the NDIS, which are now governed by NDIS legislation and a series of other instruments and intergovernmental agreements.

Describing these changes as ‘seismic’, participants to this study suggested that the focus on the NDIS has taken all of the ‘oxygen out of the sector’ with limited attention placed on achieving better outcomes for people with disability in other areas, particularly for those not covered by the NDIS. There are approximately 4.3 million people in Australia living with a disability; of those, about 475 000 are expected to receive supports through the NDIS. Particular concerns have been raised in this study about the need to ensure that people with disability are able to access the mainstream services that are essential for daily life and personal wellbeing, such as education, transport and health.

Another notable development is the endorsement in 2011 by all Australian Governments of the National Disability Strategy 2010–2020 (NDS). The NDS aims to ensure that all mainstream services across the country, including health care, education, and housing, address the needs of people with disability. It establishes a high-level policy framework to guide government activity across mainstream and disability specific areas of public policy over its ten-year timeframe. The NDS is currently being reviewed by the Department of Social Services with the aim of developing a new framework for beyond 2020.

Box 1 About the National Disability Agreement

The National Disability Agreement (NDA) is a high-level agreement between the Australian, State and Territory Governments that commenced in 2009. The NDA spans many aspects of disability policy, service provision, performance assessment and reporting (see below).

The current purpose of the NDA is threefold — to promote cooperation, enhance accountability, and clarify roles and responsibilities of governments in order to improve outcomes for people with disability, their families and carers. The purpose of the NDA originates from its overarching framework, the Intergovernmental Agreement on Federal Financial Relations, which also sets out the accountability framework for the National Agreements. Accountability is to be enhanced through simpler, standardised and more transparent public performance reporting, underpinned by clearer roles and responsibilities. This purpose is reflected in the NDA's statement to 'affirm the commitment of all Australian Governments to work in partnership, and with stakeholders including people with a disability, their families and carers, to improve outcomes for people with disability and to clarify roles and responsibilities'.

Elements of the current National Disability Agreement

Objective

People with disability and their carers have an enhanced quality of life and participate as valued members of the community

Outcomes

Three outcomes covering economic and social participation, the opportunity to live independently, and supports for families and carers

Outputs

Four outputs including services and income support for people with disability, and services that assist families and carers in their caring role

Roles and Responsibilities

Commonwealth, State/Territory, and shared responsibilities

Performance Framework

Nine indicators and two benchmarks that measure progress towards the outcomes

Reform and Policy Directions

General commitments to broad policy goals

In light of these developments, this review has provided an opportunity to consider the ongoing relevance and role of the NDA, and importantly, to consider whether an NDA is needed at all given the significant changes in the policy landscape. This review has found

that, although the current NDA is outdated and has lost relevance, a new, reinvigorated NDA could be a strong positive force to guide future disability policy. The original purpose of the NDA — *to promote cooperation, enhance accountability and clarify roles and responsibilities of governments* — is still highly relevant today given that responsibility for improving outcomes for people with disability remains shared across governments. It is arguably even more relevant, given the fundamental changes in those responsibilities over the past decade and because the disability sector is in transition.

Broadly speaking, the recommendations to revitalise the NDA in this report fall into three categories:

- improving cohesion in intergovernmental arrangements for disability policy (section 2)
- clarifying the roles and responsibilities of governments in the NDA (section 3)
- improving accountability mechanisms under the NDA (section 4).

2 A cohesive architecture for disability policy

A key question for this study was whether a new NDA would be the most effective tool for facilitating cooperation, accountability and clarity of roles and responsibilities. The NDA is now one of several instruments currently in place that seek to enhance the quality of life of people with disability, their families and their carers.

The NDA, NDS and NDIS are each underpinned by different types of intergovernmental agreements, outcomes and performance reporting arrangements, with some overlap and duplication. The multitude of different agreements, strategies and plans are causing unnecessary complexity. Without a clear and logical link between the purpose and scope of each of these arrangements, there is a risk of confusion and reduced accountability for improving outcomes for people with disability and carers.

An overarching agreement is needed to clarify the relationship between all aspects of the disability policy landscape, and to facilitate cooperation between governments and promote greater accountability. Further, the Commission is of the view that a national agreement is likely to be the most effective instrument to influence and drive government policies and practices to achieve the agreed outcomes.

But in their current form, neither the NDA nor the NDS is broad enough or comprehensive enough to perform an overarching role.

- The strength of the NDS is the disability community's sense of ownership of it, driven in part by its extensive consultation processes. The NDS also has a stronger emphasis on the individual as it covers all people with disability (as opposed to the NDA's more narrow service delivery focus) and explicitly references the 'human rights imperative' of people with disability. It also details specific policy actions governments are taking to improve outcomes, whereas a statement of policy actions is largely absent from the current NDA.

-
- Unlike the NDA, however, the NDS does not outline roles and responsibilities of governments, and does not involve a formalised performance reporting framework to measure progress towards improving outcomes. These are essential elements for achieving accountability to the community for government actions. The NDA also has elevated standing as one of the National Agreements in the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) (the overarching framework for all National Agreements).

Given their relative strengths, both an NDA and NDS have an important role to play in the future policy landscape. But the two need to be updated and integrated, and their purpose needs to be made clear. There was strong support from participants for retaining the NDA and NDS, with many proposing that the NDA become the overarching agreement (box 2).

The NDA as an overarching agreement for disability policy

The Commission's proposed architecture for disability policy in Australia is intended to unify the various agreements, strategies and policies relating to disability. Under this revised architecture, a new NDA would provide the overarching agreement, with the NDS and NDIS forming elements within that (figure 1).

As the overarching agreement, the new NDA would reconfirm the aspirational *objective* for disability policy in Australia, which under the current NDA is that '*people with disability and their carers have an enhanced quality of life and participate as valued members of the community*'. This objective was strongly supported by participants.

The *outcomes* of the NDA, however, need to be revised as these are used to guide government policy actions to improve wellbeing and provide the foundation for performance reporting. There should be a single set of outcomes across the NDA and the NDS, and as the overarching document, these should sit within the NDA. The current NDS outcomes should be adopted in the new NDA. They more comprehensively cover various aspects of quality of life for people with disability than the current NDA outcomes and are the product of extensive consultation with the community (figure 2).

However, carer and family wellbeing is not a separate outcome in the current NDS. The current NDA more explicitly acknowledges the needs of carers and families through a separate, specific outcome. This is in line with the objective of the NDA, which refers to enhancing the quality of life and participation of carers. Given the vital role of carers and families, the new NDA should adopt a seventh outcome of carer and family wellbeing (in addition to the six outcomes in the current NDS).

Box 2 Support for a National Disability Agreement

Allied Health Professions Australia:

AHPA strongly supports the continued need for a National Disability Agreement (NDA). We contend that it provides an important means of providing an overarching national approach to the needs of people with disability, one that is sorely needed to ensure consistency and coordination across different jurisdictions and patient cohorts. We note that while the NDIS may transform the lives of many Australians and will be the primary funder of services for a cohort of people, many more people experience disability and are likely to require support than will be eligible for the NDIS.

National Disability Services:

The NDA is the appropriate mechanism for linking the National Disability Strategy, core elements of the NDIS bilateral agreements and other government commitments directed at creating an inclusive society for people with disability.

Western Australian Government:

WA submits that the NDA be revised to clearly articulate the roles and responsibilities of the Commonwealth and the other jurisdictions to delineate what the NDIS and NDS will deliver to support people with disability.

Queensland Advocacy Incorporated:

It can add value as a high-level commitment to and blueprint for the coordination of the federal partners across all areas of life (not only National Disability Insurance Scheme/supports) ... It can add value as the establishing agreement for a strategy leader that at once specialises in disability policy and inextricably is linked to the decision-making body COAG. There is a strong case for such an agreement. Nothing else currently serves those functions.

Blind Citizens Australia:

A revised NDA, incorporating the NDS, with a clear delineation of responsibilities for the provision of disability services (possibly both specialist and mainstream) by Commonwealth, state and territory governments and with a robust performance framework would be much more likely to bring about real change than the NDS.

Victorian Government:

Victoria considers that there is a broader and more substantive role for the NDA in an NDIS context, namely, to assist in maintaining focus on and momentum behind the broader national disability agenda.

Brotherhood of St Laurence:

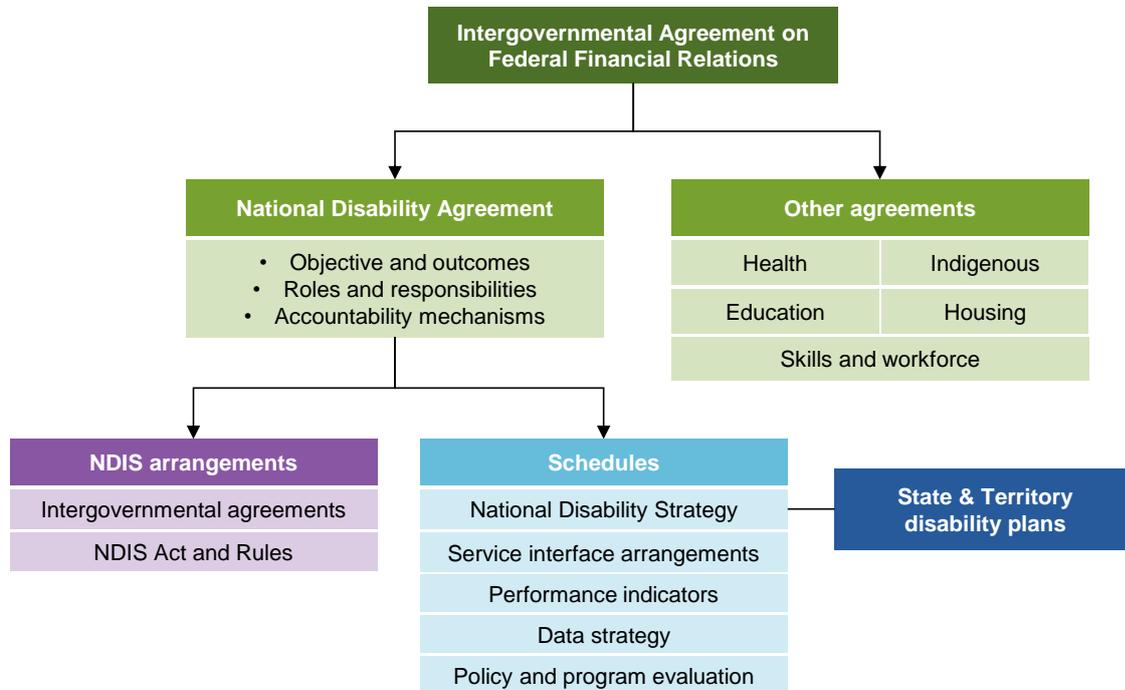
A focus on disability must be retained at a national level to ensure that both Commonwealth and states and territories are held accountable for delivering outcomes for people with disability. Although there is a National Disability Strategy and now the NDIS, both are insufficient because they do not carry the weight of an agreement in terms of meeting obligations.

It is important that the NDA's outcomes reflect feedback from consultation with people with disability, their families and carers. The concurrent review of the NDS will involve extensive consultation. Should this process reveal that revision to the outcomes is needed, these should be reflected in the new NDA.

Although the *scope* of the NDA is currently broad, in line with the objective of the NDA, it needs to be made more explicit in the new NDA that it covers all people with disability, as well as their families and carers, and that it covers all related services, including mainstream services. To improve *accountability*, the *roles and responsibilities* of governments also need

to be clarified and updated to reflect contemporary policy settings and the *performance framework* needs to be strengthened.

Figure 1 **A revised disability architecture**



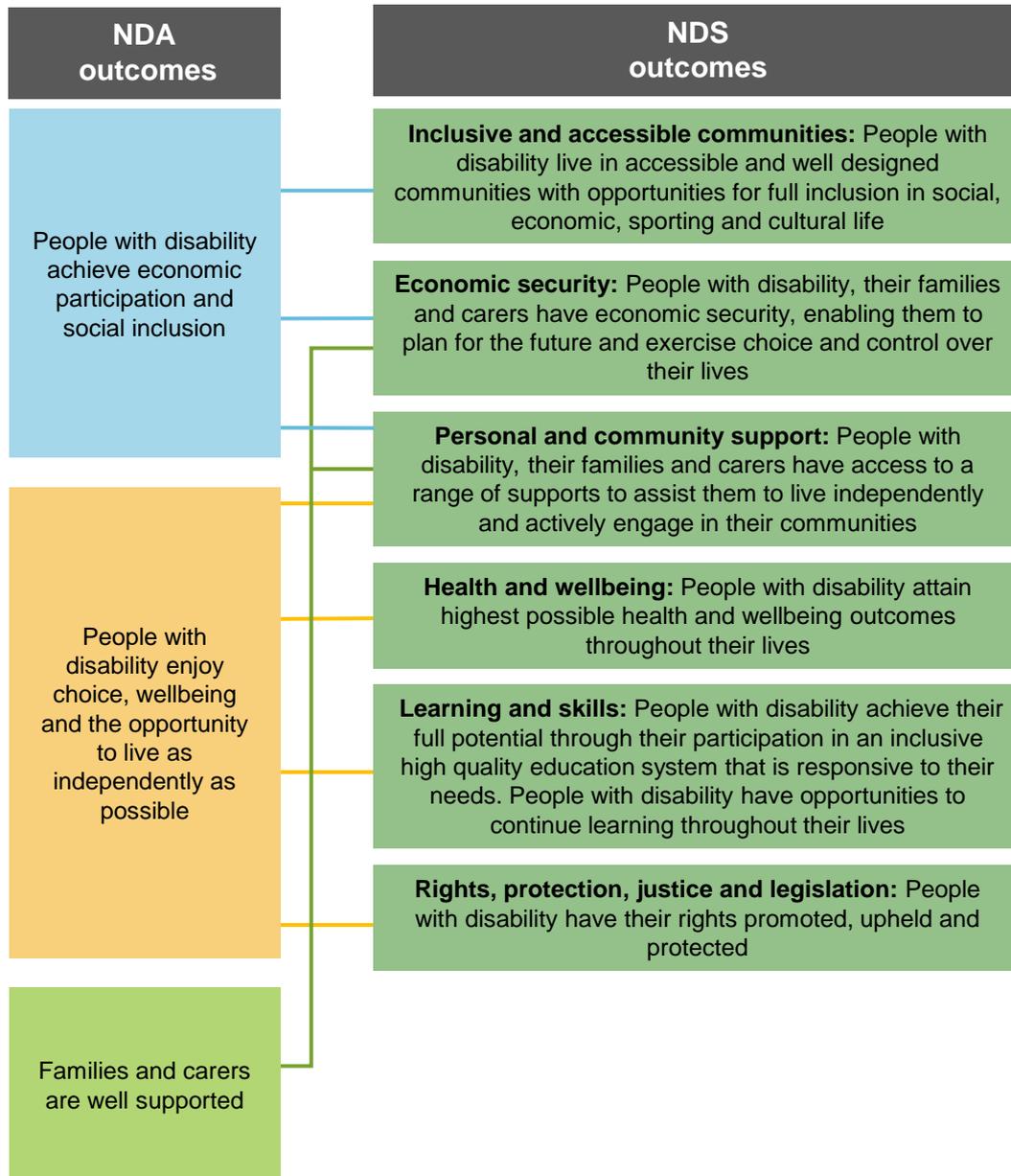
The essential role of the NDS in the new framework

Policy directions and actions are an important component of an intergovernmental agreement, as they provide a link between the broad objectives and outcomes of the agreement and a reform agenda that can be implemented by governments. A statement of policy actions is largely absent from the current NDA. Although it contains a section titled ‘reform and policy directions’, these are mostly declaratory statements of intent. As a result, the NDA provides limited guidance on a disability reform agenda and it is difficult to assess the extent to which the agreement motivates government actions or improves outcomes for people with disability, their families and carers.

Policy actions are instead detailed in the current NDS, but there is no link between these and the NDA’s outcomes. Under our proposed framework, the NDS would continue to play an essential and complementary role with its purpose remaining largely unchanged — *to guide government activity across mainstream and disability-specific areas of public policy, drive improved performance of mainstream services in delivering outcomes for people with disability, and provide leadership towards greater inclusion of people with disability*. In doing so, it would detail the specific policy actions and reform priorities agreed by

governments, and these should be explicitly linked to the new NDA’s outcomes. The NDS would be updated as required to reflect changing needs and priorities.

Figure 2 Comparison of outcomes across the NDA and NDS



The NDA and NDS would work towards a shared objective, a single set of outcomes and performance reporting framework (all specified in the NDA), and the NDS would become a schedule to the NDA. Making the NDS a schedule to the NDA should not be viewed as diminishing its role or significance. Rather, by clearly placing the NDS within a broader agreement that has clearly defined outcomes and performance reporting requirements, the

accountability of governments for implementing the policy actions and commitments in the NDS will be improved.

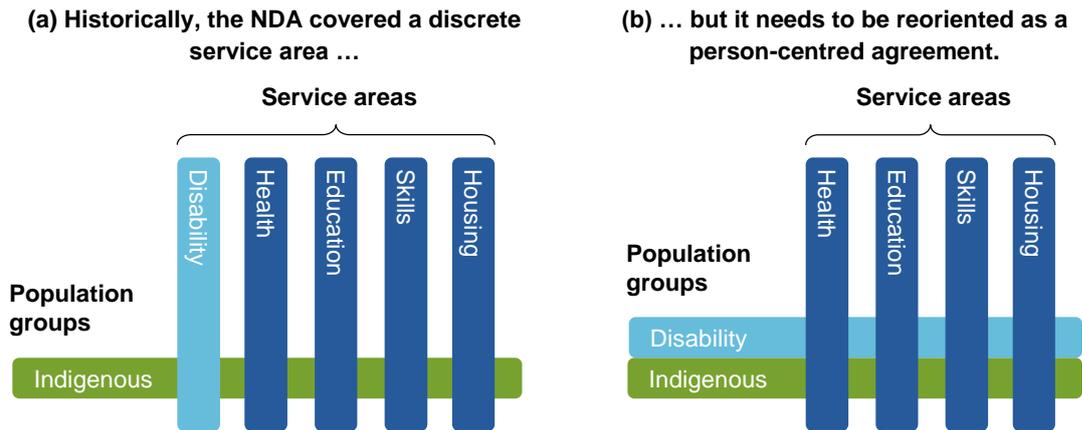
The NDIS in the new framework

As an overarching agreement, it is crucial that the NDA contains a clear statement of its relationship to the NDIS. Given the narrow scope of the NDIS, its bilateral agreements and legislation would remain separate from the NDA. But the NDA should be clear that it covers all people with disability, including NDIS participants. Specific reference to certain aspects of the NDIS should be included in the NDA, including its Information, Linkages and Capacity Building (ILC) program, which covers all people with disability (section 3). The performance framework of the NDA would also cover outcomes for all people with disability, including NDIS participants.

Reorienting the NDA as a person-centred agreement

To be consistent with contemporary approaches to disability policy, the NDA needs to be reoriented away from a service delivery focus, towards a person-centred approach that has at its core the individual needs, rights and aspirations of people with disability, as well as the needs of their carers and families. In other words, the NDA needs to be reconceptualised as an agreement that interacts with all mainstream service systems and other agreements, similar to the approach used for the Indigenous agreement (figure 3).

Figure 3 How do Commonwealth–State agreements fit together?



We propose three strategies to give effect to this approach.

- The preliminaries of the NDA should affirm a person-centred approach to disability policy. They should also explicitly acknowledge the United Nations Convention on the Rights of Persons with Disabilities, and articulate how and to what extent the new NDA is intended to fulfil Australia’s commitments under that convention.

-
- The mainstream services covered by other agreements impact on the lives of people with disability and their carers, including health, education, and housing. In recognition of this, and in order to enshrine the cross-cutting nature of the NDA, the commitments and obligations of governments under the new NDA should be reflected in the other Commonwealth-State agreements (including National Partnerships). Doing so could help raise the prominence of issues people with disability face when accessing mainstream services and prompt action.
 - Governments should ensure that processes for developing and implementing the new NDA are underpinned by genuine engagement with people with disability.

3 Clearer roles and responsibilities of governments

Clearly defined roles and responsibilities are fundamental for achieving accountability to the community and for ensuring that adequate supports are available for all people with disability and their carers. With the changes in the disability policy landscape that have taken place over the past decade, the roles and responsibilities in the NDA are now out of date and need to be updated. Most notably, the development of the NDIS, and the shared responsibility for it, is not reflected in the current NDA.

Reflecting shared responsibilities for the NDIS in the new NDA

The responsibilities of governments for the NDIS have been extensively negotiated and set out in various instruments. The NDA does not need to restate these responsibilities in detail, but in order for it to effectively function as the overarching agreement covering all people with disability, the NDIS needs to be brought into the fold. To do so, the NDA should:

- outline the role of the NDIS in providing supports to people with permanent and significant disability, such as by referencing its purpose and scope
- make clear that the Australian, State and Territory Governments share responsibility for the NDIS (including for stewardship of the NDIS market), and outline those responsibilities by referring to NDIS-related instruments such as bilateral agreements, NDIS Rules and the NDIS Act, which set these responsibilities out in detail
- include a statement that affirms governments' commitment to clarifying what supports to NDIS participants are to be provided through mainstream service systems and what are to be provided through the NDIS. The *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* and the accompanying *Applied Principles and Tables of Services* (APTOS), outline in broad detail the responsibilities of the NDIS and 11 mainstream service areas (including health, education, transport and justice). These documents should be included as a schedule to the NDA.

The ILC program should be reflected in the NDA

The NDIS ILC program provides information, linkages and referrals to connect people with disability, their families and carers with appropriate disability, community and mainstream supports. ILC is available to all people with, or affected by, disability including their families and carers, and is an important link between services provided through the NDIS and services provided outside it. Given its broad remit and role in the landscape of services that will be available to non-NDIS participants, it is essential that the new NDA clearly and in detail reflects the role of the ILC program.

Although the ILC policy and commissioning frameworks are clear in what the ILC program is intended to achieve, in practice there is confusion over what the purpose of the program is, and what services are to be funded through it. Some people see a broad role for the ILC program, including as a direct funder of disability supports for people outside the NDIS. However, when fully rolled out, the ILC program's budget (of about \$130 million per year) is commensurate with the program being primarily an information and referral service. In order to reflect the ILC program in the NDA, governments, in conjunction with the National Disability Insurance Agency (NDIA), should clarify the role of the program and the types of services that it will fund, before it is fully rolled out in 2019-20.

A coordinated approach to workforce development is needed

A ready and capable workforce, both within and outside the NDIS, is essential to providing high-quality supports and services and improving the wellbeing of people with disability. Actions to develop the disability care workforce have so far been piecemeal and uncoordinated, although there are indications of progress in this area, with COAG recently tasking skills officials to work alongside disability officials to develop and support a national disability workforce strategy.

Governments should clarify the responsibilities of different parties to develop the disability care workforce. They should also clarify responsibilities for advancing the capabilities of all disability care and mainstream workers (including healthcare workers and workers in the community sector) to deliver accessible, inclusive and culturally responsive supports to people with disability. These responsibilities should then be reflected in the NDA.

By clarifying responsibilities, the NDA could assist to address gaps

Many participants raised concerns about gaps in services for people with disability and carers. In some cases, concerns stem from the introduction of the NDIS — for example, there is concern that as funding for programs is rolled into the NDIS (such as some community mental health programs, carer supports and community access and inclusion programs) people who are not eligible for the NDIS may no longer be able to access these services. There are also concerns that a lack of clarity at the interface of the NDIS and mainstream service systems, particularly the health system, is leading to people missing out on, or

experiencing delayed access to, some services. In other cases, gaps predate the introduction of the NDIS, and accessibility and inclusion challenges in these areas remain, particularly in relation to transport, housing and public and recreation facilities.

Unclear responsibilities have added to considerable concern about gaps in the services available for people with disability and carers. Of course, a lack of clarity in responsibilities is not the only factor that contributes to service gaps, but it can contribute to a policy environment where gaps are able to emerge and persist. This can make it difficult for governments to be held accountable to the community for the services they are responsible for and the outcomes they achieve.

Governments are taking action to clarify responsibilities and address some service gaps, particularly relating to NDIS interface issues. The COAG Disability Reform Council (DRC) has prioritised resolution of interface issues in six service areas — health, mental health, criminal justice, child protection and family support, transport (including school transport), and personal care in schools. These processes will help to address gaps in services for NDIS participants, but there are also uncertainties relating to the provision of other disability services, in particular for those outside the NDIS. This includes advocacy services, supports for carers, supports for people with psychosocial disability, and community access and inclusion programs (box 3). Responsibilities for these services should be clarified and set out in the new NDA.

A gap analysis would help to comprehensively identify gaps ...

The gaps identified in this study are not exhaustive. A gap analysis — which involves identifying community needs and government objectives, and assessing them against the services that are available or planned — should be conducted through the DRC as a matter of urgency, and be completed by the end of 2019. This would help governments comprehensively identify where gaps are and would also support service providers in their planning. Where gaps are due to unclear responsibilities, the analysis can provide a basis upon which governments can agree on who is responsible for addressing gaps.

Any actions needed to resolve gaps could be included in the NDS and, where necessary, responsibilities of government updated in the NDA. In considering how service gaps can be addressed, it is important to recognise that not all gaps can feasibly be eliminated. Judgment about what is reasonable is required when determining the extent to which adjustments are to be made for people with disability, balancing the costs and benefits of doing so to people with disability and the community more broadly.

The services provided by governments, and the population and service needs of people with disability all evolve over time, so it is important that a gap analysis is conducted on a regular basis. Provision for a gap analysis to be conducted by the DRC at least every five years should be included in the new NDA. This timing coincides with our proposal for the NDA to be independently reviewed on a five-yearly basis.

Box 3 **The need for clarity for some disability services**

Most disability services will be funded through the National Disability Insurance Scheme (NDIS). However, some will not, and responsibility for their provision can be unclear. The Commission has not undertaken an exhaustive analysis, but has identified several service areas where there are widespread concerns about gaps and where responsibilities are unclear. These should be clarified in the National Disability Agreement.

- *Advocacy services.* Some advocacy functions (such as decision supports and capacity-building) have been funded by the National Disability Insurance Agency (NDIA). But many functions of advocates, particularly systemic advocacy, can be unsuited to an individualised funding model like the NDIS (in part, because they benefit people with disability even if they do not directly access them). Some States have withdrawn and then reinstated funding for the period covering the transition and earlier stages of the NDIS. It appears that some governments may be operating on a ‘wait and see’ basis pending confirmation of what funding will be provided through the Australian Government’s National Advocacy Program and the NDIS.
- *Support for carers.* There are widespread concerns about future support for carers outside the NDIS, particularly as funding of some existing programs (such as for carer respite) is being rolled into the NDIS. The Australian Government has announced some services, but it is not clear what State and Territory Governments intend to provide or how they will interface with Commonwealth services.
- *Supports for people with psychosocial disability.* There is potentially a large gap in the number of people with severe psychosocial disability not eligible for the NDIS. Psychosocial disability relates to the effects (through impairments or restrictions) on someone’s ability to participate fully in life as a result of mental ill-health. About 282 000 people aged up to 65 are estimated to have severe psychosocial disability requiring supports. Once the NDIS is fully implemented, approximately 64 000 people are estimated to be covered on the basis of a primary disability of psychosocial disability. Funding of some services used by non-NDIS participants is being transferred to the NDIS from existing Australian Government programs, including the Personal Helpers and Mentors, Day to Day Living, Partners in Recovery and Mental Health Carer Respite programs. Participants also raised concerns about gaps caused by the transfer of (already underfunded) community mental health programs to the NDIS.
- *Community access and inclusion programs.* Community access and inclusion programs support people with disability to participate in community events such as sport and recreation, the arts and general socialising. Participants raised concerns that the responsibility of the NDIA (through Information, Linkages and Capacity Building grants) and State and Territory Governments to fund these services is unclear, particularly as funding for some programs (such as the Total Recreation program in the Northern Territory and the Neighbourhood Connections program in Victoria) is uncertain or being discontinued as the NDIS rolls out.

... but first, governments should clarify services to be provided outside the NDIS ...

In its 2017 study on NDIS Costs, the Commission recommended that before the NDIS is fully implemented, all governments should make public — through the DRC — their approach to providing continuity of support (to clients of disability programs who are not eligible for the NDIS), and the services they intend to provide to people with disability beyond those provided

through the NDIS. A similar recommendation to clarify what services will be rolled into the NDIS was made in early 2018 by the Joint Standing Committee on the NDIS.

With the exception of the Australian Government, governments have published little information about how they intend to ensure continuity of support, including precisely what disability services they will provide. To enable a gap analysis to be undertaken, and to provide certainty for people with disability, governments should immediately articulate exactly what services they will provide (and how) to people with disability. This is particularly important for services outside the NDIS, where the weight of concern about service gaps lies.

... and commit to improving the accessibility of mainstream services

Ensuring that mainstream services are accessible to people with disability is a persistent challenge. Poor accessibility can result in worse health outcomes, less participation and inclusion in society, and a reduction in dignity, autonomy and independence.

The importance of mainstream services in providing support to people with disability has long been recognised. The current NDA recognises that disability services, which are the focus of the agreement (and now largely provided through the NDIS) are complemented by mainstream services. And under the NDS, governments agreed that all mainstream services, including healthcare, education, transport and housing, should be available and fully accessible for people with disability.

The new NDA should acknowledge that all governments — Australian, State, Territory and Local — share responsibility for ensuring that reasonable adjustments are made to their mainstream services so that they are *accessible, inclusive and culturally responsive in meeting the needs of all people with disability*, particularly those with complex needs who may need differentiated support. This can include Indigenous people, people from culturally and linguistically diverse backgrounds, and people with multiple and complex disabilities (including psychosocial disabilities).

The role of local governments should be recognised in the NDA. This could be through a provision that recognises their influence on the lives of people with disability, especially through their role in planning and building regulations, and their involvement in supporting and delivering many community programs and services.

To effectively drive change, a statement in the NDA of governments' responsibility for improving mainstream services needs to be complemented by specific policy commitments, and details on exactly how governments intend to implement these commitments. These should be detailed in the new NDS beyond 2020. The NDA's performance reporting and evaluation framework can also play a role. Indicators relating to the use of, and experiences with, mainstream services by people with disability could help to identify accessibility issues, and facilitate the assignment of responsibilities to improve these services.

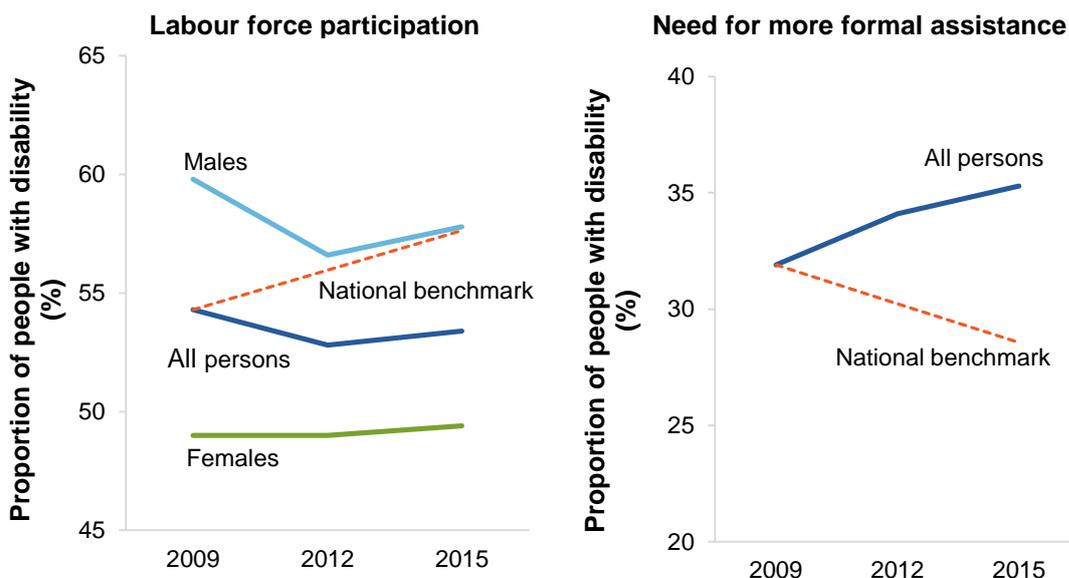
4 An improved performance reporting framework

A commitment to performance reporting is a key element of the current NDA and is the main public accountability mechanism in the agreement. A well-designed performance reporting framework can improve government accountability by providing information to the community about progress against objectives and outcomes and the effectiveness of government policies. It can provide a spur to action for governments and the community and be a catalyst for change.

The NDA's current performance reporting mechanisms do not appear to have been effective in spurring government and community action. There has been very limited progress against the NDA's outcomes and performance metrics, with most indicators and benchmarks showing no significant change since 2009 (figure 4). It is unlikely that the performance targets in the NDA will be met.

- Labour force participation of people with disability declined by 0.9 percentage points between 2009 and 2015 (the target is for a five percentage point increase by 2018).
- The proportion of people with disability reporting a need for more formal assistance increased by 3.4 percentage points between 2009 and 2015 (the target is for a five percentage point decrease by 2018).
- A performance benchmark for the NDA's third outcome — families and carers are well supported — was not assigned a quantitative target under the agreement, and the relevant indicators in the NDA do not show any significant improvement.

Figure 4 Progress towards the NDA's performance targets



There are also deficiencies and gaps with some of the existing performance indicators, which makes it difficult to get a full picture of progress towards outcomes. In particular, the current NDA does not contain any performance indicators that specifically correspond to people's experiences with mainstream services or the impact of mainstream services on the NDA outcome areas.

A strengthened performance framework is needed in the new NDA to improve accountability to people with disability, their families and carers and to the wider community. A revised framework (figure 5) is proposed to comprehensively assess progress towards outcomes for people with disability and carers and to provide greater accountability (through more rigorous reporting and policy evaluation).

The key elements of the framework are:

- person-centred outcome areas (sometimes referred to as outcome 'domains') that specify what outcomes are being sought for people with disability and carers
- performance indicators, which measure progress against each of the outcomes, and (if desired) the specification of a quantitative target for priority performance indicators
- high-quality data for measuring performance indicators
- a statement of policy actions (in the NDS) that are explicitly linked to each outcome area
- rigorous evaluation of policy actions (which can also serve to inform the selection or use of performance indicators and outcomes)
- a public reporting process that outlines what is reported and how often, and by whom.

A holistic person-centred approach to performance reporting

The revised framework is underpinned by a person-centred approach to performance reporting, which involves the identification of outcome areas that reflect aspects of quality of life and wellbeing (consistent with the objective of the NDA). Although services are critically important to the achievement of outcomes, they constitute a mechanism to achieve outcomes. They are not outcomes themselves and thus are not represented as so. That said, it is important that the effectiveness and efficiency of government programs are measured, which could be done in a systematic way through policy evaluation.

The outcomes in the new NDA (as discussed earlier) should form the foundation for the NDA's performance reporting framework (figure 6). Sub-outcomes can be used to describe in more detail the desired results from government policy in each outcome area and aid in accountability by providing a clearer link between outcomes and performance indicators and policy actions. Sub-outcomes do not necessarily have to have one or more performance indicators associated with them. Some sub-outcomes may be more suited to program evaluation than measurement via performance indicators.

Figure 5 Elements of a revised performance and evaluation approach

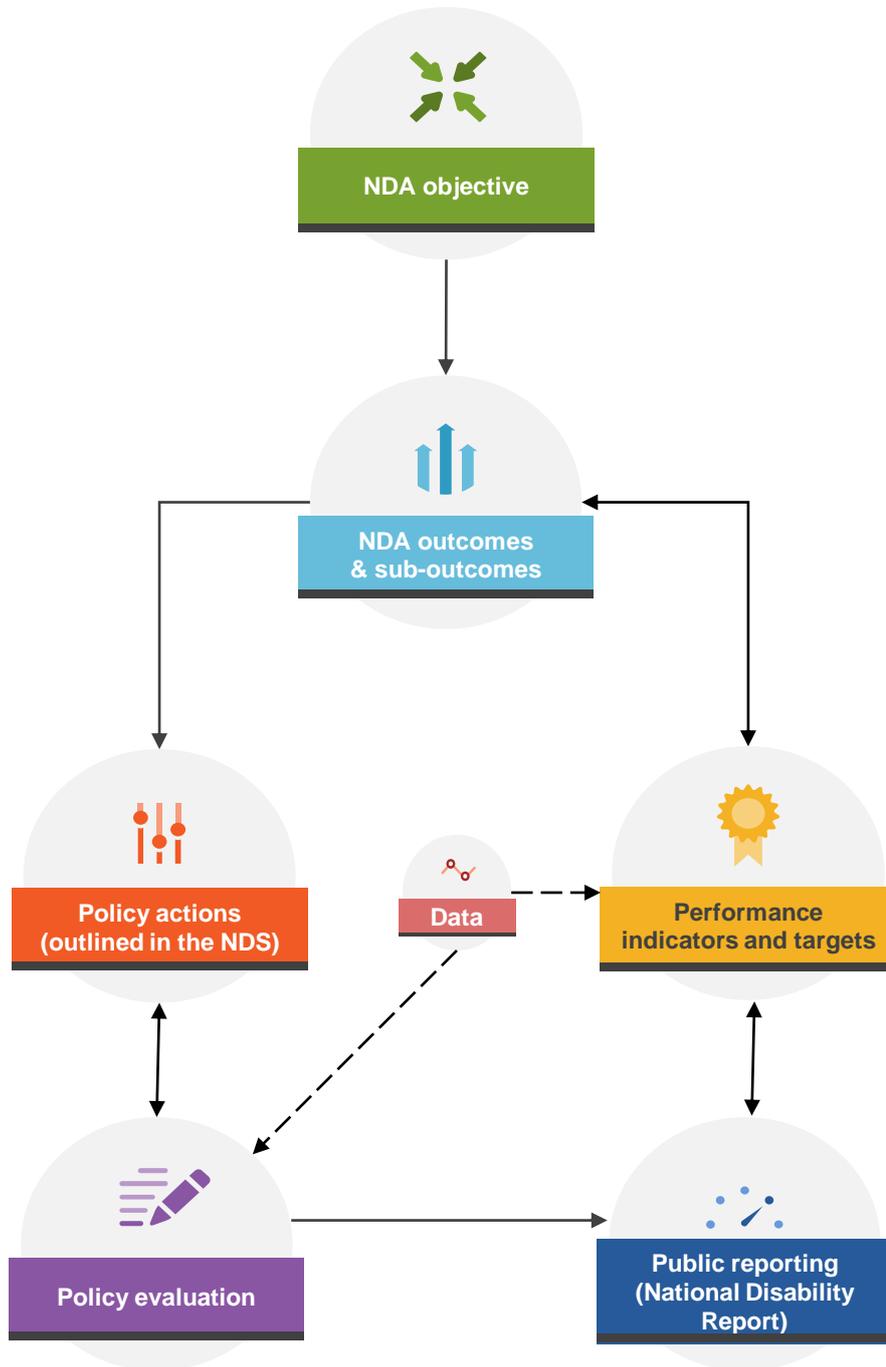
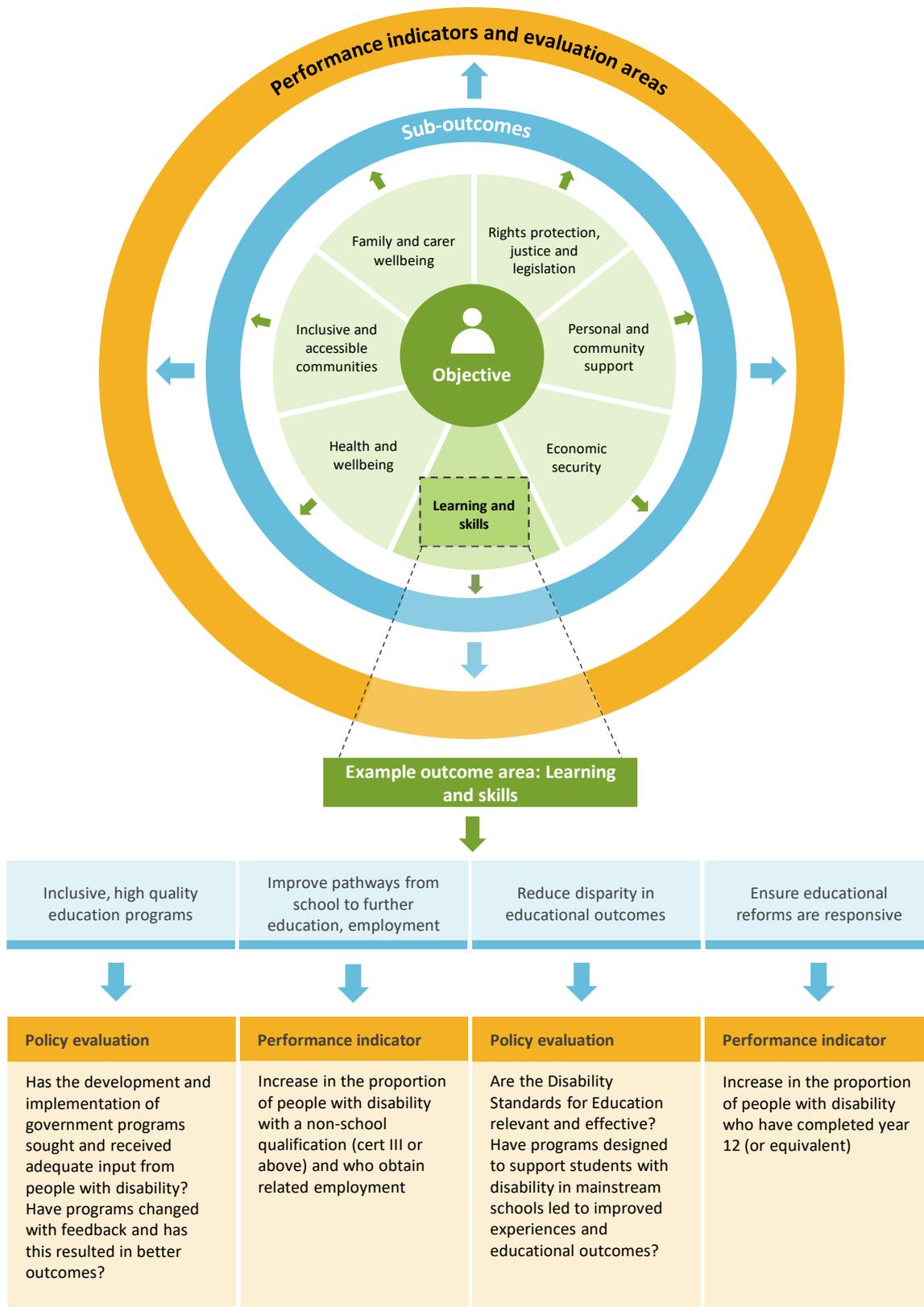


Figure 6 Mapping outcomes to indicators and areas for evaluation



Revised and more comprehensive performance metrics

Performance indicators for the new NDA will need to be developed to measure progress towards each outcome area. The NDA's performance indicators should be expressed in terms that describe people's experiences with services and relate to progress towards the outcomes of the agreement. Clear principles and criteria (outlined in chapter 5 of this report) should guide the selection of indicators to ensure that they are effective measures of progress, and importantly, that the indicators are both meaningful to the community and capable of being influenced by government policy.

The ultimate purpose of performance reporting is to enhance accountability of governments, which is undermined if a clear link between policies and performance indicators is not present. At the same time, performance indicators should collectively give as complete a picture as possible of the lives of people with disability and their carers using the minimum number of indicators required to do so.

Targets can act as an additional accountability mechanism in a performance reporting framework, by helping to focus government attention on specific, achievable outcomes over a defined period. They can also enable the community to judge the significance of any progress that has been made. Various methods can be used to set targets but regardless of the approach used, evidence of the ability of an indicator to be strongly influenced by government policy (and by extension, affect the relevant outcome or sub-outcome) is a key requirement for an indicator to be used as a target.

The Commission has not proposed a comprehensive set of performance indicators or targets in this report — these should be developed and agreed as part of the negotiations on the new NDA and in consultation with people with policy expertise and people with lived experience of disability, as well as data experts. Responsibility for formulating new performance metrics should be assigned to the Senior Officials Working Group (SOWG) of the DRC, supported by a new working group.

To reduce the possibility for duplicative performance reporting under the NDA and NDS, performance reporting should be merged into a single document, given that both the NDA and NDS will have the same outcomes and sub-outcomes. Further, as the overarching agreement relating to disability policy in Australia, measures of outcomes under the NDIS should converge towards that of the NDA, or at least not be inconsistent with it.

A comprehensive data strategy

Performance reporting is not possible without access to adequate data. An absence of adequate data undermines the basis for performance reporting, and can adversely affect policy making. Currently, performance data for the NDA is (almost exclusively) based on the ABS' Survey of Disability, Ageing and Carers (SDAC) and the Australian Institute of Health and Welfare's Disability Services National Minimum Data Set. The ongoing

availability of data from these sources is uncertain, and there is a risk that some data may not be available — particularly data on use of services provided outside the NDIS (box 4).

The new NDA could help to provide certainty for the data collections on which performance reporting relies via a commitment by governments to continue to provide funding to enable the SDAC to be collected every three years, as well as a commitment to collect data on mainstream services used by people with disability. There are a number of ways the data gaps could be filled, including by making greater use of other national data sets, such as the Nationally Consistent Collection of Data on School Students with Disability. The significant potential for linking data sets, such as linking disability support services data to national hospital data, Medicare Benefits Schedule data and the Pharmaceutical Benefits Scheme data, also remains unrealised. The Productivity Commission’s recommendations in its inquiry on Data Availability and Use remain relevant in this regard.

Box 4 There is a risk of inadequate data for NDA reporting

There is a risk that the two main data sets used to measure progress against the NDA’s current performance metrics will be inadequate in the future.

- The Australian Institute of Health and Welfare’s Disability Services National Minimum Data Set is scheduled to conclude in 2018-19 as States and Territories withdraw from funding some disability services as the NDIS approaches full implementation. Although reporting will occur under the NDIS, this will not provide a comprehensive picture of the broader services environment and outcomes for all people with disability and carers. Additional data are required to capture use of, and experiences with, mainstream services.
- The ABS’ Survey of Disability, Ageing and Carers (SDAC) is conducted by the ABS every six years, although since 2009, additional surveys have been conducted every three years, contingent on funding from the Australian Government and the States and Territories. However, the agreement to fund the SDAC triennially lapses in 2019 and the ABS has indicated that without further funding, the SDAC will likely revert to a six-yearly frequency and that estimates will be less reliable (which reduces the ability to have meaningful disaggregated data). Seven of the current nine indicators of the NDA rely on SDAC data, as do many of the indicators in the National Disability Strategy.

The SOWG of the DRC, advised by a new working group, should ensure that a strategy is in place to collect the necessary data where those data are not currently available. This will help to prevent the emergence of sustained data gaps that could compromise performance reporting and ultimately, accountability. The data strategy should be included as a schedule to the NDA.

An embedded and complementary role for policy evaluation

There are currently no provisions in the NDA for evaluating or tracking how policy actions contribute to the NDA’s agreed outcomes. Reports on the progress of the NDS have largely been descriptive (detailing actions taken by governments) rather than providing analysis on

the effectiveness of government actions, and to date only two reports have been published. In addition, audits of disability research in Australia by the Centre for Disability Research and Policy (in 2014 and 2017) found a dearth of structured policy evaluation and that the body of evidence about ‘what works’ in the disability space is patchy, with particular gaps in the research relating to vulnerable groups (including Indigenous and culturally and linguistically diverse populations).

A process is needed for evaluating which government policies and programs are effective in improving outcomes for people with disability. This would help to provide a more fulsome picture of how people with disability are affected by government policy.

The new NDA should include a formalised process for policy evaluation. The operational aspects of the policy evaluation program should be set out in a schedule to the NDA, and should include protocols relating to:

- *how policy evaluation will be carried out.* This could be through commissioning evaluations of what works in specific areas, such as labour force participation, or in particular service areas, such as health or education. Alternatively, it could be a synthesis of research undertaken by others, including government agencies and research bodies. It is important that commissioned research and evaluations are chosen strategically, in consultation with experts and people who have lived experience of disability. Research and evaluations should focus on the outcomes achieved and assess the *impact* of selected policies or programs on a specific outcome or sub-outcome of the NDA
- *a timetable for which policies will be evaluated and when.* Priority areas could be identified from performance reporting and consultation with the community. If particular indicators reveal lack of progress then the types of government policy actions that are linked to the relevant indicator could be an area for evaluation. For example, labour force participation has not improved since the commencement of the NDA, so a potential area for evaluation could be the Disability Employment Services program
- *how the findings of evaluation will be disseminated.* The ‘National Disability Report’ (discussed below) should synthesise the results of evaluations and highlight examples of what works for adoption more broadly.

The schedule (including the priority areas for evaluation) should be agreed by governments as part of the negotiations on the new NDA. The Steering Committee for the Review of Government Service Provision (the same body responsible for developing the proposed National Disability Report), advised by a new working group, should have ongoing responsibility for the administration of the policy evaluation program.

A strengthened and more influential performance reporting approach

For performance reporting to be an effective public accountability mechanism, progress against the NDA’s outcomes needs to be transparent to the community and have a credible

and influential profile. During consultations for this study, it was apparent that there is low public awareness of the NDA and its associated performance reporting.

The low profile of the NDA could be partly due to the way performance reporting is undertaken. Responsibility for NDA reporting has shifted between various agencies over the past ten years — from the COAG Reform Council to the Department of the Prime Minister and Cabinet in 2015. The Department of the Prime Minister and Cabinet then established the Performance Reporting Dashboard, which was recently handed over to the Productivity Commission. This shifting of responsibilities may have created confusion about who is responsible for reporting, and created an impression that performance targets are not a high priority for governments.

In addition, the Report on Government Services (RoGS) reports on the performance metrics of the NDA using its own performance indicator framework, which the NDA indicators are aligned with. But the RoGS does not accord specific prominence to the NDA targets or indicators, which are reported in conjunction with other indicators on disability services (in line with the main purpose of the RoGS). Although this provides comprehensive information on the NDA indicators, the large volume of information in the RoGS reduces the ease with which the NDA's performance metrics can be monitored.

A National Disability Report to be published biennially

The influence and profile of performance reporting for the NDA would be strengthened by tabling a 'National Disability Report' in the Australian Parliament, similar to the Prime Minister's annual report to Parliament on 'Closing the Gap' for Indigenous people. Tabling reports in Parliament helps to draw attention to information and can prompt public discussion and critical evaluation of disability policy settings.

The National Disability Report would outline progress against the outcomes of the new NDA. But it would be more than just a description of data and indicators, and should include a qualitative assessment of progress towards the NDA's outcomes, including findings from policy evaluation. The report should be tabled biennially by the relevant Commonwealth Minister responsible for disability and similar reports could be tabled in State Parliaments.

The report could be developed using an approach similar to the Overcoming Indigenous Disadvantage report, with responsibility for its development assigned to the Steering Committee for the Review of Government Service Provision, supported by a new working group. The working group should include people who have experience in policy, possess data expertise, and represent people with disability. It is essential that any reporting on outcomes includes the perspectives of people with disability. The working group could, and desirably should, be comprised of the same representatives as the working groups proposed earlier to advise on the NDA's performance metrics, data strategy and evaluation program.

5 A new National Disability Agreement for 2020

The elements of the new NDA proposed in this report (summarised in table 1) provide a foundation upon which governments should seek to reach agreement by the start of 2020. There is opportunity in 2019 for governments to advance many of the outstanding issues relating to the full implementation of the NDIS, and in particular, to address service interface issues. The review of the NDS also provides a means for governments to identify policy priorities to progress change in the seven outcome areas of a new NDA.

To meet a 2020 timeframe, several concurrent streams of work will need to commence immediately, and be progressed while the new NDA is being negotiated. In part, these are negotiations that need to take place between governments (for example, roles and responsibilities to resolve gaps and NDIS interface issues). And in some cases, the recommendations in this report involve the creation of a new entity with responsibility for determining specific matters (for example, new indicators and targets are to be developed by the SOWG of the DRC, and a new working group is to be established to support the development of the National Disability Report and the policy evaluation program).

Some of the recommendations proposed in this report also relate to matters to be contained in schedules to the NDA (such as the NDS), which can be negotiated separately to the main agreement. Although it would be desirable, it is not essential that the new NDS be finalised before a new NDA is signed.

6 Some broader issues

In undertaking this review, a number of issues have emerged relating to the broader architecture supporting Australia's National Agreements — the IGA FFR. The IGA FFR was developed in recognition that, while States and Territories have primary responsibility for many policy areas, coordinated action in those areas may be necessary. All of the National Agreements under the IGA FFR (with the exception of the National Indigenous Reform Agreement) were initially associated with funding from the Australian Government to the States and Territories, but these payments were not tied to any performance requirements.

Much has changed in intergovernmental relations since the IGA FFR was agreed to in 2008. In particular, there have been changes to funding arrangements. For disability, the National Specific Purpose Payment associated with the NDA will be fully rolled into funding for the NDIS by 2020 (there may, however, be a need to devise new funding arrangements for specific areas of work in the new NDA, including for data collection, policy evaluation and reporting). National Specific Purpose Payments associated with other National Agreements (for health, education and housing) have also been replaced with tied funding arrangements set out in new Commonwealth-State agreements, which in some cases continue to operate alongside the original National Agreements. There have also been changes in institutional

arrangements that are not reflected in the current IGA FFR, including in relation to the performance reporting role of the (now abolished) COAG Reform Council.

More broadly, the IGA FFR is silent on how the various agreements interact. The needs of people with disability cut across many government service areas, potentially necessitating an explicit statement about how the NDA interacts with other agreements.

This review of the NDA has provided only partial insight into the effectiveness of the IGA FFR as an overarching framework for Australia's National Agreements. A comprehensive consideration of this question has not been possible as part of this review. But the above developments and the future reviews of other agreements may point to a need to consider whether the IGA FFR itself needs to be revised.

Table 1 A proposed blueprint for a new National Disability Agreement

| <i>Element</i> | <i>What</i> | <i>How</i> |
|--------------------------------------|---|--|
| National Disability Agreement | | |
| Preliminaries | Purpose: a clear statement of purpose of the NDA (rec. 2.1). | <ul style="list-style-type: none"> • Include statement of purpose in preliminaries of the NDA: to promote cooperation, enhance accountability for outcomes and clarify roles and responsibilities of governments. |
| | Scope: reorient the NDA as a person-centred document covering <i>all</i> people with disability, families and carers (recs. 6.1, 6.2). | <ul style="list-style-type: none"> • Include statement affirming a person-centred approach to disability policy and explicitly acknowledge the UNCRPD. • Include a commitment to reflect NDA commitments and obligations in other Commonwealth–State agreements. |
| Objective | Clearly stated objective (rec. 2.2). | <ul style="list-style-type: none"> • Reaffirm current objective of the NDA. |
| Outcomes | A statement that describes the impact of government activity on the wellbeing of people with disability and carers (rec. 2.3). | <ul style="list-style-type: none"> • Update NDA outcomes: adopt the six current outcomes in the NDS and add an outcome for families and carers. • Adopt a single set of outcomes across the NDA and NDS. |
| Roles and responsibilities | Clear roles and responsibilities in relation to the NDIS to reflect changes in the policy and service environment (recs. 3.1, 3.2, 3.3, 3.4). | <ul style="list-style-type: none"> • Outline and reflect the role of the NDIS. • Reference NDIS legislation, rules, and bilateral and intergovernmental arrangements. • Reflect responsibilities for developing the capabilities of the disability care workforce. • Outline and reflect the role of ILC. |
| | Clear statement of roles and responsibilities of governments to provide disability services outside the NDIS, to assist in addressing gaps in services (recs. 3.5, 3.6, 3.7). | <ul style="list-style-type: none"> • Outline responsibilities for disability services, including psychosocial services, advocacy, community programs and support for carers. • Include commitments to: <ul style="list-style-type: none"> – publish continuity of support arrangements and what services will be rolled into NDIS – undertake a gap analysis to identify gaps, and review gaps every 5 years. |
| | Embed roles and responsibilities for disability in mainstream service systems (recs. 3.3, 3.8). | <ul style="list-style-type: none"> • Include a commitment to ensure mainstream services are inclusive, culturally responsive and effective for people with disability. • Reflect responsibilities for developing capabilities of mainstream service workforce. |
| Accountability mechanisms | Performance framework: measure progress against outcomes of the NDA (rec. 5.1). | <ul style="list-style-type: none"> • Include new indicators and targets against revised outcomes of the NDA, to be agreed by DRC (supported by the SOWG). |
| | Evaluation: build an evidence base for what works (rec. 4.1). | <ul style="list-style-type: none"> • Include a commitment to and process for policy and program evaluation. |
| | Public reporting (recs. 5.2, 5.4). | <ul style="list-style-type: none"> • Include provisions for SCRGSP to develop a biennial National Disability Report, which will publicly report: <ul style="list-style-type: none"> – progress against the NDA’s outcomes – key findings from policy evaluations. • Require the relevant disability Minister to table the National Disability Report in Parliament. |
| Review | An up-to-date and contemporary NDA (rec. 6.3). | <ul style="list-style-type: none"> • Include a provision for five-yearly independent reviews of the NDA. |

(continued next page)

Table 1 (continued)

| <i>Element</i> | <i>What</i> | <i>How</i> |
|--|---|--|
| Schedule: National Disability Strategy | | |
| Action Plan | Policy commitments and reform actions (rec. 2.1). | <ul style="list-style-type: none"> Specify policy commitments and reform actions. Explicitly link commitments and actions to revised NDA outcomes. |
| Schedule: NDIS and mainstream services interface arrangements | | |
| Roles and responsibilities | Clarify interface arrangements for NDIS and mainstream services (rec. 3.7). | <ul style="list-style-type: none"> Incorporate the <i>Principles to determine the responsibilities of the NDIS and Other Service Systems</i> and the accompanying <i>Applied Principles and Tables of Services</i> as a schedule to the NDA. |
| Schedule: Performance indicators | | |
| Accountability mechanisms | Comprehensive list of performance indicators (rec. 5.1). | <ul style="list-style-type: none"> Include a list of performance indicators, to be developed by the Senior Officials Working Group of the DRC. |
| Schedule: Data Strategy | | |
| Accountability mechanisms | Adequate data collection to enable performance reporting (rec. 5.2). | <ul style="list-style-type: none"> Set out a data strategy that outlines operational details for collecting and maintaining datasets. Include commitment to collection of data on mainstream services and funding SDAC. Identify available NDIS data and outline arrangements for public access to those data. Outline framework governing linking of datasets. |
| Schedule: Policy and program evaluation — detailed arrangements | | |
| Accountability mechanisms | Operational details for policy evaluation program (rec. 4.1). | <ul style="list-style-type: none"> Set out detailed arrangements for policy and program evaluation, including: <ul style="list-style-type: none"> how evaluation will be carried out who will be responsible for undertaking the evaluation a timetable for when and what policies or interventions will be evaluated. SCRGSP to have ongoing responsibility for administration and implementation of this schedule. |

Recommendations and findings

The current National Disability Agreement is out of date

FINDING 4.1

The current National Disability Agreement has fallen out of date and does not reflect contemporary policy settings. As a result, it is a weak driver of disability policy and reform actions. Government action has been primarily motivated by the National Disability Strategy.

FINDING 3.1

The roles and responsibilities in the current National Disability Agreement are out of date and need to be updated to reflect the current policy environment, particularly the introduction of the National Disability Insurance Scheme.

A new overarching agreement is needed

FINDING 2.1

Responsibility for improving outcomes for people with disability remains shared between all Australian Governments. The purpose of the current National Disability Agreement — to promote cooperation, enhance accountability and clarify roles and responsibilities of governments — is therefore still highly relevant today. But there is a need for an overarching agreement to fulfil this purpose and to provide a clear link between all aspects of the contemporary disability policy landscape.

FINDING 2.2

The National Disability Strategy (NDS) has a vital role to play in the disability policy landscape.

- It is a strong focal point for people with disability, has a person-centred focus, and reflects the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities.
- It is also specific about government policy actions to improve outcomes for people with disability, their families and carers, especially with respect to accessibility and inclusion.

However, the NDS needs to be clearly integrated with, and explicitly linked to, the National Disability Agreement, with a common set of objectives and outcomes between the two instruments.

RECOMMENDATION 2.1

The Australian, State and Territory Governments should develop and enter into a new National Disability Agreement (NDA) by the beginning of 2020.

The new NDA should become the overarching agreement for disability policy in Australia. Its scope should be broad to capture all people with disability, their families and carers, and all services to people with disability, including mainstream services. It should outline:

- the purpose of the NDA, and how it links to the National Disability Strategy (NDS) and the National Disability Insurance Scheme (NDIS)
- the aspirational objective for disability policy
- the roles and responsibilities of governments in progressing that objective
- the outcomes being sought for people with disability and carers
- a nationally consistent performance reporting framework for tracking progress against those outcomes.

The purpose of the NDS should be to set out the agreed government policy actions in relation to each of the new NDA's outcome areas and the NDS should become a schedule to the NDA. The NDIS related instruments would remain separate to the NDA, but their link to the NDA should be explicitly outlined through references in the NDA and, where relevant, schedules to the NDA.

RECOMMENDATION 2.3

There should be a single set of outcomes across the National Disability Agreement (NDA) and the National Disability Strategy (NDS). As the overarching agreement, the outcomes should be outlined in the NDA. The new NDA should adopt the six outcome areas of the current NDS, with the addition of a seventh outcome for families and carers.

A modern, person-centred disability agreement

RECOMMENDATION 6.1

In drafting the new National Disability Agreement (NDA), signatory governments should commit to a person-centred approach to disability policy, which seeks to recognise and address the rights, needs and aspirations of people with disability. The preliminaries of the new NDA should affirm this approach.

The preliminaries should also explicitly acknowledge the United Nations Convention on the Rights of Persons with Disabilities and articulate how and to what extent the new NDA is intended to fulfil Australia's commitments under that convention.

RECOMMENDATION 2.2

The current objective of the National Disability Agreement (NDA) — that people with disability and their carers have an enhanced quality of life and participate as valued members of the community — is aspirational and broad enough to capture all elements of disability policy and should be reconfirmed in the new NDA.

RECOMMENDATION 6.2

To enshrine the cross-cutting nature of the National Disability Agreement (NDA), the obligations of governments under the NDA should be reflected in other National Agreements — and, where relevant, other Commonwealth–State agreements.

To facilitate this, the new NDA should include a commitment to reflect, in those other agreements, the responsibilities, performance targets and policy commitments of governments under the NDA.

RECOMMENDATION 6.3

The new National Disability Agreement (NDA) should be a 'living document' and make use of schedules to set out more detailed arrangements or operational matters, with the schedules amended as circumstances warrant.

It should also include an explicit commitment to independently review the agreement as a whole every five years.

Clarifying roles and responsibilities of governments

RECOMMENDATION 3.1

The new National Disability Agreement (NDA) should outline the role of the National Disability Insurance Scheme (NDIS) in providing supports to people with permanent and significant disability. It should make clear that the Australian, State and Territory Governments share responsibility for the NDIS, including a shared responsibility for stewardship of the NDIS market. Such responsibilities, as are set out in NDIS related instruments (such as Bilateral Agreements, NDIS Rules and the *National Disability Insurance Scheme Act 2013 (Cwlth)*), should be referenced in the NDA.

FINDING 3.2

The Information, Linkages and Capacity Building (ILC) program is an important link between services provided through the National Disability Insurance Scheme and services provided outside it. It is available to all people with, or affected by, disability including their families and carers.

Although the ILC policy and commissioning frameworks are clear in what the ILC program is intended to achieve, in practice there is confusion over what the purpose of the program is, and what services are to be funded through it.

RECOMMENDATION 3.2

The new National Disability Agreement should clearly and in detail reflect the role of the Information, Linkages and Capacity Building (ILC) program in supporting all people with disability, their families and carers.

In order to do so, the Australian, State and Territory Governments, in conjunction with the National Disability Insurance Agency, should clarify the role of the ILC program and the types of services that it will fund, before the ILC program is fully rolled out in 2019-20.

RECOMMENDATION 3.3

The new National Disability Agreement (NDA) should include a statement that affirms governments' commitment to a shared responsibility for, and an agreed approach to, workforce development (noting that this requires coordination across the health, community services and aged-care sectors).

The Australian, State and Territory Governments should also work together to immediately clarify, and make public, their responsibilities for developing the disability care workforce. This includes responsibilities for advancing the capabilities of all disability care and mainstream service workers to deliver accessible, inclusive and culturally responsive supports to people with disability. These responsibilities should then be reflected in the NDA.

RECOMMENDATION 3.4

The new National Disability Agreement should set out the responsibilities of the Australian, State and Territory Governments to provide disability services outside the National Disability Insurance Scheme (noting that these could be provided through mainstream systems), in particular where there is lack of clarity including for:

- services to people with psychosocial disability
- advocacy services, including systemic, individual, legal and self-advocacy
- carer services, in particular respite services
- community access and inclusion programs.

FINDING 3.3

A gap analysis — which involves identifying community needs and government objectives, and assessing them against the services that are available or planned — would help governments identify where service gaps exist. It would also provide guidance as to where roles and responsibilities need to be further clarified in the new National Disability Agreement.

RECOMMENDATION 3.5

The Australian, State and Territory Governments should, through the COAG Disability Reform Council, undertake a comprehensive gap analysis, which involves identifying community needs and government objectives, and assessing these against the services that are available or planned.

As a first step, governments should immediately articulate and publish:

- which programs will be discontinued as funding is rolled into the National Disability Insurance Scheme (NDIS)
- how they will discharge their continuity of support obligations
- exactly what services they will provide to people with disability who are not eligible for the NDIS or covered by continuity of support arrangements.

So that it can inform the drafting of the new National Disability Agreement (NDA), the gap analysis should be completed by no later than the end of 2019, and the results made public. The NDA should include a provision for a gap analysis to be undertaken at least every five years, and be updated accordingly following each gap analysis.

RECOMMENDATION 3.6

The new National Disability Agreement (NDA) should include a statement that affirms governments' commitment to clarifying what supports to National Disability Insurance Scheme (NDIS) participants are to be provided through mainstream service systems and what are to be provided through the NDIS.

The new NDA should also incorporate the *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* and the accompanying *Applied Principles and Tables of Services* via a schedule to the NDA.

RECOMMENDATION 3.7

The new National Disability Agreement (NDA) should assist with addressing barriers that people with disability face in accessing mainstream services by:

- clearly stating that the Australian, State, Territory and Local Governments share responsibility for ensuring their mainstream services make reasonable adjustments so that the services they provide are accessible, inclusive, and culturally responsive in meeting the needs of people with disability, particularly those with complex needs who may need differentiated support
- recognising the important role Local Governments have to play in improving the lives of people with disability, especially through their role in planning and building regulations, and involvement in many community programs and services
- detailing in the National Disability Strategy the agreed policy directions and commitments of governments (including those to improve mainstream services) (recommendation 2.1) and incorporating the evaluation of policies to improve mainstream services into the policy making cycle (recommendation 4.1)
- ensuring governments commit to reflect in other agreements their commitments and obligations under the new NDA (recommendation 6.2).

Progress against the NDA's performance framework

FINDING 5.1

There has been very little progress towards the National Disability Agreement's (NDA) outcomes, with most performance indicators and targets showing that progress has gone backwards, or not changed significantly. It is unlikely that the performance targets in the NDA will be met.

- Labour force participation of people with disability declined between 2009 and 2015.
- The proportion of people with disability reporting a need for more formal assistance has increased since 2009.
- A performance target for the NDA's third outcome — families and carers are well supported — was not assigned a quantitative target under the agreement, and the relevant indicators do not show any significant improvement towards the outcome.

FINDING 5.2

There are limitations in the National Disability Agreement (NDA) performance reporting framework relating to gaps in coverage and the clarity of indicators.

- The absence of indicators measuring outcomes relating to use of mainstream services, such as health and education, by people with disability means that the current NDA performance framework does not capture many important aspects of daily life.
- Not all indicators of the NDA can be clearly interpreted, such that an increase or decrease can be unambiguously interpreted as an improvement or deterioration in performance.

Improved reporting for enhanced accountability

RECOMMENDATION 5.1

The new National Disability Agreement (NDA) should adopt a person-centred performance reporting framework that measures progress towards the outcomes of the new NDA.

The Senior Officials Working Group of the COAG Disability Reform Council should develop a comprehensive set of performance indicators (and any associated targets) to measure progress against the outcomes of the revised NDA, based on transparent criteria for selecting performance indicators, and drawing on advice from policy and data experts, and people with disability.

Performance indicators should strike a balance between providing comprehensive information about the lives of people with disability, families and carers, and utilising the minimum necessary number of indicators.

To enable indicators to be revised as new data becomes available, the performance indicators of the new NDA should be listed in a schedule to the agreement, and be updated as warranted.

FINDING 5.3

The provision of adequate data is essential for a person-centred performance reporting framework to function effectively. There is uncertainty regarding the future availability of data that has historically been collected relating to disability, chiefly the Disability Services National Minimum Data Set and the Survey of Disability, Ageing and Carers. And there are significant gaps in data relating to use of, and experience with, mainstream services by people with disability.

RECOMMENDATION 5.2

The new National Disability Agreement (NDA) should establish a clear strategy for the collection, funding, and reporting of data required for the agreement's performance reporting framework. This should include:

- a commitment to the collection of data on the use of, and experiences with, mainstream services — including health, education, public transport, justice, and housing — by people with disability where this does not already occur
- ensuring funding to enable the triennial collection of the ABS' Survey of Disability, Carers, and Ageing (or equivalent) with a sample size at least comparable to that of the 2015 survey
- outlining the data held by the NDIA and data sharing arrangements
- a framework governing the linking of data sets based on the recommendations of the Productivity Commission's inquiry into *Data Availability and Use*.

An appropriate working group (as in recommendation 5.4) should support the Senior Officials Working Group of the COAG Disability Reform Council to ensure that strategies are in place to collect necessary data for performance reporting where those data are currently unavailable, and thereby prevent the emergence of sustained data gaps. The strategy and operational details relevant to the working group should be outlined in a schedule to the NDA.

RECOMMENDATION 5.3

Performance reporting under the new National Disability Agreement (NDA) and National Disability Strategy should be merged, utilising a single national performance reporting framework, and resulting in a single performance reporting document.

Performance reporting under the National Disability Insurance Scheme should utilise the same performance framework as (or at a minimum a framework that is not inconsistent with) the framework of the new NDA.

RECOMMENDATION 4.1

The new National Disability Agreement (NDA) should include a commitment to undertake policy and program evaluation, in addition to its performance reporting requirements. Detailed arrangements for the policy evaluation program should be set out in a schedule to the NDA, and should include:

- a timetable that specifies when and what types of policies and programs will be evaluated
- protocols for undertaking the evaluations.

The Steering Committee for the Review of Government Service Provision should have ongoing responsibility for the administration of the policy evaluation program.

The results and findings from evaluations should be publicly reported and disseminated through the National Disability Report (recommendation 5.4).

RECOMMENDATION 5.4

Progress towards the outcomes of the new National Disability Agreement (NDA) should be publicly disseminated via a biennial National Disability Report, which the relevant Commonwealth Minister responsible for disability should table in the Australian Parliament. The report should include analysis of:

- progress towards the NDA's outcomes and associated performance metrics
- whether selected policies and programs are achieving improved outcomes for people with disability, their families and carers (using the policy evaluation process outlined in recommendation 4.1).

The National Disability Report should also become the formal reporting mechanism for the National Disability Strategy beyond 2020.

COAG should direct the Steering Committee for the Review of Government Service Provision to develop the report, supported by a (permanent) working group made up of representatives from Australian, State and Territory Governments, people with disability, the ABS, National Disability Insurance Agency and Australian Institute of Health and Welfare.

Arrangements for the development and tabling of the report, and the operation of the working group, should be outlined in the new NDA.

1 About this review

The focus of this study is the National Disability Agreement (NDA), which is a high level agreement between the Australian, State and Territory Governments. The NDA spans many aspects of disability policy, service provision, performance assessment and reporting. It is the framework for Australian, State and Territory Governments to work with disability service providers and the people who use the services to construct a modern system that is effective, efficient and fair (Macklin 2008).

Since the NDA commenced in 2009, the disability landscape has evolved markedly, making it timely to consider the relevance and future role of the NDA.

1.1 Background to the study

In the 2017-18 Budget, the Australian Government announced funding of \$4.4 million over four years for the Productivity Commission to undertake ‘independent reviews of nationally significant sector-wide agreements with the States and Territories’ (Commonwealth of Australia 2017, p. 172). Some of this funding is to operate the Performance Reporting Dashboard, which tracks progress against outcomes specified in the National Agreements.

There are currently sector-wide agreements covering health, education, disability, housing and skills and workforce development, as well as a National Agreement relating to Indigenous reform. The NDA is the first of the nationally significant sector-wide agreements the Commission has been asked to review.

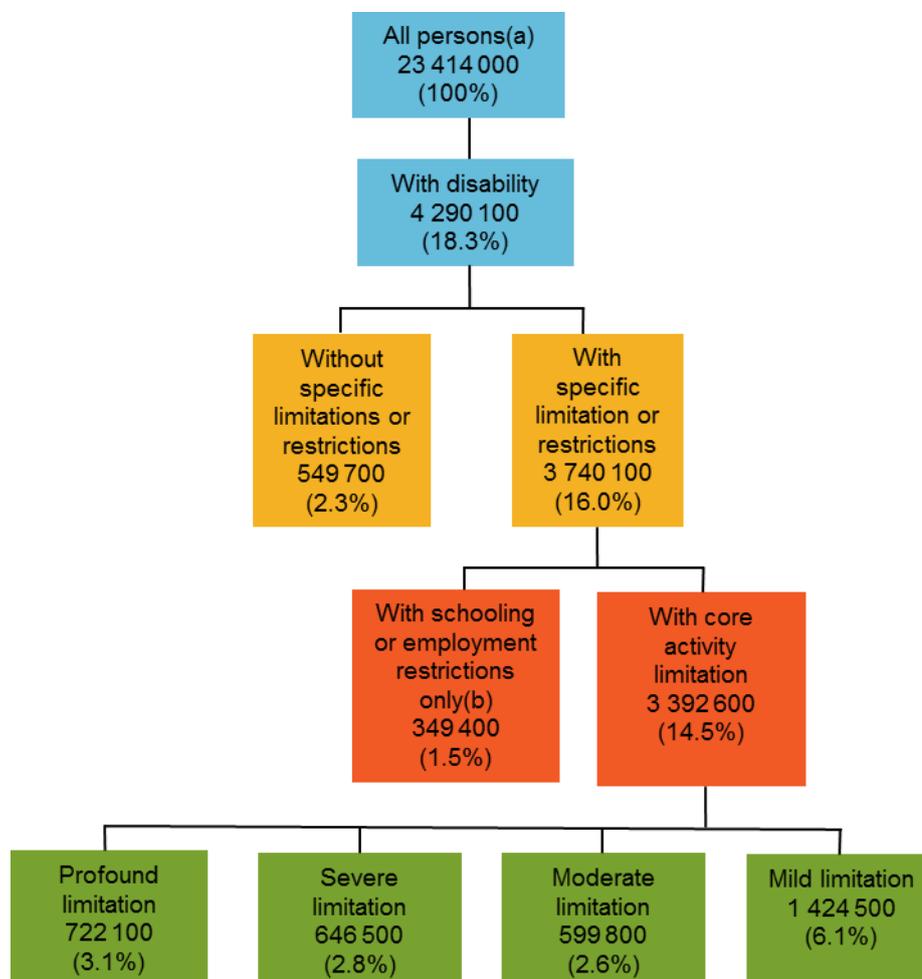
People with disability and carers in Australia

About 1 in 5 (or 4.3 million) Australians were estimated to be living with disability in 2015 (figure 1.1). Disability is defined as an activity limitation, restriction or impairment that restricts everyday life (ABS 2016b). About 6 per cent of (or 1.4 million) people in Australia have a profound or severe core activity limitation. Males and females are similarly affected by disability (18.0 per cent and 18.6 per cent respectively), although this changes with age and severity of disability.

Aboriginal and Torres Strait Islander people experience higher rates of disability than non-Indigenous people. In 2015, 7.3 per cent of all Aboriginal and Torres Strait Islander Australians had a profound or severe core activity limitation — about 1.5 times the proportion for non-Indigenous Australians (SCRGSP 2018, p. 15.5).

Figure 1.1 Persons by disability status in Australia

2015



^a Estimates have been rounded to the nearest one hundred persons. Due to rounding, the sum of the sub-totals may not equal totals. ^b Excludes people with disability who have both a core activity limitation and a schooling or employment restriction. For more information on the terms used, refer to the glossary and appendices associated with ABS (*Disability, Ageing and Carers, Australia: Summary of Findings, 2015, Cat. No. 4430.0*).

Source: ABS (*Disability, Ageing and Carers, Australia: Summary of Findings, 2015, Cat. No. 4430.0*).

Some people with disability require assistance with life activities. In 2015, about 55 per cent of (or 2.4 million) people with disability required assistance with at least one daily activity (ABS 2016b). People with disability use a combination of informal and formal care — in 2015, about 80 per cent of people with disability who needed assistance received care from informal sources, such as from their partner, parents, or children, and nearly 60 per cent received care from formal providers (ABS 2016b).

The National Disability Insurance Scheme (NDIS) provides support for people with significant and permanent disability (at full scheme, the NDIS is expected to provide 475 000

people with disability with individualised support packages (PC 2017d, p. 3)). But not all people with disability receive individualised support through the NDIS. There are some people with disability who fall just outside eligibility for the NDIS, but who have complex needs and are likely to require differentiated support. This can include Indigenous people, those with psychosocial disability, and people with disability in regional and rural areas or from culturally and linguistically diverse backgrounds. People with disability who are not eligible for the NDIS largely rely on supports through mainstream service systems and other (non-NDIS) disability services. It is important that these services are accessible, inclusive and culturally responsive in meeting the needs of all people with disability, but particularly those with complex needs (chapter 3).

Carers also play an important role in assisting people with disability, both those covered by the NDIS and those outside the NDIS. Approximately 2.7 million people in 2015 were estimated to be providing informal care and assistance to people with disability, with females more likely to be providing care. In 2015, more than two-thirds of carers were female (ABS 2016a). About 856 100 (or about 32 per cent) of all carers are primary carers, with most (about 96 per cent) providing care for a family member.

1.2 About the National Disability Agreement

The NDA was established to affirm the commitment of all Australian governments to work in partnership and with stakeholders, including people with disability, their families and carers, to improve outcomes for people with disability. It is a key accountability mechanism for the achievement of outcomes in the disability services sector and is intended to operate indefinitely, but can be amended or revoked by COAG.

The NDA replaced the previous system of disability agreements between the Australian governments. Although these agreements had delivered improvements, concerns at the time remained about the delivery and joint funding of disability services (box 1.1).

Box 1.1 Commonwealth, State and Territory Disability Agreements

The Senate Community Affairs Reference Committee undertook an inquiry in 2007 into the *Funding and Operation of the Commonwealth State/Territory Disability Agreement*. The inquiry examined the intent and effect of the three iterations of the Commonwealth, State and Territory Disability Agreement, which spanned the period 1991 to 2008.

The inquiry found that disability services in Australia were highly complex and the delivery of services to meet individual needs in an appropriate and timely way was extraordinarily difficult. While each agreement delivered improvements in rationalising the delivery of services and providing clearer funding arrangements, concerns remained in the delivery of disability services. The level of unmet need was unknown, with expected higher levels of demand with an ageing of the population. Further, joint funding arrangements were not settled on a sustainable basis, and the multiplicity of services, programs, models and funding resources led to inefficiencies, gaps in service delivery and service interface problems.

Source: Commonwealth of Australia (2007).

The components of the NDA

The key components of the NDA (which are largely the same across all National Agreements), are set out in figure 1.2. The components cover:

- nationally agreed objectives, outcomes and outputs for people with disability, their families and carers
- roles and responsibilities of each level of government in the provision and funding of disability services
- performance indicators, benchmarks and outputs that can be used to track progress towards the stated objective and outcomes of the agreement
- agreed areas of reform and policy directions.

The NDA also includes a number of important elements beyond its specific components. A key requirement of the NDA is ensuring that Australian Government legislation is aligned with national priority reform directions and the United Nations Convention on the Rights of Persons with Disabilities (box 1.2). Governments are also committed under the NDA to address the issue of social inclusion, including responding to Indigenous disadvantage. The commitments provided in the National Indigenous Reform Agreement are embodied in the objective and outcomes of the NDA.

Like all of the National Agreements, the NDA was established under the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) (COAG 2008b, cl 10) (box 1.3). The IGA FFR provides the accountability framework that applies to all National Agreements. It aims to enhance accountability of governments through simpler, standardised and more transparent performance reporting (such as indicators and benchmarks), underpinned by clearer roles and responsibilities (COAG 2008b, cl 14-18).

Disability funding arrangements

The Australian Government provides funding for disability services to State and Territory Governments through a Specific Purpose Payment (SPP), as well as various National Partnerships. From 2008-09 to 2019-20, the Australian Government is estimated to provide about \$13 billion¹ to the States through the Disability SPP. This funding is not tied to the NDA and there is no provision for funding to be withheld if a State or Territory Government does not meet a performance benchmark specified in a National Agreement.

The implementation of the NDIS is fundamentally changing these funding arrangements. Once the NDIS reaches full scheme in a State or Territory, the Disability SPP allocated to each jurisdiction will be fully redirected to the NDIS. Spending through the NDIS at full scheme is expected to be \$22 billion per year (PC 2017d, p. 3).

¹ This number is calculated from figures sourced in Commonwealth of Australia, *Budget Paper no. 3*, 2009-10 — 2018-19.

Figure 1.2 **Structure of the current National Disability Agreement**



The Disability SPP is only one source of disability funding. The NDA is supported by Australian, State and Territory Government own source funding provided separate from the agreement. Since 2008-09, total expenditure on specialist disability services provided under the NDA averaged about \$7.5 billion per annum until 2016-17 (SCRGSP 2018, p. 15.A3). Services under the NDA are mainly delivered by block-funded providers, with funding allocated directly to the provider to deliver the services.

Governance arrangements

COAG is responsible for overseeing all intergovernmental agreements. The COAG Council on Federal Financial Relations is responsible for overseeing the financial relationship

between the Australian, State and Territory Governments, including the IGA FFR. The COAG Council on Federal Financial Relations consists of Australian, State and Territory Treasurers, and is chaired by the Australian Treasurer.

Box 1.2 UN Convention on the Rights of Persons with Disabilities

Australia ratified the *United Nations Convention on the Rights of Persons with Disabilities* (the Convention) on 18 July 2008. The Optional Protocol to the Convention on the Rights of Persons with Disabilities came into force in Australia on 20 September 2009.

Under the Convention, the Australian Government is obliged to ensure, promote and recognise that people with disability are entitled to all human rights and fundamental freedoms, without discrimination of any kind on the basis of disability.

The Convention aims to enhance opportunities for people with disability to participate in all aspects of social and political life, including access to employment, education, health care, information, justice, public transport and the built environment.

There are eight guiding principles that underline the Convention:

- respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
- non-discrimination
- full and effective participation and inclusion in society
- respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- equality of opportunity
- accessibility
- equality between men and women
- respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Under the Optional Protocol, individuals are able to make complaints alleging violation of Convention rights by the Australian, State and Territory Governments.

The UN Committee on the Rights of Persons with Disabilities is the body of independent experts that monitors implementation of the Convention by Parties. All Parties are required to report to the Committee within two years of accepting the Convention and thereafter every four years.

Source: United Nations (2008).

The COAG Disability Reform Council (DRC) is the primary forum through which governments discuss and progress matters related to disability policy. The DRC consists of Australian, State and Territory Ministers within disability and treasury portfolios, as well as a representative from the Australian Local Government Association. It is chaired by the Australian Minister responsible for disability policy. The DRC typically meets at least two times per year.

Box 1.3 Intergovernmental Agreement on Federal Financial Relations

The *Intergovernmental Agreement on Federal Financial Relations* (IGA FFR) was agreed to by Australian, State and Territory Governments in 2008. It aims to address two key features of Australia's federal system:

- vertical fiscal imbalance, where States have large expenditure responsibilities relative to their revenue raising capacities, therefore relying on financial transfers from the Australian Government
- the overlapping roles and responsibilities the Australian, State and Territory Governments have in many areas of service delivery, such as in the case of disability (COAG 2008b).

The IGA FFR has four defining elements:

- a focus on outcomes to be achieved
- funding flexibility so that State and Territory Governments can achieve outcomes and deliver services responsive to the needs of people in their community (COAG 2008b, cl 8-9)
- increased Government accountability through the public reporting of progress against the outcomes (COAG 2008b, cl 14-18)
- an emphasis on coordinated action to address many of the economic and social challenges (COAG 2008b, cl 7).

The IGA FFR consolidated and partially addressed the proliferation of small Specific Purpose Payments (SPPs) made by the Australian Government to the States and Territories.

Under the new arrangements, a wide range of specific Commonwealth-State agreements were subsumed into six National Agreements across the key areas of health care; education, skills and workforce development; disability services; housing and homelessness; and Indigenous reforms.

In addition to the National Agreements, there are also SPPs in two service delivery sectors (skills and workforce development, and disability).

The IGA FFR also provided for National Partnership payments to be made to the States and Territories to support specified outputs or projects, facilitate reform or to reward those jurisdictions that delivered on nationally significant reforms or service delivery improvements (PC 2017a, p. 15). There are also Project Agreements that provide a simpler form of National Partnership for low value or low risk projects.

The DRC oversees the trial and implementation of the NDIS and makes recommendations to COAG on the transition to full scheme NDIS. The DRC also ensures a broad range of reforms are implemented through the NDA and the National Disability Strategy (NDS) to support people with disability, their families and carers. The DRC has also made it a priority to monitor implementation and reporting under the NDA (COAG 2018b).

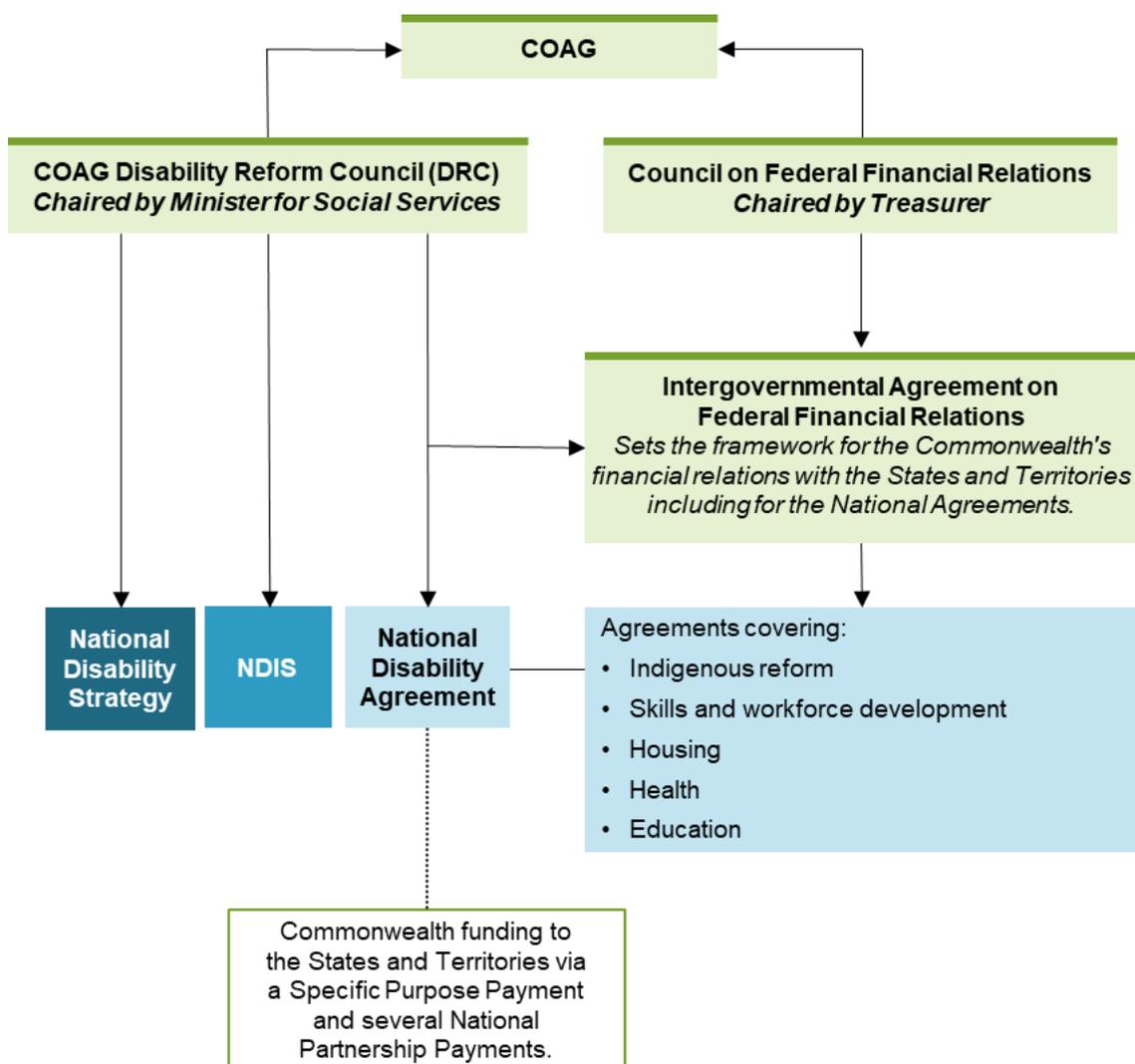
The Productivity Commission is responsible for publishing the annual Report on Government Services, which contains a range of performance data relevant to disability services, including the performance indicators in the NDA. The Commission is also responsible for maintaining the Performance Reporting Dashboard, which publishes information on progress against the performance benchmarks specified in the NDA and other National Agreements (chapter 5).

1.3 The broader disability policy landscape

The NDA is part of a broader set of policies and agreements that seek to enhance the quality of life of people with disability, their families, and carers (figure 1.3). This broader policy landscape has undergone significant change in recent years. The most notable developments are the endorsement by the Australian, State and Territory Governments, and the Australian Local Government Association, of the NDS in February 2011 and the introduction of the NDIS from 1 July 2013. Change continues apace as transitional issues with the NDIS are worked through, and as States progressively implement the full scheme.

In addition to the cross-jurisdictional agreements outlined in figure 1.3, State and Territory Governments and some local governments also have their own disability legislation, as well as disability action plans (chapter 4).

Figure 1.3 The policy architecture supporting the NDA



National Disability Strategy

The NDS establishes a high level policy framework to guide government activity across mainstream and disability specific areas of public policy over its ten year timeframe (box 1.4). The NDS operates in conjunction with the NDA and other Australian, State and Territory Government agreements but is broader in scope than the specialist disability services provided under the NDA and through the NDIS. It aims to ensure that all mainstream services and programs across the country — including healthcare, education, Indigenous reform and housing — address the needs of people with disability.

On 20 November 2017, the DRC agreed to commence work on disability reform post-2020 and the development of a new national disability framework. This includes bringing forward the formal evaluation of the NDS from 2021 to 2018 to review the current strategy and make recommendations for a new framework (COAG 2017b, p. 3).

Box 1.4 The National Disability Strategy 2010-2020

The National Disability Strategy (NDS) was endorsed by COAG in February 2011 to deliver a unified, national approach to improving the lives of people with disability, their families and carers, and to provide leadership for a community-wide shift in attitudes (COAG 2011a). Its purpose is to:

- establish a high level policy framework to give coherence to, and guide government activity across mainstream and disability specific areas of public policy
- improve performance of mainstream services in delivering outcomes for people with disability
- give visibility to disability issues and ensure they are included in the development and implementation of all public policy that affects people with disability
- provide national leadership toward greater inclusion of people with disability.

The NDS looks beyond the specialist disability services provided under the National Disability Agreement and the National Disability Insurance Scheme (NDIS) (COAG 2011a). The strategy focuses on six key outcome areas: inclusive and accessible communities; rights protection, justice and legislation; economic security; personal and community support; learning and skills; and health and wellbeing. The Disability Reform Council agreed on 3 March 2017 to also focus on mental health, health and the criminal justice system under the NDS (COAG 2017a).

An important long-term initiative of the NDS is that governments agreed to use the review points of the National Agreements, including in the areas of healthcare, education, and housing, to assess their consistency with the NDS, and to consider the inclusion of strategies and performance indicators to ensure they address the needs of people with disability.

Currently, the NDS is in its second implementation plan, *Driving Action 2015–2018*, in which the Australian, State and Territory Governments have committed to new priority actions, and to build on ongoing commitments to improving outcomes for all people with disability, including bringing the NDIS transition to full Scheme (COAG 2017b).

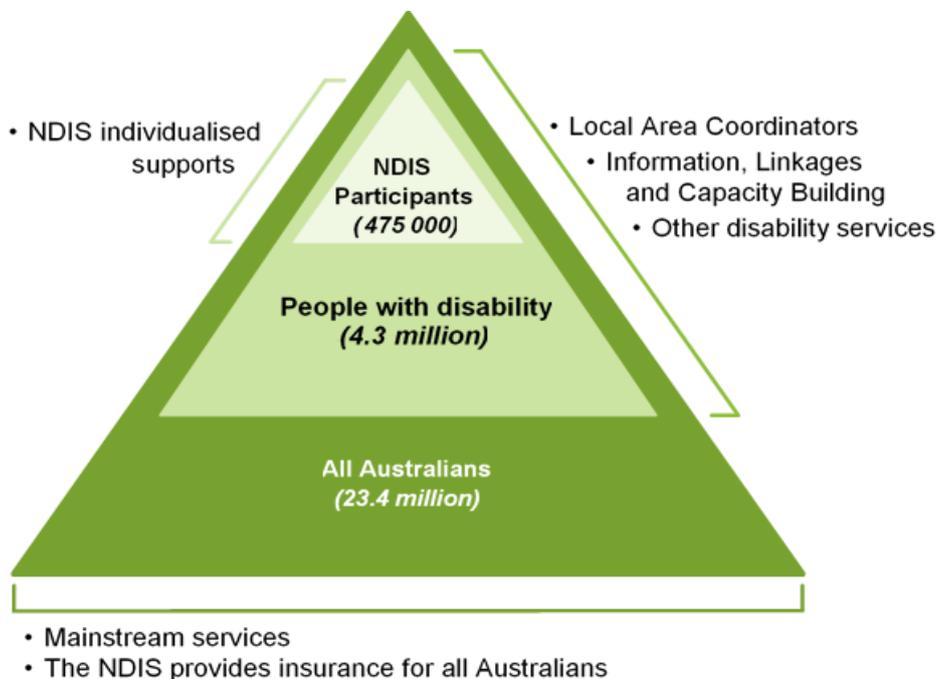
National Disability Insurance Scheme

The introduction of the NDIS represents a fundamental shift in the disability policy and service delivery environment. At full Scheme, the NDIS is expected to cover 475 000 people with disability (mainly for individualised funded services) and disability funding is expected to almost triple (PC 2017d, p. 3).

Over time, the NDIS will largely replace the current provision of specialist disability services to people with disability under the NDA. However, not all NDA service users will be eligible for the NDIS — only those with a permanent and significant disability will be eligible for individualised support packages under the Scheme. People who are clients of specialist disability services and not eligible for the NDIS, or who are accessing services that will not be rolled into the NDIS, will continue to receive support under ‘continuity of support’ arrangements.

The NDIS is broader than just services for eligible participants. Information, Linkages and Capacity Building (ILC) services are also provided through the NDIS. ILC services provide information about, and referrals to, community and mainstream services (including, health, education, transport, justice and housing). These services are available to all people with disability in Australia (figure 1.4).

Figure 1.4 The NDIS is part of a broader system of supports



Source: PC (2017d, p. 4).

The bilateral agreements supporting the NDIS delineate responsibilities for services to people found eligible for the NDIS to be provided within the Scheme and in mainstream services, and set out requirements for continuity of support for those currently receiving specialist disability services who are not eligible for the NDIS. The bilateral agreements also state that, unless otherwise agreed, the responsibility of governments to provide services to people not covered by the NDIS remains. That said, there are some emerging interface issues between the NDIS and other service systems (chapter 3).

The NDA's relationship with other agreements

The NDA recognises that specialist disability services are complemented by mainstream services, and that improved outcomes for people with disability are contingent upon coordination across government services. This is reflected in other Commonwealth–State agreements covering mainstream services, such as health, education and housing.

- The National Healthcare Agreement requires all performance indicators, where it is possible and appropriate to do so, to be disaggregated by Indigenous status, disability status, remoteness area and socio-economic status (COAG 2012d, cl 15). This aids in an assessment of whether people in these groups achieve comparable health outcomes and service delivery outcomes to the broader population. In addition, the National Healthcare Agreement requires State and Territory Governments to fund, amongst other things, disability services, in accordance with the NDA and the National Health Reform Agreement (COAG 2012d, cl 26).
- The National School Reform Agreement replaced the National Education Agreement on 1 January 2019 (COAG 2018f, cl 6). The National School Reform Agreement identifies students with a disability as one of its priority equity cohorts for which agreed outcomes and sub-outcomes will be disaggregated, and to which reforms to lift outcomes should be directed (COAG 2018f, cl 38).
- The National Agreement for Skills and Workforce Development includes a commitment to increase the level of workforce participation, and to provide the support an individual experiencing disadvantage or disengagement may need towards gaining skills that lead to employment or other meaningful engagement in society. This includes consideration of strategies and performance indicators to ensure the needs of students with additional needs, including those with disability, are addressed (COAG 2008a, cl 4).
- The National Indigenous Reform Agreement recognises that the NDA is one of the mechanisms to achieve health outcomes as part of the Closing the Gap in Indigenous life outcomes (COAG 2012e).
- The National Housing and Homelessness Agreement will contribute to improving access to affordable, safe and sustainable housing across the housing spectrum, including to prevent and address homelessness, and to support social and economic participation (COAG 2018e, cl 4). Housing services for people with disability will largely be provided through State housing strategies or plans. This agreement replaces the National Affordable Housing Agreement (COAG 2018e, cl 9).

1.4 The Commission's task and approach to the review

What has the Commission been asked to do?

This study is a review of the NDA, as the key accountability mechanism for achieving outcomes in the disability service sector. In particular, the Commission has been asked to consider:

- the relevance of the NDA's objective, outcomes and outputs in the current policy context
- the roles and responsibilities of governments under the agreement
- progress against the performance framework of the NDA, and the extent to which it has improved outcomes for people with disability, including the performance benchmarks and indicators, and associated timeframes and reporting responsibilities
- whether the agreement needs updating in light of these considerations and the introduction of the NDIS and NDS.

The Commission is to have regard to current reform priorities, including the NDIS rollout and its interface with mainstream services, and the implementation of the NDS. It is also to have regard to the responsibility for ensuring that people with disability have access to government services, and the development of agreed performance measures.

The Commission's approach

The disability services sector is changing rapidly, particularly with the introduction of the NDIS. This study does not review the way that disability services, including through the NDIS, are delivered and funded, but rather examines the purpose, relevance and scope of the NDA. In light of these, the review considers whether an NDA is needed, and if so, what elements a contemporary and enduring agreement should contain.

In line with the *Productivity Commission Act 1998* (Cwlth), the Commission has taken a community-wide perspective to its analysis. That is, the analysis and recommendations in this report take into account the long term wellbeing of the community as a whole (including people with disability, their families and carers, service providers and government), rather than being confined to the interests of particular groups.

In undertaking this review, the Commission has adopted a qualitative approach to assessing the NDA. This approach involves identifying what constitutes 'good practice' in intergovernmental agreement making based on principles of governance, and evaluating how the NDA is performing relative to those practices (figure 1.5).

Figure 1.5 The Commission’s approach to this review

| Assessment criteria | Elements | Components of NDA | Context |
|--------------------------------|----------------------------|---|---|
| Clear and transparent | Purpose | <ul style="list-style-type: none"> Objective Outcomes Outputs | Other policies and agreements (including NDIS Bilaterals, NDS, IGA FFR, UNCRPD) |
| Relevant, valid and up to date | Scope | <ul style="list-style-type: none"> Preliminaries | |
| Comprehensive and coherent | Roles and responsibilities | <ul style="list-style-type: none"> Roles and responsibilities | |
| Implementable | Action plan | <ul style="list-style-type: none"> Reform and policy directions | |
| Effective | Accountability mechanisms | <ul style="list-style-type: none"> Outputs Performance indicators Performance benchmarks | |

As a first step, the Commission considered what **elements** an intergovernmental agreement should contain. In other words, what are the ‘essential ingredients’ of an effective agreement? These elements include both the substantive aspects of an agreement (relating to *what* should be done) as well as its procedural aspects (*how* things should be done).

The Commission considers that an effective agreement should contain:

- a statement of the agreement’s purpose — what is the intention of the agreement?
- a statement of the agreement’s scope — who, and what services, does it cover?
- a definition of roles and responsibilities — are the roles of respective governments clear?
- details as to what actions must be taken — what policy commitments have governments made and what actions and reforms will be undertaken to achieve agreed outcomes?
- mechanisms for accountability — how are governments held accountable for agreed outcomes?

Broadly speaking, this report is structured around those elements.

- Chapter 2 examines the scope and the purpose of the NDA and evaluates how these are reflected in the objectives, outcomes and outputs of the NDA.
- Chapter 3 considers how roles and responsibilities are defined under the NDA.

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- Chapter 4 evaluates the extent to which the NDA specifies or incorporates an action plan with clear links to the agreement’s outcomes and benchmarks.
 - Chapter 5 discusses the NDA’s performance framework and its effectiveness as an accountability mechanism.

But there are also issues that relate to the overarching framework of the agreement. This includes the framing of the document in relation to other National Agreements and the IGA FFR, and in relation to disability policy generally, as well as mechanisms to ensure that the agreement remains up-to-date and relevant. These issues are discussed in chapter 6.

Throughout the report, the Commission has applied the principles of good governance to identify desirable qualities for any intergovernmental agreement. These include qualities such as: clarity and transparency, comprehensiveness and effectiveness (figure 1.5). These qualities constitute the assessment criteria that the Commission has used to evaluate how the NDA is performing.

In this study, the NDA is considered in light of other agreements and policies relating to disability, including the NDIS and NDS. These policy instruments provide important context for this review, but they are not the subject of the study.

1.5 Consultation during the course of the review

The terms of reference for this study were received by the Productivity Commission on 25 May 2018. The Commission released an Issues Paper on 24 July seeking submissions from interested parties. The Commission received 72 public submissions. A list of the individuals and organisations that made submissions is provided in appendix A, and all public submissions are available on the Commission’s website.

Following the release of the issues paper, the Commission held a roundtable on NDA performance reporting issues in Canberra on 18 September. Two roundtables were also held on the purpose and scope of the NDA — the first was held in Melbourne on 25 September and the second was held in Canberra on 26 September. A list of roundtable participants is provided in appendix A.

In the course of preparing the final report for this study, the Commission visited officials in the Australian and all State and Territory Governments. In addition, the Commission consulted with a number of public sector bodies, disability groups and a range of academics and others specialising in disability policy in every capital city. Appendix A provides details.

2 The purpose of the NDA

Key points

- The current purpose of the National Disability Agreement (NDA) is to promote cooperation, enhance accountability, and clarify roles and responsibilities of governments to improve outcomes for people with disability, their families and carers. This purpose remains relevant in contemporary policy settings, especially in light of the fundamental changes in government responsibilities for disability in recent years and because the sector is in transition.
- There is a need for an overarching intergovernmental agreement to fulfil this purpose. Without an overarching agreement, and without a clear and logical link between the various elements of the disability policy system — including the NDA, National Disability Strategy (NDS) and National Disability Insurance Scheme (NDIS) — there is a risk of confusion and reduced accountability for improving outcomes for people with disability.
- The NDS has a vital ongoing role to play in the disability policy landscape. It is a strong focal point for people with disability, has a person-centred focus, and reflects the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities. It also outlines government policy actions to improve outcomes for people with disability, their families and carers, especially with respect to accessibility and inclusion.
- But the NDA is better suited as the overarching agreement for disability policy because it has in-built accountability mechanisms through its expression of roles and responsibilities and its performance reporting framework, and has standing under the Intergovernmental Agreement on Federal Financial Relations.
- A new NDA should be agreed by 2020 and become the overarching agreement, which:
 - has a person-centred focus that covers all people with disability and captures all services to people with disability, including mainstream services. Families and carers should also be explicitly covered by the new agreement
 - embeds genuine consultation and engagement processes with all relevant stakeholders
 - sets the aspirational objective for disability policy in Australia, which is that people with disability and their carers have an enhanced quality of life and participate as valued members of the community
 - outlines the roles and responsibilities of governments in progressing that objective
 - adopts the six outcomes from the NDS, plus an outcome for families and carers
 - establishes a nationally consistent performance reporting framework for tracking progress against those outcomes
 - outlines the purpose of the NDA, and how it links to the NDS and NDIS.
- The NDS should continue to set out the agreed government policy actions, with each action explicitly linked to one of the NDA's outcomes.
- The NDIS related instruments should remain separate to the NDA, but their link to the NDA should be explicitly outlined through references in the NDA.

The *purpose* of the National Disability Agreement (NDA) expresses the function of the agreement (distinct from the *objective* for disability policy that it aspires to). Understanding the purpose of the NDA is important for assessing the relevance of the agreement, the extent to which it needs updating, and whether each element of the agreement supports its purpose. A key consideration for this study has been whether an agreement is still required under contemporary policy settings and, if so, what its purpose and scope should be.

2.1 Does the NDA fulfil a relevant purpose?

The current purpose of the NDA

The current purpose of the NDA is threefold — to promote cooperation, enhance accountability and clarify roles and responsibilities of governments to improve outcomes for people with disability, their families and carers. The purpose of the NDA originates from the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) (chapter 1). The IGA FFR recognises that coordinated action is necessary to achieve outcomes across a range of policy areas, and notes that National Agreements ‘should clarify the responsibilities and accountabilities of the Commonwealth and States and Territories’ (COAG 2008b, pt 3 cl 7). The IGA FFR provides the accountability framework for the National Agreements. It aims to enhance accountability of governments through simpler, standardised and more transparent performance reporting (such as indicators and benchmarks), underpinned by clearer roles and responsibilities (COAG 2008b, pt 3 cl 15). Collaboration and coordination of action is also emphasised in the IGA FFR.

The NDA itself does not contain an explicit purpose, although it states that Governments agreed to its establishment to:

... affirm the commitment of all governments to work in partnership, and with stakeholders including people with disability their families and carers, to improve outcomes for people with disability and to clarify roles and responsibilities. (COAG 2012c, cl 5)

Is the purpose of the NDA still relevant?

Given that responsibility for outcomes for people with disability remains shared amongst governments, the original purpose of the NDA is still highly relevant today, and is arguably even more relevant given the fundamental changes in government responsibilities for disability over the past several years and because the sector is in transition. The changes — most notably the introduction of the National Disability Insurance Scheme (NDIS) — have resulted in some uncertainty about who is responsible for what, and gaps in service provision (chapter 3).

Describing these changes as ‘seismic’, many participants to this study suggested that the focus of the NDIS had taken all of the ‘oxygen out of the sector’ with limited attention placed on achieving better outcomes for people with disability in other areas, particularly for those

not covered by the NDIS (AHPA, sub. 54, p. 4; Bruce Bonyhady, sub. 48, p. 3; DCLS, sub. 35, p. 1; FECCA, sub. 29, p. 2; JFA Purple Orange, sub. 62, p.8; Office of the Public Advocate (Qld), sub. 19, pp. 2–3; QDN, sub. 53, p. 3; Sylvanvale, sub. 22, p. 4; Victorian Government, sub. 66, p. 5; Vision Australia, sub. 37, p. 2). Particular concerns have been raised about the need to ensure that people with disability can access the services — such as transport, health and education — that are essential for daily life and personal wellbeing.

Commenting on the enduring relevance of the NDA, Therapy for Kids said:

The National Disability Agreement (NDA) is more relevant than ever. For community members not eligible for the National Disability Insurance Scheme (NDIS), the NDA is essential to ensure a cohesive and structured approach enables support across Federal/State responsibilities. (sub. 38, p. 1)

Similarly, Blind Citizens Australia said:

A revised NDA is more necessary than ever. There will be substantial changes to the roles and responsibilities of the Commonwealth, state and territory governments since the introduction of the NDIS including where the delineation of responsibilities for disability services and funding lie and how current disability policy and funding interacts with other policy areas such as aged care. (sub. 51, p. 5)

And Carers Victoria said:

Without a continuing NDA, it is likely the majority of Australians with disability who are ineligible for the Scheme, their families and carers will not have a national policy framework to address their needs. (sub. 56, p. 7)

A key question for this study was whether a new NDA would be the most effective tool for facilitating cooperation, accountability and clarity of roles and responsibilities. The NDA is now one of several instruments that seek to enhance the quality of life of people with disability, their families and carers. This includes the National Disability Strategy (NDS) and its associated implementation plans and progress reports, and the bilateral agreements and legislation supporting the NDIS.

The NDA, NDS and NDIS are each underpinned by different types of intergovernmental arrangements, outcomes and performance reporting arrangements, with some overlap and duplication. The multitude of different agreements, strategies and plans are causing unnecessary complexity. As noted by JFA Purple Orange:

There are currently multiple agreements, strategies, plans and legislation driving disability reform in Australia. From our analysis, there is no clear hierarchy in which these documents sit, nor are there clear narratives around how they all work alongside and with each other. The result of this confusion is that it is difficult to track progress or hold governments accountable for progress (or lack thereof) in this space. This is particularly evident in relation to the NDS, the NDA and the NDIS (through the bilateral agreements). (sub. 62, p. 8)

Without a clear and logical link between the purpose and scope of each of these arrangements, there is a risk of confusion and reduced accountability for improving

outcomes for people with disability. An overarching intergovernmental agreement would help to facilitate cooperation between governments and promote greater accountability for achieving outcomes. This idea was supported by many participants to this review (see, for example, NCAC, sub. 60, p. 2 and QDN, sub. 53, p. 6).

FINDING 2.1

Responsibility for improving outcomes for people with disability remains shared between all Australian Governments. The purpose of the current National Disability Agreement — to promote cooperation, enhance accountability and clarify roles and responsibilities of governments — is therefore still highly relevant today. But there is a need for an overarching agreement to fulfil this purpose and to provide a clear link between all aspects of the contemporary disability policy landscape.

2.2 What should be the overarching agreement?

The Commission considered the relative merits of the NDA and the NDS as the overarching intergovernmental agreement for disability policy in Australia. Although the NDIS is an integral part of the disability policy architecture, it is too narrow in scope — in terms of who and what it covers — to be suitable as an overarching framework.

The strengths of the NDS

The NDS has the advantage of looking beyond support provided under both the current NDA and the NDIS. It covers all people with disability, irrespective of whether they need or use specialist disability services. The NDS aims to: drive improved performance of mainstream services in delivering outcomes for people with disability; give visibility to disability issues and ensure they are included in the development and implementation of all public policy that impacts people with disability; and provide national leadership toward greater inclusion of people with disability (COAG 2011a, p. 9). The NDS also has several other strengths, including that it:

- draws on the findings of extensive consultation conducted by the National People with Disabilities and Carer Council and reported in *Shut Out: The Experience of People with Disabilities and their Families in Australia*, which facilitates a sense of ownership and ‘buy-in’ of the strategy
 - During the consultation process, information was gathered on the barriers faced by people with disability, actions they would like to see taken at various levels of government, priority research areas, and examples of success or positive experiences (NPDCC 2009, p. 64)
- has a person centred approach covering all people with disability (as opposed to the current NDA’s more narrow service delivery focus)

-
- explicitly references the ‘human rights imperative’ of people with disability and Australia’s commitments under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (chapter 1). The NDS aims to ensure that the principles underpinning the UNCRPD are incorporated into policies and programs affecting people with disability, their families and carers
 - The NDA also briefly references the UNCRPD but as several participants noted, there may be a need for the NDA to be articulated more clearly in this regard (BCA sub. 51, p. 2; MECFS, sub. 23, p. 5; WWDA, sub. 16, p. 5) (chapter 6)
 - details agreed policy directions and areas for future government action to improve outcomes for people with disability across six policy domains (outlined below). The NDA, however, does not contain a statement of specific policy actions (chapter 4).

In light of these strengths, it is clear that the NDS plays a vital role in the disability policy landscape and it is important that it endures. As noted by the South Australian Government (sub. 63, p. 14), ‘the NDS aims holistically to influence the planning, design and delivery of mainstream policies, programs, services and infrastructure, so that people with disability can participate as equal citizens in all areas of Australian life’. But its link to the NDA needs to be made explicit.

FINDING 2.2

The National Disability Strategy (NDS) has a vital role to play in the disability policy landscape.

- It is a strong focal point for people with disability, has a person-centred focus, and reflects the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities.
- It is also specific about government policy actions to improve outcomes for people with disability, their families and carers, especially with respect to accessibility and inclusion.

However, the NDS needs to be clearly integrated with, and explicitly linked to, the National Disability Agreement, with a common set of objectives and outcomes between the two instruments.

An ongoing role for both an NDA and NDS

The Commission received strong feedback through the course of this study that there was an ongoing role for both an NDA and an NDS (Bruce Bonyhady, sub. 48, p. 3; ECIA sub. 21, p. 5; FECCA, sub. 29, p. 3; Queensland Government, sub. 68, p. 3; WA Government, sub. 72, p. 4). For example, Physical Disability Council of NSW said:

PDCN suggests the current scope of the NDA be retained, with the Agreement continuing to cover all people with disability. PDCN believes the NDA and the National Disability Strategy

2010–2020 (NDS) both play an essential role in facilitating equitable access, including physical access, to the community and mainstream services for people with disability. (sub. 8, p. 2)

Some (including AHPA, sub. 54, p. 10; BCA sub. 51, p. 10; NCAC sub. 60, p. 3) thought that the two agreements would be better merged given how intrinsically linked they are, or should at least be revised in close conjunction (JFA Purple Orange sub. 62, p. 9). The Department of Social Services (as well as National Disability Services, sub. 36, p. 2) favoured combining them:

Combining the NDA and Strategy would reduce duplication, allow for a unified set of policy objectives and identification of strong outcomes and outputs combined with a clear performance framework. It would also enable a clear articulation of roles and responsibilities for supporting people with disability accessing mainstream and specialist disability services. (DSS, sub. 71, p. 2)

The South Australian Government's view was that the NDIS and NDS provide sufficient intergovernmental architecture, the NDS should be strengthened, and the NDA is no longer needed (sub. 63, p. 2). The Tasmanian Government shared a similar view (sub. 61, p. 2).

In addition to broad based support for an NDA into the future (box 2.1), many were also in favour of the NDA becoming the overarching document that links the NDS and NDIS (AHPA, sub. 54, p. 4; Anglicare, sub. 18, p. 4; Carers Victoria, sub. 56, p. 12; Sylvanvale, sub. 22, p. 4; VCOSS, sub. 52, p. 8; WA Government, sub. 72, p. 4).

As suggested by National Disability Services:

... a new National Disability Agreement (NDA) is required to provide the overarching framework for the substantial reforms underway to disability policies and services and the diverse and changing roles and responsibilities of governments ... The NDA is the appropriate mechanism for linking the National Disability Strategy, core elements of the NDIS bilateral agreements and other government commitments directed at creating an inclusive society for people with disability. (sub. 36, pp. 1–2)

Similarly, the Queensland Government said:

Clear and nationally agreed roles and responsibilities, governance, performance, reporting, accountabilities and escalation mechanisms will be critical for the NDS beyond 2020 to drive significant advances across all aspects of community life to achieve improved outcomes for people with disability. A reshaped NDA, in the form of a new overarching Intergovernmental Agreement, setting out these clear, nationally agreed elements as an overarching instrument to the NDS beyond 2020, would provide a robust agreement for the future. (sub. 68 p. 3)

It is the Commission's view that the NDA should become the overarching agreement for disability policy in Australia, primarily because of its in-built accountability mechanism — it specifies roles and responsibilities of governments, and sets out a formalised performance reporting framework (both of which are absent from the NDS). These are essential elements for achieving accountability to the community for government actions aimed at improving outcomes for people with disability, their families and carers. The NDA also has the added benefit of elevated standing as one of the National Agreements within the IGA FFR

framework, and is likely to be the most effective instrument to influence and drive government policies and practices.

Box 2.1 Support for the NDA

Bruce Bonyhady:

The NDA is essential and changes to its structure should be designed to ensure optimal alignment with other government policies and commitments and, above all, ensure that the NDA best serves the needs of people with disability, their families and carers. (sub. 48, p. 2)

Victorian Government:

Victoria considers that there is a broader and more substantive role for the NDA in an NDIS context, namely, to assist in maintaining focus on and momentum behind the broader national disability agenda. (sub. 66, p. 6)

AHPA:

AHPA strongly supports the continued need for a National Disability Agreement (NDA). We contend that it provides an important means of providing an overarching national approach to the needs of people with disability, one that is sorely needed to ensure consistency and coordination across different jurisdictions and patient cohorts. We note that while the NDIS may transform the lives of many Australians and will be the primary funder of services for a cohort of people, many more people experience disability and are likely to require support than will be eligible for the NDIS. (sub. 54, p. 4)

NSW Government:

NSW considers that there may be benefit in a revised intergovernmental agreement between the Commonwealth, States and Territories that has clear accountabilities against a reinvigorated national commitment to provide high quality services, opportunities and outcomes for people with disability. (sub. 65, p. 10)

Prader-Willi Syndrome Australia:

The NDA should be an accountability mechanism (but not the only one), so that State and Territory governments remain focused on getting an effective, holistic support system in place for the disabled. State governments should be delivering on improving mainstream service acceptance of disabled people. (sub. 12, p. 4)

Queensland Advocacy Incorporated:

It can add value as a high-level commitment to and blueprint for the coordination of the federal partners across all areas of life (not only National Disability Insurance Scheme /supports) where the impairments of roughly 18.5% of the population impacts on their physical or virtual access, living arrangements, education, health, income, rights protection, self-determination and aspirations. It can add value as the establishing agreement for a strategy leader that at once specialises in disability policy and inextricably is linked to the decision-making body COAG. There is a strong case for such an agreement. Nothing else currently serves those functions. (sub. 40, p. 4)

Blind Citizens Australia:

A revised NDA, incorporating the NDS, with a clear delineation of responsibilities for the provision of disability services (possibly both specialist and mainstream) by Commonwealth, state and territory governments and with a robust performance framework would be much more likely to bring about real change than the NDS. (sub. 51, p. 10)

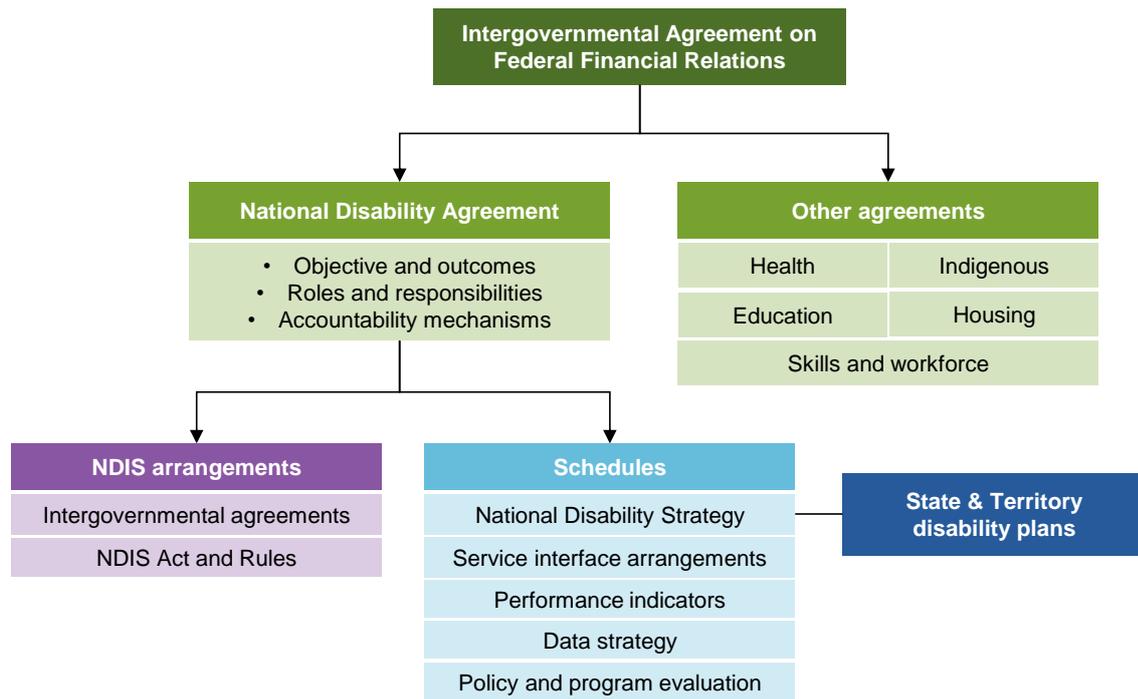
WA Government:

WA submits that the NDA be revised to clearly articulate the roles and responsibilities of the Commonwealth and the other jurisdictions to delineate what the NDIS and NDS will deliver to support people with disability. (sub. 72, p. 4)

2.3 A revised disability policy architecture

Under the Commission’s proposed architecture, the NDA would remain within the IGA FFR framework, and become the overarching agreement for disability policy, with the NDS and NDIS forming elements within that (figure 2.1).

Figure 2.1 A revised disability architecture



The current objective of the NDA should be retained ...

As the overarching agreement, the new NDA would set the aspirational objective for disability policy in Australia. The current objective of the NDA, which is that ‘people with disability and their carers have an enhanced quality of life and participate as valued members of the community’, is strongly supported by participants (AHPA, sub. 54, p. 6; BCA, sub. 51, p. 11; NCAC, sub. 60, p. 2; Carers Victoria, sub. 56, pp. 12–14; DCLS, sub. 35, p. 2; NSW Government, sub. 65, p. 4; Queensland Government, sub. 68, p. 4). For example, Vision Australia noted that:

The objective and outcomes of the NDA, while broad, still maintain relevance in the sector as an independent, high level guidance for the cohesive delivery of integrated disability services across Commonwealth and State governments. (sub. 37, p. 2)

The objective is also already broadly consistent with the vision set out in the NDS, which is ‘an inclusive Australian society that enables people with disability to fulfil their potential as

equal citizens’ (COAG 2011a, p. 22) (though notably, the vision of the NDS does not explicitly mention carers — discussed further below). The objective of the NDIS — which is to provide those with permanent and significant disability with the reasonable and necessary supports they need to live an ordinary life (NDIA 2018a) — is noticeably more narrow in its scope, in line with it being a service delivery system.

The NDA’s objective is aspirational and broad enough in scope to capture all people with disability and all elements of disability policy and should be reconfirmed in the new NDA. This objective should guide the direction of disability policy in Australia, and all elements of the disability system.

... but other elements will need revision

There are a number of areas, however, where substantial revision to the agreement would be required. While the **scope** of the NDA is currently broad, in line with the objective of the NDA, it needs to be made more explicit in the new NDA that it covers *all* people with disability, as well as their families and carers, and that it covers *all* services designed to support people with disability, their families and carers, including mainstream services. And as discussed in chapter 6, the focus of the agreement needs to be reoriented away from a service delivery focus, towards a holistic, person-centred approach to disability policy. In line with the broad scope of the NDA and the person centred approach, the **outputs** of the NDA (which describe the services that are being delivered to achieve outcomes) also need to be revised so that they recognise the many services that people with disability receive through mainstream service areas, and not just through disability-specific services.

The **roles and responsibilities** of governments will also need to be updated to reflect contemporary policy settings (chapter 3) and the **performance reporting framework** needs to be strengthened so that it more effectively holds governments to account (chapter 5). There also needs to be a mechanism for periodic review (chapter 6).

The development and implementation of the new NDA needs to be supported by genuine consultation and engagement with people with disability, their families and carers and other relevant stakeholders (chapter 6). The Commission is also proposing changes to the **outcomes** of the NDA. These are discussed in section 2.4 below.

The elements of the new NDA proposed throughout this report provide a foundation upon which governments could seek to reach agreement by the beginning of 2020. To meet this timeframe, several concurrent streams of work (including to clarify roles and responsibilities, address gaps in services, and to devise new performance metrics) will need to commence immediately, and be progressed while the new NDA is being negotiated.

The NDS will continue to play an essential role

The NDS should continue to set the policy strategy for disability policy in Australia. As noted above, a statement of policy actions is largely absent from the current NDA, and is

instead detailed in the current NDS and linked to the six NDS outcome areas. However, there is no link between the actions in the NDS and the current NDA outcomes (chapter 4).

Under the revised architecture, the purpose of the NDS would remain largely unchanged — to guide government activity across mainstream and disability-specific areas of public policy, drive improved performance of mainstream services in delivering outcomes for people with disability, and provide leadership towards greater inclusion of people with disability (COAG 2011a, p. 9). In doing so, it would detail the specific policy actions and reform priorities agreed by governments, and these should be explicitly linked to the NDA outcomes and be updated on a regular basis to reflect changing needs and priorities. State and Territory disability plans should align with the actions set out in the NDS (chapter 4).

The purpose of the NDS would be articulated in the NDA to create an explicit link between the agreed outcomes in the NDA and the policy actions in the NDS. Under the revised framework, the NDA and NDS would work towards a shared objective, and a single set of outcomes and performance reporting framework (all specified in the NDA) (chapter 5).

To ensure that the NDA and NDS are consistent and coherently linked, the NDS should become a schedule to the NDA. Making the NDS a schedule would also help to ensure that it remains ‘in sync’ with the NDA over time. Further, as discussed in chapter 6, making the NDS a schedule is consistent with the idea that it would be a ‘living’ document that is regularly updated to reflect changing policy priorities of governments over time. It is also consistent with the way schedules are used in other National Agreements.

This move should not be viewed as diminishing the role or significance of the NDS. Rather, by clearly placing it within a broader framework that has defined performance reporting and policy evaluation requirements, the intention is to improve accountability around the policy actions and commitments outlined in the NDS. Despite being a schedule to the NDA — an intergovernmental agreement — the NDS would continue to be broader than a commitment between governments and would reflect the shared responsibility of all Australians to deliver outcomes for people with disability.

The role of the NDS in the revised architecture would need to be considered in the concurrent review of the NDS, which is considering a new national disability framework for beyond 2020 (chapter 1).

Where does the NDIS fit in the revised framework?

As the overarching agreement, it is crucial that the NDA also contains a clear statement of its relationship to the NDIS. Given that the NDIS is governed by its own set of legislation, rules and intergovernmental agreements, it is appropriate that it remain separate from the NDA. But the NDA should be clear on its relationship to the NDIS by:

- stating that it covers all people with disability, including NDIS participants, who also use services outside the NDIS

-
- updating the roles and responsibilities of governments to reflect the changes resulting from the introduction of the NDIS (chapter 3)
 - making specific reference to certain aspects of the NDIS, such as the Information Linkages and Capacity Building program, which covers all people with disability, and the COAG document that details the boundaries between the NDIS and mainstream services (the Applied Principles and Tables of Services) (chapter 3)
 - ensuring that the performance framework of the NDA is comprehensive and covers outcomes for all people with disability. Ideally, over time the NDIS reporting framework would evolve to be consistent and compatible with the revised NDA performance reporting framework (chapter 5).

References to the NDIS could be made within the body of the NDA, especially where it relates to updating and clarifying the roles and responsibilities of governments. They could also be made through additional schedules to the NDA (for example by making the Applied Principles and Tables of Services a schedule to the NDA) (chapter 3).

RECOMMENDATION 2.1

The Australian, State and Territory Governments should develop and enter into a new National Disability Agreement (NDA) by the beginning of 2020.

The new NDA should become the overarching agreement for disability policy in Australia. Its scope should be broad to capture all people with disability, their families and carers, and all services to people with disability, including mainstream services. It should outline:

- the purpose of the NDA, and how it links to the National Disability Strategy (NDS) and the National Disability Insurance Scheme (NDIS)
- the aspirational objective for disability policy
- the roles and responsibilities of governments in progressing that objective
- the outcomes being sought for people with disability and carers
- a nationally consistent performance reporting framework for tracking progress against those outcomes.

The purpose of the NDS should be to set out the agreed government policy actions in relation to each of the new NDA's outcome areas and the NDS should become a schedule to the NDA. The NDIS related instruments would remain separate to the NDA, but their link to the NDA should be explicitly outlined through references in the NDA and, where relevant, schedules to the NDA.

RECOMMENDATION 2.2

The current objective of the National Disability Agreement (NDA) — that people with disability and their carers have an enhanced quality of life and participate as valued members of the community — is aspirational and broad enough to capture all elements of disability policy and should be reconfirmed in the new NDA.

2.4 Updating the outcomes of the NDA

The outcomes of the current NDA are intended to describe the impact that government activity is expected to have on community wellbeing. They are designed to be strategic, high level and observable goals expressed in clear, measurable and achievable terms. There are three outcomes in the current NDA:

- people with disability achieve economic participation and social inclusion
- people with disability enjoy choice, wellbeing and the opportunity to live as independently as possible
- families and carers are well supported.

The NDS and NDIS also contain outcomes. The NDS outlines six outcome areas (box 2.2) and the NDIS has three outcomes. The outcomes across the NDA, NDS and NDIS are broadly consistent (or at least are not incompatible) and can be mapped to each other (with the exception of the NDIS financial sustainability outcome) (figure 2.2).

The NDA should adopt the current NDS outcomes ...

Under a revised framework, there is no obvious reason why the NDA and NDS should contain different outcomes for people with disability. For this reason, some study participants called for the outcomes of the NDA and the NDS to be aligned (for example, AHPA, sub. 54, p. 6; BCA, sub. 51, p. 11).

Even though they are broadly consistent, having two sets of outcomes creates confusion and duplication, especially when both instruments are broad in scope and cover all people with disability. Therefore, the Commission considers that there should be a single set of outcomes across the NDA and the NDS. As the overarching agreement, the outcomes should reside in the new NDA and there should be a strong link between these outcomes articulated in the NDA and the policy actions detailed in the NDS (chapter 4). And, as noted in chapter 5, measures of outcomes should converge across the NDA and NDIS, using a common reporting framework — or at least a framework that is not inconsistent with reporting under the NDA.

The current NDS outcomes should be adopted in the revised NDA. They are more detailed and comprehensive, are the product of extensive consultation with the community, and are framed in the context of the ‘human rights imperative’ of people with disability and Australia’s commitments under the UNCRPD. In a submission to this study, Blind Citizens Australia said:

The six outcomes articulated in the NDS are more specific and would provide more detail upon which to measure if the objectives of the agreement are being achieved. Therefore, it would be useful if the outcomes in the NDA provided more detail and reflected the six outcomes set out in the NDS. This would also update the NDA outcomes and reflect the work and consultation that was put into the development of the NDS outcomes. (sub. 51, p. 11)

Box 2.2 Outcomes in the current NDS

The National Disability Strategy is structured around six broad outcome areas. These are based on issues raised during the consultation on the Strategy, which was conducted in 2008-09 by the National People with Disabilities and Carer Council and reported in *Shut Out: The Experience of People with Disabilities and their Families in Australia* (2009).

The outcomes are also aligned to principles underpinning the United Nations Convention on the Rights of Persons with Disabilities.

- **Inclusive and accessible communities** — People with disability live in accessible and well-designed communities with opportunity for full inclusion in social, economic, sporting and cultural life
- **Rights, protection, justice and legislation** — People with disability have their rights promoted, upheld and protected
- **Economic security** — People with disability, their families and carers have economic security, enabling them to plan for the future and exercise choice and control over their lives
- **Personal and community support** — People with disability, their families and carers have access to a range of supports to assist them to live independently and actively engage in their communities
- **Learning and skills** — People with disability achieve their full potential through their participation in an inclusive high quality education system that is responsive to their needs. People with disability have opportunities to continue learning throughout their lives
- **Health and wellbeing** — People with disability attain highest possible health and wellbeing outcomes throughout their lives

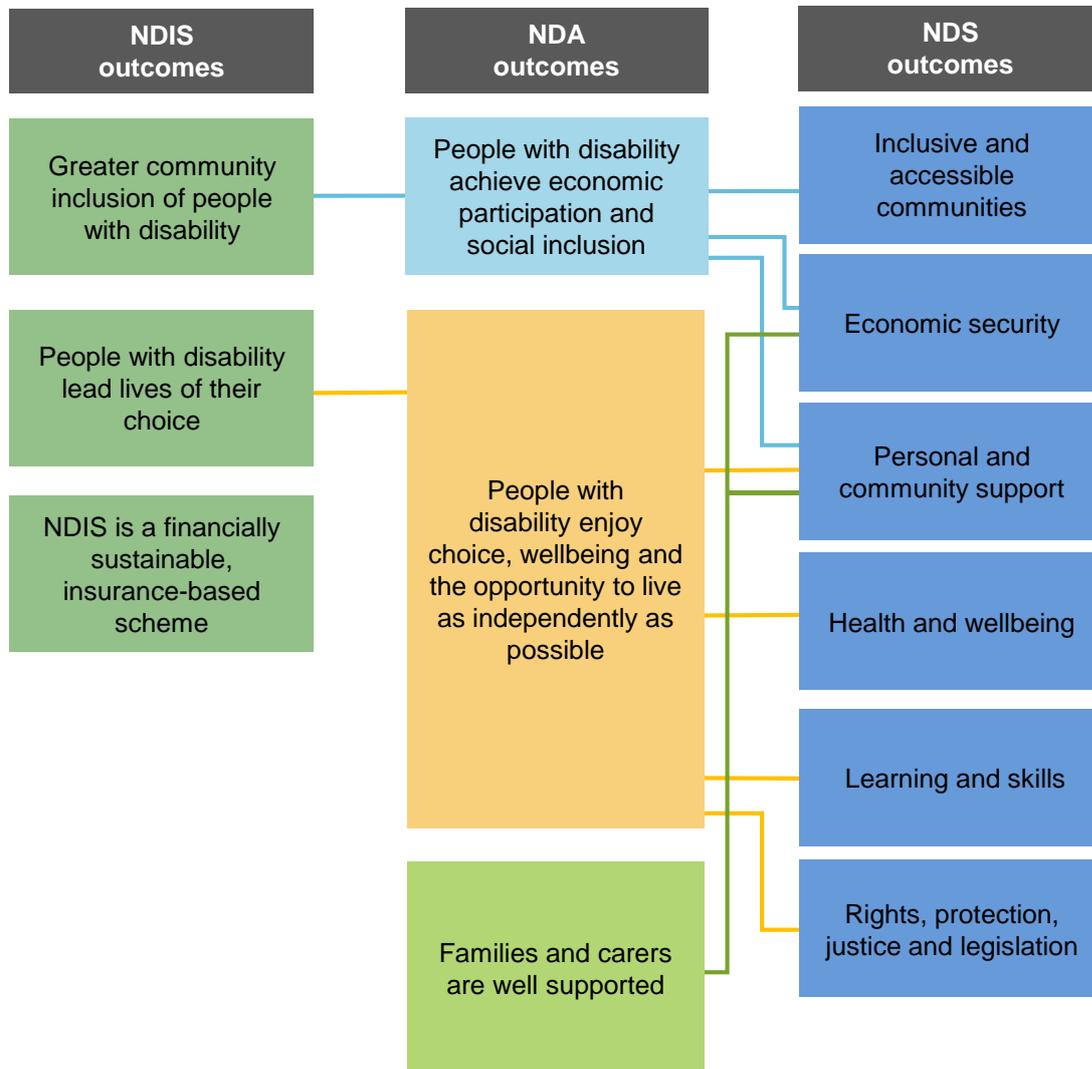
The National Disability Strategy also specifies sub-outcomes, which provide more detail on each of these six outcome areas (chapter 5).

Source: COAG (2011a).

In translating the NDS outcomes into the revised NDA, the sub-outcomes specified in the NDS (chapter 5) should not be overlooked. These sub-outcomes provide important detail and emphasis for each of the outcomes. For example, sub-outcomes for the area of rights protection, justice and legislation specify the need for more effective responses from the criminal justice system to people with disability who have complex needs or heightened

vulnerabilities, and the need to keep people with disability safe from violence, exploitation and neglect.

Figure 2.2 Comparison of NDA, NDS and NDIS outcomes



Sources: COAG (2011a, 2012c); NDIA (2012, pp. 2–3).

... but the NDA’s outcome for families and carers should be retained

The one notable difference between the outcomes in the current NDA and NDS is that an outcome for families and carers is not separately identified in the NDS, but is in the current NDA (families and carers are nevertheless covered off within several of the current NDS outcomes).

Several participants to this study emphasised the importance of including an outcome for families and carers in the NDA (Carers Victoria, sub. 56 p. 15; NCAC, sub. 60, p. 2; SA Government, sub. 63, p. 21; WA Government, sub. 72, pp. 4–5). For example, Brotherhood of St Laurence said:

One of the benefits of the NDA is that it brings together carers and people with disability under one agreement. This is a point of unique and valuable difference because strategies, particularly at the State and Territory level, manage these two groups separately, failing to recognise their interdependence. (sub. 55, p. 4)

And the Victorian Council of Social Service said:

To support families and carers, we believe the NDA should continue to recognise carers as stakeholders in their own right, and support them to address and identify their own needs. Unpaid carers continue to provide significant support to people with disability – many of whom are carers themselves. This support underpins the service system, and significant costs would shift to government should carers no longer be able to perform their caring role. (sub. 52, p. 22)

JFA Purple Orange (sub. 62, p. 11), on the other hand, called for outcomes for families and carers to be removed from the scope of the NDA and be given greater prominence and attention through a separate agreement.

Given that the *objective* of the NDA also relates to enhancing the quality of life and participation of carers, it is appropriate that outcomes for families and carers be separately identified in the NDA. The Commission therefore recommends that the revised NDA adopt the six NDS outcomes, but that a seventh outcome relating to families and carers remain in the new NDA.

It is important that the outcomes reflect feedback from consultation with people with disability, their families and carers, as the current set of NDS outcomes do. The concurrent review of the NDS will involve extensive consultation and is therefore an opportunity to test the extent to which the outcomes remain relevant to people with disability, their families and carers. Should this process reveal that revision to the outcomes is needed, these should be reflected in a revised NDA.

RECOMMENDATION 2.3

There should be a single set of outcomes across the National Disability Agreement (NDA) and the National Disability Strategy (NDS). As the overarching agreement, the outcomes should be outlined in the NDA. The new NDA should adopt the six outcome areas of the current NDS, with the addition of a seventh outcome for families and carers.

3 Service gaps and responsibilities of governments

Key points

- The roles and responsibilities in the National Disability Agreement (NDA) are outdated and need to be updated to reflect contemporary policy settings, particularly the introduction of the National Disability Insurance Scheme (NDIS).
 - The new NDA should reflect the role of the NDIS in providing supports to people with permanent and significant disability, and clarify that the NDIS is a shared responsibility.
 - There is confusion over the role of the Information, Linkages and Capacity Building program and what services are to be funded through it. This needs to be clarified before the program is fully rolled out in 2019-20, and the role of the program reflected in the new NDA.
- Partly as a result of recent changes to the disability policy landscape, the responsibilities of governments to provide some disability services can be unclear. This can allow service gaps to emerge or persist because no one is clearly accountable for them.
- Clarifying the responsibilities of the Australian, State and Territory Governments to provide services to people with disability in the NDA could help to narrow service gaps or prevent them from emerging. There are several areas of uncertainty in responsibilities that should be clarified and outlined in the new NDA, including: services to people with psychosocial disability; advocacy services; carer support; and community access and inclusion programs.
- A comprehensive gap analysis is needed to identify other service gaps or areas of unclear responsibilities. So that the analysis can inform the drafting of the new NDA, this should be completed by no later than the end of 2019, and thereafter every five years.
 - As a first step governments should immediately articulate and publish exactly what services they will provide to people with disability who are not eligible for the NDIS.
- The responsibility to provide services at the interface of the NDIS and other service systems can be unclear, and some people are missing out on support as a result. Government accountability could be improved by having governments commit in the NDA to clarify what supports NDIS participants are to receive through mainstream service systems and the NDIS, and incorporating (via a schedule) the *Applied Principles and Tables of Services*.
- Some gaps in services are a result of people with disability facing difficulties with accessing mainstream services, including public transport and other public facilities. The new NDA can assist to address such barriers through:
 - a clear and shared commitment by governments to making their services accessible, inclusive and culturally responsive in meeting the needs of people with disability
 - recognising the important role of Local Governments in addressing access barriers
 - ensuring governments reflect in other agreements their commitments and obligations under the NDA.

A statement of the agreed roles and responsibilities² of governments is a key element of the National Disability Agreement (NDA) (chapter 1). But the disability policy landscape has changed significantly since the NDA was updated in 2012, most notably with the introduction of the National Disability Insurance Scheme (NDIS).

A comprehensive assessment of the assignment of governments' responsibilities to provide services to people with disability is a significant and complex task — such responsibilities are a whole of government issue and cut across all service systems, including health, education, justice, and transport. Other Commonwealth–State agreements cover many, but not all, of these areas. In undertaking this review of the NDA, the Commission has not assessed the responsibilities in other agreements. Moreover, deciding who should be doing what often involves a large degree of judgment.

For the purposes of this study, the Commission has reviewed the responsibilities contained in the NDA using the five criteria or 'desirable qualities' for intergovernmental agreements outlined in chapter 1. Two of these criteria were highly applicable to assessing responsibilities in the NDA.

- *Relevant, valid and up-to-date* — for the NDA to be relevant it is essential that the responsibilities it contains reflect the current policy landscape.
- *Clarity* — clearly defined responsibilities are fundamental for achieving accountability to the community and for ensuring that adequate supports are available for all people with disability, their families and carers.

The responsibilities of the Australian, State and Territory Governments in the NDA are out of date, and need to be updated (section 3.1). Further, although the high-level responsibilities of governments for some services are clear (such as services provided through the NDIS), there is much confusion among providers and governments alike over exactly what governments are responsible for 'on the ground', especially outside the NDIS. There are considerable concerns about gaps in the services available to people with disability (section 3.2).

Identifying exactly where there are service gaps, and if they are a result of unclear responsibilities, is difficult. But governments need not wait until there is irrefutable evidence of a service gap before they clarify who is responsible for what. Instead, through the NDA, they should seek to improve accountability for addressing any gaps and in the process create an environment that limits the persistence, or emergence, of gaps (section 3.3).

² Hereafter 'roles and responsibilities' are referred to as simply 'responsibilities' unless it is necessary to make a distinction between the two.

3.1 Reflecting disability policy in the NDA

Roles and responsibilities of Governments under the current NDA

Governments agreed on detailed responsibilities for two key services in the NDA: employment services to people with disability and ‘specialist disability services’ (box 3.1). For each of these services five key functions are outlined (box 3.2).

Box 3.1 Specialist disability services

The term ‘specialist disability services’ has historically been used to describe the scope of services delivered under funding agreements between the Australian, State and Territory Governments (such as the National Disability Services Special Purpose Payment). With the introduction of the National Disability Insurance Scheme these funding arrangements are coming to an end, and some governments and organisations within the disability sector have also stopped using the term. For the purpose of this report, ‘disability service’ is used to identify those services that are provided specifically to people with disability, as distinct from mainstream or community services which are more generalist in nature but also cater to, or are inclusive of, people with disability (ACT Government 2014a, p. 2). The exception is where services were delivered under previous funding agreements between the Australian, State and Territory Governments, in which case the term ‘specialist disability service’ is used.

The term ‘disability service’ refers to the *nature* of the service, not the portfolio or program in which it sits. This means that many portfolios may be involved in the delivery of disability services, including health (such as in the provision of voice amplification devices (Queensland Government 2014)) and education (such as home-based educational programs (VDET 2018)).

Some responsibilities in the current NDA are shared, while others are the sole responsibility of one level of Government. The Australian Government is solely responsible for: employment services to people with disability; income support targeted to the needs of people with disability, their families and carers; and services to older Australians (box 3.3). State and Territory Governments are solely responsible for specialist disability services, with the exception of their funding, which is shared by both levels of Government. They are also responsible for funding aged-care services if they are accessed by people under the age of 65 (50 for Indigenous Australians), and for funding and regulating basic community care services for all people under the age of 65 (50 for Indigenous Australians). These are typically lower levels of support that people might need to live independently in their own home and include services such as home cleaning, shopping assistance and personal care.

Shared responsibilities under the NDA include:

- improving continuity of care as people with disability move between different services (such as disability services and mainstream health services)
- actions of national significance, such as working together to implement reforms to improve outcomes for Indigenous people with disability, funding and pursuing research, and the provision of data

- implementing commitments under the *National Partnership Agreement on Transitioning Responsibilities for Aged Care and Disability Services* (NPA-TRAD)
- investing in initiatives to support nationally agreed policy priorities
- aligning legislation with national priority and reform directions and, for the Australian Government, the United Nations Convention on the Rights of Persons with Disabilities.

Box 3.2 **Governments undertake a range of functions to meet their responsibilities**

A large proportion of the support that people with disability receive is through services provided by governments. For these services to be effective, responsibility must be clearly allocated and a range of functions competently met. The National Disability Agreement (NDA) assigns responsibility for two main services: employment services and specialist disability services. Five key functions are outlined for each of these services (COAG 2012c, cl 18):

- *regulation, service quality and assurance* — Setting the rules and regulations that promote the efficient provision of safe, high-quality services, and taking the necessary steps to ensure confidence in the services provided
- *assessment* — Monitoring of data and outcomes to check compliance with rules and regulations and identify emerging trends (PC 2017c, pp. 105–107). This could include one-off and systematic reviews to identify larger problems and evaluate overall service effectiveness
- *policy development* — Processes associated with policy advice, development and implementation. This could include providing support and input into key decision making processes, such as Cabinet discussions and budget processes
- *service planning* — Developing an understanding of community and individual needs, the outcomes sought, and what services are to be delivered and by whom (PC 2017c, pp. 83–84)
- *workforce and sector development* — Ensuring that there are a sufficient number of capable workers to provide support to people with disability across a wide range of services and service locations.

The NDA also sets out **funding** responsibilities, although this is a very high level statement. Aside from specialist disability services to the aged (where costs are to be met by the Commonwealth), it doesn't outline exactly who is to fund what or specify dollar amounts.

Depending on the service there may be some additional functions that governments need to meet. For example, where markets are used to provide services there will generally be a need for **market stewardship**. This requires governments to monitor the market and, if necessary, intervene so that it evolves in a way that meets the objectives of the service (box 3.7). When multiple levels of government are involved in service provision it may also be necessary to establish who has responsibility for **implementation** of the service.

The policy landscape has changed since the NDA was agreed

Three significant changes have occurred in recent years that have influenced the services that people with disability receive.

- The NDIS was trialled between July 2013 and July 2016 and has reached, or is transitioning, to full scheme in all jurisdictions (chapter 1).
- A National Disability Strategy (NDS) was developed and agreed by the Australian, State and Territory Governments, and the Australian Local Government Association in February 2011 (17 months before the NDA was updated in 2012) (chapter 1).
- A National Injury Insurance Scheme (NIIS) was agreed in 2013 and has been introduced in part (box 3.4).

The NDIS is by far the most significant policy change since the NDA was agreed and has had the largest effect on the responsibilities of governments. The development of the NDS and the part introduction of the NIIS, on the other hand, have not changed their high-level responsibilities (box 3.4).

Box 3.3 Australian Government responsibilities for aged care

The National Disability Agreement (NDA) restates some of the roles and responsibilities of governments to older Australians that are contained in the National Health Reform Agreement. The changes to aged care services that occurred when the National Health Reform Agreement was introduced in 2012 enabled the creation of a national aged care system (COAG 2011b, cl F2), with the Australian Government assuming funding and program responsibilities for aged care services provided to older Australians (people aged 65 years and over, or 50 years and over for Indigenous Australians). This included responsibility for:

- the funding and regulating of services to help older Australians to live independently in their home (referred to as basic community care in the NDA)
- the funding and regulating of accommodation for older people who are unable to continue living independently in their own homes (referred to as packed community and residential aged care in the NDA)
- the funding of specialist disability services delivered by State Governments to older Australians (COAG 2011c, cl F6).

Initially these changes in responsibilities for aged care services excluded services provided in Victoria and Western Australia, although governments in these States agreed to transfer responsibility for aged care to the Australian Government in 2015 and 2017, respectively (DHHS (Vic) 2018d; DHS 2018a).

FINDING 3.1

The roles and responsibilities in the current National Disability Agreement are out of date and need to be updated to reflect the current policy environment, particularly the introduction of the National Disability Insurance Scheme.

Box 3.4 **The introduction of the NDS and NIIS has not changed the responsibilities of governments**

The National Disability Strategy was agreed by the Australian, State and Territory Governments in February 2011 (chapter 1). It guides government activity across mainstream and disability-specific areas of public policy and drives improved performance of mainstream services in delivering outcomes for people with disability, but leaves the specific responsibilities of each level of government in place (COAG 2011a, p. 24).

The National Injury Insurance Scheme (NIIS) is a federated model of separate, state-based no-fault schemes that provide lifetime care and support for people who have sustained a catastrophic injury (Treasury 2018). It was created to assist State and Territory Governments to meet their obligations under the National Disability Insurance Scheme (NDIS) Bilateral Agreements to people who are catastrophically injured through no-fault motor vehicle accidents, workplace accidents, medical treatment injury and general accidents. Of the four streams, only motor vehicles is complete, and workplace accidents is in the process of being completed (PC 2017d, p. 258). In June 2017, COAG agreed not to proceed with the medical accident stream. The general accident stream is still under consideration (O'Dwyer 2018).

On its own, the NIIS does not transfer existing responsibilities between governments. However, if a State or Territory Government has not introduced a motor vehicle or workplace accident scheme that meets nationally-consistent minimum benchmarks then the Australian Government (through the NDIS) will assume responsibility for the care of catastrophically injured people in that jurisdiction (Commonwealth of Australia and NSW Government 2012, p. 5). In these circumstances, the State or Territory Government will be responsible for funding the person's costs of care through the NDIS.

The NDA should reflect shared responsibilities for the NDIS

Being a national scheme, responsibilities for services provided through the NDIS are shared between Australian, State and Territory Governments (box 3.5). The responsibilities of governments for the NDIS have been extensively negotiated and set out in various instruments, including the NDIS Bilateral Agreements, NDIS Rules and *National Disability Insurance Scheme Act 2013* (Cwlth). Some other documents provide further clarification of each governments' responsibilities (section 3.2).

The development of the NDIS, and the shared responsibility for it, is not reflected in the current NDA. The new NDA does not need to restate these responsibilities in detail but in order for it to effectively function as the overarching agreement covering all people with disability, the NDIS needs to be brought into the fold. To do so the NDA should:

- outline the role of the NDIS in providing supports to people with permanent and significant disability, such as by referencing its objective, purpose and scope
- make clear that the Australian, State and Territory Governments share responsibility for the NDIS, including market stewardship, and outline those responsibilities by referring to the NDIS related instruments such as Bilateral Agreements, NDIS Rules and the NDIS Act, which set these responsibilities out in detail.

Box 3.5 **The NDIS is a shared responsibility**

Almost all responsibilities for the National Disability Insurance Scheme (NDIS) are shared between the Australian, State and Territory Governments.

Funding of the NDIS is a shared responsibility. At full-scheme, State and Territory Government contributions to the NDIS are calculated as predetermined fixed dollar amounts, which are escalated by a fixed percentage each year. The Australian Government will contribute the remainder of the budgeted amount (PC 2017d, pp. 441–442).

Policy development is the responsibility of all governments through the Disability Reform Council (DRC), which makes recommendations to COAG on the policy framework for the NDIS (COAG 2018b, p. 1).

Responsibility for **regulation and service quality** is shared by both levels of government through their joint responsibility for the NDIS Rules and the NDIS Quality and Safeguarding Framework. These documents set out safeguards and establish expectations for providers and their staff. Most of the NDIS Rules and the NDIS Quality and Safeguarding Framework require unanimous agreement from the Australian, State and Territory Governments to amend (PC 2017b, p. 403). The NDIS Rules (along with the National Disability Insurance Scheme Act) also detail how the NDIS is to operate, including who is eligible and the level of support they are to receive.

All governments share responsibility for **market stewardship** of the NDIS, primarily through the NDIS Rules and the NDIS Quality and Safeguarding Framework. The National Disability Insurance Agency (NDIA) is the designated market steward, although many agencies across governments take actions that impact on the efficient and equitable operation of markets such as the NDIS (NDIA 2018b; PC 2017d). An important part of market stewardship is **workforce development**. Broadly, the Australian Government has oversight of NDIS workforce development, and leads workforce development where there are systemic issues that would benefit from an overarching approach (such as how tertiary education policy interacts and affects the development of the workforce) (NDIA, pers. comm, 21 September 2018; PC 2017d, p. 37). State and Territory Governments have responsibility for working with the Australian Government to respond to systemic issues, as well as some other workforce development functions, such as worker screening. The DRC plays a role in coordinating workforce development efforts.

Being a national system, Australian Government agencies are typically responsible for the **implementation** of the NDIS in accordance with the NDIS Act and Rules.

- The NDIA has responsibility for **assessing** the eligibility and service needs of NDIS participants, managing and advising on the financial sustainability of the NDIS, and assessing the scheme, which includes collecting data and undertaking research relating to disability (DHS 2018b).
- The Quality and Safeguards Commission is tasked with implementing the Quality and Safeguarding Framework and some parts of the NDIS Rules. It is also responsible for monitoring providers, complaint handling, incident notification, oversight of restrictive practices, and investigation and enforcement (DSS 2016c, 2018d).

State and Territory Governments have some influence over the composition and conduct of the agencies tasked with implementing the NDIS. For example, appointments to the NDIA board are required to be approved by all States and Territories.

RECOMMENDATION 3.1

The new National Disability Agreement (NDA) should outline the role of the National Disability Insurance Scheme (NDIS) in providing supports to people with permanent and significant disability. It should make clear that the Australian, State and Territory Governments share responsibility for the NDIS, including a shared responsibility for stewardship of the NDIS market. Such responsibilities, as are set out in NDIS related instruments (such as Bilateral Agreements, NDIS Rules and the *National Disability Insurance Scheme Act 2013 (Cwlth)*), should be referenced in the NDA.

The role of the ILC program should be reflected in the NDA

The NDIS Information, Linkages and Capacity Building (ILC) program provides information, linkages and referrals to connect people with disability, their families and carers with appropriate disability, community and mainstream supports (box 3.6). The ILC program is available to all people with, or affected by, disability including their families and carers, and is an important link between services provided through the NDIS and services provided outside it. Given its broad remit and role in the landscape of services that will be available to non-NDIS participants, it is essential that the new NDA clearly and in detail reflect the role of the ILC program.

However, before it can do so, governments first need to clarify the role of the ILC program and the types of services that it will fund. Although the ILC policy and commissioning frameworks are clear in what the ILC program is intended to achieve, in practice there is confusion over what the purpose of the program is, and what services are to be funded through it (NDIA 2015, 2016). As noted by the NSW Government (NSW Government 2017, p. 18), there is ‘still a gap in the information presented in relation to the Commissioning Framework not setting out what activities the NDIA will actually fund under the ILC budget for full scheme’.

Some people see a broad role for the ILC program, for example as a direct funder of disability services for people outside the NDIS (PC 2017d, p. 230). For example, Bruce Bonyhady said:

It is essential that the NDIS is built on strong foundations, through the provision of adequate disability supports for those not eligible for the NDIS. This needs to be more than ‘information’, ‘linkages’ and mainstream ‘capacity building’ as now reflected in the structure of the ILC. These disability supports should be bulk purchased and available on a needs basis. Otherwise, the NDIS will become ‘an oasis in the desert’. (sub. 48, p. 4)

And in public hearings for the Joint Standing Committee on the NDIS (JSC) report on *Transitional Arrangements for the NDIS*, the Australian Blindness Forum said:

The original proposal was that the ILC would reflect programs such as the block funding and early intervention programs, and the goal of this was to continue to provide disability services to those who were not eligible for the NDIS. But this is not how it has turned out. We don’t think it

is going to provide any useful ongoing services for people who are blind or vision impaired, and we think those people who are not eligible will fall through the cracks. (JSC 2018, p. 62)

Box 3.6 Information, Linkages and Capacity Building activities

The goals of the Information, Linkages and Capacity Building (ILC) program are to promote individual capability (ensuring people with disability have the ability to achieve their goals) and community inclusion. Its Policy Framework sets out five streams:

- *information, linkages and referrals* — connecting people with disability, their families and carers with appropriate disability, community and mainstream services and making sure that people with disability and their families and carers have access to up-to-date, relevant and quality information
- *capacity building for mainstream services* — making sure mainstream services have the knowledge and skills they need to meet the needs of people with disability
- *community awareness and capacity building* — supporting organisations (such as not-for-profit organisations, local councils and businesses) and people within communities to be inclusive of people with disability, and understand the needs of families and carers
- *individual capacity building* — fostering the principle of choice and control, improving outcomes for people with disability, their families and carers
- *local area coordination* — developing relationships between the National Disability Insurance Scheme, people with disability, their families and carers, and the local community. Under the ILC Framework, 20 per cent of the Local Area Coordination function will be spent on ILC activities (NDIA 2015).

The ILC Commissioning Framework aims to translate the ILC Policy Framework into action and sets out how the National Disability Insurance Agency funds and manages ILC activities (NDIA 2015). It sets out five outcomes — that people with disability are connected; have the skills and confidence to participate and contribute to the community and protect their rights; use and benefit from the same mainstream services as everyone else; participate in and benefit from the same community activities as everyone else; and actively contribute to leading, shaping and influencing their community (NDIA 2016, p. 10).

Funding for ILC is made through the Community Inclusion and Capacity Development Program (Commonwealth of Australia 2018b). The NDIA is taking a staged approach to providing grants in each jurisdiction, with full funding applying from 1 July 2019. The funding gradually increases over the transition period from \$33 million in 2016-17 to about \$131 million a year from 2019-20 onwards (Commonwealth of Australia 2018b, p. 143; PC 2017d, p. 30).

When fully rolled out, the ILC program will have a budget of about \$130 million per annum (box 3.6). This level of funding is commensurate with the program being primarily an information and referral service, not one that is designed to deliver disability services and plug all of the gaps outside the NDIS. Some participants expressed concern about the adequacy of ILC funding to achieve even this task (Bruce Bonyhady, sub. 48, p. 8; CMHA, sub. 6, p. 6).

Given that the ILC program has not yet been fully rolled out it is not surprising that there have been some teething issues. Indeed, the NDIA has pointed out that:

... the effectiveness of ILC funding as an innovative means to increase inclusion of people with disability in the community is constrained. This is because during the transition years ... ILC funding is being provided to jurisdictions to fund legacy programs to ensure continuity of delivery. As a result, the full innovative benefits of having a nationally consistent approach to investing in ILC activities are likely to be delayed. (2017b, p. 8)

The Commission notes that the NDIA is currently working on a new Investment Strategy for the ILC program, which could go some way to clarifying the purpose and scope of the program. The ILC Investment Strategy is due to be rolled out in 2019-20, and aims to strengthen the approach to delivering the ILC program, underpin future investment, and align the program with scheme sustainability goals (NDIA, pers. comm., 26 September 2018).

In order to reflect the ILC program in the NDA, governments, in conjunction with the NDIA, should clarify the role of the program and the types of services that it will fund, before it is fully rolled out in 2019-20. The new NDA should clearly and in detail reflect that role, potentially via a schedule to the NDA. The results of any review of the adequacy of ILC funding (such as that recommended by the Commission as part of the next scheduled review of NDIS costs in 2023 (PC 2017d, p. 236)), should be incorporated in the NDA insofar as it affects the role of the ILC program in providing supports to people with disability.

FINDING 3.2

The Information, Linkages and Capacity Building (ILC) program is an important link between services provided through the National Disability Insurance Scheme and services provided outside it. It is available to all people with, or affected by, disability including their families and carers.

Although the ILC policy and commissioning frameworks are clear in what the ILC program is intended to achieve, in practice there is confusion over what the purpose of the program is, and what services are to be funded through it.

RECOMMENDATION 3.2

The new National Disability Agreement should clearly and in detail reflect the role of the Information, Linkages and Capacity Building (ILC) program in supporting all people with disability, their families and carers.

In order to do so, the Australian, State and Territory Governments, in conjunction with the National Disability Insurance Agency, should clarify the role of the ILC program and the types of services that it will fund, before the ILC program is fully rolled out in 2019-20.

Market stewardship and a coordinated approach to workforce development

Market stewardship is an important, but often underappreciated, part of delivering services to people with disability through a competitive market like the NDIS (box 3.7). But being a relatively new and complex concept there is much confusion about what market stewardship entails.

Box 3.7 **What is market stewardship?**

In the right circumstances a competitive market can be a powerful force for improving the effectiveness of service provision. But a market can also create some incentives and risks for providers, governments, and users of disability services that are undesirable. For example, the profit motive creates an incentive for providers to limit or reduce the resources they spend on delivering services if they think it will be profitable. This brings with it a risk of a reduction in the quality of services, potentially to detrimental levels. In addition, the use of competitive markets to deliver services means that governments relinquish much of their control over the mix of services to be provided and the prices to be charged. Problems can emerge as there is no guarantee that the market will develop in a way that meets the needs of its users. For example, markets may not provide a sufficient number and range of services to people in areas with very low demand (an issue known as ‘thin markets’) and without government intervention some people may miss out on essential services.

As market stewards, it is the responsibility of governments to prevent such undesirable outcomes from occurring. This involves governments regulating providers, for example by establishing quality and safety standards, and monitoring their conduct. It also extends to ensuring the market is evolving in a way that meets the objectives that are being sought. This includes the early identification of factors that could lead to market failure, and responding before failures occur. What exactly governments need to do to achieve this can be unclear, but some responsibilities of a market steward could include:

- actively monitoring the market for inequities (such as in access to services) and the quality of provider support
- providing information to market participants, so that users can make informed decisions about providers, and so that providers can respond to changes in supply and demand for services
- supplementing markets to address service gaps (for example by offering incentives or acting as a provider of last resort) or providing alternative funding mechanisms, such as block funding, where and only for so long as necessary
- ensuring that there are a sufficient number of capable workers to provide services to people with disability.

Sources: Carey et al. (2017); NDIA (2018b, pp. 3–10); PC (2017c, pp. 79–106, 2017d, pp. 389–397).

Workforce development — both within and outside the NDIS — is one stewardship function that could benefit from greater clarity and coordination. A ready and capable workforce is essential to providing high quality services and improving the wellbeing of people with disability. For the NDIS, a workforce that cannot meet the demand for support is a risk to the wellbeing of participants, and to the long-term financial sustainability of the scheme.

Governments share responsibility for developing the NDIS workforce (box 3.5), although the Commission has previously found that these responsibilities would benefit from further refinement and coordination, and that they should be clarified and made public by the beginning of 2018 (PC 2017e, p. 341). Participants to this study made similar observations (AAHLF, sub. 67, p. 9; Amaze, sub. 9, p. 4; ASU, sub. 47, p. 4), with the Health and Community Services Union (pers. comm., 20 November 2018) noting that confusion about who exactly is responsible for what besets the three Australian Government agencies involved in workforce development (that is, the Department of Social Services, NDIA and the Quality and Safeguards Commission). The Commission recommended that the Australian Government retain oversight of workforce development, but that State and Territory Governments play a greater role in identifying workforce gaps and remedies tailored to their jurisdiction (PC 2017e, p. 341).

An additional consideration for this study, however, is how the new NDA should incorporate workforce development for services received by *all* people with disability, in particular those outside the NDIS. This is a difficult question, as many of these services are delivered by people who do not specialise in disability care, including healthcare workers (such as a GP), workers in the community sector (such as social workers), and other workers in mainstream service systems. People with disability may not be the main client group of workers in these sectors, but it is important that they are able to provide inclusive and culturally responsive support to people with disability (section 3.3). For example, drivers and conductors on public transport are not always aware of minimum accessibility standards, and some people with disability have been refused permission to take their assistance dogs onto public transport (ABF 2017).

It is also not uncommon for workers to be mobile across some of these sectors and so policies to develop, for example, the health, community services or aged-care workforce, will impact on the workforce of disability carers, and vice-versa. Actions to develop the disability care workforce (table 3.1) have so far been piecemeal and uncoordinated (PC 2017d), although there are indications of progress in this area with COAG recently tasking skills officials to work alongside disability officials to develop and support a national disability workforce strategy (COAG 2018d, p. 3). (A report back to Ministers is to be presented at the next Council meeting in the first half of 2019.)

In light of these issues, the new NDA should include a statement that affirms governments' commitment to a shared responsibility for, and an agreed approach to, workforce development, noting that this requires coordination across the health, community services and aged-care sectors. Building on the Commission's previous recommendation (PC 2017e, p. 341), Governments should also work together to immediately clarify, and make public, their responsibilities for developing the disability care workforce. This includes responsibilities for advancing the capabilities of all disability care and mainstream service workers to deliver accessible, inclusive and culturally responsive supports to people with disability. These responsibilities should then be reflected in the NDA.

However, given the NDA’s focus on disability, it may not be the most effective instrument for setting out these responsibilities *in detail*, or for coordinating policy actions across these sectors. Other agreements may be more effective, such as those that cover specific service areas (for example, the National Healthcare Agreement or Skills and Workforce Development Agreement) or a new instrument created for this specific purpose (such as a National Partnership agreement, or a cross-sector workforce strategy).

Table 3.1 Some initiatives to build the NDIS workforce

| <i>Jurisdiction</i> | <i>Initiatives</i> |
|------------------------------|--|
| Commonwealth | Established the \$146 million Sector Development Fund to support the NDIS market transition between 2012-13 and 2017-18. Committed an additional \$46 million to grow the NDIS workforce between 2018-19 and 2020-21. |
| New South Wales | \$5 million to supplement its 'Industry Development Fund', which provides a range of resources for firms to transition to the NDIS. Also investing in vocational education and training to meet the needs of the NDIS. |
| Victoria | \$26 million through the 'Keeping Our Sector Strong' policy to develop and grow the disability workforce over the transition period. |
| Queensland | \$2.8 million to establish the 'WorkAbility' program, a consortium of four peak bodies aimed at driving expansion and diversification of the NDIS workforce. |
| Western Australia | Creating a workforce development plan for the State. |
| South Australia | Provided grants as part of its Provider Readiness Program. Committed to funding an additional \$4 million for Disability Workforce Hubs. |
| Tasmania | \$8 million over six years in skills development to increase the disability workforce. Is also creating a workforce development plan for the State. |
| Australian Capital Territory | Made a number of direct grants to provider organisations and has undertaken other market development activities. |

Sources: DSS (2018e); PC (2017e, p. 352).

RECOMMENDATION 3.3

The new National Disability Agreement (NDA) should include a statement that affirms governments’ commitment to a shared responsibility for, and an agreed approach to, workforce development (noting that this requires coordination across the health, community services and aged-care sectors).

The Australian, State and Territory Governments should also work together to immediately clarify, and make public, their responsibilities for developing the disability care workforce. This includes responsibilities for advancing the capabilities of all disability care and mainstream service workers to deliver accessible, inclusive and culturally responsive supports to people with disability. These responsibilities should then be reflected in the NDA.

Many participants also raised concerns about the lack of, or unclear responsibilities for, a ‘provider of last resort’ that would step in and provide services to a person with disability where no other provider is available (AHPA, sub. 54, p. 5; Anglicare Australia, sub. 18, p. 8; Darwin Community Legal Centre, sub. 35, p. 5; OTA, sub. 25, p. 3; VCOSS, sub. 52, p. 12).

For example, PWSA (sub. 12, p. 3) and VCOSS (sub. 52, p. 45) noted that the lack of an accommodation provider of last resort increases the risk that people with disability who have challenging behaviours end up (or remain) in the justice system. And the NSW HCSC (NSW HCSC 2018, p. 109) recommended that the NSW Government be established as a service provider of last resort to the NDIS to ensure crisis situations are managed appropriately.

There is much work underway to clarify responsibilities of the NDIA and State and Territory Governments to develop a provider of last resort framework for each State and Territory (PC 2017e, pp. 277–280). Once completed, these responsibilities could be reflected in the new NDA (as part of outlining the responsibilities of governments in relation to the NDIS).

Some other responsibilities in the current NDA also need updating

The responsibility of governments to implement their commitments under the NPA-TRAD have now expired (COAG 2011d). Reference to the NPA-TRAD can be removed from the new NDA. The new NDA should also reflect that the Victorian and Western Australian Governments have now transferred responsibilities for aged-care services to the Australian Government (box 3.3).

Some other responsibilities in the NDA will require updating to support other recommendations being made by the Commission in this study. Specifically, changes in the collection, funding and reporting of data (recommendation 5.2) and changes to policy evaluation (recommendation 4.1) will require parts 16b and 16e of the NDA to be updated. These recommendations and the required updates to responsibilities are discussed in chapters 4 and 5.

3.2 Unclear responsibilities contribute to service gaps

At a broad level, changes to responsibilities with the introduction of the NDIS are clear — providing disability services to people who meet the eligibility criteria for the NDIS is now a shared responsibility of all governments. But at an operational level these responsibilities are less clear, especially for services that are provided outside the NDIS.

Unclear responsibilities have added to considerable concern about gaps in the services available for people with disability and their carers. Of course, a lack of clarity in responsibilities is not the only factor that contributes to service gaps — gaps can persist where responsibilities are clear but governments make choices not to provide services to the level expected by some in the community, due to competing priorities and resource constraints. But they can contribute to a policy environment where gaps are able to emerge and persist, as each level of government can plausibly claim that support should have been delivered by the other. This can make it difficult for governments to be held accountable to the community for the services they are responsible for and the outcomes they achieve.

Concerns about service gaps have been raised in four broad areas

An extensive gap analysis is beyond the scope of this review. However, throughout consultations some clear themes emerged. Service gaps reported to the Commission can be broadly categorised in four main ways.

- *Discontinuation of programs as funding is rolled into the NDIS* — these are programs that were previously provided by State and Territory Governments, such as some psychosocial programs, that can no longer be accessed by those who are not eligible for the NDIS.
- *Interface issues between the NDIS and other service systems* — a lack of clarity at the interface of the NDIS and other service systems, particularly the health system, are leading to people missing out on, or experiencing delayed access to, some services.
- *Pre-existing gaps in services for people with disability* — many of the gaps present today existed prior to the introduction of the NDIS, especially those related to accessibility, adequacy and coordination of mainstream services.
- *The move away from block funding* — this is a particular issue for system-wide services such as advocacy, assertive outreach and support coordination.

Sources of gaps are not mutually exclusive — some gaps in service provision may have materialised due to more than one of these reasons. Further, some of the gaps may be transitional and worked out over time as the NDIS is fully implemented, although this may take several years.

Gaps may emerge as funding for existing programs is rolled into the NDIS

When the NDIS was introduced, funding for most (if not all) of the specialist disability support programs provided by the Australian, State and Territory Governments was rolled into the NDIS and the programs were, or are being, phased out. For example:

- the Australian Government has rolled funding for 17 of its disability services into the NDIS (DSS 2016d)³
- the Victorian Government has transferred funding for its community mental health services to the NDIS (JSC 2018, pp. 71–72; VCOSS 2017, p. 21)
- the NSW Government has redirected all of its specialist disability services budget directly into the NDIS (NSW Government 2018a, p. 3).

³ These programs are: Disability Employment Assistance; Work Based Personal Assistance; Helping Children with Autism; Better Start for Children with Disability; Mental Health Respite: Carer Support; Mobility Allowance; National Auslan Interpreter Booking and Payment Service; Outside School Hours Care for Teenagers with Disability; Personal Helpers and Mentors; Respite Support for Carers of Young People with Severe or Profound Disability; Remote Hearing and Vision Services for Children; Young Carers Respite and Information Service; Younger Onset Dementia Key Worker Program; Department of Health Programs; Continence Aids Payment Scheme; Support for Day to Day Living in the Community; Hearing Services Program; Partners in Recovery.

However, not all people with disability will meet the NDIS eligibility criteria and not all services will be funded by the NDIS. Indeed, the vast majority of people with disability are not eligible for support through the NDIS and rely on services through the mainstream system. As funding for existing specialist disability services is rolled into the NDIS there are reports that gaps have emerged, although it is difficult to gauge the full extent of the problem as few governments have released details on what disability services will continue after the full rollout of the NDIS, and who will fund them. The Commission has previously noted that ‘there seems to be some signs of brinkmanship, with governments holding off implementing policies (perhaps until other jurisdictions act, or waiting for gaps to emerge before engaging in renegotiations)’ (PC 2017e, p. 239).

Nevertheless, evidence received in submissions to this study (and to other studies) indicates that there are widespread concerns about gaps emerging as funding for specialist disability services is rolled into the NDIS, and that they may become more pronounced if governments do not take further action (AASW, sub. 45, p.2; Amaze, sub. 9, p.3; ASU, sub. 47, p. 6; BCA, sub 51, p. 14; CMHA, sub 6, p.3; DCLS, sub. 35, p. 4; ECIA, sub. p.7; FECCA, sub. 29 p.2; JSC 2018; NSW HCSC 2018, pp. 50–77; OTA, sub. 25, p.2; PC 2017e; PCDN, sub. 8, p.3; VCOSS, sub. 52, p. 3). For example, Anglicare Australia is:

... extremely concerned for individuals who have lost access to services as the State, Territory and Commonwealth Governments all try to shift and shirk responsibility for funding. We have noted particular impacts in mental health/psychosocial support services, health services, employment services, the justice system and Out of Home Care (OOHC), impacting both people who are eligible and ineligible for the NDIS. (sub. 18, p. 5)

Particular problems have been cited in relation to services for:

- *people with psychosocial disability* (box 3.8). Governments have been particularly active in the area of psychosocial disability in attempting to fill gaps in service provision, but it will take time to be able to assess the impact of these initiatives. The Productivity Commission’s inquiry into mental health may consider these issues in further detail
- *carers of people with disability* (box 3.9). Much of the concern over carer support appears to be rooted in uncertainty about what services State and Territory Governments will provide once the NDIS reaches full scheme, especially for carers of people with disability who are not NDIS participants
- *community access and inclusion* (box 3.10). Some programs, such as the Neighbourhood Connections program, have been discontinued (Olivia Curtain, pers. comm., 24 October 2018; sub. 2, p. 1), and others have received short-term, uncertain funding from State and Territory Governments or through the ILC program.

Box 3.8 Gaps in support for people with psychosocial disability

Psychosocial disability relates to the effects (through impairments or restrictions) on someone's ability to participate fully in life as a result of mental ill-health. There is potentially a large gap between the number of people with severe psychosocial disability and the number who are eligible for support through the National Disability Insurance Scheme (NDIS). The Department of Health (2017, p. 4) has estimated that about 282 000 people aged up to 65 have severe psychosocial disability requiring supports. Once the NDIS is fully implemented, approximately 64 000 people are estimated to be covered on the basis of a primary disability of psychosocial disability (NDIA 2017a, p. 1).

Many participants (and several recent reports) raised concerns about gaps in services for people with psychosocial disability not eligible for the NDIS (AASW, sub. 45, pp. 4-5; ASU, sub. 47, p.7; CMHA 2018; JSC 2018, pp. 18–21; NSW HCSC 2018, pp. 67–68; Public Advocate (Qld), sub. 19, p.2; QAI, sub. 40, p.5). Funding is being transferred to the NDIS from existing Australian Government programs, including the Personal Helpers and Mentors, Day to Day Living, Partners in Recovery and Mental Health Carer Respite: Carer Support programs (DSS 2016d). Many submissions referred to gaps caused by the transfer of State community mental health programs to the NDIS (Anglicare, sub. 18, p. 5; ASU, sub. 47, p. 7; NMHC, sub. 13, p. 5; Public Advocate (Qld), sub. 19, p. 2; VCOSS, sub. 52, p. 10). For example, Community Mental Health Australia (CMHA) noted that:

... a range of highly successful community managed mental health services will no longer be funded in various jurisdictions as the NDIS moves to full implementation. These services are primarily focused on community-based rehabilitation and their disappearance means that people will no longer have access to these services that support them to reduce the disabling impacts of their mental condition. Even those jurisdictions that have maintained state and territory funded mental health supports are vastly underfunded and unable to meet demand. (sub. 6, p. 2)

CMHA and the University of Sydney (2018, p. 39) also noted that the transfer of programs to the NDIS is affecting community-based services supporting recovery and rehabilitation and leading to an increase in the use of more expensive and more reactive clinical services (CMHA 2018, p. 39). They found that many organisations with experience in psychosocial disability are no longer viable under the NDIS model because they are losing block funding, but not getting sufficient NDIS plans to cover costs.

Governments have been particularly active in attempting to address gaps in psychosocial disability supports. For example:

- the role of Primary Health Networks has been recently expanded to include psychosocial support services. In June 2018, a National Psychosocial Support Measure was announced to provide funding for people with severe mental illness who are not eligible for the NDIS (Hunt 2018). A total of \$160 million over four years (from 2017-18) has been committed by the Australian, State and Territory Governments. The program is designed to provide specialised but less intense psychosocial services, such as individual and group assistance and rehabilitation; vocational and social skills training; finding and maintaining a home; and drug and alcohol addiction support
- the Australian Government is providing \$109.8 million over four years from July 2019 for the Community Mental Health Continuity of Support program to be run through Primary Health Networks (Hunt 2018)
- the NDIA will implement a new 'psychosocial disability stream' to provide a better pathway into the NDIS for people with psychosocial disability, and some differentiated support such as specialised planners and Local Area Coordinators (Fletcher and Henderson 2018).

Box 3.9 **Some carers may be inadequately supported**

Informal care is a vital part of the supports many people with disability receive and, for many, forms the backbone of their care (chapter 1). Supporting carers is important for the welfare of the carer, and can help them to care for longer. All jurisdictions have legislation, policies or charters recognising the role and contribution of carers to society (Australian Government 2018a), and all governments committed in the National Disability Agreement to improving outcomes for carers, including through the National Carer Strategy (COAG 2012c, cl 28b).

Carers of National Disability Insurance Scheme (NDIS) participants can receive a different level of support than carers of non-NDIS participants. Carers of NDIS participants may be eligible for carer support services (such as short-term or additional in-home and out-of-home care for the participant) through the participants' individualised support plan, although for some carers the level of support offered, particularly for respite, may be insufficient (Carers Australia 2018; NCAC, sub. 60, p.5; NSW HCSC 2018, pp. 66–67; PC 2017d, pp. 353–355; VCOSS, sub. 52, p.18).

Carers of non-NDIS participants may be eligible for carer supports that are directly funded by the Australian, State and Territory Governments. In some cases, carers of NDIS participants also access these services, as do carers who care for people without a disability (such as those who look after a person with a chronic medical condition or an older person requiring support). For example, all carers have access to the Australian Government's Integrated Carer Support Service, which offers digital services for carers, and from September 2019 will offer: needs assessment and planning; in-person coaching, counselling and peer support; targeted financial support packages; and access to emergency crisis support (DSS 2018b).

It is unclear if there is currently a gap in support to carers of non-NDIS participants but there is widespread concerns about future support. Funds for some existing services (such as the Mental Health Respite: Carer Support program (DSS 2016d)) are being rolled into the NDIS, and many participants were concerned that once this is complete the remaining services will be insufficient to adequately support carers of non-NDIS participants (AASW, sub. 45, p. 4; Carers Victoria, sub. 56, p. 20; CMHA, sub. 6, pp. 2–3; Elizabeth Robinson, sub. 1, p. 1). For example, VCOSS members raised concerns over:

... inadequate support for carers of people both eligible and ineligible for NDIS. In particular, our members report significant shortfalls in available respite care. Funds from existing carer support services such as the Mental Health Respite: Carer Supports are being redirected to the NDIS, raising questions whether services will remain for carers of people ineligible for the NDIS. Organisations also report situations where support groups have stopped because of the discontinuation of block funding for services. (sub. 52, p. 16)

Responding to concerns about the level of support available to carers, the NSW Legislative Council Health and Community Services Committee (2018, p. 75) recommended that the NSW Government investigate the adequacy of the provision of carer support, including respite services. More broadly, Carers Victoria (sub. 56, p. 20) noted that it is unclear what work Governments are doing to identify any gaps in carer supports as they emerge.

People with disability who are receiving a service that is being rolled into the NDIS, but themselves are not eligible for the NDIS, are covered by continuity of support arrangements (section 3.3). These arrangements are intended to ensure people with disability are able to achieve similar outcomes as their previous support. But a lack of clarity, certainty and transparency in how governments will discharge these obligations, makes it difficult to assess how well those covered by the arrangements will be supported. In any case, these

arrangements do not cover those with a newly acquired disability, or those who were not previously receiving disability support.

Box 3.10 Community access and inclusion programs

Community access and inclusion programs support people with disability to participate in community events such as sport and recreation, the arts and other community activities. Some examples include programs that:

- provide sporting, social and holiday experiences for people with disability, such as Total Recreation in the Northern Territory (Keoh Goodall, pers. comm., 25 October 2018) and AAA Play in Victoria (AAA Play 2018)
- support people with disability to develop social connections, such as Neighbourhood Connections in Victoria (Bigby, Anderson and Bould 2015; Olivia Curtain, pers. comm. 24 October 2018)
- facilitate interaction and socialisation between people with disability and the broader community, such as NT Friendship and Support in the Northern Territory (National Disability Service, pers. comm., 16 November 2018).

Participants raised concerns that the responsibility of the National Disability Insurance Agency (through Information, Linkages and Capacity Building grants) and State and Territory Governments to fund these services is unclear, particularly as funding for some programs is being discontinued (such as the Neighbourhood Connections program in Victoria) as the National Disability Insurance Scheme is rolled out (Keoh Goodall, pers. comm., 25 October 2018; National Disability Service, pers. comm., 16 November 2018; Olivia Curtain, pers. comm., 24 October 2018). Some participants noted that this uncertainty impacts on their ability to plan services and ensure the sustainability of their organisations (Keoh Goodall, pers. comm., 25 October 2018; National Disability Services, pers. comm., 19 November 2018).

Some service gaps predate the NDIS

Some of the gaps in services for people with disability that endure today existed prior to the NDIS. And while the NDIS is an overwhelmingly positive step towards reforming the system and providing more and better care to people with disability, it was never intended to provide support to all people with disability. It was always the intention that there would be a continued need for mainstream services and services from the community and not for profit sector (PC 2011, p. 163).

The importance of mainstream services in providing support to people with disability has long been recognised. The current NDA recognises that specialist disability services, which are the focus of the agreement (and now provided through the NDIS) are complemented by mainstream services. And under the NDS, Governments agreed that a key imperative is for all mainstream services, including healthcare, education, transport and housing, to be available and fully accessible for people with disability (COAG 2011a, p. 13).

Poor accessibility can result in worse health outcomes, less participation and inclusion in society, and a reduction in dignity, autonomy and independence (AMA 2017, p. 2). Many

participants to this study (and other inquiries) raised concerns about people with disability finding it difficult to access mainstream services and the built environment (BCA, sub. 51, p.9; Bruce Bonyhady, sub. 48; BSL, sub. 55, p.1; National Disability Services, sub. 36; NPDC 2009; Queensland Government, sub. 68, p. 10; Sarah, sub. 57, p.2; SCACS 2017). For example, the Queensland Government said:

Access challenges remain with mainstream services such as health, housing, and transport. While some of these relate to issues at the interface of the NDIS and mainstream services that are as yet unresolved, challenges with accessibility and understanding of the needs of people with disability to ensure equitable access and inclusion is demonstrated through the 18.2 per cent of Queensland respondents with a disability (aged 5 and over) to the 2015 Survey of Disability, Ageing and Carers, who reported they were unable to use public transport due to difficulty getting into or out of vehicles or rail carriages. (sub. 68, p. 10)

Submissions to a report on the delivery of outcomes under the NDS by the Senate Standing Committee on Community Affairs identified many examples of ongoing accessibility concerns. This includes limited access to:

- housing — for example, because developers fail to incorporate universal design principles into their design (SCACS 2017, pp. 29–32)
- public and recreation facilities — for example, because such facilities do not have amenities that can fit large mobility aids (SCACS 2017, pp. 33–34)
- transport — for example, because of inconsistency in the availability of hearing loops in public transport buildings and vehicles (SCACS 2017, pp. 35–37)
- employment — for example, because of a lack of quiet spaces for people with autism (SCACS 2017, pp. 44–45)
- other government services (such as health services, Centrelink and Medicare, and the electoral office) — for example, because no standards or guidelines exist to ensure that they are accessible to people with little to no speech, or speech and language difficulties (SCACS 2017, p. 42).

Robust quality and safeguarding frameworks can help to support the effective provision of these, and other, mainstream services to people with disability. Many services already have quality and safeguarding frameworks in place. For example, in Victoria there are child safety standards in early childhood services and schools, and a health-services ombudsman. It is important that these frameworks are also appropriate for, and consider the needs of, people with disability.

Various plans and strategies have been developed to reduce barriers to access for people with disability — including through the NDS and State and Territory disability plans (box 3.11).

Box 3.11 Improving access to mainstream services

Under the National Disability Strategy (NDS) Governments agreed to reduce or eliminate barriers to accessing mainstream services for people with disability. The policy actions they committed to covered a wide range of services, activities and environments — including health services, transport and the wider built environment (chapter 4). Governments also agreed in the NDS to use the review points of national agreements and partnerships (which cover mainstream service areas such as health, education and housing) to assess progress against making these services more accessible to people with disability (COAG 2011a, p. 13).

Many State and Territory Governments have developed disability plans that seek to further embed the needs of people with disability into the design and delivery of mainstream services. These plans respond to the particular circumstances and priorities of each jurisdiction, but in general seek to remove systemic and attitudinal barriers that people with disability face to participating in the community and accessing government services. State Government departments and agencies, and in some cases local councils, are required to have detailed action plans that set out the measures they intend to put in place to ensure that people with disability can access mainstream services. In some states this requirement is enshrined in legislation.

However, implementing these plans and strategies has proved difficult. Part of the challenge is the costs associated with some solutions — particularly with respect to transport and infrastructure (section 3.3). Another challenge is misunderstanding about what accessibility from a disability perspective looks like (SCACS 2017, p. 7). In this context, the National Employment Services Association suggested that a move beyond obvious notions of accessibility (such as wheelchair ramps and braille readers) is needed before real improvements in access can be achieved.

[A]ccessibility is far from just a physical mobility issue. The concept touches any kind of human interaction with the external environment, and covers mobility, visual and auditory perception, cognitive issues and so forth. Rather than treating accessibility as a question of providing environmental modifications aimed at a particular kind of disability, the notion is more reasonably thought of in terms of global ease of use of the physical and technological environment, and clarity of communications, both in their form and their content. (SCACS 2017, p. 7)

Individualised funding is unsuitable for some system-wide services

Before the NDIS, many disability service providers were allocated pre-determined levels of funding, often as ‘block grants’. Under the NDIS, most funding is provided directly to individuals so that they can exercise choice and control in how they receive their supports. While this is an improvement over the previous system, one consequence of the move away from block funding is that system-wide services that cannot be practically or efficiently allocated individually can go unfunded.

Advocacy services are one example where the move away from block funding could have a pronounced effect (box 3.12). (Other areas of concern include assertive outreach to people with disability and support coordination (JSC 2018, pp. 73–75).) Although it is appropriate

for some disability advocacy funding to be withdrawn with the rollout of the NDIS (as some types of advocacy services may be included in participants plans), the intention of some State and Territory Governments to ‘wait and see’ what other governments and the NDIA have committed to advocacy funding is troubling. Such an attitude creates the potential for blame-shifting and service gaps to emerge. At the very least it may result in cost-shifting as one level of government commits to action out of concern that the other will not.

Gaps exist at the interface between the NDIS and other service systems

A tapestry of legislation, agreements, principles and guidelines set out the responsibilities of the NDIS and mainstream services (box 3.13). But despite all these documents, the unclear interface between mainstream services and the NDIS has been a persistent issue. There are reports that some NDIS participants are missing out on services being included in their plans because they are seen as the responsibility of mainstream service systems, but then being knocked back from the mainstream service because it is seen as an NDIS responsibility (PC 2017e).

Interface issues have been reported as particularly troublesome in the areas of justice (JSC 2018, p. 35), health (box 3.14), education (Vision Australia, sub. 37, p. 3), employment services (Anglicare, sub. 18, p. 6), transport (Vision Australia, sub. 37, p. 3), out of home care (Anglicare, sub. 18, p. 5), and housing and aged care (JSC 2018, pp. 21, 29; PC 2017d, p. 248). Some of the issues are very detail oriented, and come down to who should fund specific types of support. For example, there was a recent dispute between a State Government and the NDIA about who should fund supervision services (that were aimed at ensuring community safety) for a participant about to be released from jail (NDIA, pers. comm., 15 November 2018). The Critical Service Issue Response process (box 3.13) was used to reach a solution involving the State Government funding this service.

Unclear service boundaries also open the door for strategic behaviour as the Australian, State and Territory Governments each have an incentive to use uncertainty about who should be doing what to cost-shift from mainstream services to the NDIS and vice-versa (PC 2017e, pp. 247–248). The NDIA has also reported instances of possible cost-shifting, scope creep and service gaps, including:

- providers trying to extend the amount of therapeutic (health) interventions through use of NDIS funding
- reports that mainstream services are refusing entry to people they consider likely to be eligible for the NDIS
- issues around a lack of accessible public transport options, particularly in regional, rural and remote areas, which means NDIS participants seek funding for transport through the NDIS despite having the capacity to travel independently where transport options are available (NDIA 2017c, p. 81).

Box 3.12 **Advocacy services are at risk of under provision**

Advocates for people with disability are independent people or organisations who speak, act or write on behalf of the interests of an individual or group. There are several different modes of advocacy, including:

- systemic advocacy — aimed at bringing about systematic improvement in policy and practice, and removing discriminatory barriers for people with disability
- individual advocacy — upholding the rights of individuals with disability by working on discrimination, abuse and neglect
- self-advocacy — supporting people with disability to advocate for themselves, or as a group
- legal advocacy — where a lawyer provides legal representation or gives legal advice to people with disability (DSS 2018c; PC 2017d, p. 380).

Some of these functions (such as decision supports, safeguard supports and capacity-building) have been funded by the National Disability Insurance Agency (NDIA) — either as grants through the Information, Linkages and Capacity Building (ILC) program or through individual National Disability Insurance Scheme (NDIS) plans. Other functions, such as systemic advocacy and legal advocacy (including legal review and representation) are not funded through these programs, either because they are not suited to individualised funding or because they are provided outside the NDIS. Some organisations, such as the Department of Family and Community Services (NSW), have stated that the ILC program has been ineffective in supporting advocacy activities (NSW HCSC 2018, pp. 114–117), and a clear theme of submissions was that advocacy services are at risk of being underfunded (Carers Australia, sub. 42, p. 4; Public Advocate (Qld), sub. 19, p. 3; QAI, sub. 40, p. 7; VCOSS, sub. 52, p. 20; Victorian Government, sub. 66, p. 7).

The Australian, State and Territory Governments share responsibility for advocacy services not funded by the NDIA. The Australian Government contributes through the National Disability Advocacy Program (Prentice and Porter 2017), while each State and Territory Government takes a different approach to funding of advocacy services. Some, such as the Victorian Government, have maintained their previous level of advocacy funding (Victorian Government 2018, p. 39). The NSW Government has withdrawn and then reinstated funding for the period covering the transition and earlier stages of the NDIS (to June 2020) (NSW Government 2018b; Smith 2018). The NSW Legislative Council Health and Community Services Committee (2018, p. 121) recommended that ongoing funding to advocacy organisations be provided beyond June 2020.

The exact supports to be provided through the National Disability Advocacy Program, ILC grants and NDIS plans at full scheme are yet to be fully clarified or established (although the Department of Social Services, through the Disability Reform Council's Senior Officers Working Group, is currently reviewing advocacy projects, policies and priorities (Commonwealth of Australia 2018a, p. 11)). As a result much of the current State and Territory Government funding of disability advocacy appears to be operating on a 'wait and see' basis.

Box 3.13 Many documents set out service boundaries

A tapestry of legislation, agreements, principles and guidelines set out the responsibilities of the National Disability Insurance Agency (NDIA) and mainstream services.

- *National Disability Insurance Scheme (Supports for Participants) Rules* set out high-level considerations relating to whether supports are most appropriately funded through the National Disability Insurance Scheme (NDIS) or mainstream services.
- *Principles to determine the responsibilities of the NDIS and Other Service Systems* and the accompanying *Applied Principles and Tables of Services* outline in broad detail the responsibilities of the NDIS and 11 mainstream services (including health, mental health, education, transport, and justice), as well as some specific activities that they are to fund (see table below) (COAG 2015).
- *Mainstream Interface Working Arrangements* are established in each State and Territory and set out how the NDIA will work with mainstream services, and promote a consistent national approach to addressing mainstream interface issues (NDIA, pers. comm., 8 November 2018).
- *Bilateral agreements* between the NDIA and some governments formalise bilateral relationships of who does what. These include a Critical Service Issue Response process to assist with resolving complicated and intractable matters that span across multiple service systems (NDIA pers. comm., 8 November 2018).
- *Practice Guidelines* published by the NDIA and some State and Territory Governments set out common interface scenarios and then detail the responsibilities of the NDIA and mainstream services in each (DHHS (Vic) 2018c; NSW Government 2016).

Service boundaries are also continually tested through Administrative Appeals Tribunal cases (PC 2017d, p. 251).

Applied Principles and Tables of Services, selected services

| | <i>What the NDIS funds</i> | <i>What mainstream services provide</i> |
|---------------------------|---|---|
| Health | Support to enable a person with disability to undertake daily activities, including maintenance supports directly associated with the person's disability. | Access to health services, such as diagnosis and clinical treatment of health condition. |
| Mental health | Non-clinical supports that focus on the person's functional ability to undertake daily living. | Clinical support related to mental health and any residential care and rehabilitative care. |
| Early childhood education | Individualised support or early intervention, specific to a child's disability or developmental delay, targeted at enhancing the child's functionality to engage in daily activities. | Early childhood education and care needs, health system, child and maternal health services and any supports clinical in nature. |
| School education | Supports related to the functional impact of a student's disability on their ability to undertake activities of daily living, such as personal care and transport to and from school. | Personalising learning and support related to educational attainment, including teaching, learning assistance, school building modifications and transport between school activities. |

Box 3.14 Interface issues are pronounced for health services

There are concerns that people are missing out on health services due to uncertainty over who is responsible for providing these services. Some people may be missing out on services because they are referred by the National Disability Insurance Scheme (NDIS) to the health system, and told by the health system that the provision of the service is the responsibility of the NDIS (AHPA, sub. 54). For example:

I satisfied all the disability and age requirements, but my claim was rejected as it was deemed 'a medical condition'. I qualify for Disability Pension, Mobility parking and my husband receives carer allowance for me. So I satisfy [sic] everybody else's [sic] criteria, and yet am unable to get any assistance because my spinal injuries from a car accident are a 'medical condition'. Under that criteria, so should everybody else! Disability organisations now offer no support unless you are on NDIS, so me (and I suspect a whole lot of others) now fall between the cracks. (Louise Jacobson, sub. 3, p. 1)

... there is an inconsistent approach applied by the NDIS in relation to the intersection of NDIS and mainstream health services, depending upon the planner and the jurisdiction. For example, an NDIS participant whose functional capacity is affected by mental health issues related to their disability may be provided access to psychological services either within the NDIS or via mainstream health services, depending on who the NDIS planner was and in which jurisdiction they were operating. This inconsistent approach to service provision is negatively impacting on people whose disability issues are not effectively managed within the mainstream health system. (Australian Psychological Society, sub. 41, p. 1)

The introduction of the NDIS and removal of other support services has also impacted the ability of people with a disability to access necessary health supports. For example, Anglicare Southern Queensland supports clients who in their transition to the NDIS lost access to health support for routine nursing care such as for catheter changes and wound care, previously funded through Queensland Community Care Services (QCCS). While a person becomes ineligible for QCCS once their NDIS plan is approved, the NDIS does not cover these supports which were previously the responsibility of health. (Anglicare Australia, sub. 18, p. 6)

[Occupational Therapy Australia] notes that, in the majority of cases, it is impossible to draw a clear line between the health and disability systems. Rather, there is an artificial line in place for funding purposes. It seems that this arbitrary line is preventing consumers from receiving a seamless service. In the Commission's 2011 report from its inquiry into Disability Care and Support, it noted that, despite the introduction of the NDIS, 'it is likely that some ambiguity will remain around the respective responsibilities of the health and disability system' ... Seven years on, the delivery of integrated care not only remains an ongoing challenge, it is arguably becoming even more complicated. (OTA, sub. 25, p. 3)

While some of the clients they work with have conditions which meet the definition of a disability, many of the clients we work with have life limiting diagnoses which fall outside this definition, including conditions such as cancer, end stage cardiac disease, respiratory illnesses and kidney disease. Since the introduction of the NDIS, it has become very difficult for these clients to access any kind of ongoing support with services such as personal care (bathing), domestic assistance or in-home respite for carers as these services are no longer funded to accept NDIS ineligible patients ... There is significant concern within the community and from the experience of our members the problem has reached a crisis point. Services which we have previously have been able to refer to for our clients aged under sixty-five years of age, such as Homecare services or other former HACC providers are now reporting that they no longer receive funding to provide services for people under the age of sixty-five unless that person is NDIS eligible. (AASW, sub. 45, p. 4)

Grey areas between the NDIS and health system were also raised in submissions to the Joint Standing Committee on the NDIS (2018) report on *Transitional Arrangements for the NDIS*, the NSW Health and Community Services Committee (2018) report on *Implementation of the NDIS and the Provision of Disability Services in New South Wales*, and the Productivity Commission's *NDIS Costs* study (PC 2017e).

Governments have long been aware of the interface problem, and are undertaking substantial work to rectify it. The DRC, through the Senior Officials Working Group, is collaborating with the NDIA to facilitate the resolution of interface issues (COAG 2018a; DSS, pers. comm. 18 September 2018). The DRC has prioritised six service areas — health, mental health, criminal justice, child protection and family support, transport (including school transport), and personal care in schools (NDIA, pers. comm., 8 November 2018). This process will help to address gaps in services for NDIS participants, although it is not clear when this work will be completed or what the outcome (or deliverable) will be (for example, whether or not it will result in an update to the *Applied Principles and Tables of Services* (APTOS) (box 3.13)).

3.3 How the new NDA could help address gaps

The implications of gaps are significant — uncertainty about what supports will be provided is distressing for people who rely on them and places an additional call on the generosity of informal support. As outlined in section 3.2, governments are taking action to address some service gaps, but the revision of the NDA is an opportunity to support these efforts.

The new NDA can help to narrow gaps in support by creating an environment where people with disability, their advocates, and the broader community can hold governments to account for addressing them. To do this, it is essential that responsibilities for disability services are made clear and that processes are in place to identify and monitor gaps. Steps need to be taken to ensure adequate supports are provided through mainstream services — whether these are at the interface of the NDIS, or relate more broadly to improving access to mainstream services for all people with disability.

In considering how service gaps can be addressed, it is important to recognise that not all gaps can feasibly be eliminated. Judgment about what is reasonable is required when determining the extent to which adjustments are to be made for people with disability, balancing the costs and benefits of doing so to people with disability and the community more broadly. Disability inclusion plans in some States and Territories aim to strike this balance by committing governments to ‘improve’ access to mainstream services or make ‘reasonable adjustments’ to accommodate people with disability (NSWFACS 2015, p. 22; SADCSI 2014, p. 9; Victorian Government 2016, p. 39).⁴

Responsibilities to provide some services can be clarified immediately

Identifying exactly where there are services gaps, and if they are a result of unclear responsibilities, can be difficult. However, this need not prohibit governments from taking

⁴ Under the *Disability Discrimination Act 1992* (Cwlth) an adjustment to be made by a person can be described as a reasonable adjustment unless making the adjustment would impose an unjustifiable hardship on the person.

action. Governments should not be reactive to gaps, but should instead seek to create an environment where gaps are unable to emerge in the first place. This can be facilitated by clarifying the responsibilities of the Australian, State and Territory Governments to provide disability services wherever there is evidence or considerable concern among stakeholders that the responsibilities of governments are unclear. Doing so would come at very little cost and help to improve accountability.

The Commission has not undertaken an exhaustive analysis, but has identified several areas where there are concerns about service gaps, or where the responsibilities of governments are unclear — particularly for services to people with disability who not covered by the NDIS (section 3.2). These relate to:

- supports to people with psychosocial disability
- advocacy services, including systemic, individual, legal and self-advocacy
- carer supports, in particular respite services
- community access and inclusion programs.

The responsibility of the Australian, State and Territory Governments to provide these services should be clarified and set out in the NDA.

RECOMMENDATION 3.4

The new National Disability Agreement should set out the responsibilities of the Australian, State and Territory Governments to provide disability services outside the National Disability Insurance Scheme (noting that these could be provided through mainstream systems), in particular where there is lack of clarity including for:

- services to people with psychosocial disability
- advocacy services, including systemic, individual, legal and self-advocacy
- carer services, in particular respite services
- community access and inclusion programs.

A comprehensive gap analysis is needed

The gaps identified in this study are not exhaustive. A gap analysis — which involves identifying community needs and government objectives, and assessing them against the services that are available or planned — is needed (box 3.15). This would help governments to comprehensively identify where gaps are so that the responsible party can fill them. Where gaps are due to unclear responsibilities, the analysis can provide a basis upon which governments can agree on who is responsible for addressing gaps. These responsibilities can then be reflected in the NDA.

A gap analysis exercise should be conducted through the DRC as a matter of urgency. So that it can inform the drafting of the new NDA, it should be completed by no later than the end of 2019. It would be ideal, but not essential, for the DRC to clarify responsibilities at the interface of mainstream service systems and the NDIS before a gap analysis is undertaken.

The results of the gap analysis should also be made public to improve accountability and support the planning of service providers. One option is to identify significant gaps in the new National Disability Report (chapter 5).

Box 3.15 Undertaking a gap analysis

Government agencies often operate in silos and it can be difficult for policy makers and planners of services to know exactly what services are available within a single portfolio (such as health or education), let alone across them. A gap analysis exercise can help governments to identify where there is duplication or gaps in the services available. It can also produce useful information for providers about the supply and demand for services, which can aid the efficient functioning of markets (box 3.7). The first step in gap analysis involves governments understanding what services they are providing, where they are providing them, and who is accessing them. This is not simply a statement of expenditure on different programs, but a comprehensive mapping of the outcomes that each service is seeking to achieve in the area in which they operate. It could include a stocktake of the adjustments mainstream services have made to make their services more accessible, inclusive and culturally responsive to meet the needs of people with disability. Including services provided by charities and not-for-profits in this mapping can help create a clearer understanding of the supports available.

Gap analysis also involves governments developing an understanding of the relevant population and its service needs. In essence this requires consideration of what services are needed, where they are needed, and how many should be provided. It could include governments articulating what 'reasonable adjustments' should be made to mainstream services, and for whom this would improve accessibility. To do all of this, governments need to identify the population of people with disability, understand their characteristics, and identify and articulate the outcomes that are sought from the users' perspective. Good data are critically important for building this understanding of people with disability (chapter 5).

Identifying gaps involves assessing the service needs of the population against the services that are available or planned. Ideally, this would be a forward looking exercise — a gap analysis would not just identify where the gaps are today, but where they are likely to be in the future.

Source: PC (2017c, pp. 83–88).

Variants of a gap analysis have been undertaken in the past. Through the current NDA, Governments agreed to the publication of the National Need and Supply Model, which was subsequently developed by PricewaterhouseCoopers, and to develop several benchmarks of the service gap in formal disability support (COAG 2012c cl 28(a); PwC 2012). The service gap was estimated by calculating the proportion of the potential population of people with disability receiving a disability service across six highly aggregated 'impairment groups'. This included people with: acquired brain injuries; intellectual disabilities; neurological disabilities; physical disability; and psychiatric disabilities. Such an aggregated approach is useful for benchmarking purposes, but to inform responsibilities in the NDA a gap analysis

exercise requires a more detailed breakdown of the types of services available to people with disability, and the need for them.

The services provided by governments, and the population and service needs of people with disability all evolve over time, so it is important that a gap analysis is conducted on a regular basis. Provision for a gap analysis to be conducted by the DRC at least every five years should be included in the new NDA. This timing coincides with the Commission's recommendation for the NDA to be reviewed on a five-yearly basis (chapter 6). Any actions needed to resolve gaps could be included in the NDS and where necessary, responsibilities of government updated in the NDA. Should additional gaps be identified between gap analyses, the responsibilities of governments could be updated by way of a schedule to the NDA.

FINDING 3.3

A gap analysis — which involves identifying community needs and government objectives, and assessing them against the services that are available or planned — would help governments identify where service gaps exist. It would also provide guidance as to where roles and responsibilities need to be further clarified in the new National Disability Agreement.

Governments should first clarify what supports will be provided outside the NDIS

Before a gap analysis can be undertaken, and to provide certainty for people with disability, governments need to immediately articulate and publish exactly what disability services they will provide, and how. This is particularly important for disability services outside the NDIS, where the weight of concern about service gaps lies.

At present, precisely what disability services governments will provide, and how they will provide them, is largely unclear. Some, such as the Victorian Government, intend to retain some 'standalone' disability services (which are provided by entities that are independent of mainstream services), such as coordination of support and services for those with complex needs (DHHS (Vic) 2018b). Others, such as the NSW Government, have indicated that they will roll all current funding for standalone disability services into the NDIS (NSW Government 2018a, p. 3). Some participants expressed concern with this approach (Sarra, sub. 57, p. 2). Bruce Bonyhady was particularly forthright:

[the NSW Government] is arguing that people with disability will either be eligible for the NDIS or will be able to receive all the supports they will need from mainstream services. This is a disaster waiting to happen, which will lead to many people with disability falling through the social security safety net and, totally unnecessarily, becoming more disabled. (sub. 48, p. 8)

The Commission does not have a strong view on whether services to people with disability are best provided through standalone disability services or mainstream services. Either of

these approaches may be effective depending on the nature of the disability and the service required.

But what is of concern to the Commission is that governments clearly and publicly outline what services will be discontinued as funding is rolled into the NDIS, and the services that will be available to non-NDIS participants, whether that be through mainstream services or other means. This is essential to identifying and addressing current and future service gaps. A similar recommendation was made earlier this year by the JSC (2018, p. 20).

Clarifying the role of the ILC program, and the services that it will fund, will assist in this task. Articulating and publishing how governments intend to meet their continuity of support obligations will also help. With the exception of the Australian Government (box 3.16), governments have published little information about how they intend to deliver their continuity of support arrangements.

Box 3.16 Lack of clarity about continuity of support arrangements

All Governments agreed (in the bilateral agreements for the National Disability Insurance Scheme (NDIS)) to provide continuity of support for clients of Australian, State and Territory Government disability services found ineligible for the NDIS. These arrangements are intended to ensure people with disability are able to achieve similar outcomes as their previous support.

With the exception of the Australian Government, there has been limited public information provided on how governments intend to meet their continuity of support obligations (PC 2017d, pp. 238–243). However, some State Governments, such as in South Australia, have published eligibility frameworks and policies.

The 2018-19 Budget provided an additional \$92.6 million over four years from 1 July 2019 to meet the Australian Government’s continuity of support obligations through five different programs from 1 July 2019 (DSS 2018a). Approximately 27 000 existing Australian Government clients will receive continuity of support through these programs.

In its 2017 study on NDIS Costs, the Commission recommended that, before the NDIS is fully implemented, all governments should make public — through the DRC — their approach to providing continuity of support (to clients of disability programs who are not eligible for the NDIS) and the services they intend to provide to people with disability beyond those provided through the NDIS (PC 2017d, p. 243). This will need to occur before a gap analysis can be undertaken, and should be done as a matter of urgency.

RECOMMENDATION 3.5

The Australian, State and Territory Governments should, through the COAG Disability Reform Council, undertake a comprehensive gap analysis, which involves identifying community needs and government objectives, and assessing these against the services that are available or planned.

As a first step, governments should immediately articulate and publish:

- which programs will be discontinued as funding is rolled into the National Disability Insurance Scheme (NDIS)
- how they will discharge their continuity of support obligations
- exactly what services they will provide to people with disability who are not eligible for the NDIS or covered by continuity of support arrangements.

So that it can inform the drafting of the new National Disability Agreement (NDA), the gap analysis should be completed by no later than the end of 2019, and the results made public. The NDA should include a provision for a gap analysis to be undertaken at least every five years, and be updated accordingly following each gap analysis.

Governments should affirm their commitment to resolving interface issues

Given the importance of addressing gaps and improving accountability, and in order for the NDA to meet its purpose as the overarching agreement covering all people with disability, NDIS interface issues need to be brought into the fold. To do so, the new NDA should:

- include a statement that affirms governments' commitment to clarifying what supports NDIS participants are to receive through mainstream service systems and what they are to receive through the NDIS
- reference the *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* and the accompanying APTOS along with a clear statement of their purpose.

The APTOS is a well-known document within governments and their agencies, but many organisations outside of government are largely unaware of its existence. This can impede accountability, because an essential component of holding governments to account is knowledge of who should be doing what. Referencing the APTOS within the NDA would assist to raise its profile and could help improve the accountability of governments (and their agencies) for the services they provide.

The question is whether a simple reference to the APTOS in the body of the NDA is sufficient, or whether it should be included as a schedule to the agreement. At 26 pages the APTOS is a substantial document, and adding it as a schedule could add significant length to the NDA, which could contribute to it becoming unwieldy and difficult to comprehend.

On the other hand, the APTOS currently exists as an attachment to the December 2015 COAG Communiqué, which required agreement — but not a signature — from all governments. As governments all agree and sign the new NDA (including its schedules), including the APTOS via a schedule would have the benefit of requiring governments to reaffirm the principles of the APTOS. It would also reinforce the standing of the document — and its public profile — by bringing it into the architecture of the Intergovernmental Agreement on Federal Financial Relations.

Ultimately, it is a judgment as to whether to reference the APTOS in the body of the NDA or to include it via a schedule. The Commission’s view is that it should be included as a schedule. If length of the new agreement is a concern, steps can be taken to simplify the agreement — for example, by only including schedules as separate attachments on the agreement website.

RECOMMENDATION 3.6

The new National Disability Agreement (NDA) should include a statement that affirms governments’ commitment to clarifying what supports to National Disability Insurance Scheme (NDIS) participants are to be provided through mainstream service systems and what are to be provided through the NDIS.

The new NDA should also incorporate the *Principles to Determine the Responsibilities of the NDIS and Other Service Systems* and the accompanying *Applied Principles and Tables of Services* via a schedule to the NDA.

Governments should commit to improving access to mainstream services

Ensuring that mainstream services are accessible, inclusive and culturally responsive in meeting the needs of people with disability would help to address gaps in the supports available to people with disability. Doing so has been a persistent challenge, although given the expanded role some governments see for their mainstream services (section 3.2) it is arguably more important now than ever.

The shared responsibility to improve mainstream services should be in the NDA

The responsibilities of governments to provide mainstream services are complex. No one level of government is solely responsible for any one mainstream service system (such as health, education and housing), and people with disability may receive support from some or all of these service systems.

For example, the Australian, State and Territory Governments each have some degree of responsibility for the different components that make up the healthcare system:

- the Australian Government is responsible for primary health services (such as GPs and pathology), Medicare and the Pharmaceutical Benefits Scheme, and regulating private health insurance
- State and Territory Governments are mainly responsible for public hospitals, mental health services, regulating and licensing of health premises, ambulance services and public community-based primary health services
- the Australian, State and Territory Governments share responsibilities for funding public hospital services, national mental health reform, some preventative services, registration and accreditation of health professionals, and funding palliative care (Parliamentary Library 2013).

All governments — Australian, State, Territory and Local Government — share responsibility for improving their services so that they are accessible, inclusive and culturally responsive in meeting the needs of all people with disability, particularly those with complex needs who may need differentiated support. This responsibility should be stated in the NDA, which would highlight the importance of the endeavour, and serve as a reminder that improving outcomes for people with disability requires a collaborative response from all governments. Some participants support this view (Anglicare Australia, sub. 18, pp. 4–5; NSW Carers Advisory Council, sub. 60, p. 2).

People who may need culturally responsive and differentiated support can include Indigenous people, and people from culturally and linguistically diverse backgrounds. Some people with disability, in particular women, have been exposed to physical, sexual or emotional abuse in childhood and as adults (chapter 6). The impacts associated with such trauma can be misunderstood or minimised, if providers are not sufficiently aware and attentive. People with multiple or more complex types of disability (such as psychosocial disabilities) may also need differentiated support, especially where they nearly, but do not, meet the NDIS eligibility criteria and are therefore likely to receive the majority of their support from mainstream services.

Local Governments should be acknowledged in the NDA

More broadly, the role of Local Governments should be acknowledged in the NDA, as was suggested by the Victorian Government (sub. 66, p. 5). Local Governments have a role to play in improving access to services, and the built environment more broadly (box 3.17). Acknowledging Local Governments in the NDA would serve as a reminder for providers, advocates, and other levels of government to consider how Local Governments influence outcomes for people with disability. It would also help to meet the NDA's purpose as the overarching agreement covering all people with disability.

Local Governments could be acknowledged by way of a provision that recognises their influence on the lives of people with disability, especially through inclusion and accessibility policies, such as planning and building approval requirements, and their involvement in supporting and delivering many community programs. The provision could be structured in a manner similar to the reference to local government in the National Housing and Homelessness Agreement (COAG 2018d, cl 30).

Box 3.17 The role of Local Governments

Local Governments have several delegated responsibilities that are important to improving the lives of people with disability, particularly with respect to enhancing the accessibility and inclusiveness of local communities. For example, Local Governments create land-use plans and set development controls, and are responsible for enforcing them (PC 2004, p. 18). Local governments are also responsible for the administration and enforcement of State and Territory building legislation and regulations, and some can make their own building or planning by-laws within their jurisdiction.

Local governments are also responsible for many services that are accessed by people with disability. These services vary from area to area, but can include community services (such as child care facilities, preschools and playgroups), health services (such as maternal and child health facilities), aged services (such as senior citizens' groups and centres), and recreation or cultural services (such as sport and recreation facilities, libraries and one-off events) (Knowyourcouncil 2015).

The Australian Local Government Association was a signatory to the National Disability Strategy, and it was noted in the Strategy that there is a strong role for Local Governments in its implementation (COAG 2011a). Some Local Governments have a disability inclusion plan outlining how they will advance equal access to facilities and services (box 3.11).

Specific actions to improve mainstream services are required

On its own, a statement of governments' responsibility for improving mainstream services and public facilities so that they are accessible, inclusive and culturally responsive is unlikely to be sufficient. What is also needed are specific policy commitments by governments, and details on exactly how they will implement these policies. How the NDA can assist to do this is discussed throughout this report.

- Policy actions to improve mainstream services should to be detailed in the new NDS beyond 2020 (chapter 2).
- Evaluation of policies and programs aimed at improving mainstream services should be incorporated into the policy making cycle and disseminated through the publication of a National Disability Report (chapter 4).
- The performance reporting framework of the NDA should be strengthened to comprehensively assess outcomes for people with disability. Indicators relating to the use of, and experiences with, mainstream services by people with disability could help

to identify accessibility issues, and facilitate the assignment of responsibilities to improve these services (chapter 5).

Governments should also consult broadly with people with disability, their families and carers when deciding what policy actions and reform directions to pursue (chapter 6).

More broadly, the mainstream services covered by other Commonwealth–State agreements under the Intergovernmental Agreement on Federal Financial Relations impact on the lives of people with disability and their carers, including health, education, and housing. In recognition of this, and in order to enshrine the cross-cutting nature of the NDA, the commitments and obligations of governments under the new NDA should be reflected in the other Commonwealth–State agreements (chapter 6). Doing so could help raise the prominence of issues people with disability face when accessing mainstream services, and prompt action from governments to improve the accessibility of those services.

RECOMMENDATION 3.7

The new National Disability Agreement (NDA) should assist with addressing barriers that people with disability face in accessing mainstream services by:

- clearly stating that the Australian, State, Territory and Local Governments share responsibility for ensuring their mainstream services make reasonable adjustments so that the services they provide are accessible, inclusive, and culturally responsive in meeting the needs of people with disability, particularly those with complex needs who may need differentiated support
- recognising the important role Local Governments have to play in improving the lives of people with disability, especially through their role in planning and building regulations, and involvement in many community programs and services
- detailing in the National Disability Strategy the agreed policy directions and commitments of governments (including those to improve mainstream services) (recommendation 2.1) and incorporating the evaluation of policies to improve mainstream services into the policy making cycle (recommendation 4.1)
- ensuring governments commit to reflect in other agreements their commitments and obligations under the new NDA (recommendation 6.2).

4 Policy commitments

Key points

- An effective intergovernmental agreement should encourage its signatories to take actions that further the purpose of the agreement. However, in the current National Disability Agreement (NDA), the ‘reform and policy directions’ do not specify actions to be taken by governments. As a result, the NDA provides limited guidance on a disability reform agenda and it is difficult to assess the extent to which the agreement motivates government actions or improves outcomes for people with disability, their families and carers.
- The relationship between stated outcomes of an intergovernmental agreement, policy commitments and actions, and policy evaluation should be clear and strong.
 - The specification of policy commitments represents a critical link between the agreed outcomes of an agreement and a reform agenda to be implemented by the parties.
 - The nexus between policy actions and evaluation of what works is essential for determining whether a program or policy is effective or provides net benefits to the community.
 - Lessons from evaluation should feed back into decisions about future policies.
- In the current NDA, the absence of policy commitments undermines each of these links. The new NDA should explicitly incorporate policy commitments and actions to be undertaken by each of the parties. This should be done by expressly linking the policy commitments in the National Disability Strategy to the outcomes specified in the new NDA.
- Currently, evaluation of the effectiveness of disability policies and programs is fragmented, with a lack of cohesion between topic areas and study designs. There is a role for governments to help fill in the gaps of the current research base, including by coordinating and commissioning research projects.
- The new NDA should contain a formalised process for undertaking policy and program evaluation. The Steering Committee for the Review of Government Service Provision should be responsible for administering the evaluation program and for public reporting and dissemination of findings through the National Disability Report. A schedule to the NDA should specify priority areas for research, a timetable for when and what policies will be evaluated, and how the evaluation will be undertaken.

An effective intergovernmental agreement should influence the behaviour of its signatories, and encourage them to act in a way that furthers the purpose of the agreement. In order to facilitate reforms that are aligned with an agreement’s objectives and outcomes, the agreement should include policy commitments, including specific policy goals and an action plan that stipulates actions to be undertaken.

This chapter considers the part of the current National Disability Agreement (NDA) titled ‘reform and policy directions’. Section 4.1 describes the content of that part and considers

the extent to which it articulates specific policy goals and reform agenda items. Section 4.2 discusses why it is important for an intergovernmental agreement to contain strong and clear links between its stated outcomes, policy commitments and evaluation. It also assesses the extent to which those linkages are present in the NDA.

4.1 Where are policy commitments specified?

Across the various National Agreements, policy commitments are commonly embodied within a statement of policy and reform directions (such as in the National Affordable Housing Agreement and the National Healthcare Agreement). Typically, *policy directions* identify specific policy goals, which support the achievement of the agreement's broader objectives and outcomes. By comparison, *reform directions* identify areas for reform and specify what actions will take place in order to support the policy directions.

That said, the Intergovernmental Agreement on Federal Financial Relations (which provides the overarching framework for National Agreements) is silent on the role and purpose of policy and reform directions in a National Agreement. By contrast, Schedule E mandates the inclusion of objectives, outcomes and outputs; roles and responsibilities; and performance indicators in each National Agreement, and stipulates criteria that each of those components must meet (COAG 2012b). However, there are no analogous provisions relating to policy and reform directions.

The NDA does not include an action plan

Like many other agreements the current NDA contains a section titled 'reform and policy directions'. The section contains a number of policy directions (that is, goals), such as:

- (a) improve provision of the skills and opportunities to enhance the capability of people with disability to participate in social, economic and community activities;
- (b) ensure services are person centred and provide timely access to supports based on assessed needs;
- (c) identify, plan and respond to the development and support needs of people with disability at an early stage and at key life transition points; and
- (d) support the role of families and carers including strengthening their informal support networks. (COAG 2012c, cl 26)

The section also identifies some priority areas for reform in clause 28. A number of participants considered it desirable that any future agreement continue to include policy and reform directions (CMHA, sub. 6, p. 7; MIFA, sub. 24, p. 11; PDCN, sub. 8, p. 6).

However, the reform and policy directions in the current NDA largely consist of declaratory statements of in-principle agreement (box 4.1). These provisions evidence philosophical agreement between the parties about how to approach disability policy making, rather than identifying specific policy goals, reform agenda items, or timeframes within which certain

actions must be taken. Statements of this type are typically found in the preliminaries of an agreement.

Box 4.1 'Reform and Policy Directions' in the NDA

Many of the 'Reform and Policy Directions' provisions are not commitments to specific policies or reforms, but rather to broad principles relating to disability policy making.

25. The Parties commit to on-going policy and reform directions in the disability sector to achieve the objectives and outcomes of this Agreement ...

27. All governments **recognise** the importance of mainstream services in achieving the outcomes of this Agreement ...

29. Across all policy and reform directions consideration will be given to strategies specific to Indigenous Australians, those from culturally and linguistically diverse backgrounds, and those living in regional, rural and remote communities ...

31. All governments agree to work together to review the priority reform areas from time-to-time in light of emerging priorities at the national and local level. (COAG 2012c, cls 25, 27, 29, 31)

In particular, there is a notable absence of reform directions (that is, actions) in the current NDA (table 4.1). By contrast, when the NDA was signed in 2008, it contained specific agenda items, including:

- the establishment of a National Disability Strategy (NDS)
- harmonising rules for accessible parking
- establishing a National Companion Card Scheme
- ensuring Younger Veterans have access to specialist disability services
- modernising Print Disability Services
- implementing the Community Aged Care Package election commitment (COAG 2009, cl 27).

However, when the NDA was updated in 2012, these reform directions were removed from the NDA and placed into the NDS (discussed below). No new reform directions were included in the agreement.

Table 4.1 Policy directions and reform directions in the NDA

| <i>NDA outcome</i> | <i>Policy directions</i> | <i>Reform directions</i> |
|---|--------------------------|--------------------------|
| People with disability achieve economic participation and social inclusion | ✓ | ✗ |
| People with disability enjoy choice, wellbeing and the opportunity to live as independently as possible | ✗ | ✗ |
| Families and carers are well supported | ✓ | ✗ |

Source: COAG (2012c).

The National Disability Strategy includes ‘commitments’

Instead, commitments to undertake actions relating to disability policy are contained in the NDS. The NDS lists six outcomes and, for each outcome, stipulates ‘current commitments’ of the signatory parties (table 4.2). Although differently named, these current commitments play an analogous role to the reform directions under the first NDA (box 4.2).

Table 4.2 Policy directions and commitments in the NDS

| <i>Outcome</i> | <i>Policy directions</i> | <i>Current commitments</i> |
|---|--------------------------|----------------------------|
| Inclusive and accessible communities: people with disability live in accessible and well designed communities with opportunity for full inclusion in social, economic, sporting and cultural life | ✓ | ✓ |
| Rights protection, justice and legislation: people with disability have their rights promoted, upheld and protected | ✓ | ✓ |
| Economic security: people with disability, their families and carers have economic security, enabling them to plan for the future and exercise choice and control over their lives | ✓ | ✓ |
| Personal and community support: people with disability, their families and carers have access to a range of supports to assist them to live independently and actively engage in their communities | ✓ | ✓ |
| Learning and skills: people with disability achieve their full potential through their participation in an inclusive high quality education system that is responsive to their needs. People with disability have opportunities to continue learning throughout their lives | ✓ | ✓ |
| Health and wellbeing: People with disability attain highest possible health and wellbeing outcomes throughout their lives. | ✓ | ✓ |

Source: COAG (2011a).

Indeed, some of the reform directions in the first NDA have been translated directly to the NDS. For example, the NDS includes commitments relating to a national accessible parking scheme and the National Companion Card Scheme (COAG 2011a, p. 34), which are linked to the NDS’s first outcome (inclusive and accessible communities). A further commitment relating to spending on print disability services is also included (COAG 2011a, p. 40), which is linked to the second outcome in the NDS (rights protection, justice and legislation).

During consultation, the Commission found that, currently, the NDS is a stronger driver of policy action than the NDA. This is because the NDA has fallen out of date and is no longer relevant to the contemporary policy environment. In particular, some governments said that the NDS provides a more useful framework for formulating and evaluating government policy. For example, the Queensland Government said that ‘broad disability policy has been driven by the NDS rather than the NDA’ (sub. 68, p. 7). And the South Australian Government said:

South Australia considers the National Disability Strategy (NDS) to be the preeminent, overarching national strategy ... The NDA is no longer up to date given the significant changes

to the disability policy and service provision landscape, arising from the introduction of the NDS and NDIS. (sub. 63, pp. 14, 21)

Box 4.2 Commitments in the NDS

The National Disability Strategy contains 34 'current commitments' for Australian governments. Examples of these commitments include:

- incorporate universal design elements into new public and community housing
- implement the Disability Standards for Accessible Public Transport 2002 to improve access to public transport for people with disability
- improve cultural participation through the National Arts and Disability Strategy
- develop court diversion programs for people with disability in State and Territory magistrates' courts to address the mental health or disability needs of defendants
- provide information and voting services to people with disability
- implement the National Mental Health and Disability Employment Strategy
- develop a National Quality Framework to achieve better outcomes for people who are homeless or at risk of homelessness, including people with disability
- implement the Helping Children with Autism initiative to improve early intervention and support for children with autism
- improve access to health services through new Medicare Benefits Schedule items, including Intellectual Disability Health Check and Chronic Disease Management.

Source: COAG (2011a).

Similarly, the Tasmanian Government considered that the NDS provides better direction for reform and policy priorities.

The Disability Reform Council has recently agreed to commence work on further disability reform post 2020, and has brought forward an evaluation of the NDS to 2018. This process will provide further direction for reform and policy priorities. Overall, it is Tasmania's position that there is a strong argument that a NDA is no longer required as it has been overtaken by other processes (the NDIS and NDS), developments in the disability policy landscape and intergovernmental funding arrangements. (sub. 61, p. 3)

And, in many jurisdictions, it is the NDS framework that guides the formulation of state disability plans (discussed below). It was also apparent that, when advocating for change, disability groups rely on the commitments articulated in the NDS, rather than on the NDA.

State and Territory disability plans

Government actions and reforms relating to disability are also informed by policy instruments at the State and Territory level. In most States and Territories, there is a disability plan that identifies specific policy goals and lists government actions to be undertaken to progress those goals (table 4.3).

Table 4.3 State and Territory disability plans

| <i>Jurisdiction</i> | <i>Plan</i> | <i>Policy goals</i> | <i>Actions</i> |
|---------------------|--|---------------------|----------------|
| New South Wales | NSW Disability Inclusion Plan 2015–2019 | ✓ | ✓ |
| Victoria | Absolutely Everyone: State Disability Plan 2017–2020 | ✓ | ✓ |
| Queensland | All Abilities Queensland: Opportunities for All 2017–2020 | ✓ | ✓ |
| Western Australia | Count Me In: A Better Future for Everyone | ✓ | ✓ |
| South Australia | Strong Voices: A Blueprint to Enhance Life and Claim the Rights of People with Disability in South Australia (2012–2020) | ✓ | ✓ |
| Tasmania | Accessible Island: Tasmania’s Disability Framework for Action 2018–2021 | ✓ | ✓ |
| ACT | Future Directions: Towards Challenge 2014 | ✓ | ✓ |

Sources: ACT Government (2014b); NSWFACS (2015); QDCDDS (2017); South Australian Government (2011); Tasmanian Government (2018); Victorian Government (2016); WA Disability Services Commission (2013).

By and large, these policy goals and actions do not appear to be motivated by governments’ obligations under the NDA. Instead, many states consider their plans to be a method for implementing the NDS. For example, the Queensland Government said:

When the NDS was released on 13 February 2011, this strategy overtook the NDA’s reform directions in relation to improving mainstream services. Queensland has developed state disability plans to link with the policy directions of the NDS. (sub. 68, p. 11)

This view is also reflected in the text of several state and territory disability plans:

The NSW Implementation Plan 2012–2014 was the first step in implementing the priorities of the National Disability Strategy in this state. (NSWFACS 2015, p. 6)

The state disability plan is one of our key methods for implementing the National Disability Strategy in Victoria. (Victorian Government 2016, p. 15)

This plan also reflects Queensland’s commitment to implement the National Disability Strategy 2010–2020. (QDCDDS 2017, p. 4)

In the case of Tasmania, the outcome areas identified for the Disability Framework for Action are identical to the outcomes specified in the NDS, with the result that the policy goals and action areas are aligned with the NDS outcomes framework (Tasmanian Government 2018, pp. 16–28).

FINDING 4.1

The current National Disability Agreement has fallen out of date and does not reflect contemporary policy settings. As a result, it is a weak driver of disability policy and reform actions. Government action has been primarily motivated by the National Disability Strategy.

4.2 Linking outcomes, policies and evaluation

An effective intergovernmental agreement requires clear and strong links between its stated outcomes, policy commitments and actions, and policy evaluation (box 4.3).

Box 4.3 The importance of linking outcomes, policies and evaluation

A key challenge for policy development is translating the broader objectives of an agreement into specific policy commitments. For this reason, policy commitments are critical components of an intergovernmental agreement, as they can provide the necessary link between agreed outcomes and a reform agenda that is capable of being implemented by the parties.

The Department of the Prime Minister and Cabinet underscored the importance of ‘defining the path to your policy outcome’:

Define what success looks like, and your plan should lead you there. Failure to plan, or planning inadequately, is a significant barrier to successful implementation. Pressure to get started can result in skipping the planning stage, which will jeopardise outcomes. A successful plan will define the end goal, describe measurable benefits and define the scope and deliverables. (DPMC 2013, p. 1)

The specification of policy goals and an action plan is also important for ensuring that policy actions are undertaken in a coordinated and systematic manner.

In turn, evaluation is a key mechanism for tracking how those policy actions contribute to progress towards outcomes and against indicators and targets. Policy evaluation goes beyond simply measuring performance using quantitative measures (chapter 5), and requires qualitative judgments about how to interpret the evidence. As such, policy evaluation can help assess what works (Stewart 2014, p. 3), including whether a program or policy initiative is effective or provides net benefits. The OECD asserted:

... there is great value in *systematically* evaluating the design and implementation of regulatory policy, against the achievement of strategic regulatory objectives ... countries require a process of evaluation that reveals the results of the investments that they have committed for the purposes of improving regulatory outcomes ... If countries have information available on every step of regulatory policy evaluation ... any specific performance problems can be identified and addressed in subsequent program design. Similarly successes can be measured and communicated. (2014, pp. 32–33)

Publication of policy evaluation reports can also contribute to transparency around what influence government interventions have had (van de Walle and Cornelissen 2014, p. 442).

The use of information and analysis to support design and decision making is a cornerstone of good governance. According to the Australian National Audit Office:

Information and analysis support the decision-making process, making it possible ... to make well-informed, sound and defensible decisions. Information and analysis also inform ... how best to effectively design programs and strategies; allocate scarce resources to mitigate program and service delivery risks; and provide assurance that key requirements are being met. (2014, p. 25)

Accordingly, learnings from performance evaluation can also be used to shape the design of future policies and reforms. As such, ‘using the accumulated lessons from previous experience to inform implementation of new policies is an essential part of making the process successful’ (Economist Intelligence Unit 2010, p. 12). Performance evaluation can also be valuable in cultivating support for future policy initiatives (OECD 2014, p. 17).

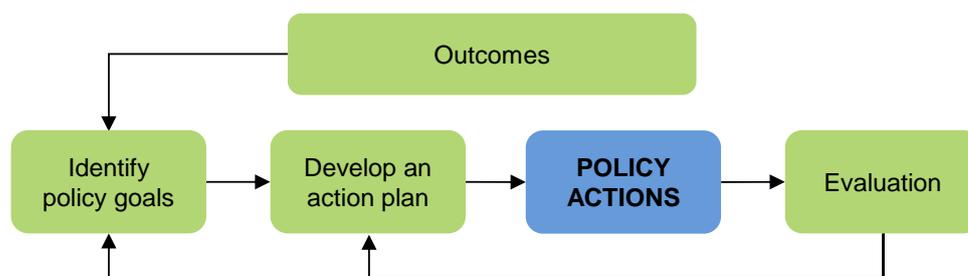
In its report on *Public Sector Governance*, the Australian National Audit Office (2014) identified a range of principles for achieving good governance in practice. While the report is focused on the governance of public sector entities, many of its principles also pertain to the design of policy instruments. These include:

- planning for effective implementation — which requires clear links between the agreed outcomes and policy commitments
- planning for program evaluation and review
- use of information and analysis to support design and decision making — which requires a means for incorporating learnings from policy evaluation into future policies.

For this reason, the policy-making process is often described as being cyclical (figure 4.1) (Althaus, Bridgman and Davis 2018, pp. 43–45). Van Dooren et. al explained:

Policy and management can be conceived as a circular system. First, there is an *ex ante* question in which the future performance of a system is reflected upon and ultimately determined ... Second, once it is known and approved what needs to be done, there is an *ex nunc* question of what is happening during implementation ... Third, once the implementation stage is over, there is a need to compare realizations with what has been announced, and to assess this result (*ex post*). Fourth, it is necessary to feed this information forward into the next cycle and to use information on the past for improving the future way of managing performance. (2015, pp. 89-90)

Figure 4.1 The policy-making cycle



In light of their interdependency, it is essential that outcomes, policies and reporting requirements are developed in tandem, with clear links between each component. In this vein, the policy design should be accompanied by a ‘program logic’:

A program logic is a tool that describes the logical links between inputs, activities, outputs and short-term, intermediate and long-term outcomes related to a specific problem or situation. Developing a program logic at the planning stage will help to clarify the rationale for implementing an initiative or one of its component parts — the problem it is addressing and how it will do so. A program logic will also identify what to measure, and how, to demonstrate achievement of the initiative’s outcomes. (DPMC 2013, p. 4)

The remainder of this section considers the extent to which stated outcomes, policy commitments and actions, and policy evaluation are present and linked in the current NDA.

Are the NDA's outcomes clearly linked to policy commitments?

In the NDA, the link between agreed outcomes and policy commitments is weak. First, the statement of policy goals is incomplete: the policy directions in clause 26 are aimed at developing 'a service system which enhances the social and economic participation for people with disability and supports their families and carers'. This means that there are policy directions corresponding to only two of the three agreed outcomes in the NDA (table 4.1).

Moreover, as discussed in section 4.1, a statement of reform directions (that is, actions to be undertaken) is wholly absent from the NDA (table 4.1). Instead, policy commitments relating to disability are exclusively contained in the NDS (table 4.2).

Having policy commitments specified outside the NDA is not, in itself, problematic — rather, it is the fact that the link between those commitments and the agreed outcomes is ambiguous or, at best, implicit. In fact, it is clear that the policy commitments set out in the NDS are not directly derived from the outcomes in the NDA:

The Strategy looks beyond the specialist disability support system delivered by the Commonwealth, States and Territories under the National Disability Agreement (NDA). (COAG 2011a, p. 9)

Instead, the policy commitments set out in the NDS correspond with obligations that arise from a range of different instruments in addition to the NDA.

Implementing the Strategy will assist governments in meeting their obligations under the following:

- United Nations Convention on Rights of Persons with Disabilities
- National Disability Agreement
- *Disability Discrimination Act 1992* (Cwlth) and related disability standards
- *Disability Services Act 1986* (Cwlth) and complementary legislation
- Equal Employment Opportunity legislation
- Other State/Territory legislation including the Australian Capital Territory and Victorian Charters of human rights
- Public Service Acts. (COAG 2011a, p. 24)

It is unclear how or which of the policy actions specified in the NDS are intended to help achieve the outcomes specified in the NDA. Ultimately, this means that there is a missing link in the chain that connects the NDA's agreed outcomes with the policy actions taken by governments to advance those outcomes.

Going forward, the new NDA should explicitly incorporate a statement of the specific policy commitments of, and actions to be undertaken by, each of the parties. The Commission recommends that the NDA should become the overarching document for disability policy in Australia, with the new NDS beyond 2020 as a schedule (recommendation 2.1). In this schema, the policy commitments of governments should be specified in the NDS (as is done currently), but those commitments should be designed to further the outcomes of the NDA.

Moreover, the link between the agreed outcomes of the new NDA and each commitment and action specified in the NDS should be made explicit — that is, for each item, the NDS should specify which of the NDA’s agreed outcomes (or sub-outcomes — chapter 5) it is intended to contribute towards. This will promote transparency around the rationale underpinning particular policy commitments, particularly where the link between government action and outcomes would otherwise be unclear.

Is there provision for policy and program evaluation?

As discussed above, evaluation is an essential component of the policy-making cycle. Evaluation entails:

... the systematic and objective assessment of a government program or parts of a program to assist the government and other decision makers to:

- assess the continued relevance and priority of program objectives in the light of current circumstances, including government policy changes (that is, *appropriateness* of the program);
- test whether the program outcomes achieve stated objectives (that is, its *effectiveness*); and
- ascertain whether there are better ways of achieving these objectives (that is, its *efficiency*). (ANAO 1996, p. 3)

But, according to Althaus et. al, evaluation is also an important starting point for future policy cycles.

The policy cycle ends — and restarts — with evaluation ... [Evaluation] serves three purposes:

- It asks how well a policy meets its objectives.
- It holds officials accountable for the implementation of a policy.
- It provides important clues for future policy making. (2018, pp. 200–201)

There is little evidence that the current NDA framework motivates the use of information about what works to inform subsequent policy making. There are, of course, inherent challenges in evaluating how effective government interventions are. For example, many interventions for people with disability are delivered through mainstream services, so it can be difficult to define exactly what specific programs or policies a person with disability has been affected by. Consequently, because of the number of policies and programs relating to people with disability, it can be difficult to isolate the effects of a single intervention.

For example, labour force participation among people with disability can be affected by a range of factors outside government intervention — such as general economic conditions and demographic variation (CBO 2018; RBA 2018). But a range of government policies can also impact the rate of labour force participation. These include interventions that affect economic conditions generally (including macroeconomic policies), supply-side interventions (such as those relating to the skill and education levels of people with disability) and demand-side interventions (such as creating incentives to hire people with disability). And, at any given point in time, multiple government policies that affect labour force participation will be in effect.

When it is not possible to separate the effects of different policies, evaluation techniques can, at best, provide an estimate of the marginal difference between sets of interventions, rather than individual interventions (PC 2015, p. 168). This could mean the quality of performance information is not sufficiently granular to be used in policy formulation.

But one of the key reasons why information from evaluation does not feed into policy making is that it is often not available or is not of sufficient quality to be used. In 2014, an audit of disability research in Australia by the Centre for Disability Research and Policy found that the body of evidence about what works in the disability space is patchy (box 4.4).

Under the NDS framework, reports are delivered to COAG on a two-yearly basis. To date, three reports have been prepared,⁵ although the progress report for 2016 has not yet been made public. The reports provide:

... a high-level view of progress under the strategy based on reporting from Australian Government, and state, territory and local government agencies on the implementation of policies and programmes ... (DSS 2015, p. 1)

As such, these reports have largely been descriptive — they detail the actions taken by governments to further the agreed outcomes of the NDS and report trend indicator data. However, analysis of the effectiveness of government action or what drives changes in the trend indicators is limited (WWDA, sub. 16, p. 5).

Overall, the Centre for Disability Research and Policy considered that ‘the current disability research base is not “fit for purpose” to the reform agenda’ and advocated that ‘significant strategic and systematic investment in Australian disability research relevant to the national policy context is urgently needed to advance research informed policy in Australia’ (CDRP 2014a, p. 6).

⁵ The NDS stipulates that ‘Community and Disability Services Ministers will report to COAG after the first 12 months and then every two years including specific reports from champion Ministers on their respective elements’ (COAG 2011a, p. 66). Pursuant to this requirement, two reports have been released: the *Report to COAG 2012* (DFHCSIA 2013) and the *Progress Report to the Council of Australian Governments 2014* (DSS 2015). A further report for 2016 has been prepared, but has not yet been publicly released.

Box 4.4 Audit of disability research in Australia

In 2013 and 2014, the Centre for Disability Research and Policy at the University of Sydney undertook an audit of disability research in Australia. The audit evaluated the body of disability research undertaken in Australia between 2000 and 2013.

One of the key findings of the audit was that disability research in Australia is fragmented, with lack of cohesion between topic and study designs.

A sustainable and mature research base requires focus, depth, quality and coherence. On these criteria, disability research is at an early stage of development in Australia. The overall impression arising from the Audit is of primarily stand-alone, one-off studies in topics of researcher or organizational interest. (There are exceptions to this however these are rather rare). (CDRP 2014a, p. 7)

In particular, the audit found that there were gaps in policy research in relation to people with a disability in: Indigenous populations, rural and remote communities, culturally and linguistically diverse populations and women with disability. It also noted a failure of research to capture the lived experience of people with disability and the absence of research co-produced with people with disability or their representative organisations. The audit also found that there was a dearth of structured policy evaluation and multi-disciplinary approaches to policy evaluation.

In 2017, the Centre for Disability Research and Policy released an update to its earlier report. It reported a significant shift in policy research towards the impact of the National Disability Insurance Scheme, with almost half of all policy papers relating to the scheme. It also noted an increase in frequency in studies making use of existing population-based survey data and advocated for 'greater use by disability researchers of available cross-sectional, longitudinal population based studies including administrative data, case registers and national and sub-national surveys' (CDRP 2017, p. 7).

However, the update report also found that the gaps in policy research that were identified in the earlier audit persisted, including those relating to particularly vulnerable groups.

Sources: CDRP (2014a, 2014b, 2017).

Similarly, Bruce Bonyhady (sub. 48, p. 1) highlighted the need to 'commit all governments to the collection of key national data essential for evidence-based disability policy and practice improvements and make it available for research'. And the Brotherhood of Saint Laurence (sub. 55, p. 4) argued that there was a role for government to 'develop and invest in a new national research agenda for disability'.

Incorporating policy and program evaluation into the NDA

The Commission considers that there is a role for government to help shape and build the body of disability research in Australia. In particular, the new NDA should incorporate a framework for governments to advance disability research.

One way for governments to advance disability research would be to commission independent evaluations of what works. Such evaluations would complement the body of research already being undertaken by government departments, research institutions and other non-government organisations. These evaluations could be focused on areas linked to specific outcomes in the NDA (such as learning and skills) or sub-outcomes (such as

inclusive, high-quality education programs — chapter 5), specific service areas (such as health or education), or particular types of interventions (such as demand-side versus supply-side policies). They could also be focused on particular programs, such as those outlined in box 4.2.

It is important that commissioned research and evaluation projects are chosen strategically, rather than simply as a matter of routine (box 4.5). This should be done in consultation with stakeholders and experts, including people who have lived experience with disability. The review of the NDS that is currently underway may also provide insight into priority research areas.

Priority research areas could also be identified through the results of performance reporting and consultation with the community. For example, if particular indicators reveal lack of progress, the types of government policy actions that are linked to the relevant indicator could be an area for evaluation. For example, labour force participation has not improved since the commencement of the NDA. As noted by the Victorian Government (sub. 66) there are a range of opportunities for all governments to improve economic participation and employment outcomes for people with disability, including through monitoring the impact of the new Disability Employment Services program with a focus on outcomes achieved for people with disability.

Alternatively (or additionally), government intervention could take the form of coordinating or synthesising research that is already undertaken by government departments, research institutions and other non-government organisations. This could involve developing research protocols to promote consistency in how research is done across different organisations, so that the results of different studies are more easily comparable.

Another approach is to nominate or establish a clearinghouse for disability research, to bring together evidence-based research on what works in disability policy. This could be similar to the Closing the Gap Clearinghouse,⁶ which evaluated effective strategies to help overcome disadvantage for Indigenous Australians. A clearinghouse could also play a role in disseminating information to the disability sector and the public at large, in order to support evidence-based decision making (PC 2016, p. 294).

Going forward, the new NDA should include a commitment to policy and program evaluation, separate (but complementary and clearly linked) to performance reporting requirements (chapter 5). This is because evaluation can complement performance reporting, by giving a more fulsome picture of how people with disability are affected by various interventions. As Darwin Community Legal Service said:

The focus on quantitative KPIs in the Agreement is misguided and does not necessarily reflect the complexities in the system, the impact of policy and program interventions, and the extent of challenges and circumstances faced by people with a disability. Nor do they address confounding factors such as discrimination. The performance framework should be supported by a program

⁶ The Australian Institute of Health and Welfare, in collaboration with the Australian Institute of Family Studies, delivered the Closing the Gap Clearinghouse from 2009 to 2014.

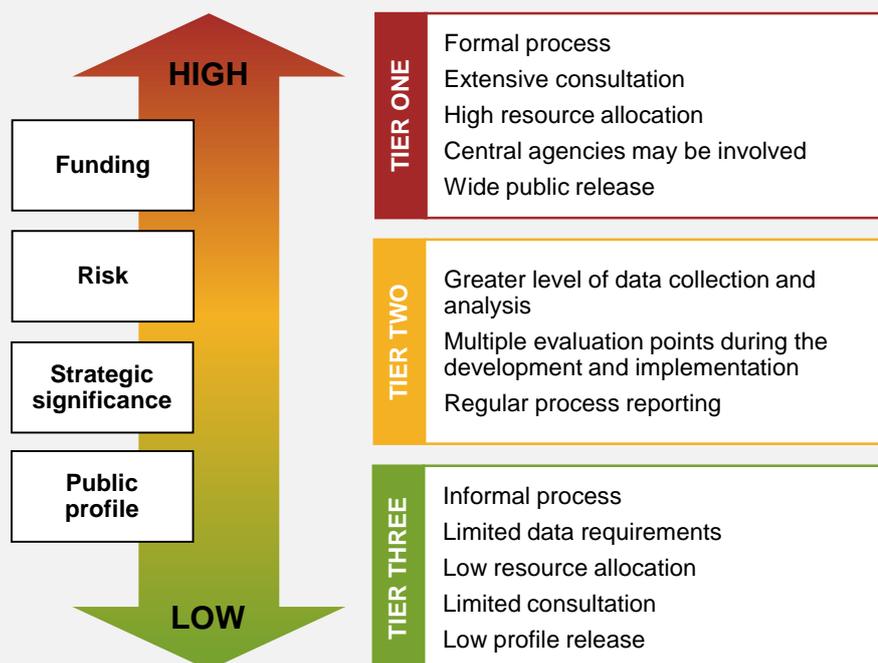
logic that both draws on evidence and commits to improved information gathering and review and monitoring. (sub. 35, p. 3)

Box 4.5 A strategic approach to evaluation

The decision to conduct an evaluation should be made strategically rather than simply as a matter of routine. Evaluation is costly to undertake, and a smaller number of high-quality evaluations is likely to be more effective in leading to change. As such, decision makers should consider the net benefits of different evaluations and evaluation approaches.

First, there should be a deliberate and strategic decision about what the evaluation is intended to address. In the context of a National Disability Agreement, this means that the evaluation should be clearly linked to one or more of the outcome areas and supporting indicators set out in the agreement. As such, the evaluation should seek to measure the impact of an intervention (or set of interventions) on a specific outcome or sub-outcome area, rather than just describing the program or intervention.

Second, decision makers should consider the manner in which evaluation is to be undertaken. The evaluation method chosen should be appropriate to the particulars of a given program — a ‘one size fits all’ approach will not be as effective. The Office of the Chief Economist (2017) has developed a tiered approach to program evaluation.



Strategic evaluation should leverage existing knowledge and information sources. As such, evaluation processes should be supported by consultation with stakeholders who are experts or have lived experience with disability. International evidence about program effectiveness can also be a useful point of comparison in determining what works.

The commitment to policy evaluation in the new NDA should include a formalised process for policy evaluation research. The agreement should also include a commitment to public reporting and dissemination of key findings from evaluation programs through the ‘National Disability Report’, which is to be prepared by the Steering Committee for the Review of

Government Service Provision, advised by a working group (and is to be the single reporting mechanism for both the NDA and the NDS — recommendation 5.4, chapter 5). This would help to highlight examples of what works for adoption more broadly.

For this reason, the Steering Committee, advised by the same working group, should drive the process for devising the operational aspects of the policy evaluation program, following the principles for strategic evaluation set out in box 4.5 (including clearly linking the evaluation to a specific outcome or sub-outcome area and assessing the *impact* of the program on that outcome or sub-outcome). These operational matters include protocols relating to:

- how policy evaluation will be carried out (such as through commissions or coordination)
- who will be responsible for undertaking the evaluation
- a timetable for when and what policies or interventions will be evaluated.

Detailed arrangements about the policy evaluation program, and the priority areas for policy evaluation, should be set out in a schedule to the NDA (to be agreed to by signatory governments). The Steering Committee should have ongoing responsibility for the administration of that schedule, including undertaking, delegating or commissioning evaluation. Governments may also need to negotiate and commit to funding arrangements to support the new policy evaluation program.

RECOMMENDATION 4.1

The new National Disability Agreement (NDA) should include a commitment to undertake policy and program evaluation, in addition to its performance reporting requirements. Detailed arrangements for the policy evaluation program should be set out in a schedule to the NDA, and should include:

- a timetable that specifies when and what types of policies and programs will be evaluated
- protocols for undertaking the evaluations.

The Steering Committee for the Review of Government Service Provision should have ongoing responsibility for the administration of the policy evaluation program.

The results and findings from evaluations should be publicly reported and disseminated through the National Disability Report (recommendation 5.4).

5 Progress against the NDA's performance framework

Key points

- There has been very little progress towards the National Disability Agreement's (NDA's) outcomes and performance targets, with most indicators and targets showing that progress has gone backwards, or not changed significantly. It is unlikely that the 2018 performance targets in the NDA will be met.
 - Labour force participation of people with disability declined between 2009 and 2015.
 - The proportion of people with disability reporting a need for more formal assistance has increased since 2009.
- The performance framework of the NDA requires strengthening to ensure that it functions as an effective accountability mechanism and prompts changes that lead to improved outcomes for people with disability, their families and carers.
- Performance reporting under the NDA should adopt a person-centred framework that holistically measures progress towards outcomes for people with disability, their families and carers.
 - A revised framework should incorporate indicators that measure outcomes and experiences that people with disability have through interactions with mainstream services.
- Adequate data are needed to support a revised performance reporting framework for the NDA. The new NDA should contain a clear strategy and commitment from governments to collecting nationally consistent data to support performance measurement under the agreement.
 - Greater use should be made of opportunities for linking datasets, based on the framework outlined in the Commission's report on *Data Availability and Use*.
- Performance reporting under the NDA and National Disability Strategy should be merged into a single national performance reporting framework, with a single performance reporting document. Performance reporting under the National Disability Insurance Scheme should also align with the new NDA's outcomes and performance framework.
- To enhance the influence and profile of performance reporting, the relevant Commonwealth Minister responsible for disability should update the Australian Parliament on progress against the revised performance framework via a biennial National Disability Report.
 - The report should provide an analysis of progress towards outcomes and associated performance metrics, and whether key policy programs and interventions are achieving improved outcomes for people with disability, their families and carers.
- Responsibility for developing the National Disability Report should be assigned to the Steering Committee for the Review of Government Service Provision, which would be supported by a new working group, comprising representatives of the Australian, State and Territory Governments, delegates from the Australian Bureau of Statistics, Australian Institute of Health and Welfare, the National Disability Insurance Agency, and people with disability.

A commitment to performance reporting is a key element of the current NDA and is aimed at promoting the public accountability of governments. Performance reporting for the NDA is based on the framework set out in schedule C of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR), which states that ‘the accountability of governments to the public will be enhanced through simpler, standardised and more transparent public performance reporting for all jurisdictions, underpinned by clearer roles and responsibilities’ (COAG 2008c, cl C1). Reporting against performance indicators ‘is to inform the general public about government performance in making progress towards identified outcomes [to] provide a clear picture of the achievement of governments in delivering services’ (COAG 2008c, cl C6).

This chapter examines the performance framework of the NDA, including the interpretation of, and relationship between, the elements of the framework, and how government has progressed towards the outcomes. It also considers what role performance reporting should play in the new NDA, and how the framework and reporting could be improved.

5.1 Why measure performance?

A well-designed performance reporting framework can play a key role in holding governments to account by providing information to the public. Performance reporting can also help clarify government objectives and be a spur to action. The COAG Reform Council referred to performance data as ‘catalyst data’ that should prompt debate, encourage governments to search for answers and take informed action (McClintock 2013, p. 70).

But performance reporting is not an end in itself. It is one means of providing information on whether policies have been effective in achieving their stated aims (within limitation). It also serves as a vehicle for the community to determine whether governments have delivered services that are of value to them. Consequently, performance reporting can provide an impetus for necessary policy change (box 5.1).

Performance reporting also entails costs. For example, the costs of collecting, analysing and reporting, maintaining databases, and other infrastructure such as websites. It is more difficult however, to quantify the benefits of performance reporting. For example, the ability of performance reporting to highlight the link between benchmarks and policy actions, or the use of improved information for formulating policy, are not amenable to simple measurement in dollar terms (Mucha 2010, p. 63).

Box 5.1 **The advantages (and challenges) of performance reporting**

There are three broad uses of performance information:

- to learn — performance information can help us understand what policies work and which do not, as well as why policies do or do not work
- to drive performance and prompt change — performance reporting can play a role in indicating whether government policies and programs are on target, raising community awareness on the status of performance, and providing a prompt to policy change where required
- to give account — performance reporting prompts governments and associated organisations to explain their performance and held accountable for the success or failure of policy actions (Van Dooren, Bouckaert and Halligan 2015, pp. 120–121).

In addition, performance reporting in areas of service delivery can help clarify government objectives and responsibilities, and transform broad aspirational statements into concrete, time-constrained objectives, with commitments by governments to take action towards achieving those objectives (SCRGSP 2018, pt. A, chapter 1). Overcoming Indigenous Disadvantage is an example of a reporting system that aims to drive performance and prompt change. It aims to assist in targeting efforts to improve the wellbeing of Aboriginal and Torres Strait Islander Australians, rather than acting as a compilation of statistics, and focuses on their lived experience (SCRGSP 2016, p. 2.1).

Performance reporting is not without limitations. For example, where performance targets are set, care must be taken to ensure that they are not set so generously that little discipline is imposed on policymakers. Similarly, it is important that they are not set so ambitiously that they cannot be achieved and reduce commitment by policymakers. Consideration is required to determine what constitutes a significant, yet achievable, performance target.

It can also be difficult to isolate the effects of policy on performance indicators, which limits the extent to which policymakers can be held accountable. That is, if an objective is affected by a host of other factors (such as general economic conditions and demographics), using performance reporting to judge if changes in policy are required becomes more complex.

5.2 **The NDA's performance reporting framework**

The current performance framework of the NDA is set out in a hierarchy with the overall objective achieved through three agreed outcomes. These outcomes are supported by nine indicators, which are tracked with one or more measures⁷. There are also four outputs supporting the three outcomes (chapter 1). Following a review in 2012, some aspects of the NDA's performance framework were revised (box 5.2).

⁷ While performance indicators provide quantitative information on progress towards goals, measures refer to the data series used to capture that information. A performance indicator may be the same as a measure, or a performance indicator may have several measures associated with it.

Box 5.2 Review and revisions to NDA performance reporting

The NDA was updated in 2012 as a result of the Review of National Agreement Frameworks initiated by COAG. In the original agreement, there were ten performance indicators and six performance benchmarks.

Various conceptual and data issues (including the lack of available data) pertaining to the performance indicators and benchmarks of the original NDA were identified in the review. Concerns about the original framework included but were not limited to:

- certain performance indicators demonstrating weak links to associated outcomes
- certain performance indicators relying on data that did not provide for annual reporting
- ambiguity in how a performance indicator showed progress against a particular outcome
- the benchmarks being more in the nature of measures than benchmarks, which was inconsistent with the framework set out in the Intergovernmental Agreement on Federal Financial Relations (IGA FFR)
- the number of benchmarks being excessive
- the benchmarks not focusing on the most challenging outcomes
- the preferred direction of some benchmarks not being clear
- the benchmarks not measuring a quantifiable change in a performance indicator over time (HoTs 2012, p. 6).

To strike 'a balance between conceptually adequate indicators and available data' (HoTs 2012, p. 4), significant changes were made to the performance reporting framework of the agreement. This was also done in consideration of the Head of Treasuries conceptual framework (which supports performance reporting under the IGA FFR) (HoTs 2011), and the principles of the IGA FFR (COAG 2008b). Various indicators were added and removed, and minor adjustments were made to the remaining original indicators. All benchmarks in the original NDA were removed and replaced with the current two quantifiable benchmarks.

Prior to the introduction of the NDA in 2009, the national framework for the delivery and funding of specialist disability services was set out in the Commonwealth State Territory Disability Agreement. Pursuant to the performance reporting framework of the third iteration of this agreement, six annual reports (2002-03 to 2007-08) were produced. Performance reporting statistics were sourced primarily from the Commonwealth State Territory Disability Agreement National Minimum Data Set national database, which was compiled and tabulated by the Australian Institute of Health and Welfare (AIHW nd). These arrangements were replaced once the NDA took effect from 1 January 2009.

To guide progress towards the overall objective of the NDA, the three outcomes are specified in conjunction with associated performance benchmarks that involve a target level and timeframe.

1. People with disability achieve economic participation and social inclusion — between 2009 and 2018 there will be a five percentage point national increase in the proportion of people with disability participating in the labour force.
2. People with disability enjoy choice, wellbeing, and the opportunity to live as independently as possible — between 2009 and 2018, there will be a five percentage

point national decrease in the proportion of people with disability who report a need for more formal assistance.

3. Families and carers are well supported — the agreement specified that further work was to be undertaken to develop a quantifiable target for this benchmark (COAG 2012c, cl 22-24).

The NDA specifies that data are to be published on nine performance indicators, which are intended to measure progress towards the outcomes of the NDA. These are the proportion of:

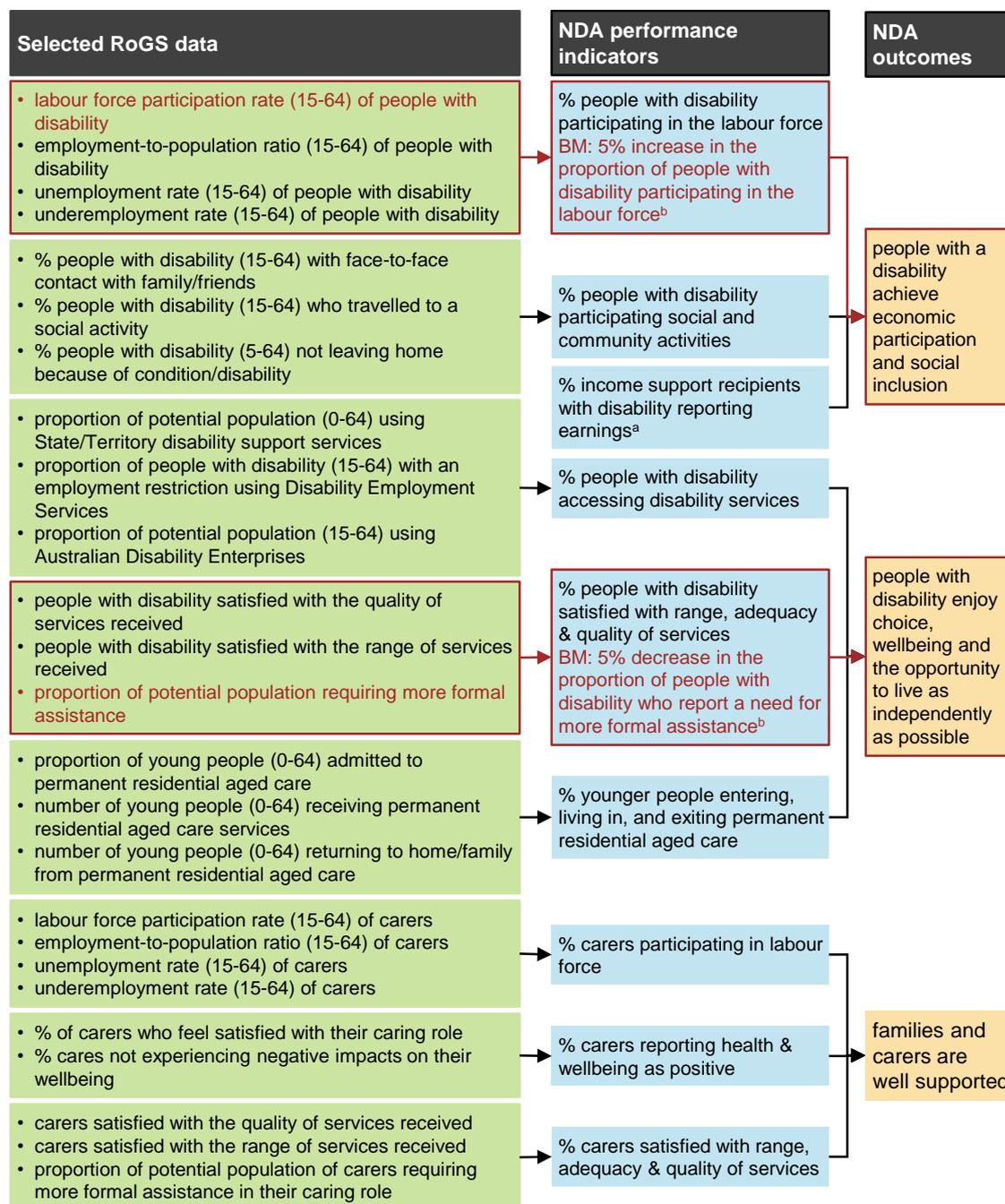
1. people with a disability participating in the labour force
2. people with a disability participating in social and community activities
3. income support recipients with disability who report earnings
4. people with a disability accessing disability services
5. people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided
6. younger people entering, living in, and exiting, permanent residential aged care
7. carers of people with disability participating in the labour force
8. carers of people with disability who report their health and wellbeing as positive
9. primary carers of people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided, to the person with disability and to the carer (COAG 2012c, cl 19).

The nine indicators and four outputs relate to the economic, social and community participation of people with disability and their carers, as well as service satisfaction and service use. Where possible, indicators are to be broken down for three key subgroups: Indigenous people with disability, people with disability who live in remote or regional areas, and older carers (COAG 2012c, p. 5).

In commenting on the coherency of performance reporting in disability, Blind Citizens of Australia (sub. 51, p. 18) noted that it is difficult to find data relating to specific disabilities, such as blindness and vision impairment. Women with Disabilities Australia (sub. 16, p. 9) argued that the Report on Government Services (RoGS) and ABS data provide scant information with respect to ‘meaningful’ gender disaggregated data. The Commission reaffirms the importance of the ability to disaggregate performance information by subgroups, such as age, sex, remoteness, and Indigenous status.

Each of the elements of the NDA’s current performance framework, and mapping between the outcomes, indicators, benchmarks and reported data is outlined in figure 5.1. It shows that each outcome is supported by three indicators, which in turn are tracked by one or more measures in the RoGS.

Figure 5.1 The NDA performance reporting framework



Key: Red outline maps the benchmarks (BM) reported on in the Performance Reporting Dashboard

^a This indicator is not measured in the RoGS but is reported in the Department of Social Services' Payment Demographic Data in two measures: the proportion of Newstart and Youth Allowance recipients with a disability who report income, and the proportion of Disability Support Pension recipients with a disability who report income. ^b Each NDA benchmark (BM) is listed alongside the relevant indicator it measures.

Sources: COAG (2012c); SCRGSP (2018).

Reporting responsibilities

The Productivity Commission has responsibility for publishing the Performance Reporting Dashboard (which is a website that includes information on progress towards the NDA benchmarks) for all National Agreements (box 5.3). The Commission, as secretariat for the Steering Committee for the Review of Government Service Provision (SCRGSP), publishes the annual RoGS. The disability chapter of the RoGS contains (among other metrics) data aligned with eight of the nine NDA indicators. One indicator — the proportion of income support recipients with disability reporting earnings — is not reported due to difficulties with interpretation (discussed below).

Box 5.3 Shifting responsibilities for performance reporting

Responsibility for performance reporting on the NDA (and other National Agreements) has changed several times since its introduction on 1 January 2009. Until 2014, the COAG Reform Council (CRC) was responsible for publishing performance data for National Agreements along with comparative analysis of jurisdictions. The Steering Committee for the Review of Government Service Provision was responsible for collating this performance data (COAG 2008c, cl C5 (b)).

The CRC produced four annual reports on disability from 2008-09 to 2011-12. The first three report on the original NDA framework (prior to 2012) and the last report (2011-12) used the updated framework (CRC 2013).

After the CRC ceased operation on 30 June 2014, performance reporting responsibility was transferred to the Department of the Prime Minister and Cabinet, which released two reports (2015 and 2016) (DPMC 2015, 2016) and established the Performance Reporting Dashboard (COAG 2018c; PC 2018). These reports tracked performance against benchmarks in the National Agreements, including those of the current NDA, but did not include comprehensive information on indicators. The Performance Reporting Dashboard is a website that displays information on progress towards performance benchmarks outlined in the National Agreements, and also shows progress under National Partnership Agreements (where applicable).

In the 2017 budget, responsibility for the operation of the Performance Reporting Dashboard was transferred to the Productivity Commission (Commonwealth of Australia 2017, p. 169).

5.3 Progress towards the NDA outcomes

There has been no significant change against the majority of metrics relating to the NDA's three outcomes over the period 2009–2015.⁸ A full assessment of each performance indicator, including its purpose and trajectory over the period 2009–2015 is in appendix C. The following section discusses progress against the NDA's three outcomes and associated

⁸ Although measures may show an increase or decrease, these changes are often not statistically significant. Because the Survey of Disability, Ageing and Carers is a sample, statistics are reported with 95% confidence intervals, meaning there is a 5% chance the estimate is outside the bounds of the confidence interval. When comparing one period to another, a crude approach to assessing if changes are statistically significant is if the confidence intervals of the two periods do not overlap.

benchmarks. A suite of measures (defined above) support the nine NDA indicators (figure 5.1).

Outcome A: People with disability achieve economic participation and social inclusion

This outcome tracks social and economic participation through two indicators (and seven measures) in the RoGS.⁹ Each of the measures indicate a deterioration from 2009 to 2015 (based on point estimates only, which does not account for the reliability of the estimates). The benchmark associated with this outcome specifies that between 2009 and 2018, there should be a five percentage point increase in the proportion of people with disability participating in the labour force.

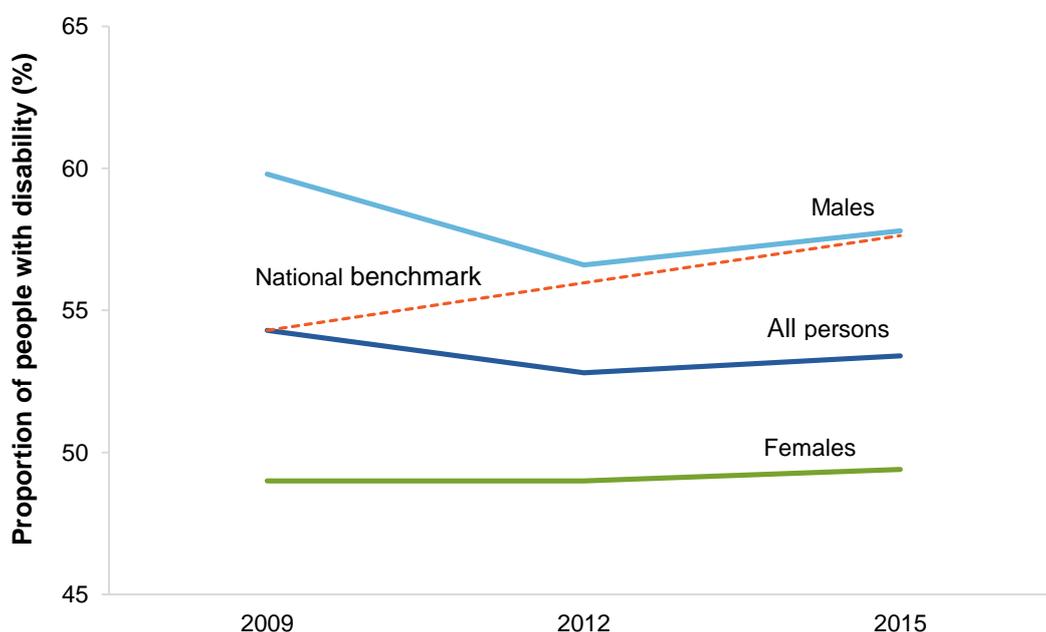
Labour market participation of people with disability marks the degree to which people with disability are willing and able to participate in paid work. Meaningful employment is important to an individual's economic security, and also plays a role in their mental health, personal wellbeing and sense of identity (NPDC 2009, p. 38). Labour market outcomes for people with disability are also captured in employment and unemployment data.

For all people who reported having a disability in the ABS Survey of Disability, Ageing and Carers (SDAC), the labour force participation rate was 53.4 per cent in 2015, an increase from 52.8 per cent in 2012, but a decline from 2009 when the participation rate was 54.3 per cent (although the rates in 2015 and 2009 were not significantly different) (figure 5.2) (SCRGSP 2018, table 15A.76). For the benchmark to be achieved, the labour force participation rate for people with disability would need to reach approximately 59 per cent by 2018, given the starting point of about 54 per cent in 2009.

Since 2015, the Department of the Prime Minister and Cabinet has reported a supplementary indicator measuring participation in social and community activities of people with disability. This is quantified by the proportion of people with disability aged 15–64 years who had face-to-face contact with ex-household family or friends in the previous week. There is no target associated with this indicator — only a simple increase against the previous period is sought. Performance against this indicator has declined — for the whole of Australia, it stood at 76.6 per cent in 2009, declining to 74.2 per cent in 2012, and 71.4 per cent in 2015 (with 2015 being significantly lower than 2009) (SCRGSP 2018, table 15A.89).

⁹ This excludes the third indicator measuring the proportion of income support recipients with disability reporting earnings, because the RoGS does not report on this indicator.

Figure 5.2 Labour force participation of people with disability



Source: PC (2018).

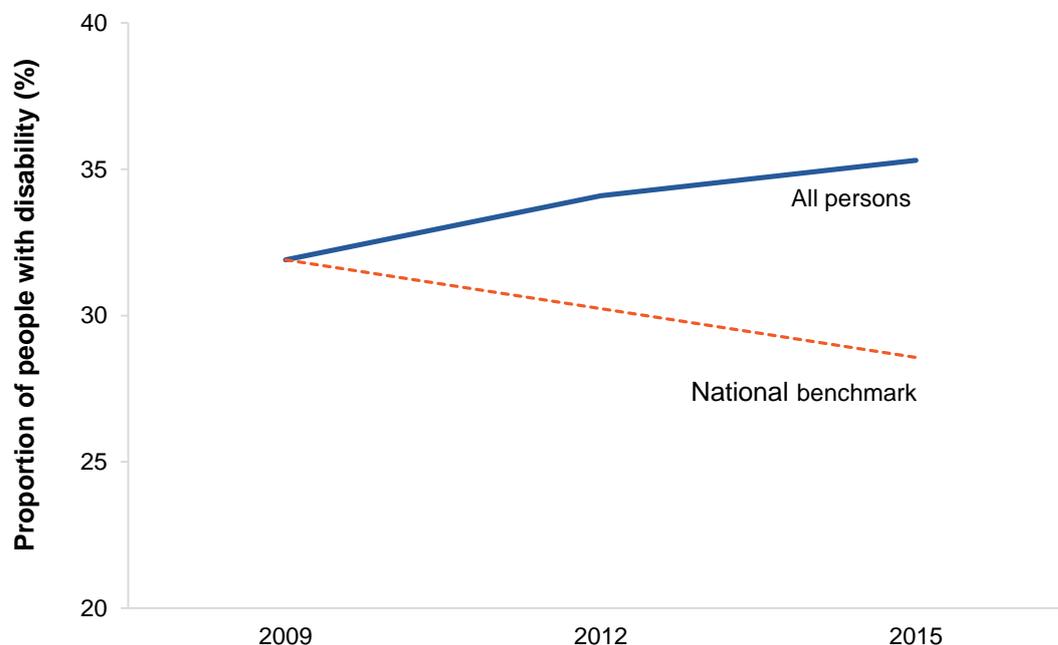
Outcome B: People with disability enjoy choice, wellbeing and the opportunity to live as independently as possible

This outcome captures the independence and wellbeing of people with disability and is tracked through three indicators, which are supported by nine measures in the RoGS. Performance against this outcome has been somewhat mixed, with measures demonstrating either no real change or a deterioration since 2009 (appendix C).

The benchmark for this outcome is set as the proportion of people with disability who report a need for more formal assistance — a key metric of the adequacy of formal and informal supports. The NDA specifies that between 2009 and 2018, there is to be a five percentage point decrease in the proportion of people with disability who report a need for more formal assistance (COAG 2012c, cl 23).

There has been no progress towards this benchmark. The need for more formal assistance has increased (though not significantly) since the target was set (figure 5.3). For those aged 0–64 years with disability, 35.3 per cent reported a need for more formal assistance than they are currently receiving in 2015, compared to 34.1 per cent in 2012, and 31.9 per cent in 2009 (SCRGSP 2018, table 15A.42).

Figure 5.3 **People with disability reporting a need for more formal assistance**



Source: PC (2018).

Outcome C: Families and Carers are well supported

This outcome is supported by three indicators and nine measures which track the degree of economic participation of carers as well as their experience of caring and the services they use in their caring role. Performance against this outcome from 2009 to 2015¹⁰ has been mixed — though no changes were significant (appendix B).

- Two measures relating to carers' economic participation showed improvement. There were more carers in the labour market, and the employment-to-population ratio for primary carers increased. However, the unemployment rate for carers increased between 2012 and 2015.
- Measures relating to the indicator of carer's satisfaction and wellbeing in their caring role showed mixed results.
- Measures tracking carer's satisfaction with the quality of the formal support system showed modest improvement, although there was a decrease in satisfaction with the range of services and an increase in the proportion of carers reporting a need for further assistance in their caring role.

¹⁰ For some measures data are only available from 2012.

A benchmark for this outcome was not specified in the NDA and has not been established since the NDA was revised in 2012, representing a gap in the NDA performance reporting framework.

Do some locations fare better than others?

Most States and Territories show similar performance trajectories against the benchmarks. Within States and Territories however, populations in major cities tended to outperform those in regional or remote locations in terms of labour force participation (SCRGSP 2018, table 15A.76). The exception is the proportion of people with disability indicating a need for more formal assistance, where regional and remote areas tended to show a lower level of need than major cities (SCRGSP 2018, table 15A.43). This may be due to the fact that regional and remote areas tend to receive less services than in major cities, and therefore, the perceived need for services could be higher in city areas. It is difficult to know if sub-State data gives an accurate picture given small sample sizes, but results across most jurisdictions and across years are consistent.

Summing up performance towards the NDA's outcomes

There has been very little progress towards the NDA's outcomes, and it is unlikely that the benchmarks will be met by 2018 (which is when they expire)¹¹.

There are many possible explanations for the lack of progress. One potential reason is a weak link between government policy and outcomes. Outcomes for people with disability and carers, such as labour force participation, are influenced by a broad range of factors, many of which are difficult to measure and are beyond the direct influence of government policy. This applies more to some outcomes than others. Although this issue can be significant, it is important that it not be used to entirely absolve governments of their commitments.

Another potential reason is the low public profile of the NDA, and a lack of understanding of how to respond to performance reporting information. In 2013, the then Chairman of the COAG Reform Council, Paul McClintock, remarked that:

... the use of performance information from the National Agreements is poorly understood — there is not a lot of evidence that governments are improving their performance in response to the findings. So, if governments are not using the performance information, it could suggest that the measures are not relevant or do not give enough information to spur action. (McClintock 2013, p. 70)

This could suggest that the mechanisms for spurring improved policy from performance information are not functioning effectively. Indeed, it does not appear that the NDA has been a strong driver of government actions in relation to disability. This could be in part a result

¹¹ The 2018 SDAC is scheduled for release later in 2019, and hence, performance against the benchmarks for 2018 will not be known until 2019.

of lack of high-quality information and evaluation of what policies and programs work in improving outcomes for people with disability (chapter 4).

Despite these challenges, reporting on outcomes serves as an essential vehicle for the community to determine whether governments have delivered services that are of value and provides impetus for necessary policy action. The remainder of this chapter analyses the performance reporting architecture of the NDA and considers improvements that could be made to strengthen performance reporting as a public accountability mechanism.

FINDING 5.1

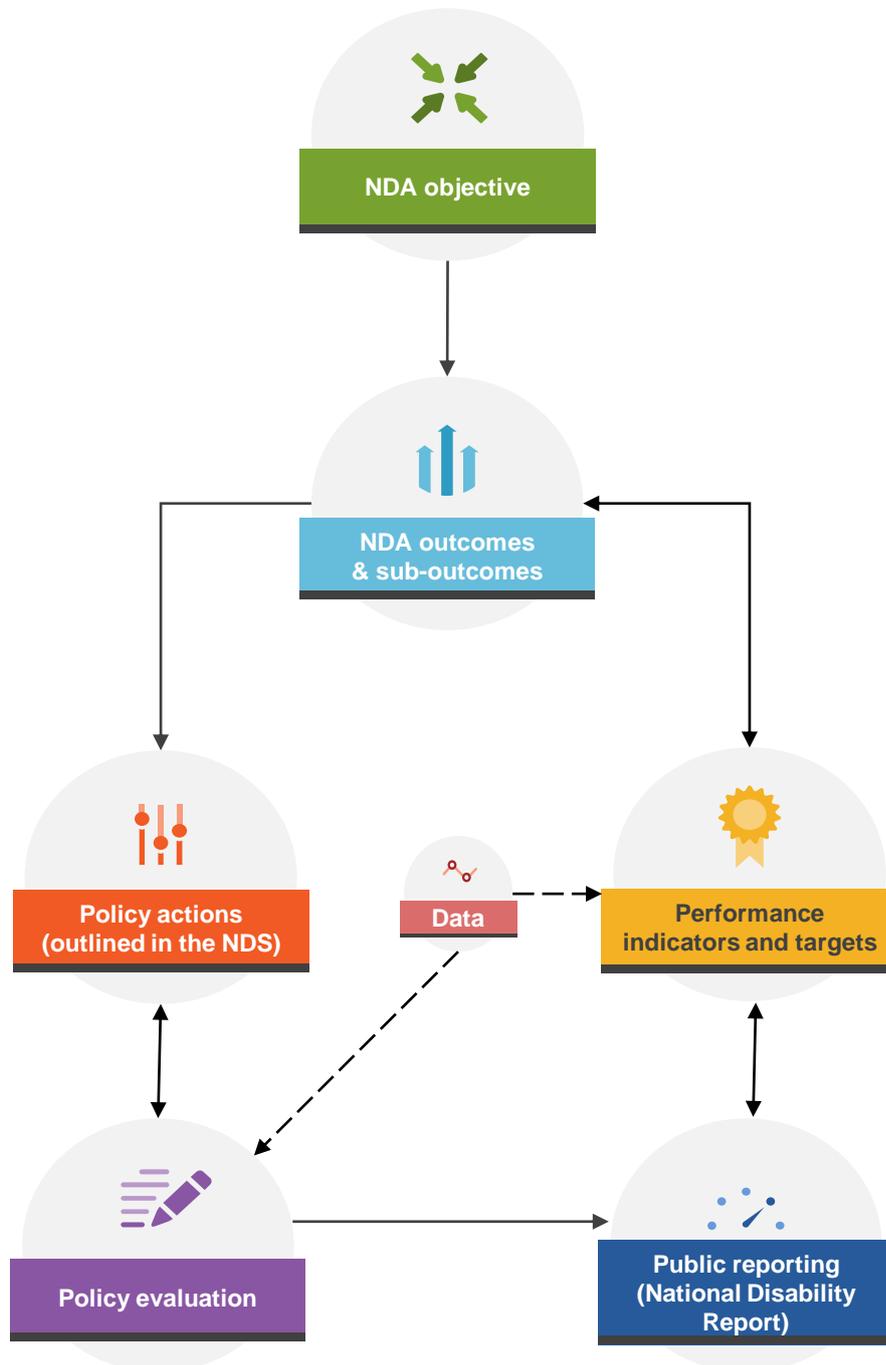
There has been very little progress towards the National Disability Agreement's (NDA) outcomes, with most performance indicators and targets showing that progress has gone backwards, or not changed significantly. It is unlikely that the performance targets in the NDA will be met.

- Labour force participation of people with disability declined between 2009 and 2015.
- The proportion of people with disability reporting a need for more formal assistance has increased since 2009.
- A performance target for the NDA's third outcome — families and carers are well supported — was not assigned a quantitative target under the agreement, and the relevant indicators do not show any significant improvement towards the outcome.

5.4 Evaluating the NDA performance reporting architecture

A strengthened performance framework is needed in the NDA to improve accountability to people with disability, their families and carers and to the wider community. The Commission's proposed performance framework (figure 5.4) is geared towards measuring progress towards outcomes for people with disability and their carers and providing greater accountability through more rigorous reporting and policy evaluation.

Figure 5.4 Elements of a revised performance reporting approach



The key elements of the framework are:

- the identification of person-centred outcome areas (sometimes referred to as domains, and distinct from the outcomes of the NDA) that specify what outcomes are being sought for people with disability. Sub-outcomes can also be used to specify the achievements desired under each outcome area in greater detail (section 5.5)

-
- the selection of performance indicators, which measure progress against each of the outcome areas, and (if desired) the specification of benchmarks, which assign a quantitative target to a performance indicator (section 5.5)
 - collection of high quality data for measuring performance indicators (section 5.6)
 - a statement of policy actions that are explicitly linked to each outcome area, and rigorous evaluation of policy actions (which can also serve to inform the selection or use of performance indicators, and outcomes) (chapter 4)
 - a public reporting process that outlines what is reported and how often, and by whom (section 5.8).

5.5 Developing performance indicators and targets

The framework is underpinned by a person-centred approach to performance reporting (figure 5.5). This underlines that the overall objective of disability policy is to improve the wellbeing of people with disability. Compared with a services or system-centred approach, a person-centred approach focuses on the outcomes most highly valued by people with disability, and also recognises the significance of family and community members (chapter 6). Some submissions suggested a move towards such a framework: for example, the NSW Government submitted:

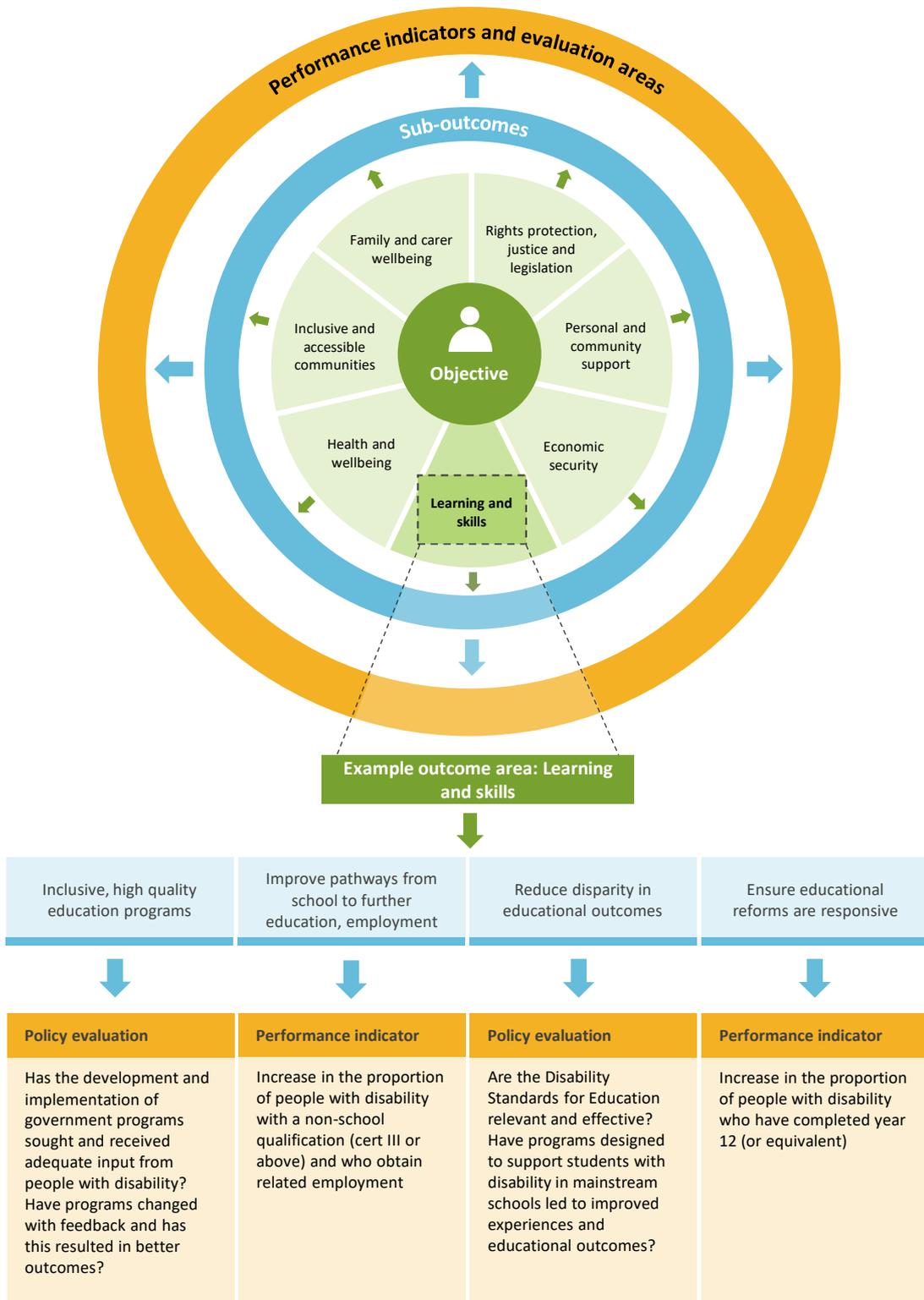
This review provides the Productivity Commission with an opportunity to set out what a strategic governance framework for performance could look like, which is person-centric and promotes a high level of visibility of holistic outcomes for people with disability, their families and carers. A person-centric performance framework would reflect the principles embedded in the [Convention on the Rights of Persons with Disabilities], and modern Commonwealth, State and Territory disability legislative and policy settings, including the NDIS.

A person-centric performance framework would be a new approach to how government reports on disability services, moving away from service-focussed reporting and monitoring, to taking a holistic view of the person with disability and the myriad of services they may access — specialised (e.g. NDIS package), government mainstream services (e.g. hospitals, transport), and general mainstream services (e.g. local businesses). (sub. 65, p. 7)

And Queenslanders with Disability Network said that it would:

... like to see longitudinal outcome data collected on people with disabilities' whole-of-life aspirations, employment, community inclusion, self-determination, choice and decision-making, satisfaction with services and supports, and measures against inclusive and accessible communities, rights protections, economic security, personal and community support, learning and skills, and health and wellbeing which are in line with the principles and obligations of the [Convention on the Rights of Persons with Disabilities]. (sub. 53, p. 9)

Figure 5.5 Mapping outcomes to indicators^a



^a The outcome areas in the centre of the chart are those of the current National Disability Strategy, supplemented with an additional outcome relating to family and carer wellbeing contained within the NDA.

The significance of a person-centred approach for performance reporting is that performance indicators (and any performance targets) make use of metrics that focus on the experiences of individuals, rather than government expenditure or levels of service provision.¹² Consequently, performance reporting will be able to give a clearer indication of whether the quality of life for people with disability is improving.

Similar person-centred frameworks are in use or have been proposed in disability reporting. The AIHW for instance, outlined a framework (similar to figure 5.5) for disability reporting in their submission (sub. 58, p. 5). Their framework centred around personal factors in the areas of justice and safety, social support, health, income and finance, employment, education and skills, and housing. Similarly, the Victorian Government's outcomes framework for the State's disability plan comprises of four domains — inclusive communities; health, housing and wellbeing; fairness and safety; and contributing lives (focusing on civic participation, economic participation, and education) (DHHS (Vic) 2018a, p. 3).

A person-centred performance reporting framework for the NDA would be driven by the overall objective of the agreement and flow through to its outcomes and associated performance measures. This would help to ensure alignment and integration of the NDA's objective, outcomes and performance measures.

The new NDA should adopt the current outcomes of the NDS, plus an additional outcome relating to the wellbeing of families and carers (chapter 2). These would then form the foundation of the NDA's performance reporting framework (figure 5.5). Sub-outcomes can be used to specify, in more detail, the results that governments are seeking to achieve in each outcome area. For instance, inclusive and accessible communities can be broken down into more specific desired improvements relating to the interaction that people with disability have with their communities, the accessibility of the built environment, and the accessibility of public transport. While improvements in all of these areas would contribute towards creating more inclusive and accessible communities, they work towards this goal in distinct ways, and are associated with diverse policy actions.

Sub-outcomes can also aid accountability by providing a clearer indication of the relationship between outcomes and performance indicators, and areas for policy action and evaluation. This can help to make the performance framework more comprehensible to users, thereby providing a clearer understanding of governments' progress or lack thereof. Sub-outcomes could potentially be derived from the set of 'policy directions' related to each of the outcomes in the current NDS (box 5.4).

Not every sub-outcome need necessarily have a performance indicator associated with it, as some sub-outcomes may be better suited to policy evaluation rather than measurement by an indicator(s) (examples are illustrated in figure 5.5). It may also be appropriate for some

¹² That said, it is important that the effectiveness and efficiency of government programs are measured, which could be done in a systematic way through the policy evaluation process and reporting.

sub-outcomes to have performance indicators, as well as being subject to policy evaluation (based on the policy evaluation process outlined in chapter 4).

Box 5.4 Policy directions of the NDS

Inclusive and accessible communities

- Increased participation of people with disability, their families and carers in the social, cultural, religious, recreational and sporting life of the community.
- Improved accessibility of the built and natural environment through planning and regulatory systems, maximising the participation and inclusion of every member of the community.
- Improved provision of accessible and well-designed housing with choice for people with disability about where they live.
- A public, private, and community transport system that is accessible for the whole community.
- Communication and information systems that are accessible, reliable and responsive to the needs of people with disability, their families and carers.

Rights protection, justice and legislation

- Increase awareness and acceptance of the rights of people with disability.
- Remove societal barriers preventing people with disability from participating as equal citizens.
- People with disability have access to justice.
- People with disability to be safe from violence, exploitation and neglect.
- More effective responses from the criminal justice system to people with disability who have complex needs or heightened vulnerabilities.

Economic security

- Increase access to employment opportunities as a key to improving economic security and personal wellbeing for people with disability, their families and carers.
- Income support and tax systems to provide an adequate standard of living for people with disability, their families and carers, while fostering personal financial independence and employment.
- Improve access to housing options that are affordable and provide security of tenure.

Personal and community support

- A sustainable disability support system which is person-centred and self-directed, maximising opportunities for independence and participation in the economic, social and cultural life of the community.
- A disability support system which is responsive to the particular needs and circumstances of people with complex and high needs for support.
- Universal personal and community support services are available to meet the needs of people with disability, their families and carers.
- The role of families and carers is acknowledged and supported.

(continued next page)

Box 5.4 (continued)

Learning and skills

- Strengthen the capability of all education providers to deliver inclusive, high-quality educational programmes for people with all abilities from early childhood through adulthood.
- Focus on reducing the disparity in educational outcomes for people with disability and others.
- Ensure that government reforms and initiatives for early childhood, education, training and skills development are responsive to the needs of people with disability.
- Improve pathways for students with disability from school to further education, employment and lifelong learning.

Health and wellbeing

- All health service providers (including hospitals, general practices, specialist services, allied health, dental health, mental health, population health programmes and ambulance services) have the capabilities to meet the needs of people with disability.
- Timely, comprehensive and effective prevention and early-intervention health services for people with disability.
- Universal health reforms and initiatives to address the needs of people with disability, their families and carers.
- Factors fundamental to wellbeing and health status, such as choice and control, social participation and relationships, to be supported in government policy and program design.

Source: COAG (2011a).

For example, the outcome ‘learning and skills’ currently has four sub-outcomes in the NDS (figure 5.5). One of these sub-outcomes is to strengthen the capability of all education providers to deliver inclusive, high-quality educational programs for people with all abilities from early childhood through adulthood. This sub-outcome could be an area for policy evaluation, rather than measurement through performance indicators, as it may not readily lend itself to quantification. Given the jurisdictional differences in education programs, this could also be a rich area for policy evaluation, with the potential to compare the performance of policies across jurisdictions and draw conclusions about which approaches work best. Some examples of evaluation of educational programs specifically for people with disability are provided in box 5.5.

A potential example of a policy evaluation related to this sub-outcome is the Integration Funding Support program in New South Wales. This program helps schools support students attending mainstream classes who have moderate to high learning and support needs, with funding used to provide additional teachers and school learning support officers, as well as assistance for classroom teachers (NSW Department of Education 2018). An evaluation of this program could consider, for example, whether funding has sufficiently provided for the implementation of personalised learning and support for students, and whether this has improved student outcomes and school experiences. The findings of the policy evaluation could then feed into the proposed National Disability Report (section 5.8).

Box 5.5 Policy evaluation in education

The Australian Government's Disability Support Program (DSP), introduced in 2004, offers funding to eligible higher education providers for activities that assist in removing barriers to students with disability (DET 2018; KPMG 2015, p. 1). The program comprises three components, including the provision of funding to higher education providers to assist with costs incurred in providing educational support and equipment to students with disability (DET 2018).

This DSP was evaluated in 2015 by KPMG, taking into consideration its operational efficiency, its appropriateness in addressing the needs of students and its ability to meet changing student requirements, as well as its effectiveness in meeting stated objectives. In undertaking its evaluation, KPMG reviewed policies and relevant documents, including international policies, as well as examining administrative and program data, surveying students and higher education providers, and conducting individual telephone based interviews with students with disability attending university (KPMG 2015, p. 5). Overall, the evaluation found that the DSP had supported higher education providers to meet the needs of students, although there were opportunities to improve administrative efficiency, and to consider whether the focus should be shifted from targeting individual students to applying universal design principles to the curriculum more broadly (KPMG 2015, p. 41).

In 2016, the Victorian Government published a review of its Programs for Students with Disabilities, which makes available supplementary funding and resources to Victorian Government schools to provide support to students with disabilities. Terms of reference instructed the review to investigate particular areas, such as the ability of the programs to meet the needs and maximise the learning of all children and young people with disabilities, future capacity to meet the specific needs of students with Autism Spectrum Disorder and dyslexia, in addition to advising on operationalising the review's recommendations (VDET 2016b, p. 10).

As part of the process for preparing the review, 24 consultations were conducted, national and international literature was examined, 170 submissions were received, and an online survey of more than 1400 respondents was conducted (VDET 2016b, p. 11). The review contained 25 recommendations for reform and found that Victoria did not have a clear policy framework supporting inclusive education for students with disabilities, nor was there a disability-specific workforce capability strategy (VDET 2016b, pp. 24–28). The Victorian Government provided a formal response to the proposed reforms (VDET 2016a).

For performance reporting against the NDA, it is highly preferable for indicators to be based on outcome measures (for example, satisfaction with services, or measures of health and wellbeing), as these indicators convey information about the lives of people with disability (as well as families and carers) and have the potential to shed light on whether government policies are effective or not. By contrast, performance indicators based on output measures (such as specific types of services delivered), although often easier to track, transmit limited information about how people with disability are faring.

The process of selecting performance measures

How should performance indicators be selected?

As noted, NDA indicators should ideally be expressed in terms that describe people's experiences (including with services) and relate to progress towards the outcomes of the agreement. This is different to measuring inputs or activities (such as the quantum of services or supports provided). A number of submissions to this review suggested that the performance indicators of the NDA required revision (Kieran Handler, sub. 27, p. 2; MIFA, sub. 24, p. 9; Sumner Foundation, sub. 43, p. 3). For example, Carers Australia stated that:

Any commitment binding different levels of government to pursue common outcomes is reduced in value and meaning if their accountability is diminished by a failure to measure performance against outcomes at each level. (sub. 42, p. 5)

The use of criteria can help to guide the selection of indicators to ensure they are effective in quantifying progress towards outcomes (box 5.6). The ultimate aim is to devise the smallest set of performance indicators that, collectively, comprehensively measure progress, giving as complete a picture as possible of the lives of people with disability and their carers.

Box 5.6 Criteria for selecting performance indicators

After reviewing literature on performance reporting and performance indicators (HoTs (2011), Queensland Government (2017) and SCRGSP (2016)), the following criteria for selecting and evaluating performance indicators have been chosen by the Commission, as they provide a comprehensive basis for considering the key issues relevant to the use and application of indicators:

- validity — the indicator should be clearly linked to, and validly capture, one of the agreed outcome areas in the NDA
- unambiguous — the indicator should be clear in meaning and interpretation
- direction — the indicator should be specified such that an increase or decrease represents a clear improvement or deterioration in performance
- attributable — the activity measured should be capable of being influenced (although not necessarily fully controlled) by government policy
- avoids unintended consequences — the indicator should avoid creating perverse incentives that give rise to undesirable or unwanted actions
- credible — an indicator should be meaningful to people with disability and their carers and families (that is, relevant to those with lived experience)
- data availability — data should currently be available for an indicator, or where there are not, the costs and benefits of collecting relevant data should guide judgment about collection. The selection of performance indicators should not be driven by considerations of what data are currently available
- frequent and timely — data should be available at a frequency that aligns with the required reporting frequency, and be available quickly enough that the data are relevant for decision-making.

A further consideration when selecting performance indicators (or developing performance targets) is the strength of the link between policy actions and the indicators. The ultimate purpose of government performance reporting is to enhance the ability to hold governments accountable, which is undermined if a clear link between policies and indicators is not present. Some indicators of the current NDA may be more closely linked to policy actions than others (box 5.7). There needs to be a stronger link between the outcomes of the NDA and the statement of policy actions of government (expressed in the NDS) in these areas (chapter 4).

Box 5.7 Links between policies and performance indicators

Ideally, performance indicators that capture the experiences of individuals, and the effects of policies on individuals, would comprise the bulk of indicators in a performance reporting regime. Such indicators are outcome-based. Alternatively, output-based indicators measure the degree to which a particular cohort is using a service or obtaining support, rather than measuring the effect the service/support is expected to have on the user or the user's satisfaction after accessing the service/support.

Indicators that are output-based will tend to be more directly influenced by policy than those that are outcome based, which are often subject to a greater number of influences outside the control of government. However, output-based indicators transmit little if any information about the effects of policies on individuals and their wellbeing. There is to some extent therefore, a tension between indicators that are strongly influenced by government policy on the one hand, and indicators that transmit meaningful information about individual outcomes on the other.

Some outcomes-based indicators however, may be more difficult to link to specific government policy actions than others. For example, labour force participation could be affected by many factors. This includes general economic conditions affecting the economy-wide demand for labour, and changes in population health, population level, education, and family status (CBO 2018; RBA 2018). With such a range of influences acting on labour force participation, it can be difficult to isolate the direct effects of policy actions, such as the progressive roll-out of the NDIS (which is expected to increase the economic participation of people with disability and their carers (Long 2015, p. 5)). This was noted by the South Australian Government (sub. 63, pp. 9-10), who observed that a number of complex factors affect labour force participation and employment, and that the provision of disability services is only one means of potentially increasing labour force participation. Relatedly, the Victorian Council of Social Services observed that the indicator on labour force participation fails to capture other aspects of employment, such as its quality (sub. 52, p. 24).

A need for revised performance targets?

Performance targets can act as an additional accountability mechanism in a performance reporting framework, by helping to focus governments' attention on high priority areas, and by enabling the community to judge progress against a transparent numerical objective. For maximum effectiveness however, performance targets need to be carefully constructed. The NDA's current performance targets were defined with reference to desired changes over the period 2009 to 2018. The end of these targets raises the question of whether new targets should be adopted for the NDA in the future, and if so, what these targets should be.

Some submissions argued that there was a case for retaining performance targets. For example, Sylvanvale stated:

The NDA's outcomes should not be aspirational they should be achievable and measurable over a specified period of time, with defined performance measures linked to outputs. The measures should be quantitative around numbers and percentages of people in the target population assisted for each of the outputs and where possible be linked to outcomes around the impact of each on the lives of people with disability. (sub. 22, p. 3)

Community Mental Health Australia suggested:

A further key element of the current NDA that should be strengthened – along with roles and responsibility for funding — should be strong performance indicators and benchmarks that are reportable and transparent, and link to funding ... (sub. 6, p. 2)

Various methods can be used to set targets (box 5.8). Regardless of the approach used, evidence of the ability of an indicator to be strongly influenced by government policy (and by extension, affect the relevant outcome or sub-outcome) is a key requirement for an indicator to be used for a target.

Assessing performance indicators in the current NDA

Performance metrics, considered as a group, should aim to comprehensively measure progress, giving as complete a picture as possible of the lives of people with disability, their families and carers, with the most concise set of indicators. There are several issues associated with the coverage and clarity of the current set of indicators in the NDA.

Coverage of performance indicators

The current NDA does not contain any performance benchmarks or indicators that specifically correspond to the use of mainstream services by people with disability, or most significantly, the outcomes that arise from mainstream service use. The COAG Reform Council raised this gap and its implications early on in the life of the NDA:

The missing link in reporting against the outcomes is measuring access for people with disability to mainstream services such as education, health, housing and transport. These are the primary services that people with disability rely upon in their daily life. While specialist disability services are also critical for people with disability, the need for specialist services is directly influenced by the level of access to mainstream services. The council considers that indicators should be developed to enable more comprehensive reporting against the outcomes. (CRC 2010, p. xii)

In this context, the Summer Foundation suggested that:

... the NDA should have a wider scope and cover mainstream services in addition to specialist disability services. The inclusion of performance indicators related to health and housing is critical. (sub. 43, p. 3)

Box 5.8 **How can performance targets be set?**

A commonly used methodology for setting performance targets is to ensure that measures of performance are 'SMART': specific, measurable, achievable, relevant and timed (although these are not the only criteria that can be used in developing performance targets) (Her Majesty's Treasury et al. 2001). The SMART protocol also suggests that targets be realistic, rather than highly ambitious. This is based on the view that targets that are overly ambitious may have the unintended effect of reducing motivation to achieve them (Bird et al. 2004, p. 7).

One method for devising numerical targets is to construct models to examine how a particular target variable responds to changes in policy and other influences. This results in a range of values that can be used to form the basis of a target. For example, statistical representations of the relationship between outcomes and policies (such as regression analysis) is one possible model-based approach to formulating performance targets. The validity of such an approach depends on a range of factors including the accuracy of assumptions, and the degree to which modelled policy interventions are actually implemented (Marsden and Bonsall 2006, p. 193).

An alternative to modelling is to use extrapolation, combined with judgment, to arrive at a performance target. However, this approach requires a sufficiently long time series, and a process for judging the effect of major developments — such as policy interventions — that cause the variable used for targeting to differ from trend (Marsden and Bonsall 2006, p. 194).

Prior to establishing a target, governments should have evidence indicating that policies they have implemented, or will implement, will in fact affect the indicator, and by how much they are likely to do so. This will enable governments to set informed targets, rather than basing targets on aspirations of what could or should be achieved. This latter approach to setting performance targets lacks a strong evidence base, and therefore risks the possibility of imposing unrealistic targets that are not achieved and do little to drive policy change.

Similarly, National Disability Services submitted:

New performance indicators should be developed for reporting on progress across sectors: from public transport to housing design; from education to employment; from justice to health. (sub. 36, pp. 4–5)

They also suggested several new indicators, including (but not limited to) accessibility of public transport, satisfaction with hospital stays, accessibility levels of new housing builds, and the proportion of the prison population with intellectual disability or cognitive impairment (sub. 36, p. 5).

Performance indicators for mainstream services also have the potential to uncover issues relating to these services, facilitating the assignment of responsibilities among governments. As noted by the NSW Government:

A robust person-centric performance framework ... could provide the data required to increasingly assign responsibilities to mainstream regulation, systems and services responsible for delivering outcomes for people with disability, beyond the specialist disability system. (sub. 65, p. 5)

In comparison to the NDA, the NDS contains some indicators relating to mainstream service use by people with disability. For example, under the outcome area of 'inclusive and

accessible communities’, one of the NDS indicators is the proportion of people with disability reporting difficulty using public transport (DSS 2015, p. 180). Similarly, under the outcome area of ‘learning and skills’, one of the indicators is the proportion of people with disability in mainstream schools (although no direction of change for this indicator is specified) (DSS 2015, p. 206).

Such indicators would serve to more fully illustrate the extent of economic and social participation of people with disability. These indicators may also impart information about whether policies provide adequate support for people with disability in accessing mainstream services. It is also important however, that indicators relating to mainstream service use satisfy the criteria of credibility, in that they have relevance and meaning to people with disability.

Eliminating ambiguity

Any new performance indicators and targets that are part of the new NDA should be clearly designed and articulated so that unambiguous statements can be made about whether performance has improved or declined. This is in accordance with the criterion of direction, noted above (box 5.5). For example, for the indicator measuring the proportion of people with disability accessing disability services, people with disability may need to access services to live independently, hence a decrease in the proportion of people with disability accessing services could reflect a deterioration in the outcome. However, some people with disability have greater access to informal support through their family and friends, which might be reflected in lower demand for formal assistance (SCRGSP 2018, p. 15.9). Similarly, a higher proportion of people with disability accessing services could suggest poor service targeting, a lack of informal care or a tendency to select formal services over informal supports. The Darwin Community Legal Service argued:

Figures indicating reductions in people requesting a need for more formal assistance are not surprising to us as people are giving up on the system rather than having their needs met. Requests are low because there is no point requesting where assistance is not available. (sub. 35, p. 3)

It is therefore unclear which direction of change in the indicator represents improvement in the outcome — that is, this indicator does not satisfy the criterion of being unambiguous.

Similarly, the indicator for the proportion of income support recipients with disability who report earnings poses difficulties in evaluating performance. Earnings could be from income from any source (for example, investment income, or labour income) and of any amount. If the objective of the indicator is to determine how many income support recipients with disability have a significant source of outside earnings, the measure fails, as any amount of earnings would be captured by this indicator. For example, a person may have \$1000 in a bank deposit and accordingly receive interest income, yet the amount would be small. Using this indicator, this person would be counted in the same way as a person who received a more significant quantum of earnings, such as from regular employment.

It is therefore unclear if an improvement in this indicator necessarily contributes to the outcome *people with disability achieve economic participation and social inclusion*. It could be altered to make it more meaningful — for example, by defining the indicator such that it only captured income support recipients with disability who derived income from paid employment. This would remove ambiguity and perhaps also raise its credibility amongst people with disability.

More generally, none of the current indicators of the NDA are specified so that it is clear that an increase or decrease is desired. This interpretation is left to those analysing the indicators, and while obvious in some cases, it is less clear in others.

Choosing performance indicators

Any evaluation of indicators against a set of criteria will necessarily involve some degree of judgment about how well a given indicator performs against each criteria. This is particularly the case for the criterion of ‘attribution’ to government policy. Some indicators could exhibit a very close relationship between government actions and changes in the indicator, whereas other indicators might be affected by a large range of factors, and hence the effects of government actions on these indicators may be much more difficult to discern.

Judgment is also necessary in developing an overall impression of how suitable a potential indicator might be — for instance, if an indicator performs poorly against one criterion, but performs well against all others, should it be adopted as a performance indicator or not? For example, indicators drawing on data from the SDAC may not necessarily be judged as frequent, being collected every three years, but nevertheless may perform well against other criteria. And in the absence of more frequently collected and comparable data, there may be few alternatives. Furthermore, if changes in an indicator occur relatively slowly, measurement of an indicator every three years may be preferable (or at least acceptable) compared to more frequent measurement.

Although the current performance indicators of the NDA have primarily been drawn from SDAC data, the SDAC need not be the only source of data for future performance indicators of the NDA. Some indicators could draw on NDIS data, for example, sourced from the NDIA’s quarterly reports, and may be particularly relevant to the outcome area of ‘personal and community support’. Other indicators might be based on data obtained via linkages, if more is done to exploit the potential linking affords (section 5.6).

In sum, there can be difficulty in making unequivocal statements about the suitability of potential performance indicators. Nor is there a definitive list of indicators that unquestionably capture all relevant aspects of the lives of people with disability, their families and carers. Nevertheless, based on analysis of the current performance indicators of the NDA, NDS, and other reporting frameworks — such as the Victorian Government’s annual reports against that State’s disability plan — the Commission has compiled a list of possible performance indicators that could be used to inform the performance reporting framework of the new NDA (box 5.9).

Box 5.9 Potential performance indicators for the new NDA

The following indicators may be drawn upon to inform the new NDA, and are grouped based on the outcome areas of the NDS, plus an additional outcome area for families and carers. They do not represent a definitive list of indicators that could be adopted in the new NDA. While the majority of the current performance indicators of the NDA are drawn from SDAC data, future performance indicators need not be limited to only using the SDAC, and may draw on other sources, including National Disability Insurance Scheme (NDIS) data.

The NDIS collects a variety of data on participants, and publishes a range of its own indicators and responses to questions which could serve as the basis for indicators under a future NDA. The National Disability Insurance Agency publishes information on whether the NDIS has helped participants have more choice and control over their lives, whether the NDIS has helped participants meet more people, and whether involvement with the NDIS has helped people find a job that is suitable, to list a few examples.

Inclusive and accessible communities

- decrease in the proportion of people with disability reporting difficulty using public transport
- increase in the share of public transport that is accessible to people with disability
- increase in the proportion of people with disability leaving home as often as they would like and who are not impeded in doing so due to their disability
- increase in the proportion of people with disability participating in recreational and cultural activities
- decrease in the proportion of people with disability having to move home, but who do not want to do so, because of their condition
- decrease in the proportion of younger people with disability living in residential aged care.

Rights, protection, justice and legislation

- decrease in the proportion of people with disability who report feeling unsafe in various situations because of their disability
- decrease in the proportion of people with disability reporting experiences of disability-related discrimination in the last 12 months
- decrease in the proportion of people with disability incarcerated in an adult custodial facility.

Economic security

- increase in the proportion of people with disability who are employed in high-skill jobs (professionals, technicians, trades workers, and managers)
- decrease in the proportion of people with disability who are unable to pay their household bills on time due to their disability
- decrease in the proportion of people with disability experiencing housing stress due to their disability.

(continued next page)

Box 5.9 (continued)

Personal and community support

- increase in the proportion of people with disability who report receiving suitable and sufficient care for their disability needs
- increase in the proportion of people with disability who are able to look after themselves when household members are away
- increase in the proportion of NDIS participants who feel that the Scheme is adequately addressing their needs, given their condition and the Scheme's intended coverage and scope.

Learning and skills

- increase in the proportion of people with disability who have completed year 12 (or equivalent)
- increase in the proportion of people with disability with a non-school qualification at the level of a Certificate III or above and who obtain related employment.

Health and wellbeing

- increase in the proportion of people with disability reporting good or excellent self-rated health
- increase in the proportion of people with disability who experience psychological distress receiving treatment
- decrease in the proportion of people with disability who are physically inactive.

Families and carers

- increase in the proportion of carers reporting their health and wellbeing as positive
- increase in the proportion of carers who are satisfied with the range, adequacy and quality of services provided to them in their caring roles
- increase in the proportion of carers who are satisfied with the range, adequacy and quality of services provided to the person with disability for whom they provide care.

This is not a definitive list by any means. Ideally, performance indicators should measure outcomes for all people with disability, but outcomes may depend greatly on disability type. This underlines the importance of collecting disaggregated data where feasible and beneficial to do so, enabling an analysis of results based on various characteristics. Indeed, the current NDA specifies that where possible, all performance indicators should be broken down to show performance for key subgroups, including: Indigenous people with disability; people with disability living in regional or remote areas; from culturally and linguistically diverse backgrounds; and older carers (subject to the development of data and an agreed method of disaggregation) (COAG 2012c, p. 5).

Furthermore, a policy intervention might improve outcomes for some people with disability, but not for others. For example, introducing trams with low floors might make it easier for some people with a physical disability to use public transport, but will do little for those with cognitive disability. Hence, particular indicators will be more applicable for some people than others.

FINDING 5.2

There are limitations in the National Disability Agreement (NDA) performance reporting framework relating to gaps in coverage and the clarity of indicators.

- The absence of indicators measuring outcomes relating to use of mainstream services, such as health and education, by people with disability means that the current NDA performance framework does not capture many important aspects of daily life.
- Not all indicators of the NDA can be clearly interpreted, such that an increase or decrease can be unambiguously interpreted as an improvement or deterioration in performance.

How should revised performance indicators be agreed?

The expiry of the current performance targets of the NDA presents an opportunity to review the use of its performance targets and to devise a set of indicators that comprehensively measure outcomes for people with disability against the revised outcomes of the new NDA. Determining and agreeing on performance indicators (and targets) however, can be a complex task and should draw on the advice of disability policy and data experts and groups representing people with disability, their families and carers.

The COAG Disability Reform Council (DRC) currently has oversight of the NDA, as well as the NDS and NDIS. The Disability Reform Council Senior Officials Working Group (SOWG) supports the decision-making of the Council.

One approach to formulating new performance indicators and any targets would be to assign this responsibility to the SOWG, supported by a temporary working group comprised of people with experience in policy formulation and analysis, data expertise, and representing people with disability, their families and carers. The DRC would then be responsible for approving and formally agreeing on the new indicators to be included in the NDA.

Changes in the availability of data over time means that there should be scope to periodically review indicators and update them should new data make this necessary. For this reason, a schedule to the new NDA should list the performance indicators of the agreement.

RECOMMENDATION 5.1

The new National Disability Agreement (NDA) should adopt a person-centred performance reporting framework that measures progress towards the outcomes of the new NDA.

The Senior Officials Working Group of the COAG Disability Reform Council should develop a comprehensive set of performance indicators (and any associated targets) to measure progress against the outcomes of the revised NDA, based on transparent criteria for selecting performance indicators, and drawing on advice from policy and data experts, and people with disability.

Performance indicators should strike a balance between providing comprehensive information about the lives of people with disability, families and carers, and utilising the minimum necessary number of indicators.

To enable indicators to be revised as new data becomes available, the performance indicators of the new NDA should be listed in a schedule to the agreement, and be updated as warranted.

5.6 A comprehensive data strategy

Performance reporting is not possible without access to robust data. An absence of high-quality data undermines the basis for performance reporting, and adversely affects policymaking. As observed by Kieran Handmer, ‘[e]vidence based policy needs good data, and most importantly, for that data to be shared and discussed more widely’ (sub. 27, p. 3).

Currently, performance data for the NDA is sourced from the SDAC, and the Disability Services National Minimum Data Set (DS NMDS) collected by the Australian Institute of Health and Welfare (AIHW). The ongoing availability of data from these sources is uncertain — particularly data on services provided outside of the NDIS. National Disability Services remarked that:

The plans of government agencies (NDIA, DSS, ABS, AIHW) in relation to disability data are unclear. Some key existing data collections have an uncertain future (eg ABS’s three-yearly Survey of Ageing Disability and Carers and AIHW’s annual National Minimum Dataset of disability services). (sub. 36, p. 3)

Further, although NDIS data is a rich and comprehensive source of data for people with disability in the NDIS, this dataset will not provide a comprehensive picture of the broader services environment and outcomes for people with disability. Additional data are required to fulfil this purpose — for example, data capturing the use of mainstream services by people with disability (section 5.5).

The following section discusses some of these issues with a view to determining what role the new NDA could play in helping to establish a strategic approach to data and reporting.

Disability Services National Minimum Dataset

Since the introduction of the NDIS, State and Territory Governments have begun phasing out key specialist disability services that are now to be accessed through the NDIS (chapter 3). Providers who previously held contracts with State and Territory Governments also provided data on users as part of their performance reporting obligations. These data were then provided to the AIHW and used to create the DS NMDS. The NDA performance framework contains one indicator measured with data from the DS NMDS — the proportion of people with disability accessing disability services.

As disability services provided under the NDA diminish, the data used to populate the DS NMDS will no longer be provided and the dataset will become unviable. The AIHW noted that:

The current collection of data on services provided under the NDA — the Disability Services National Minimum Dataset — is set to cease at the end of the 2018-19 collection year. While data collection and selected reporting will occur as part of the NDIS, including some reporting on people using the Information, Linkages and Capacity Building (ILC) component of the NDIS, there needs to be consideration given to what other data will be needed. (sub. 58, pp. 4–5)

It is possible for the associated measures for the indicator above to be replaced with measures taken from the National Disability Insurance Agency (NDIA). Data collected by the NDIA on NDIS participants cover a wide range of indicators, including similar measures to the above NDA measures. Measures collected will not, however, be directly comparable because the two populations of service users — pre-NDIS service users and NDIS participants — are not the same groups.

Further, although the NDIS will replace aspects of disability care and support provided under the NDA, not all disability services will be subsumed by the NDIS. Besides the possibility of service gaps emerging (chapter 3), there is also a risk that governments, where they do provide services, may not maintain data consistent with that which has been provided to the AIHW under current arrangements.

Australian Bureau of Statistics SDAC

The ABS currently undertakes the SDAC, which presents information on the demographic, social and economic characteristics of people with disability, older people, and carers. It is also the only national source of data for measuring the prevalence of disability in Australia. The majority of the performance reporting measures in the current NDA are based on data from the SDAC, such as the labour force participation rates of people with disability, and the proportion of carers of people with disability who are satisfied with the quality of formal services received to assist in their caring role.

The ABS conducts the SDAC every six years, although since 2009, additional surveys have been conducted at intervals of three years. These additional surveys have been contingent on

funding from the Australian Government via the Department of Social Services and State and Territory contributions (based on population levels) (PC 2017e, p. 480).

The Commission has previously noted that without an ongoing commitment of funds, uncertainty about the frequency of the survey will result, and/or the representativeness of the survey may diminish (if the sample size declines) (PC 2017e, p. 480). As a result, the Commission recommended that the Australian, State and Territory Governments commit by June 2018 to fund the SDAC on an ongoing basis, so that it can be collected every three years (PC 2017e, p. 480).

The 2018 SDAC has only received funding from the Australian Government Department of Health and the Department of Social Services, and the New South Wales, Victorian, Queensland, and Western Australian Governments (sub. 17, p. 2). As stated by the ABS:

While the details of the timing of future disability surveys is yet to be determined, without further funding, it is likely that future outputs will revert to a six-yearly frequency and levels of reliability of estimates will decrease and be similar to those in the 2003 SDAC. This will make it difficult to reliably identify small movements in performance indicators at the State or Territory level, even for the larger jurisdictions. (sub. 17, p. 2)

Given that the SDAC is one of the two main data sources for information on people with disability (along with the DS NMDS), the Commission reiterates the importance of ensuring this survey is funded so that it can be conducted at least every three years with a sample size at least comparable to that of the 2015 survey. The SDAC will also likely serve as an important future source of data, depending on what performance indicators are agreed upon in the new NDA.

NDIA reporting

The NDIA collects a range of data pertaining to the NDIS, and is building a longitudinal dataset to support actuarial analysis of the Scheme. Because participants receive individualised packages under the Scheme over their lifetime, NDIS data will be available for participants for the span of their lifetime (PC 2017e, p. 472). Indeed, the inaugural chair of the NDIA commented:

The NDIA is building the most comprehensive population-based longitudinal database on disability in the world ... This database should be valued, protected and resourced adequately and will grow and become more useful for research over time. It has the potential to place Australia at the cutting-edge of disability research globally. (Bonyhady 2017, p. 15)

When the NDIS reaches full Scheme, it is envisaged that it will have 475 000 participants, with data measured on outcomes across eight key domains: choice and control; daily activities; relationships; home; health and wellbeing; lifelong learning; work; social, community and civic participation (PC 2017e, pp. 471–472). Further, as part of its financial stability monitoring framework, the NDIA collects data pertaining to the number of Scheme

participants, and their characteristics (such as gender) and outcomes, as well as the cost of supports of participants (PC 2017e, pp. 470–471).

The data collected by the NDIA may act as a useful input for the performance management framework of the new NDA. This dataset could potentially be linked to other datasets (discussed below) to provide more information on those people with disability who are enrolled in the NDIS.

Some participants called for greater sharing of NDIA data (Bruce Bonyhady, sub. 48, p. 15; Carers Australia, sub. 42, p. 5; National Disability Services, sub. 36, p. 4). For instance, the Brotherhood of St Laurence submitted:

... NDIS data is not available to the people with disability, the general public or research institutions/other interested organisations ... Not only should this be resolved as a matter of urgency, but also highlights the need to maintain existing disability datasets ... (sub. 55, p. 3)

In the early stages of the transition to the NDIS, the NDIA's data on participants was limited, but as the Scheme has progressed through its rollout, the data obtained by the NDIA have become more comprehensive. Given this, and that the DS NMDS will conclude in 2018-19, there may be more scope for the NDIA to make more data (and metadata) available, for example, to researchers, policy makers and people with disability. The Commission reiterates its recommendations in its report on NDIS Costs (PC 2017e, p. 492), that there is value in the NDIA making public details of the data it holds and how to access it and that the NDIA engage with stakeholders on how data access will be operationalised. The Queensland Government submitted:

A new instrument could require the release of more data from the NDIA on topics such as service use, economic and social supports included in plans, and longitudinal data on participant outcomes over time ... (sub. 68, p. 8)

Data and measures relating to mainstream services

Data from mainstream service systems will play a key role for all people with disability under the Commission's proposed performance reporting framework.

The RoGS disability chapter currently acknowledges indicators of mainstream service use by people with disability as a data gap (SCRGSP 2018, p. 15.8). The RoGS Working Group is currently developing additional indicators measuring use of mainstream services by people with disability. The NSW Government suggested that the SDAC and Centrelink data (for statistics about Disability Support Pensions and employment rates) could be used as a source of information for people outside the NDIS include (sub. 65, p. 7).

In some areas of the provision of mainstream services, governments already collect information relating to disability status. The Nationally Consistent Collection of Data on School Students with Disability (NCCD) is one example. The NCCD collects data about students with disability, counting the number of school students receiving an adjustment due

to disability, and the level of adjustment required for them to access education on the same basis as other students. Data collected comprise the student's year of schooling, level of adjustment, and broad category of disability (Education Council 2018, pp. 2–5).

But in order to arrive at a comprehensive understanding of service use by people with disability, governments should routinely collect information on the disability status of clients for mainstream services. As previously noted by the Commission, in many cases where governments provide or fund services for people with disability, it would be possible for governments to collect information on disability status as part of their data collections (PC 2017e, p. 481).

Where there are net benefits to doing so, data should be collected that identifies the functional impairment of people with disability. This would facilitate a thorough understanding of how people with disability interact with mainstream services, and what barriers they face in accessing them.

There is a significant opportunity to link datasets

Linking datasets (the process of combining datasets to create more comprehensive information on a person or organisation) can help to fill information gaps where more comprehensive data are required. Linking data can also provide a more holistic view of a person's individual circumstances and their interaction with government services, resulting in the potential for improved policymaking (PC 2017e, p. 482). Some submissions identified the potential to make greater use of linked data (Carers Australia, sub. 42, p. 5; National Disability Services, sub. 36, p. 5). On the importance of linking datasets, Bruce Bonyhady argued that:

Data access and linkage is essential for evidence-based disability policies and practices and so data and access for research ... should be a key priority of the NDA ... Data is also essential to allow for performance metrics to evolve over time. (sub. 48 p. 13)

The AIHW cited several examples of datasets that might be linked, and the benefits this would provide:

For example, linking disability support services or payments data to national hospital data, the Medicare Benefits Schedule (MBS) and the Pharmaceutical Benefits Scheme (PBS) could provide an insight into how people with disability interact with mainstream health services, and how these services complement specialist disability supports. Likewise, linking disability support services data to aged care data could help improve understanding of the interactions between these two sectors. And linking employment services data with payments data over time could provide valuable information about the relationship between seeking employment and income support. (sub. 58, p. 7)

The Bureau of Health Information outlined a number of ways in which data linkage could improve performance assessments in the health care sector. Specifically, linked data can help:

- ensure that double counting of persons does not occur, as each person is identified only once, and facilitates the removal of people who are not relevant from the cohort under consideration
- increase the sensitivity and specificity of measurement by providing more information on the same variables
- recognise the effects of confounding factors on individual performance indicators
- improve attribution by highlighting shared responsibilities and patient pathways
- enable comprehensive monitoring of patient outcomes over time (BHI 2015, p. 18).

The Commission's inquiry into *Data Availability and Use* (PC 2017b) highlighted that there is still considerable scope to expand and improve the use of linked data in the formulation and analysis of policy. The Commission recommended, for example, that the Australian Government abolish its requirement to destroy linked datasets and statistical linkage keys (tools used to identify records in multiple datasets pertaining to the same person or organisation) at the end of researchers' data integration projects (PC 2017b, p. 44).

The Australian Government issued a response to the Commission's inquiry in May 2018, committing \$65 million over the forward estimates to introduce measures implementing the Commission's recommendations (Australian Government 2018b, p. 1). It has also released an issues paper for its proposed Data Sharing and Release Bill, drawing on the Commission's recommendations (DPMC 2018).

Linking datasets is not without its challenges in the current data landscape. Efforts to link datasets can be confounded by factors such as complexities in obtaining access to datasets (PC 2017b, pp. 133–136), or even by a lack of consistency across datasets, embodied in differing data entry and recording techniques. However, in situations where datasets cannot easily be linked, the development of a 'flag' represents a second-best alternative.

The AIHW has developed a Standardised Disability Flag, which is a set of questions intended for use by mainstream services in their data collections to identify people with disabilities or long-term health conditions and demarcate them from people without such limitations or needs (AIHW 2016, p. 1). The Flag comprises a set of questions that can be administered by an organisation's staff member or completed directly by the client (AIHW 2016, p. 4). This enables the collection of information about the extent of a person's activity limitation and facilitates the identification of people with disability within mainstream data collections.

What actions should be taken?

Holding governments to account through performance reporting necessitates the collection of good quality data (quality relates to accuracy, reliability, timeliness, comparability and comprehensiveness). A reduction in data quality can compromise the reliability of performance measurement and reporting. There is significant potential to improve the collection and use of data relevant to the NDA. Among these improvements is additional clarity of governments' responsibilities relating to collecting data. On this point, the AIHW recommended that:

... to ensure that performance and progress under the agreement can be measured, as well as to contribute to the evidence base related to people with disability more broadly, it is critical that any revised NDA include a strong statement on data. Such a statement should be based around the development, collection and reporting of reliable, nationally-consistent, person-centred data ... (sub. 58, p. 3)

There is scope within the new NDA to provide certainty about the data collections on which performance reporting relies, and to outline a strategy on how governments intend to fund data collections (particularly the SDAC).

The current NDA specifies that all Australian governments are responsible for 'the provision of data, including a commitment to providing data for the national minimum dataset and a commitment to the improvement of data' (COAG 2012c, cl 16(e)).

In November 2011, the Australian, State and Territory Governments agreed to commit to a program of data, research and development to build an evidence base relevant to the outcomes of the NDA and the NDS. The resulting National Disability Research and Development Agenda provided funding of \$10 million over five years. It identified five directions for disability research, including the development of demographic profile and trend information to provide for the collection and examination of a range of information about people with disability over time (DSS 2011, pp. 8, 20). However, the Agenda has not resulted in such information being collected on an ongoing and consistent basis, despite it being referenced in the NDA (COAG 2012c, cl 28(a)).

Further improvements to data and performance reporting can be made by linking datasets, which would provide a more comprehensive view of the outcomes of people with disability. The Commission's recommendations in the inquiry into *Data Availability and Use* (PC 2017b) remain relevant in this regard and should be acted upon (box 5.10).

The Australian Digital Council, comprising Ministers from across Australia with responsibility for public data and digital transformation, is commencing work on cross-jurisdictional collaboration projects. In particular, the Council is working to establish a senior officials group to improve collaboration between jurisdictions, including a project to improve data sharing on people with disability, as well as examining how a national data system can be realised more broadly (ADC 2018a, p. 2). The pilot entails building a longitudinal cross-jurisdictional data set using Australian, New South Wales and South Australian Government data, with a view to improving service planning and

resource and funding allocations for disability services. Other jurisdictions will be able to opt in as the pilot progresses (ADC 2018b, p. 2).

Box 5.10 Some relevant recommendations from the Data Availability and Use inquiry

The Productivity Commission's inquiry report on *Data Availability and Use* (PC 2017b) made a number of recommendations pertaining to the maintenance, dissemination, and sharing of data. The intention of the recommendations was to facilitate greater utilisation of data and realisation of its potential, within a framework of governance and safeguards arrangements.

Among the Commission's recommendations were that selected public sector and public interest entities be qualified as Accredited Release Authorities (ARAs), who would be responsible for the curation, collation, and linking of datasets within their sectoral expertise, as well as offering advice, services and assistance on matters such as dataset curation and linking of datasets. ARAs would be required to publish formal risk management processes to assess and manage the risks associated with the sharing and release of data under their control (PC 2017b, pp. 250, 258).

ARAs would accredit 'trusted users' to access data under their control or governance arrangements (PC 2017b, p. 265). Full implementation of these arrangements for disability data would enable it to be shared more easily between bodies such as the Australian Bureau of Statistics and the National Disability Insurance Agency, and could provide richer datasets for analysis and policy evaluation.

The Commission also recommended that where ARAs undertake multiple data linkage projects, they should work towards creating enduring linkage systems with the aim of enhancing the efficiency of linkage processes and preventing duplication (PC 2017b, p. 279).

To promote broader public access to data, the Commission recommended that publicly funded entities, including all Australian Government agencies, create registers of data, including linked datasets and metadata, that they hold or fund. Where datasets are held or funded but not available for access or release, the register would be required to indicate this and the reasons why (PC 2017b, p. 243).

The new NDA should outline the data required for ongoing performance monitoring and commit governments to collecting those data (or equivalent datasets). Such an approach has been used in other Commonwealth–State agreements. For example:

- the National Healthcare Agreement contains a list of the national minimum datasets that governments agreed would continue to be collected under the agreement, as well as longstanding collections vital to the administration, monitoring, and evaluation of various health programs (COAG 2012d, cl A1-A2)
- the newly established National Housing and Homelessness Agreement also includes a schedule on improving data. The agreement stipulates that the Commonwealth is to lead the development of data improvements and a nationally consistent dataset, with State and Territory Governments to contribute to the ongoing collection and transparent reporting of data. The schedule establishes a Housing and Homelessness Data Working Group to assist in the implementation of a Housing and Homelessness Data Improvement Plan, which will provide for new data resources, improvements to existing datasets, linkages

between Commonwealth and State datasets, as well as additional or improved performance indicators (COAG 2018e, cl C18).

Similar approaches could be adopted for the NDA.

The NDA should note the importance of ensuring adequate data are available to report against the performance framework, with the strategy for ensuring adequate data is collected set out in a schedule to the agreement. This should include:

- a list of disability related datasets (including the SDAC or equivalent) that governments have agreed to collect and fund. This would strengthen the link between agreed objectives and the practical measurement of performance, in addition to safeguarding data sources critical for performance evaluation
- an outline of the role of a working group made up of representatives from Australian, State and Territory Governments, the ABS, NDIA and AIHW, and people with disability, their families and carers (through a disability advisory council and/or peak disability group) to support the implementation of the data strategy. This working group should have the same composition as the working group that would help to establish new performance indicators for the NDA (section 5.5)
- specifying what data are not currently collected that should be collected, and who will collect it, as well as outlining the potential for improvements to existing data resources and a framework for data linkage (based on the Commission's recommendations in its inquiry into *Data Availability and Use* (PC 2017b)). This will help prevent the emergence of sustained data gaps that could compromise performance reporting.

FINDING 5.3

The provision of adequate data is essential for a person-centred performance reporting framework to function effectively. There is uncertainty regarding the future availability of data that has historically been collected relating to disability, chiefly the Disability Services National Minimum Data Set and the Survey of Disability, Ageing and Carers. And there are significant gaps in data relating to use of, and experience with, mainstream services by people with disability.

RECOMMENDATION 5.2

The new National Disability Agreement (NDA) should establish a clear strategy for the collection, funding, and reporting of data required for the agreement's performance reporting framework. This should include:

- a commitment to the collection of data on the use of, and experiences with, mainstream services — including health, education, public transport, justice, and housing — by people with disability where this does not already occur
- ensuring funding to enable the triennial collection of the ABS' Survey of Disability, Carers, and Ageing (or equivalent) with a sample size at least comparable to that of the 2015 survey
- outlining the data held by the NDIA and data sharing arrangements
- a framework governing the linking of data sets based on the recommendations of the Productivity Commission's inquiry into *Data Availability and Use*.

An appropriate working group (as in recommendation 5.4) should support the Senior Officials Working Group of the COAG Disability Reform Council to ensure that strategies are in place to collect necessary data for performance reporting where those data are currently unavailable, and thereby prevent the emergence of sustained data gaps. The strategy and operational details relevant to the working group should be outlined in a schedule to the NDA.

5.7 More coherent national reporting for disability?

Current reporting on disability

A range of reporting on disability currently occurs in Australia (figure 5.6). As noted, the Performance Reporting Dashboard reports on performance against the NDA benchmarks, and the NDA indicators have been incorporated into the RoGS' disability reporting.

The NDS also involves performance reporting. When it was launched in 2010, the NDS was to be accompanied by a series of progress reports to be delivered every two years (that is, 2014, 2016, 2018, 2020). To date, three progress reports have been prepared, although the progress report for 2016 has not been made public (chapter 4). The reports were intended as a means to monitor progress of the implementation of the Strategy, and include a number of trend indicators that align with the six NDS policy outcomes. There is some overlap between the performance indicators of the NDA and those of the NDS (for example, labour force participation of people with disability).

Figure 5.6 National reports on people with disability in Australia

| | | |
|---|---|---|
| <p>The Report on Government Services Disability chapter</p> <p>Produced by: SCRGSP</p> <p>Frequency: annual</p> <p>Purpose: report on the performance of governments in providing disability support services (currently specialist disability services under the NDA) and associated outcomes for people with disability.</p> | <p>The NDS Progress Report to Council of Australian Governments</p> <p>Produced by: DSS</p> <p>Frequency: every two years</p> <p>Purpose: high level view of progress under the NDS based on reporting from governments on policies and programs. Reports a number of indicators specified in the NDS.</p> | <p>The NDIS Quarterly Report</p> <p>Produced by: NDIA</p> <p>Frequency: quarterly</p> <p>Purpose: reports on NDIS operations, information (including indicators) about participants in each jurisdiction and the funding or provision of supports by the NDIA.</p> |
| <p>SDAC: Summary of findings Report</p> <p>Produced by: ABS</p> <p>Frequency: every 3-6 years</p> <p>Purpose: present summary results from the ABS SDAC.</p> | <p>AIHW Reports</p> <p>Produced by: AIHW</p> | |
| | <p>Disability support services: Services provided under the NDA</p> <p>Frequency: annual</p> <p>Purpose: presents data on NDA disability services and their users.</p> | <p>Australia's Welfare</p> <p>Frequency: every two years</p> <p>Purpose: provides information on the wellbeing of Australians, examining a wide range of relevant topics including disability.</p> |

^a Abbreviations: **SCRGSP** Steering Committee for the Review of Government Service Provision, **NDA** National Disability Agreement, **NDS** National Disability Strategy, **DSS** Department of Social Services, **NDIS** National Disability Insurance Scheme, **NDIA** National Disability Insurance Agency, **ABS** Australia Bureau of Statistics, **SDAC** Survey of Disability, Ageing and Carers, **AIHW** Australian Institute of Health and Welfare.
Sources: ABS (2016b); AIHW (2017, 2018); DSS (2015); NDIA (2018c); SCRGSP (2018).

The NDIA publishes quarterly performance reports on its website. It reports general Scheme information, such as plan approvals, exits from the Scheme, and participant profiles (such as location and age). It also reports numerous indicators (at both the national and State and Territory level) relating to outcomes for participants as well as their families and carers. Examples of indicators captured for:

- participants, are the proportion of participants who feel safe in their home, the proportion of participants who choose what they do each day, and the proportion of participants who

report having no friends apart from their family and paid staff. Indicators are linked to one of the eight domains of the outcomes framework for Scheme participants (NDIA 2018c, pp. 35, 37)

- families and carers of participants, are the proportion who report feeling in control selecting services, the proportion of those who report that they and their partner work as much as they want, and the proportion who have friends and family that they see as often as they would like (NDIA 2018c, p. 37). The indicators for families and carers are not explicitly linked to the outcomes framework domains for this group.

The NDIA's performance indicators are not directly comparable to those reported under the NDA and NDS, as NDIS indicators only pertain to NDIS participants, and not all people with disability in Australia are participants in the Scheme. In addition, much of the reporting carried out by the NDIA relates specifically to the performance of the Scheme, and therefore serves a different function to other disability reporting.

Performance reporting also occurs at the State and Territory level. This varies from jurisdiction to jurisdiction.

Rationalisation of performance reporting

There is scope to rationalise national performance reporting on disability in Australia, to avoid confusion, duplication, and potentially low value-for-money reporting activity. Where reporting against similar or identical performance indicators occurs, there is a prima facie case for rationalisation of effort. As the AIHW argued:

... across these processes the indicators are slightly different in many cases, requiring multiple handling and creating confusion for stakeholders about what is the 'truth' ... Hence, the AIHW recommends that efforts be made to consolidate and/or harmonise indicators, and streamline reporting activities in order to make the data collation, calculation and reporting more efficient and to provide clearer messages to stakeholders. (sub. 58, p. 4)

The Queenslanders with Disability Network expressed a similar sentiment:

... the current national performance reporting system is fragmented ... rather than being delivered as a coherent, comprehensive data system that has accessible information that can be used to improve legislative and policy responses at Commonwealth, State and Local Governments. (sub. 53, p. 9)

The South Australian and Western Australian Governments (sub. 63, p. 10; sub. 72, p. 5) also observed that there are overlapping outcomes and reporting between the NDA and NDS, and to a lesser extent the NDIS, as did the Western Australian Government.

A rationale for the need for multiple streams of performance reporting is that each serves a different and valuable purpose. The value of duplicative reporting nevertheless should be weighed against the value that could be delivered by using the expended resources in other areas, such as policy evaluation (chapter 4) (COAG 2012e, p. 165).

To ensure that unnecessary duplication of effort does not occur, and to allow for a more collaborative effort between governments, performance reporting for the NDA and NDS should be centralised in one stream, using a single performance reporting framework and one reporting document (outlined in the NDA).

How does NDIS performance reporting fit into the broader reporting landscape?

There may be scope for some harmonisation between performance reporting of the NDIS and NDA, to allow for comparisons to be made between the progress of NDIS participants and the progress of all people with disability in Australia. However, it is too early to determine what extent of harmonisation is necessary, as the NDIS is still in its infancy and will continue to change and grow, as will performance reporting under the Scheme. The performance reporting framework for the full scheme NDIS is also currently under development.

That said, as the overarching agreement relating to disability policy in Australia, measures of outcomes should converge across the NDA and NDIS. A common reporting framework should be used, or at least a framework that is not inconsistent with reporting under the NDA, given that there may be some aspects specific to the measurement of NDIS performance that would not be reported under the NDA.

RECOMMENDATION 5.3

Performance reporting under the new National Disability Agreement (NDA) and National Disability Strategy should be merged, utilising a single national performance reporting framework, and resulting in a single performance reporting document.

Performance reporting under the National Disability Insurance Scheme should utilise the same performance framework as (or at a minimum a framework that is not inconsistent with) the framework of the new NDA.

5.8 Raising the profile of performance reporting

What profile does current NDA reporting have?

For performance reporting to be effective as a public accountability mechanism, progress against the NDA's outcomes needs to be reported and disseminated transparently, with a credible and influential profile.

As noted by Sylvanvale:

There needs to be a level of accountability achieved via public scrutiny and commentary that allows people with disability, their families and carers to ask questions of their elected representatives or the agencies that deliver supports. (sub. 22, p. 4)

A number of submissions pointed to low public awareness of the NDA and reporting against its outcomes. For example, the Physical Disability Council of NSW said that:

... due to a lack of publicity and public awareness of the agreement, federal and state governments have not been held accountable in completing the policies and actions that should have been assumed under the NDA. (sub. 8, p. 6)

And National Disability Services said:

Public awareness of the dashboard reporting is low, even though the latest report shows that two of three benchmark indicators are ‘not on track’ and the other is trending in the wrong direction. (sub. 36, p. 4)

MIFA also questioned efforts to raise public awareness of the NDA and to inform the public of progress against the outcomes:

Does the community know this Agreement exists? How do Governments communicate their roles and responsibilities to the community? How are Ministers of Disability communicating the content and actions/commitments to the public to reassure communities that progress is being delivered and outcomes being achieved as outlined in this Agreement? (sub. 24, p. 4)

The Queensland Government argued:

To drive improved outcomes for all people with disability, greater visibility of the reporting is required, together with published analysis of results. (sub. 68, p. 7)

The extent of media coverage of NDA performance reporting is one way of measuring its influence and public profile. As previously discussed, reporting against the performance framework of the NDA takes place through the Performance Reporting Dashboard, and the RoGS also incorporates the NDA indicators within its own reporting framework (SCRGSP 2018, p. 15.8). The profile of the RoGS disability chapter (as measured by the number of media mentions) is much lower, for example, than the RoGS chapter relating to public hospitals, which on average receives roughly three times as many media mentions.

Quantifying the profile of performance reporting with respect to media reporting has limitations however, because not all media reporting is comparable or has the same level of analysis and influence. Part of the reason for the relatively low media profile of the disability chapter of RoGS may be because chapters that cover more high profile topics are released simultaneously, attracting more media attention.

In addition, the RoGS does not accord specific prominence to the NDA indicators, which are reported in conjunction with other data relevant to the provision of disability services (in line with the main purpose of the RoGS). While this provides comprehensive information on the NDA indicators, the large volume of information reduces the ease with which the NDA’s performance metrics can be monitored.

Further, media attention on performance reporting does not necessarily translate into policy action. Governments may already have enacted policy in previous years to improve outcomes, but it may be too early to see the results of this investment.

Responsibility for reporting against the performance indicators and benchmarks of the NDA has shifted between various agencies over the past 10 years — from the COAG Reform Council to the Department of the Prime Minister and Cabinet in 2015. The Department of Prime Minister and Cabinet established the Performance Reporting Dashboard, which was recently handed over to the Productivity Commission (box 5.3). It is likely that this has affected the profile of performance reporting under the NDA, by creating confusion about who is responsible for reporting, and perhaps creating an impression that performance targets have not been a high order of priority for governments.

Strengthening the profile and influence of reporting

The evidence presented above suggests that NDA performance reporting currently has a low profile. Further, the fact that the performance benchmarks of the NDA are not on track to be met appears to have prompted little policy action or discussion (chapter 4). This raises the question of how the profile and influence of performance reporting under the NDA can be strengthened.

A ‘National Disability Report’ should be tabled in Parliament

One option to improve the dissemination of performance reporting information is to develop and publish a ‘National Disability Report’. This would be similar to the approach used for reporting on Indigenous outcomes through the Prime Minister’s annual report to Parliament on ‘Closing the Gap’ and the Overcoming Indigenous Disadvantage Report (OID) (box 5.11).

Several participants suggested establishing a national report for disability, including People with Disability Australia:

Progress on meeting key goals and performance targets could ... be reported annually in the Federal parliament by the Prime Minister to reflect the importance of Australia meeting its obligations and responsibilities under the CRPD. (sub. 59, p. 6)

Similarly, National Disability Services recommended an annual ‘Australian Disability Report’:

Under a new NDA each jurisdiction should be required to table a performance report annually, with the information compiled into an Australian Disability Report (thereby allowing easy comparison across jurisdictions and sectors). (sub. 36, p. 4)

And Bruce Bonyhady submitted that the NDA should:

Require a comprehensive report to be prepared annually by senior officers of the Commonwealth, States, Territories and the NDIA for the Disability Reform Council and, then, COAG, which should report on agreed performance metrics and include action plans, responsibilities and timelines ... (sub. 48, p. 5)

Box 5.11 Annual reports on Closing the Gap

In 2008, Australian Governments agreed to targets aimed at reducing the gap between Indigenous and non-Indigenous life outcomes. The National Indigenous Reform Agreement contains seven targets relating to life expectancy, child mortality, employment and education outcomes (COAG 2012e, cl 19).

Since 2008, progress against the targets has been recorded in annual reports produced by the Department of the Prime Minister and Cabinet, and tabled in the Australian Parliament, with an accompanying speech by the Prime Minister.

At the time the National Indigenous Reform Agreement was struck, changes were made to the terms of reference of the Overcoming Indigenous Disadvantage (OID) report, so that it also reports on the COAG targets (SCRGSP 2016, p. v). The OID reports are prepared every two to three years by the Steering Committee for the Review of Government Service Provision and published on the Productivity Commission website. They have reported on a wide range of performance metrics relating to Indigenous Australians since 2003. The most recent report tracks performance towards the seven COAG targets and six additional 'headline indicators' along with a variety of other performance metrics (SCRGSP 2016, p. 4.1).

In addition to the annual Closing the Gap and the OID reports, there is also reporting on expenditure on services which support Indigenous Australians — in the Indigenous Expenditure Report — and the annual National Indigenous Reform Agreement performance information reports, which also track the COAG targets.

In an inquiry into the delivery of outcomes under the NDS 2010–2020, the Senate Community Affairs References Committee recommended that NDS performance reports be tabled in parliament, and that a new disability office be developed:

The committee recommends that the government takes to the Disability Reform Council for consideration a proposal to establish an Office of Disability Strategy under the oversight of the Disability Reform Council, as a coordination agency for the National Disability Strategy 2010–2020 and for the revised National Disability Strategy after 2020 ... The committee recommends that specific measurable goals for implementation of the National Disability Strategy 2010–2020 are created, that these are routinely monitored, and data is collected and reported biannually to the Disability Reform Council, the Office of Disability Strategy (if created) and presented to parliament. (SCACS 2017, pp. 72–73)

Tabling the reports in Parliament can draw more attention than would be the case if the reports were simply published on a website. It helps to prompt discussion about progress against the targets, and whether policies have worked as intended.

For example, in the week of the release of the tenth annual Closing the Gap report in 2018, numerous ministerial statements were made on the topic in the House of Representatives, such as:

Whilst there has been some progress to acknowledge, it needs to be said that there is a palpable sense of disappointment ... The areas the report declares to be off track include school attendance, literacy and numeracy, employment and the key target of closing the 10-year gap in

life expectancy between Indigenous and non-Indigenous Australians by 2031. (Gee 2018, p. 1508)

As another example:

... there have been a few wins in the sense of some gains in some of those targeted areas. We are on track, as others have mentioned, towards halving the gap in child mortality ... The very disturbing part of the Closing the gap report is seeing the consistent failure that we have had in the remaining targets. They are, of course, really critical targets around literacy and numeracy and closing the gap on employment. We've seen Indigenous unemployment rise. We are not closing the gap there. (Claydon 2018, p. 1511)

A similar process could be extended to reporting under the NDA. For example, the Prime Minister or relevant Minister responsible for disability matters (currently the Minister for Social Services at the Commonwealth level) could table an annual National Disability Report. The report would be more than just a description of data and performance indicators and targets, and would also include a qualitative assessment of progress towards the outcomes in the NDA, including findings and analysis from the evaluations of 'what works' (chapter 4).

The tabling of the report could be accompanied by a speech outlining emerging issues, and whether any targets are on track to be achieved and what key actions are being taken to improve outcomes. Where targets are not on track to be met, or indicators show a movement in the opposite direction to that desired, the Minister could outline possible reasons why. This would help to prompt further consideration and critical evaluation of disability policy settings.

Furthermore, because the performance reporting framework of the NDA and NDS would be the same under our proposal, and result in a single performance reporting document, the National Disability Report should also become the formal reporting mechanism for the NDS beyond 2020.

Given that disability is an area of shared responsibility between the Australian, State and Territory Governments, State and Territory Ministers could table similar reports in their Parliaments, where they do not already do so. There are already some examples of disability reporting in State Parliaments. For example:

- in Western Australia, the Disability Service Commission prepares an annual report presented to Parliament by the Minister for Disability Services, which includes reporting related to disability supports (DSC (WA) 2017). The Commission is comprised of a board, with 14 members from the community who have disabilities, care for those with disability, or have experience in business, government, and disability organisations (DSC (WA) 2017, p. 10)
- in Victoria, the Department of Health and Human Services prepared its first annual report on the State disability plan, presented to Parliament by the Minister for Housing, Disability and Ageing. This progress report included baseline data on outcomes relating to people with disability (DHHS (Vic) 2018a). VCOSS (sub. 52, p. 26) submitted that the Productivity Commission could consider a similar approach as the Victorian

Department of Health and Human Services with respect to performance reporting and tabling in Parliament. The Victorian Disability Advisory Council played a key role in developing the initial state disability plan in Victoria, and has ongoing input in the annual reports. It is made up of people with disability and carers who have experience in policy, governance, and leadership (DHHS (Vic) 2018e).

Reporting to Parliaments is partly contingent, however, on there being sufficient data at the State and Territory level — both in terms of scope and frequency of collection — for such an action to be meaningful.

While the National Disability Report would provide a comprehensive discussion of performance against indicators (and targets), and detail lessons from policy evaluation, the annual Performance Reporting Dashboard could continue to outline progress against the NDA's outcomes, in the same way as it does for the other National Agreements.

The OID report as a model for the National Disability Report?

One potential reporting model for the National Disability Report is the arrangement for the OID report. The OID report is produced by the SCRGSP, comprising representatives of central agencies of the Australian, State and Territory Governments, with secretariat support from the Productivity Commission. It reports against seven COAG targets (box 5.10) as well as many other indicators relating to the health and welfare of Aboriginal and Torres Strait Islander Australians. COAG nominated two core objectives for the OID report:

- to inform Australian governments about whether policy programs and interventions are achieving improved outcomes for Aboriginal and Torres Strait Islander Australians
- to be meaningful to Aboriginal and Torres Strait Islander Australians (SCRGSP 2016, p. 1.2).

The SCRGSP is advised on production of this report by a working group comprising representatives from the Australian, State and Territory Governments, as well as observers from the National Congress of Australia's First Peoples, the ABS and the AIHW (SCRGSP 2016, p. 1.14). This model helps to ensure that the OID report involves government and non-government representation, as well as the necessary statistical expertise required to continually evolve the performance reporting framework.

The National Disability Report could adopt a similar approach to the OID reporting process, with the addition of tabling the report in Parliament (as occurs for Closing the Gap). Responsibility for developing the National Disability Report could be assigned to the SCRGSP, supported by a new working group, with Secretariat functions assigned to the Productivity Commission. The working group would be made up of Australian, State and Territory Government delegates or representatives with disability policy and data expertise, as well as representation from the community of people with disability, the ABS, NDIA and AIHW. This would be the same working group supporting the Senior Officials Working Group of the DRC to support the implementation of the NDA's data strategy (section 5.6).

Consideration could be given to establishing a reference panel of persons and organisations from the disability sector to provide input into the working group's deliberations. Input from people with disability, their families and carers should form a regular part of the process for the preparation of the National Disability Report. The report should include a process of engagement with the broader disability and carer community, which would help to ensure that the perspectives of people with disability and carers is reflected in the report. The National Disability and Carers Advisory Council could play a role in these processes.

The ultimate objective of the report would be to inform Australian Governments and the community about progress towards the NDA's outcomes and associated performance metrics, and whether key policy programs and interventions are achieving improved outcomes for people with disability, their families and carers.

RECOMMENDATION 5.4

Progress towards the outcomes of the new National Disability Agreement (NDA) should be publicly disseminated via a biennial National Disability Report, which the relevant Commonwealth Minister responsible for disability should table in the Australian Parliament. The report should include analysis of:

- progress towards the NDA's outcomes and associated performance metrics
- whether selected policies and programs are achieving improved outcomes for people with disability, their families and carers (using the policy evaluation process outlined in recommendation 4.1).

The National Disability Report should also become the formal reporting mechanism for the National Disability Strategy beyond 2020.

COAG should direct the Steering Committee for the Review of Government Service Provision to develop the report, supported by a (permanent) working group made up of representatives from Australian, State and Territory Governments, people with disability, the ABS, National Disability Insurance Agency and Australian Institute of Health and Welfare.

Arrangements for the development and tabling of the report, and the operation of the working group, should be outlined in the new NDA.

6 A modern disability agreement

Key points

- The attitude of governments and the Australian community towards disability policy has evolved over time, with an increasing focus on the individual needs and aspirations of people with disability. Attention to the needs of families and carers of people with disability is also important.
- To keep pace with these developments, the National Disability Agreement (NDA) should reflect and be informed by a person-centred approach. The preliminaries of a new agreement should affirm a person-centred approach to disability policy. They should also explicitly acknowledge the United Nations Convention on the Rights of Persons with Disabilities and articulate how and to what extent the new NDA is intended to fulfil Australia's commitments under that convention.
- The needs of people with disability extend beyond disability services and people with disability can face unique barriers in accessing mainstream services. To acknowledge the cross-cutting nature of disability, the commitments and obligations of governments under the NDA should be reflected in the other National Agreements — and, where relevant, other Commonwealth–State agreements.
- Going forward, it is essential that the NDA is capable of responding to the evolving policy environment, in order to remain relevant and effective. To facilitate this, the NDA should:
 - be made a 'living document', with detailed arrangements set out in schedules that can be amended or replaced as needed
 - be subject to regular and timely reviews, and include a commitment to review the agreement as a whole every five years.
- The NDA is one of several National Agreements made under the Intergovernmental Agreement on Federal Financial Relations (IGA FFR). This review has uncovered some issues that may point to a need to consider the role of the IGA FFR and its relationship to the suite of intergovernmental agreements that exist today.
- Future reviews of other Commonwealth-State agreements may be able to expand upon the question of whether or to what extent the overarching framework established by the IGA FFR is relevant and effective.

Previous chapters in this report have focused on individual components of the National Disability Agreement (NDA) and have evaluated how the agreement can be improved from that perspective. But it is also important to consider how the NDA is operating as a whole, including how it relates to other disability-specific instruments and disability policy generally.

This chapter discusses issues that relate to the overarching framework of the NDA and considers how the NDA as a whole can be updated to remain relevant and effective.

Section 6.1 argues that, consistent with contemporary approaches to disability policy, a new NDA should have a person-centred approach at its core. Section 6.2 considers strategies for ensuring that, going forward, the NDA is able to continue to respond to the evolving policy environment, in order to remain relevant and effective.

The effectiveness of the NDA is also dependent on the Intergovernmental Agreement on Federal Financial Relations (IGA FFR), which establishes a framework for all National Agreements. Section 6.3 considers some broad issues about the relevance and effectiveness of the IGA FFR.

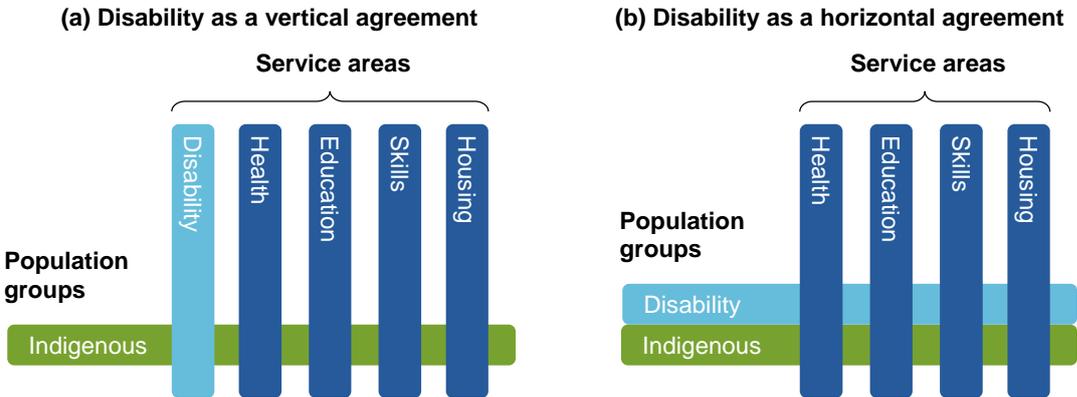
6.1 A person-centred document

Historically, the efforts of Australian governments to improve the wellbeing of people with disability, their families and carers have been primarily directed at providing services through broad-scale government programs (McIntosh and Phillips 2001). The emphasis on service delivery is also reflected in the IGA FFR, which establishes the overarching framework for all National Agreements.

The intent of the Parties in implementing the financial framework is to improve the well-being of all Australians through improvements in the quality, efficiency and effectiveness of *government service delivery* ... (COAG 2008b, cl 8, emphasis added)

According to the former Chair of the COAG Reform Council (McClintock, pers. comm., 25 October 2018), when the National Agreements were initially signed, the majority of the agreements were considered to be ‘vertical’ agreements, covering individual sectors or service areas, whereas the National Indigenous Reform Agreement focused on people and operated ‘horizontally’ across service areas (figure 6.1, panel a). This paradigm recognised the cross-cutting nature of the National Indigenous Reform Agreement and the need for mainstream service provision to take into account the needs of Aboriginal and Torres Strait Islander people and communities.

Figure 6.1 How do Commonwealth–State agreements fit together?



But, over time, the philosophy underpinning disability policy has evolved. In particular, there has been a shift away from a service-based approach to government support for people with disability, towards a person-centred approach (box 6.1). At its core, this represents a shift from providing a ‘menu’ of services to choose from, towards a focus on the individual needs and aspirations of people with disability, as well as the needs of their families and carers. This shift is epitomised by the National Disability Insurance Scheme, which adopts a person-centred model of care and support, to enable participants to exercise choice and control over the services and support they receive (PC 2017d, pp. 67–71).

Box 6.1 A history of the approach to disability in Australia

Until the 1970s, disability policy and planning were focused on the quality of services rather than the quality of life of people with disability. Decisions were typically made on behalf of people with disability by medical professionals, disability service providers and family members (Kirkman 2010, p. 9; PWDA nd).

‘Person-centred’ approaches were conceptualised and began gaining traction in the 1970s and 1980s (Garner and Dietz 1996; O’Brien and Mount 1989; O’Brien and O’Brien 2000). Disability began to be perceived as a social issue and not simply a medical diagnosis (PWDA nd), and this view was reflected in various legislative and policy changes.

The *Disability Services Act 1986* (Cwlth) was passed in Australia and provided a comprehensive framework for the funding and provision of services for people with disability, including advocacy. Subsequently, disability activism and advocacy brought about a number of important changes in the disability landscape, including a general move from institutional to community type services, and the improvement of mental health legislation in various states (PWDA nd).

The Commonwealth State and Territory Disability Agreements (the first of which was signed in 1991) (chapter 1) primarily focused on the provision of disability services. However, they still acknowledged the need for, amongst other things, increased access to mainstream and generic services for people with disability (one of five strategic policy priorities agreed to by all Australian, State and Territory disability ministers) (DSS 2016a).

The adoption and ratification of the United Nations Convention for the Rights of Persons with Disabilities by Australia in 2008 was considered to be an important advancement in the promotion of rights for people with disability (PWDA nd). The Convention affirms several person-centred principles such as choice, independence and social inclusion.

The National Disability Agreement was introduced in 2009. One of five joint reform priorities of governments outlined by the National Disability Agreement was ‘strategies for increased choice, control and self-directed decision making’ (DSS 2016b).

In 2012, the National Disability Strategy was introduced to address the ongoing barriers faced by people with disability in mainstream services. Policies and practices developed under the National Disability Strategy reflect and reinforce several approaches including a person-centred approach (COAG 2011a, p. 23).

The National Disability Insurance Scheme was initiated in 2013 and uses ‘person-centred planning’ as its main framework for planning for people with disability. Self-directed funding is one component of this — participants are given considerable freedom in shaping the supports that fit their individual and evolving needs, allowing them genuine choice and control (PC 2011, p. 346).

In light of these developments, it is important that the new NDA reflects and is informed by a person-centred approach to disability policy (Anglicare Australia, sub. 18, p. 4; AIHW, sub. 58; pp. 5–6; CMHA, sub. 6, p. 5; NSW Government, sub. 65, p. 7).

In the current NDA, governments have agreed to ‘concentrate initial national efforts in several reform priority areas ... [including] *Strategies for Increased Choice, Control and Self-directed Decision-making*’ (COAG 2012c, cl 28), but this focus does not permeate the agreement as a whole. During consultation, the Commission heard that the NDA is largely considered to be an agreement about service provision (for example, South Australian Government, sub. 63, p. 4). In part, this is because, despite the NDA’s broad objective, its scope is primarily focused on the delivery of specialist disability services (JFA Purple Orange, sub. 62, p. 10; chapter 1).

There is also growing recognition that people with disability can face unique barriers in accessing mainstream services (NPDCC 2009, p. vi), and that mainstream service provision should take into account the needs of people with disability (Bruce Bonyhady, sub. 48, p. 3; VCOSS, sub. 52, p. 20). Not only can their needs be complex, but underlying issues (such as trauma associated with abuse) can be overlooked or minimised in a mainstream setting. Given that specialist disability services have been rolled into the National Disability Insurance Scheme, the new NDA also needs to acknowledge that the needs of people with disability extend beyond disability services (chapter 3).

The Commission considers that the new NDA should have a person-centred approach at its core (box 6.2). In other words, the NDA needs to be reconceptualised as a ‘horizontal’ agreement that interacts with all other agreements (figure 6.1, panel b). This aligns with the Commission’s recommendation for the outcomes of the new NDA to be broadened (chapter 2) and to adopt a person-centred performance reporting framework (recommendation 5.1).

A key challenge is the question of how the individual needs and aspirations of people with disability can be brought to the fore in the NDA. In this vein, some participants identified a need to promote, protect and uphold the individual rights of people with disability (Anglicare Australia, sub. 18, p. 7; BCA, sub. 51, p. 9; PDCN, sub. 8, p. 2; PWSA, sub. 12, p. 4). This is especially true for groups affected by multiple disadvantages or vulnerabilities. For example:

CALD [culturally and linguistically diverse] Australians may have lower levels of English language literacy, lower levels of knowledge regarding Australian government services and lower levels of knowledge regarding their rights. (FECCA, sub. 29, p. 4)

People with disability are also at risk of experiencing abuse or neglect at the hands of their families or others providing informal supports (NSW Ombudsman 2018). As Women with Disabilities Australia said:

Evidence demonstrates that people with disability are at a far greater risk of experiencing violence, abuse, neglect and exploitation than others in the population and this often goes un-recognised and un-addressed. Women and girls with disability are at far greater risk of

violence, and children and young people with disability experience violence and abuse at approximately three times the rate of children without disability. (sub. 16, p. 11)

Box 6.2 **Key principles of a person-centred approach**

A person-centred approach is underpinned by several interrelated principles.

- *Putting the person at the centre*: the main objective of disability policy and planning is to improve the lives of people with disability, not simply to provide disability services.
- *Autonomy and agency*, including:
 - choice and control — people with disability are able to take control of their own lives and make genuine choices
 - self-determination — people with disability are actively involved in decision-making processes that affect their own lives, including in the development and evaluation of disability policy
 - independence — people with disability are empowered to maintain independence in their daily lives.
- *Social inclusion*: people with disability are able to participate and engage meaningfully in their communities and in wider society. This includes building community capacity and networks for people with disability, their families and carers.
- *Citizenship*: people with disability are active citizens, capable of contributing to society and are entitled to the support they need to function as citizens.

Sources: Kirkman (2010, pp. 26–39), NCOSS (2013, p. 10).

For this reason, many participants to this study argued that a new NDA should be informed by or reflect Australia’s commitments under various international conventions — but, in particular, the United Nations Convention on the Rights of Persons with Disabilities (BCA, sub. 51, pp. 3-4; CMHA, sub. 6, p. 8; CYDA & YPINH, sub. 49, p. 4; FPDN, sub. 33, p. 5; Bruce Bonyhady, sub. 48, p. 1; PWDA, sub. 59, p. 4; QDN, sub. 53, p. 2; VCOSS, sub. 52, p. 20; WWDA, sub. 16, pp. 4–7).¹³ For example:

As a Party to the CRPD, Australia has an obligation to ensure the human rights of people with disability are upheld. Australia’s commitment to its obligations under the CRPD is embedded in the NDA, the NDS and the National Disability Insurance Scheme Act 2013. The CRPD is therefore fundamental to framing and assessing the actions and responsibilities of Australian Governments under the NDA ...

[We recommend] A future NDA clearly articulates that the Agreement gives key consideration to and aligns with Australia’s obligations under the CRPD and other relevant human rights obligations. (CYDA & YPINH, sub. 49, p. 4)

¹³ Participants highlighted the relevance of other international instruments, including: the United Nations Convention on the Elimination of All Forms of Racial Discrimination, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and the United Nations Convention on the Rights of the Child.

The remainder of this section puts forward strategies for re-orienting the NDA as a person-centred document. But, ultimately, the success of the NDA as a vehicle for addressing the individual needs and aspirations of people with disability, and the needs of their families and carers, hinges on the desire and commitment of governments to make it so. While a National Agreement can reflect the shared intent of signatory governments, it cannot bind them to certain beliefs or ways of thinking. As such, entrenching a person-centred approach in government policy and actions cannot be achieved by including in the agreement particular words or mechanisms alone; instead, it will be need to be the product of the ongoing efforts and commitment of governments and the disability sector.

A statement in the preliminaries

The Commission considers that the preliminaries of the new NDA should reflect a commitment to a person-centred approach to disability policy. For example, the preliminaries could state:

The National Disability Agreement has been established to affirm the commitment of all governments to improving outcomes for Australians affected by disability, by recognising and addressing the individual needs, goals and aspirations of people with disability, as well as the needs of their families and carers.

As discussed above, many participants also thought that the NDA should be based on a foundational set of rights. In this vein, the Commission considers that the preliminaries of the NDA should also include an explicit acknowledgment of the United Nations Convention on the Rights of Persons with Disabilities and include a clear statement of how and to what extent the new NDA is intended to fulfil Australia's commitments under that convention. For example:

The Parties are committed to the vision of an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens. This agreement will assist governments in meeting Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities to ensure, promote and recognise that people with disability are entitled to all human rights and fundamental freedoms, without discrimination of any kind on the basis of disability.

RECOMMENDATION 6.1

In drafting the new National Disability Agreement (NDA), signatory governments should commit to a person-centred approach to disability policy, which seeks to recognise and address the rights, needs and aspirations of people with disability. The preliminaries of the new NDA should affirm this approach.

The preliminaries should also explicitly acknowledge the United Nations Convention on the Rights of Persons with Disabilities and articulate how and to what extent the new NDA is intended to fulfil Australia's commitments under that convention.

‘Cutting across’ other agreements

In order to enshrine the cross-cutting nature of the NDA, the Commission considers that the commitments and obligations of governments under the NDA should be reflected in the other National Agreements — and, where relevant, other Commonwealth–State agreements (including National Partnership agreements). This includes responsibilities, performance targets and policy commitments, insofar as they relate to the sector or service area covered by that agreement. This is intended to recognise the issues that people with disability face in accessing those services, and the obligations governments have to address them.

To facilitate this, the new NDA should include a commitment by governments to reflect the obligations of governments under the NDA in other National Agreements — and, where relevant, other Commonwealth–State agreements. This is consistent with how Indigenous issues are captured across the various National Agreements (box 6.3). In line with this approach, it may also be appropriate for the outputs of a new NDA to be linked to the outputs of other National Agreements (as is done in the National Indigenous Reform Agreement). This is because many services to people with disability are delivered through mainstream services, and not just through disability services.

For each of the other National Agreements and other relevant Commonwealth–State agreements, there are several ways in which governments could reflect commitments under the NDA, including:

- adding a reference to the NDA in those other agreements
- restating commitments and obligations under the NDA and its schedules (such as responsibilities, performance targets and policy commitments), to the extent that they relate to the area covered by that agreement
- expanding on the NDA — for example, the other agreements could include commitments to performance indicators and targets related to the relevant mainstream service area (Bruce Bonyhady, sub. 48). However, this approach could undermine the purpose of the NDA in providing a unified framework for disability policy and a comprehensive and a nationally coherent performance reporting arrangement under the NDA (chapter 2).

Future reviews of the other agreements could consider how the commitments and obligations of governments under the NDA can best be reflected in those agreements.

RECOMMENDATION 6.2

To enshrine the cross-cutting nature of the National Disability Agreement (NDA), the obligations of governments under the NDA should be reflected in other National Agreements — and, where relevant, other Commonwealth–State agreements.

To facilitate this, the new NDA should include a commitment to reflect, in those other agreements, the responsibilities, performance targets and policy commitments of governments under the NDA.

Box 6.3 Indigenous issues cut across all the National Agreements

The cross-cutting nature of the National Indigenous Reform Agreement (NIRA) and its linkages with other National Agreements are acknowledged in the preliminaries of the document:

This National Indigenous Reform Agreement has been established to frame the task of Closing the Gap in Indigenous disadvantage ... It also provides links to those National Agreements and National Partnership agreements across COAG which include elements aimed at Closing the Gap in Indigenous disadvantage. (COAG 2012e, cl 4)

As such, the NIRA specifies its outputs in relation to other National Agreements:

Outputs describe the services that are being delivered to achieve outcomes. Links to the National Agreements and National Partnerships which contain Indigenous specific outputs are at Schedule C. (COAG 2012e, cl 21)

Schedule C specifies 'building blocks' for achieving the outcomes of the NIRA. For each building block, the schedule identifies other intergovernmental instruments, including National Agreements, under which services are delivered that have a bearing on Indigenous life outcomes. For example, one of the building blocks in Schedule C is 'Health'. For this building block, the schedule identifies the National Healthcare Agreement and the National Disability Agreement as essential instruments for delivering improved Indigenous health outcomes.

Pursuant to this schedule, the Indigenous issues and the NIRA are referenced in all other National Agreements. For example, the National Healthcare Agreement:

- affirms a commitment to addressing Indigenous disadvantage
- sets out an objective and expected outcomes, with a focus on social inclusion and addressing Indigenous disadvantage
- includes an outcome for 'Social Inclusion and Indigenous Health', and policy directions and priority reform areas specifically relating to Indigenous health
- requires performance indicators to be disaggregated by Indigenous status where possible
- has performance benchmarks relating to life expectancy for Indigenous Australians, the mortality rate of Indigenous children and the Indigenous smoking rate
- includes policy directions and priority reform areas specifically relating to Indigenous health (COAG 2012d).

Genuine engagement and consultation

The NDA can also support a person-centred approach through genuine engagement and consultation. Throughout this report, the Commission has recommended engagement and consultation with stakeholders and experts in relation to:

- establishing the outcomes of the new NDA (chapter 2)
- identifying priority areas for policy and program evaluation (chapter 4)
- developing the performance reporting framework, including indicators and benchmarks (chapter 5)
- the preparation of the National Disability Report (chapter 5).

In order to be meaningful, these consultation processes should allow participants a reasonable amount of time to prepare and provide feedback about issues of concern (NCOSS 2013, p. 10).

6.2 A contemporary document

The disability landscape has changed significantly over the past few years and, with the introduction of the National Disability Insurance Scheme, will continue to do so for years to come. Given the pace of this change, it is essential that any intergovernmental instruments relating to disability are capable of responding to shifting circumstances, in order to remain relevant and effective.

There is a widespread view that the NDA has failed to keep pace with developments in disability policy. And many participants to this study considered that the NDA is in need of an update (CMHA, sub. 6, p. 1; CYDA, sub. 49, p. 2; Queensland Government, sub. 68, p. 3; Sylvanvale, sub. 22, p. 4; WWDA, sub. 16, p. 4). For example, Bruce Bonyhady said:

The NDA should be radically changed because of the total restructuring of disability funding arrangements between the Commonwealth and States and territories which will be complete once the National Disability Insurance Scheme (NDIS) is fully rolled out ... In the absence of a major restructuring and refocusing, the NDA will not be fit for purpose, once the NDIS is fully operational. (sub. 48, p. 2)

Other chapters in this report have made recommendations for updating the NDA to meet present-day requirements, including a statement of roles and responsibilities that reflects contemporary policy settings (chapter 3) and an improved performance reporting framework (chapter 5). This section puts forward two measures to help ensure that, going forward, the NDA is able to respond to the evolving policy environment, in order to remain relevant and effective.

Make use of schedules

The first measure is to make the NDA a ‘living document’. In practice, this could be achieved by restructuring the agreement such that broad points of agreement are contained in the body of the document, with more detailed arrangements set out in schedules (or annexures) to the document. This is the structure adopted by the IGA FFR, which is:

... designed to be a living document, with detailed arrangements set out in schedules which can be updated as necessary, with the agreement of COAG. (COAG 2011b)

And the practice of using schedules has already been adopted for some of the other National Agreements, including:

- the National Education Agreement (COAG 2012a), which includes schedules relating to funding for specific programs, a forward work plan and performance reporting

-
- the National Healthcare Agreement (COAG 2012d), which includes schedules relating to data and definitions
 - the National Indigenous Reform Agreement (COAG 2012e), which has schedules that contain strategies, general principles relating to implementation, performance targets and agreements relating to data.

A key feature of this approach is that it creates a modular instrument: the overall agreement would comprise several discrete parts, each of which can be updated or replaced (with the agreement of governments) as necessary. In particular, it is envisaged that the various schedules would each cover different areas of how the agreement is to work in practice.

In this schema, the new NDA would provide an overarching framework for intergovernmental instruments relating to disability policy. The National Disability Strategy (NDS) would sit within the framework set out by the NDA, as a schedule. At the very least, the Commission considers that the NDA should include schedules pertaining to:

- detailed arrangements relating to roles and responsibilities (chapter 3), including interface arrangements between the National Disability Insurance Scheme and mainstream services (the Applied Principles and Tables of Support)
- an action plan for delivering on the objectives and outcomes of the NDA (chapter 4) — that is, the NDS
- operational matters relating to policy and program evaluation (chapter 4)
- detailed arrangements relating to performance reporting, including performance indicators and a data strategy (chapter 5).

As a matter of practicality, confining clauses about operational matters to schedules may reduce the cost of updating those clauses. This is because the delineation between different schedules imposes a sensible ‘boundary’ around what needs to be reviewed or renegotiated in order to give effect to an update, rather than opening up the entire agreement to wholesale review.

At the same time, the use of schedules creates an opportunity to unify the various agreements, strategies and policies relating to disability into a single framework (chapter 2). This will also enable the multiple performance reporting arrangements relating to disability to be rationalised and unified (as discussed in chapter 5).

The move to make the NDA the overarching document structure is not intended to diminish the significance of the NDS (or indeed any of the schedules). Rather, by clearly placing it within a broader framework that has defined performance reporting and policy evaluation requirements, the intention is to improve accountability in relation to the policy actions and commitments outlined in the NDS. The inclusion of strategies within the schedules of a

National Agreement is also not without precedent — in particular, the National Indigenous Reform Agreement includes:

- Schedule A: National Integrated Strategy for Closing the Gap in Indigenous Disadvantage
- Schedule B: National Urban and Regional Service Delivery Strategy for Indigenous Australians
- Schedule H: National Food Security Strategy.

Commit to regular reviews

At present, the NDA contains little provision for the future of the agreement, including how it will respond to the changing policy environment. The only clause on this matter is a general commitment ‘to work together to review the priority reform areas from time-to-time in light of emerging priorities at the national and local level’ (COAG 2012c, cl 31).

By contrast, some other Commonwealth–State agreements contain clauses that specify when or under what circumstances the agreement as a whole will be reviewed. For example, the National Health Reform Agreement specifies:

A review of this Agreement will be commissioned by COAG and undertaken by a panel of reviewers agreed by COAG. The first review will occur in 2015-16, or later if agreed by COAG, and will be set against the objectives in this Agreement outlined in clause 3 ... (COAG 2011c, cl 18)¹⁴

To the extent that they are observed, clauses that mandate the review of an agreement can impose a discipline on the parties to evaluate whether the agreement in question is of ongoing relevance to the policy space at particular points in time. Properly timed reviews can safeguard against an agreement falling too far out of date and losing relevance.

For this reason, the Commission recommends that regular review points and clear triggers for review (such as a date or an event) be built into any future intergovernmental arrangements — whether in the form of an agreement, strategy or otherwise. Whereas the incorporation of schedules into the NDA will facilitate the ongoing evolution of the agreement’s operational aspects, it is envisaged that independent reviews will look at the agreement as a whole. This includes consideration of whether the overall architecture of the NDA remains up-to-date and appropriate.

¹⁴ Although a commissioned review of the agreement has not occurred, significant amendments to the agreement have been introduced within roughly the same timeframe. On 1 April 2016, members of COAG signed a Heads of Agreement relating to public hospital funding (COAG 2016). As a result, an addendum to the National Health Reform Agreement was introduced on 1 July 2017, which made a range of amendments to the agreement (COAG 2017c). The amendments will remain in effect until 30 June 2020.

RECOMMENDATION 6.3

The new National Disability Agreement (NDA) should be a 'living document' and make use of schedules to set out more detailed arrangements or operational matters, with the schedules amended as circumstances warrant.

It should also include an explicit commitment to independently review the agreement as a whole every five years.

6.3 Broader issues relating to the IGA FFR framework

The IGA FFR is the overarching agreement governing all National Agreements, of which the NDA is one. The IGA FFR was developed in recognition that, while State and Territory Governments have primary responsibility for many policy areas, coordinated action in those areas may be necessary or beneficial (COAG 2008b). Another important element of the IGA FFR was the agreement to improve accountability of governments to the community, through more transparent performance reporting of outcomes, supported by the independent COAG Reform Council. The IGA FFR is also the mechanism through which the Australian Government has committed to provide ongoing financial support to service delivery by the States and Territories.

But there have been significant developments in intergovernmental relations and the policy environment since the IGA FFR was agreed to in 2008.

- There have been changes in funding arrangements, with a shift away from the use of National Specific Purpose Payments (box 6.4). For disability, the National Specific Purpose Payment will be rolled into funding arrangements for the National Disability Insurance Scheme over the next two years, although there may be a need to devise funding arrangements for specific programs or areas of work (such as the improved performance reporting arrangements recommended in chapter 5).
- There have been changes in administrative and institutional arrangements that are not currently reflected in the IGA FFR. In particular, the IGA FFR still refers to the COAG Reform Council (COAG 2008b, cl 18), even though the Council was abolished in 2014 (Commonwealth of Australia 2014, p. 187).
- At present, the IGA FFR is silent about how the various National Agreements and other Commonwealth–State agreements relate to each other. But, as discussed in section 6.1, the needs of people with disability cut across many government service areas, and would benefit from an explicit statement about how the NDA interacts with other National Agreements. Future reviews of other agreements may uncover similar boundary or intersectional issues.

Together, these factors point to a need to consider whether the IGA FFR itself needs updating.

Box 6.4 National Agreements and Specific Purpose Payments

Specific Purpose Payments (SPPs) are grants from the Commonwealth to the States and Territories, usually subject to conditions about how the funds are to be spent.

Historically, all National Agreements except the National Indigenous Reform Agreement were associated with a National SPP, to be spent on the relevant service delivery area. These payments were not tied to performance benchmarks set out in the relevant National Agreement and, importantly, could not be withheld if those benchmarks were not met.

Over time, there has been a move away from funding through National SPPs. Currently, there are two National SPPs through which the Commonwealth makes payments: the National Skills and Workforce Development SPP and the National Disability Services SPP. The National SPPs associated with the National Agreements for health, education and housing have been replaced with tied funding arrangements set out in new Commonwealth-State agreements that, in some cases, continue to operate alongside the National Agreements. Similarly, tied funding arrangements were established under the National Housing and Homelessness Agreement, which has replaced the National Affordable Housing Agreement (COAG 2018e, cl 9). The National SPP for disability will also be rolled into funding arrangements for the National Disability Insurance Scheme over the next two years (Commonwealth of Australia 2016, p. 38).

That said, a comprehensive consideration of this question is not possible as part of this study. This is because this study has focused on issues relating to the NDA. In line with the Australian Government's 2017-18 Budget commitments, it is the first of several 'independent reviews of nationally significant sector-wide agreements' (Commonwealth of Australia 2017, p. 169). As a result, the consultation undertaken and the evidence received has centred on the relevance and effectiveness of the NDA — which has provided only a partial insight into the IGA FFR as an overarching framework.

Future reviews of other agreements may be able to expand upon the question of whether or to what extent the IGA FFR is relevant and effective. These reviews will help build a broader evidence base for determining whether the developments in intergovernmental relations since 2008 necessitate a revised federal financial relations framework. Successive reviews may also uncover common themes and cross-cutting issues that are more effectively addressed through the overarching framework, rather than separately through the individual agreements.

A Public Consultation

In keeping with its standard practice, the Productivity Commission has actively encouraged public participation in this study. This appendix describes the stakeholder consultation process undertaken and lists the organisations and individuals that have participated.

The terms of reference for the study — reproduced in the preliminary pages of this report — was received from the Treasurer on 25 May 2018. An initial circular advertising the study was distributed to relevant organisations and individuals, and the study was advertised in national newspapers.

An issues paper was released on 24 July 2018. Following the release of the issues paper, 72 public submissions were received (table A.1). All public submissions are available on the study website.

As detailed in table A.2, consultations were held with representatives from Australian, State and Territory Government departments and agencies, a range of advocacy organisations and academics and others specialising in disability policy. The Commission held three Roundtables in Canberra and Melbourne (table A.3).

The final study report was delivered to the Australian Government on 25 January 2019. The Commission thanks all parties who have contributed to this inquiry.

Table A.1 Public submissions received

| <i>Participants</i> | <i>Submission no.</i> |
|--|-----------------------|
| Aged and Disability Advocacy Australia (ADA Australia) | 26 |
| Allied Health Professions Australia (AHPA) | 54 |
| Amaze | 9 |
| Anglicare Australia | 18 |
| Australian Allied Health Leadership Forum (AAHLF) | 67 |
| Australian Association of Social Workers (AASW) | 45 |
| Australian Bureau of Statistics (ABS) | 17 |
| Australian College of Nursing (ACN) | 31 |
| Australian Institute of Health and Welfare (AIHW) | 58 |
| Australian Network on Disability (AND) | 14 |
| Australian Psychological Society (APS) | 41 |
| Australian Services Union (ASU) | 47 |
| Blind Citizens Australia (BCA) | 51 |
| Bonyhady, Bruce | 48 |
| Brotherhood of St Laurence (BSL) | 55 |
| Carers Australia | 42 |
| Carers Victoria | 56 |
| Children and Young People with Disability Australia (CYDA) and Young People in Nursing Homes National Alliance (YPINHNA) | 49 |
| Community Mental Health Australia (CMHA) | 6 |
| Couzens, Julie | 30 |
| Curtain, Olivia | 2 |
| Darwin Community Legal Service (DCLS) | 35 |
| Department of Social Services (DSS) | 71 |
| Developmental Educators Australia Inc (DEAI) | 64 |
| Dietitians Association of Australia (DAA) | 34* |
| Early Childhood Intervention Australia (ECIA) | 21 |
| Federation of Ethnic Communities' Councils of Australia (FECCA) | 29 |
| First Peoples Disability Network (FPDN) | 33 |
| Handmer, Kieran | 27 |
| Harrison, Jessica | 32 |
| Horrell, Margaret | 4 |
| Humphris, Shirley | 11 |
| Jacobson, Louise | 3 |
| JFA Purple Orange | 62 |
| Jointcare | 10 |
| Macular Disease Foundation Australia (MDFA) | 15 |
| Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (MECFS) | 23 |
| Mental Health Australia (MHA) | 20 |
| Mental Illness Fellowship of Australia (MIFA) | 24 |
| Mills, Marie | 7 |

* Includes attachment

(continued next page)

Table A.1 (continued)

| <i>Participants</i> | <i>Submission no.</i> |
|---|-----------------------|
| Name withheld | 69 |
| Name withheld | 70 |
| Napier, David | 5 |
| National Disability Services | 36 |
| National Mental Health Commission (NMHC) | 13 |
| NSW Carers Advisory Council (NCAC) | 60 |
| NSW Government | 65* |
| Occupational Therapy Australia (OTA) | 25 |
| People with Disability Australia (PWDA) | 59 |
| Physical Disability Council of NSW (PDCN) | 8 |
| Plummer, Ken | 50 |
| Prader-Wili Syndrome Australia (PWSA) | 12 |
| Public Advocate (Qld) | 19 |
| Queensland Advocacy Incorporated (QAI) | 40 |
| Queensland Government | 68 |
| Queensland Law Society (QLS) | 44 |
| Queenslanders with Disability Network (QDN) | 53 |
| Robison, Elizabeth | 1 |
| Services for Australian Rural and Remote Allied Health (SARRAH) | 57 |
| Smith, Michael | 39 |
| South Australian Government | 63 |
| Summer Foundation | 43 |
| Sylvanvale | 22 |
| Tandem | 28 |
| Tasmanian Government | 61 |
| Therapy 4 kids | 38 |
| Varghese, Bijil | 46 |
| Victorian Council of Social Services (VCOSS) | 52 |
| Victorian Government | 66 |
| Vision Australia | 37 |
| WA Government | 72 |
| Women with Disability Australia (WWDA) | 16 |

Table A.2 **Consultations**

Participants (listed by State/Territory)

Australian Capital Territory

ACT Government
Australian Bureau of Statistics
Australian Federation of Disability Organisations
Australian Institute of Health and Welfare
Carers Australia
Commonwealth Treasury
Deafness Forum Australia
Department of Social Services
Department of the Prime Minister and Cabinet (PM&C)
Disability Advocacy Network Australia (DANA)
Mental Health Australia
National Disability Services
People with Disability Australia

New South Wales

Australian Council of Social Services (ACOSS)
First Peoples Disability Network
Fisher, Karen - University of New South Wales
Gilroy, John - Disability Advocacy Services, Alice Springs
Mental Health Coordinating Council
NSW Carers Advisory Council
Department of Family and Community Services (NSW)
Department of Premier and Cabinet (NSW)
Treasury (NSW)
People with Disability Australia
Quality and Safeguards Commission

Northern Territory

Council of Social Services (NT)
Darwin Community Legal Service
Department of Chief Minister, Health and Treasury (NT)
Integrated Disability Action (NT)
Mental Health Coordinating Council (NT)

Queensland

Queensland Alliance for Mental Health
Queensland Disability Advisory Council
Queensland Disability Advisory Network
Queensland Officials Omnibus

(continued next page)

Table A.2 (continued)

Participants (listed by State/Territory)

South Australia

Department of Health and Aging (SA)
Department of Human Services (SA)
Department of Premier and Cabinet (SA)
Department of Treasury and Finance (SA)
JFA Purple Orange

Tasmania

Department of Communities (TAS)
Department of Health and Human Services(TAS)
Department of Premier and Cabinet (TAS)
Department of Treasury and Finance (TAS)
Women with Disabilities Australia

Victoria

Amaze
Bonyhady, Bruce
Department of Health and Human Services (VIC)
Department of Premier and Cabinet (VIC)
National Disability Insurance Agency (NDIA)
Stokie, Martin
Treasury (VIC)
Victorian Council of Social Services
Young People in Nursing Homes

Western Australia

WA Council of Social Services
WA Government
WA National Disability Services

Table A.3 Roundtables

Participant

18 September 2018 — Canberra

ACT Office for Disability
ACT Policy and Cabinet
Australian Bureau of Statistics (ABS)
Australian Federation of Disability Organisations
Australian Institute of Health and Welfare
Bonyhady, Bruce — University of Melbourne
Brotherhood of St Laurence
Davy, Laura — University of New South Wales
Department of Family and Community Services (NSW)
Department of Health and Human Services (VIC)
Department of Premier and Cabinet (NSW)
Department of Premier and Cabinet (SA)
Department of Premier and Cabinet (VIC)
Department of Social Services
Kavanagh, Anne — University of Melbourne
National Disability Insurance Agency
Olney, Sue — University of New South Wales
Smith-Merry, Jennifer — University of Sydney

25 September 2018 — Melbourne

Brotherhood of St Laurence
Children and Young People with Disability (CYDA)
Community Mental Health Australia
Department of Health and Human Services (VIC)
Department of Human Services (SA)
Department of Premier and Cabinet (VIC)
Department of Premier and Cabinet (WA)
First Peoples Disability Network
People with Disability Australia

26 September 2018 — Canberra

ACT Office for Disability
Australian Local Government Association
Carers Australia
Department of Social Services
Department of the Prime Minister and Cabinet

(continued next page)

Table A.3 (continued)

Participant

26 September 2018 — Canberra

Department of Communities (QLD)

Department of Family and Community Services (NSW)

Department of Premier and Cabinet (NSW)

Fisher, Karen — University of New South Wales

Mental Health Australia

National Disability Insurance Agency

National Ethnic Disability Alliance

Women with Disabilities ACT

Young People in Nursing Homes

B NDA performance indicators

The performance framework of the National Disability Agreement (NDA) is set out in a hierarchy with the overall objective achieved through three outcomes.

- People with disability achieve economic participation and social inclusion.
- People with disability enjoy choice, wellbeing and the opportunity to live as independently as possible.
- Families and carers are well supported.

These outcomes are supported by nine indicators (three for each outcome), which are tracked with one or more measures. This appendix assesses progress against the indicators.

B.1 Outcome A: economic participation and social inclusion

There are three indicators that measure progress toward this outcome.

- Proportion of people with disability participating in the labour force.
- Proportion of people with disability who participate in social and community activities.
- Proportion of income support recipients with disability who report earnings.

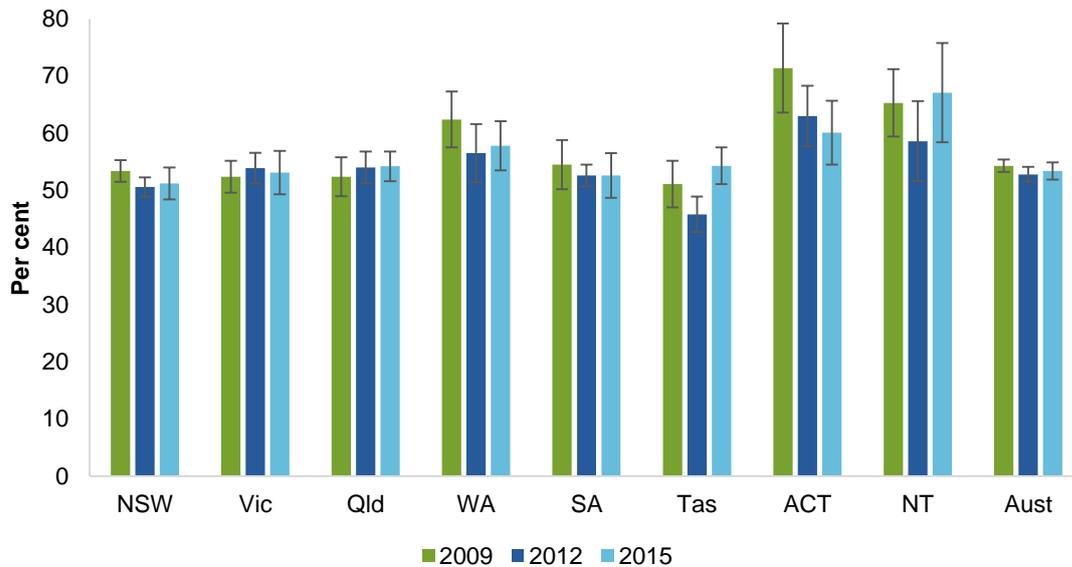
Proportion of people with disability participating in the labour force

Labour force participation and employment of people with disability is defined by four measures in the Report on Government Services (RoGS).

- Labour force participation rate: the number of people with disability aged 15–64 years who are in the labour force (employed or unemployed) divided by the number of people with disability aged 15–64 years (figure B.1).
- Employment-to-population ratio: the number of people with disability aged 15–64 years who are employed divided by the number of people with disability aged 15–64 years (figure B.2).
- Unemployment rate: the number of people with disability aged 15–64 years who are unemployed divided by the number of people with disability aged 15–64 years who are in the labour force (employed or unemployed).

- Underemployment rate: the proportion of people with disability aged 15–64 years who usually work less than 35 hours a week, but are willing and able to work more hours.

Figure B.1 **Labour force participation rate of people with people with disability^a**



^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.73).

Across Australia, the labour force participation rate for people with disability declined by 0.9 percentage points from 2009 to 2015, though performance across the States and Territories has been mixed, with some States and Territories registering an increase.

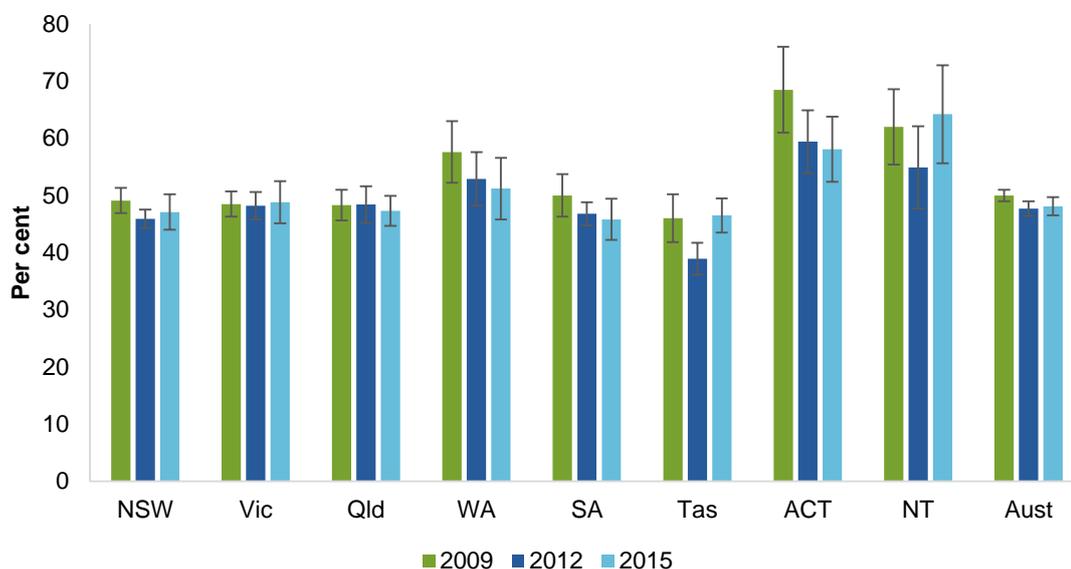
The national employment-to-population ratio declined from 2009 to 2015, from 50 per cent to 48.1 per cent. Larger States and Territories exhibited a similar trend, with the exception of Tasmania and the Northern Territory, where the unemployment rate dropped in 2012.

The national unemployment rate for people with disability was approximately 10 per cent in 2015, having increased by 2.2 percentage points from 2009 (SCRGSP 2018, table 15A.75). The underemployment rate has been recorded in the RoGS for only two periods, increasing by 1.2 percentage points from 8.9 per cent to 10.1 per cent in 2015 (SCRGSP 2018, table 15A.72).

Changes to these four measures of economic participation have not been statistically significant, both at the national level and also for the majority of the States and Territories.¹⁵

¹⁵ Although measures may show an increase or decrease, these changes are often not statistically significant. Because these measures come from sample data, statistics are reported with 95 per cent confidence

Figure B.2 **Employment-to-population ratio of people with disability^a**



^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.74).

Proportion of people with disability who participate in social and community activities

Social participation outcomes have declined over time.

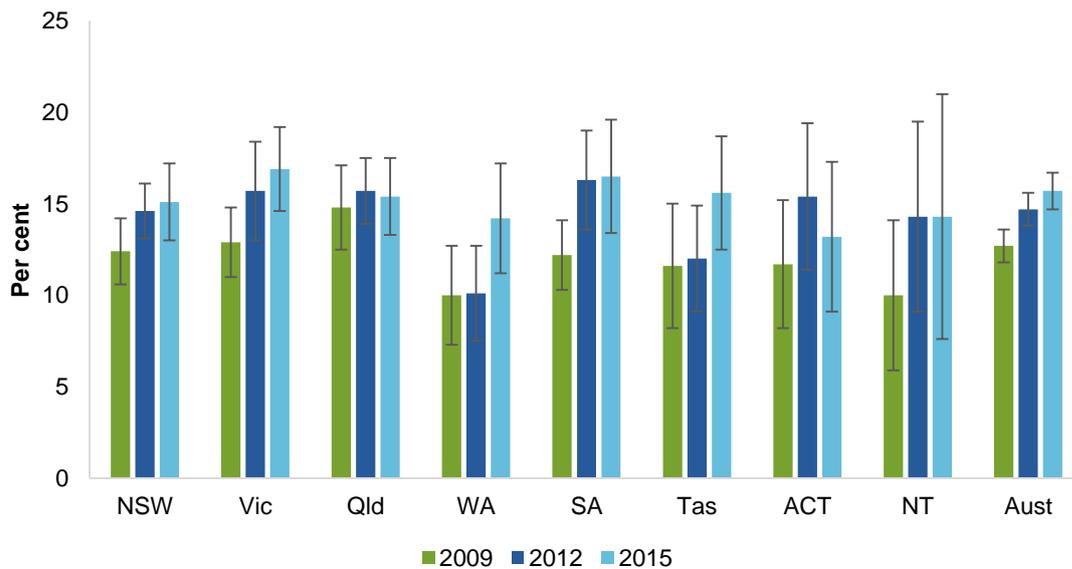
- Nationally, for people with disability aged 15–64 years, the proportion of people who:
 - had face-to-face contact with ex-household family or friends in the previous week decreased by 5.2 percentage points, from 76.6 per cent in 2009 to 71.4 per cent in 2015 (SCRGSP 2018, table 15A.89)
 - travelled to a social activity within the previous two weeks decreased by 3 percentage points, from 93.6 per cent in 2009 to 90.6 per cent in 2015 (SCRGSP 2018, table 15A.90).
- Nationally, for people with disability aged 5–64 years, the proportion who reported their disability as the main reason for not leaving home as often as they would like increased by 3 percentage points, from 12.7 per cent in 2009 to 15.7 per cent in 2015 (figure B.3).

Similar to the indicators measuring economic participation, changes across these three measures were not statistically significant, with the exception the proportion of people for

intervals, meaning there is a 5 per cent chance the estimate is outside the bounds of the confidence interval. When comparing one period to another, a crude approach to assessing if changes are statistically significant is if the confidence intervals of the two periods do not overlap.

whom the main reason for not leaving home was disability, where there was a statistically significant increase at the national level from 2009 to 2012.

Figure B.3 Proportion of people with disability for whom the main reason for not leaving home was disability^a



^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.91).

Proportion of income support recipients with disability who report earnings

This indicator is currently not reported in RoGS, but is supported by two measures.

- Proportion of Disability Support Pension recipients aged 16–64 who report earnings.
- Proportion of Newstart and Youth Allowance recipients with disability who have an assessed future work capacity of 0–14 hours or 15–29 hours per week, who report earnings.

The most recent data captured for these measures were published as part of the Commission’s National Agreement Performance Reporting for 2012-13. The proportion of Disability Support Pension recipients reporting earnings was 8.5 per cent (SCRGSP 2013, p. 210), while the proportion of people with disability receiving Newstart or Youth Allowance who report earnings was 15.7 per cent (SCRGSP 2013, p. 215).

B.2 Outcome B: choice, wellbeing and independent living

There are three indicators that measure progress toward this outcome.

- Proportion of people with disability accessing disability services.
- Proportion of people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided.
- Proportion of younger people entering, living in, and exiting, permanent residential aged care.

Proportion of people with disability accessing disability services

This indicator is supported by three measures comparing service users against the potential population of people who may be eligible for specialist disability services (SCRGSP 2013, p. 15).

- Proportion of the potential population aged 0–64 years who used State/Territory delivered disability support services (figure B.4).
- Proportion of people with disability aged 15–64 years with an employment restriction¹⁶ who used Disability Employment Services (Open Employment) (figure B.5). These services provide assistance in obtaining and/or retaining paid employment in the open labour market.
- Proportion of the potential population aged 15–64 years who used Australian Disability Enterprises (Supported Employment) (figure B.6). These services provide employment opportunities and assistance to people with disability to work in specialised and supported work environments (AIHW 2009, p. 6).

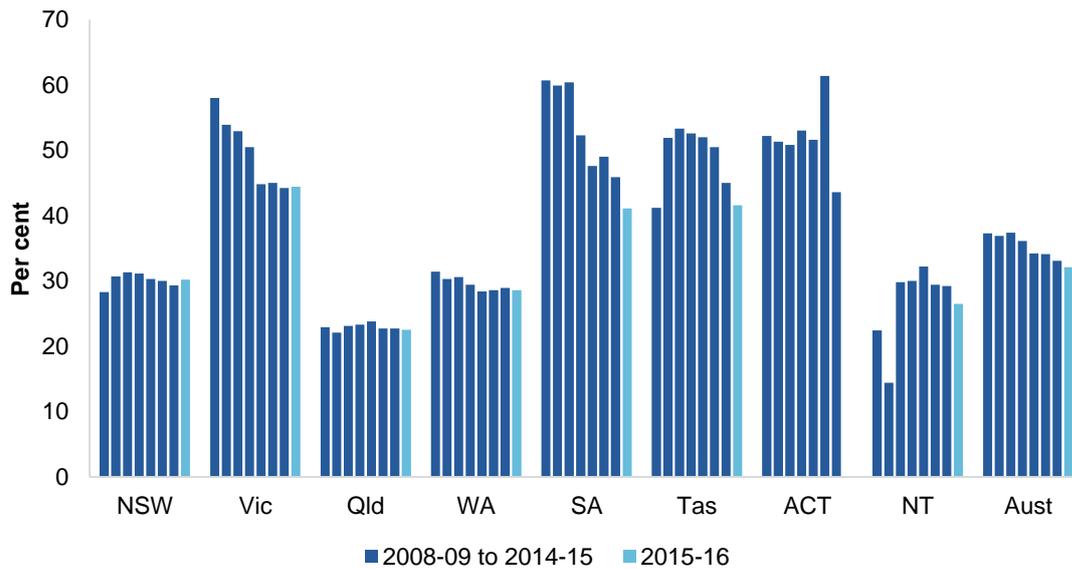
Nationally, and for some States and Territories, the proportion of people using State/Territory specialist disability services declined from 2008–09 to 2015–16. The introduction of the National Disability Insurance Scheme has affected this measure in recent years as people with disability begin participating in the Scheme, and as State and Territory Governments wind down the provision of specialist disability services (SCRGSP 2018, pp. 15.1–15.2).

Use of employment services by people with disability has been mixed. The proportion of people using Disability Employment Services increased from 2008–09 to 2015–16, both nationally and in most States and Territories. Over the same period, however, the opposite trend is evident for the proportion using Australian Disability Enterprises services.

¹⁶ A person with disability has an employment restriction if their disability restricts their ability to fulfil their role as would a person without disability (SCRGSP 2013, p. 560).

Much of the increase in Disability Employment Services is affected by changes to income support policy over that period — for example, changes to compulsory work-focused activities to help Disability Support Pension recipients find work. Unlike most other NDA services, these services are demand driven, meaning places are not capped, and anyone who meets the eligibility criteria can access them (AIHW 2018, p. 5).

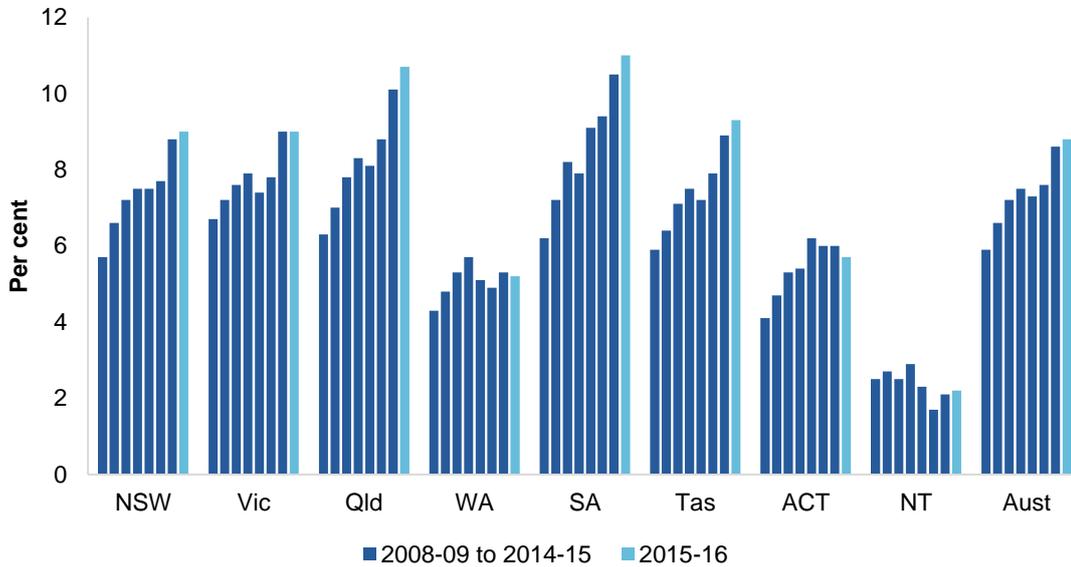
Figure B.4 Proportion of potential population using State/Territory disability support services^a



^a ACT data were not available for 2015-16 as the ACT did not provide data for the Disability Services National Minimum Data Set for this year, hence Australian totals exclude ACT service users in 2015-16.

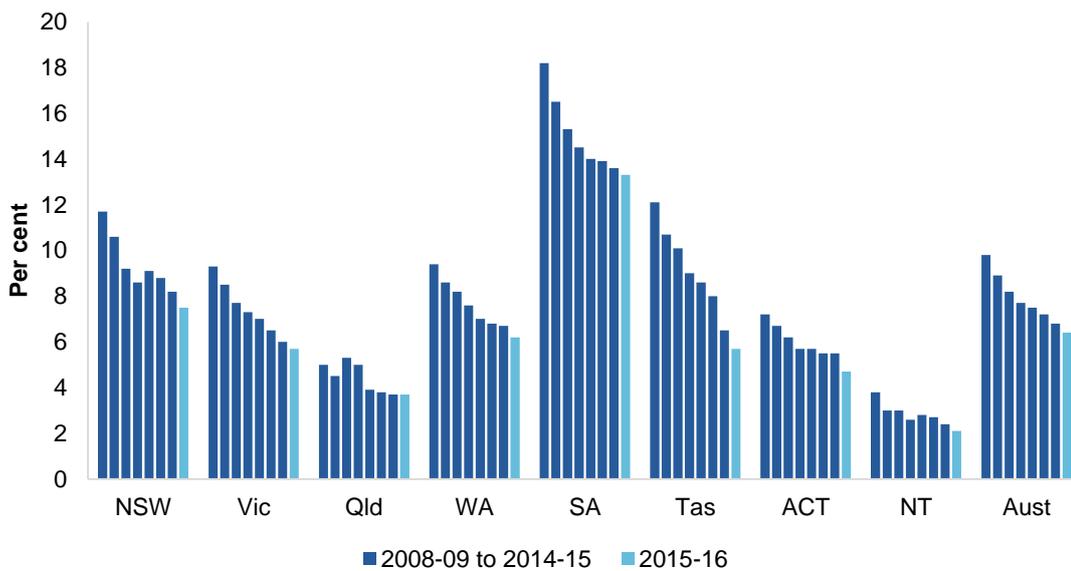
Source: SCRGSP (2018, table 15A.10).

Figure B.5 Proportion of people with disability with an employment restriction using Disability Employment Services



Source: SCRGSP (2018, table 15A.50).

Figure B.6 Proportion of potential population using Australian Disability Enterprises



Source: SCRGSP (2018, table 15A.52).

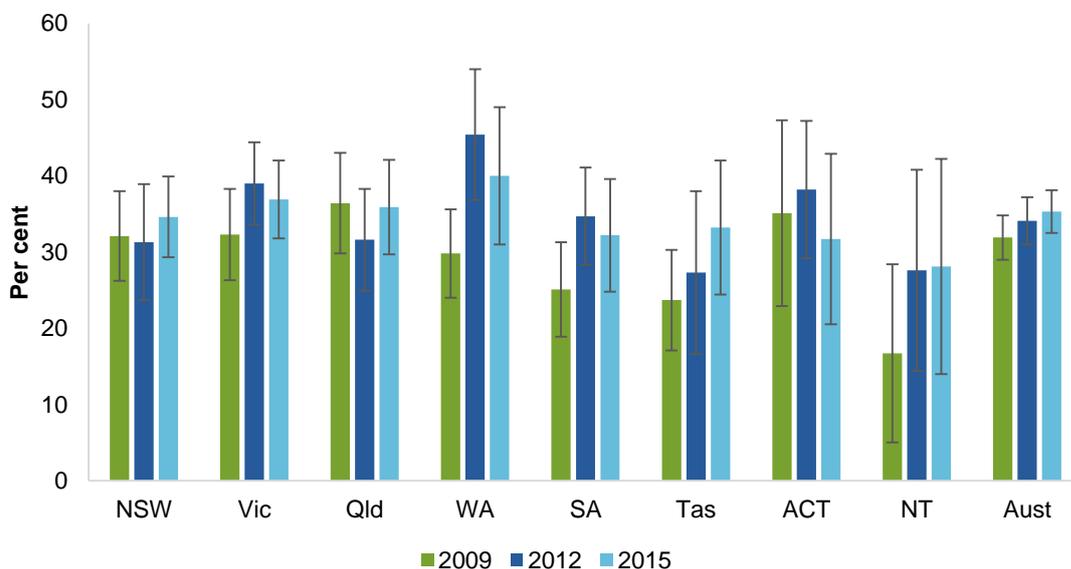
Proportion of people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided

This indicator has three measures.

- Proportion of people with disability aged 15–64 years who are satisfied with the quality of assistance received from organised and formal services in the last six months.
- Proportion of people with disability aged 15–64 years who are satisfied with the range of organised and formal service options available.
- Proportion of people with disability aged 0–64 years in potential population who report a need for more formal assistance (figure B.7).

Data for the first two measures for this indicator are available only for 2012 and 2015. Nationally in 2015, of people aged 15–64 years with disability who received formal services, 78.7 per cent were satisfied with the quality of assistance they received (SCRGSP 2018, table 15A.59), and 49.2 per cent were satisfied with the range of services received (SCRGSP 2018, table 15A.62). These measures were largely unchanged from 2012.

Figure B.7 **Proportion of people with disability reporting a need for more formal assistance^a**



^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.42).

From 2009 to 2015, the proportion of people with disability reporting a need for more formal assistance increased by 3.4 percentage points nationally, from 31.9 per cent to 35.3 per cent.

Most States and Territories exhibited an increase over the same period. These changes were not statistically significant.

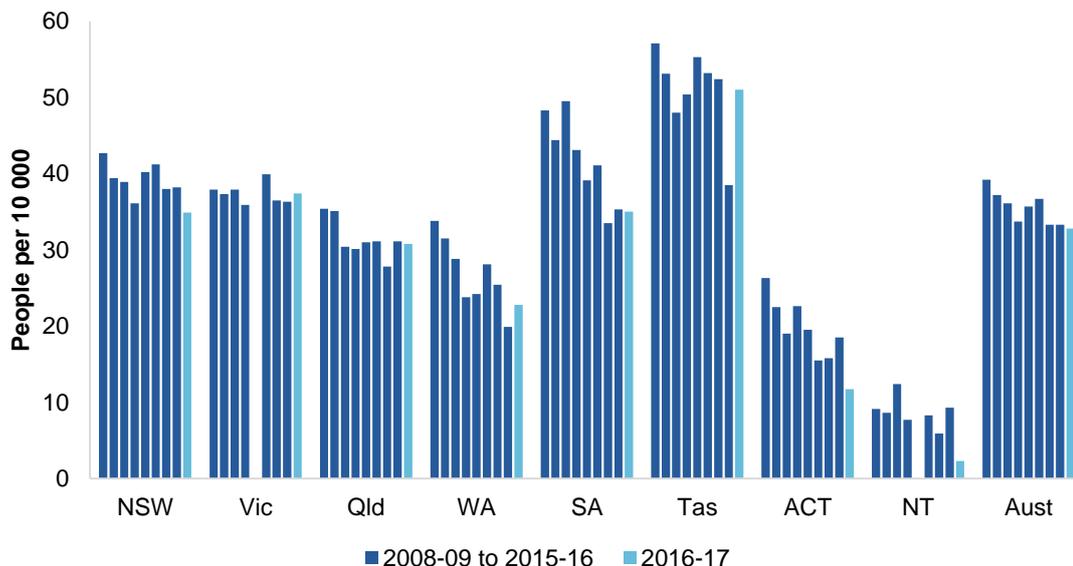
Proportion of younger people entering, living in, and exiting, permanent residential aged care

There are three measures used for this indicator.

- Rate of younger people admitted to permanent residential aged care per 10 000 potential population.
- Younger people who separated from permanent residential aged care to return to home/family.
- Younger people receiving permanent residential aged care.

Younger people is defined as non-indigenous people aged 0–64 years and Aboriginal and Torres Strait Islander people aged 0–49 years (SCRGSP 2018, p. 15.20). Nationally in 2016-17, the rate of people aged 0–64 years admitted to permanent residential aged care was 32.8 per 10 000 potential population, compared to 35.7 per 10 000 in 2012-13 and 39.2 per 10 000 in 2008-09 (figure B.8).

Figure B.8 **Rate of younger people admitted to permanent residential aged care^a**



^a Data were not published for Victoria or the Northern Territory in 2012-13 due to data reliability issues.

Source: SCRGSP (2018, table 15A.53).

There has been no clear trend in the number of younger people who separated from permanent residential aged care to return to their home or family. In 2016-17, 120 people were classified as being part of this group, compared with 177 the year before and 121 in 2008-09 (SCRGSP 2018, table 15A.55).

The number of younger people receiving permanent aged care declined in 2016-17, to 5879, compared with 7039 in 2015-16. This number fluctuated around 7100 people from 2008-09 to 2015-16 (SCRGSP 2018, table 15A.56).

B.3 Outcome C: families and carers are well supported

There are three indicators that measure progress toward this outcome.

- Proportion of carers of people with disability participating in the labour force.
- Proportion of carers of people with disability who report their health and wellbeing as positive.
- Proportion of primary carers of people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided, to the person with disability and to the carer.

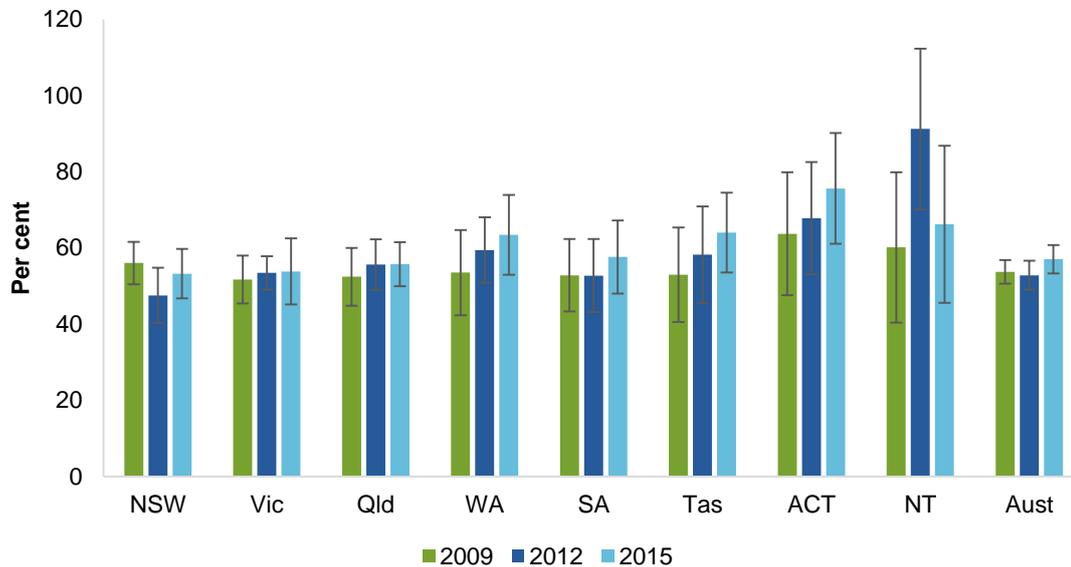
Proportion of carers of people with disability participating in the labour force

There are four measures used for this indicator.

- Labour force participation rate of primary carers (of people with disability) aged 15–64 years.
- Employment-to-population ratio of primary carers (of people with disability) aged 15–64 years.
- Unemployment rate of primary carers (of people with disability) aged 15–64 years.
- Underemployment rate of primary carers (of people with disability) aged 15–64 years.

Nationally in 2015, the labour force participation rate for primary carers was 57.0 per cent, having increased by 3.3 percentage points from 2009 (figure B.9).

Figure B.9 **Labour force participation rate for primary carers of people with disability^a**



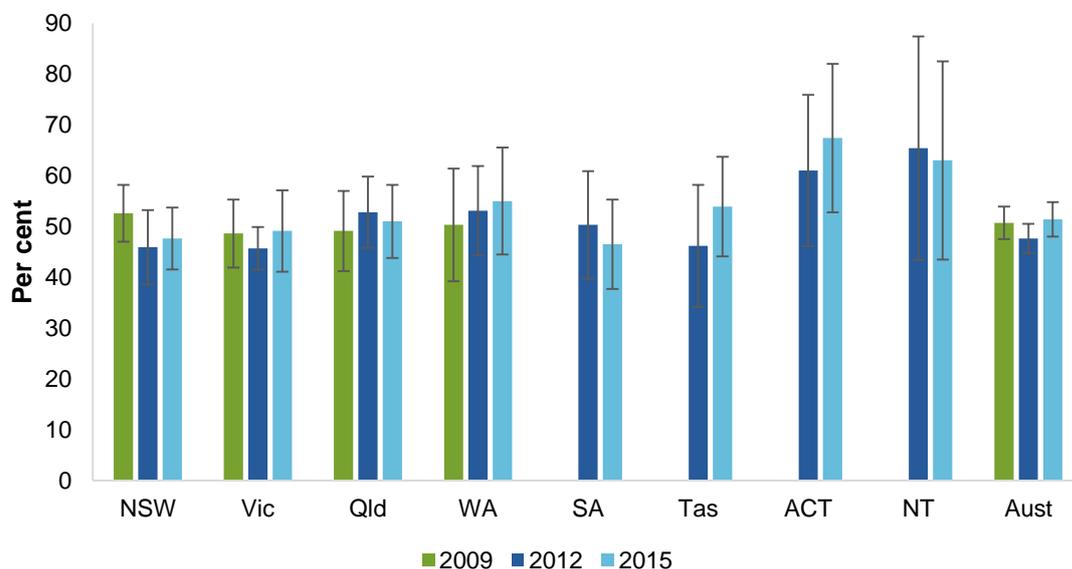
^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.81).

At the national level, the employment-to-population ratio for carers increased from 50.7 per cent in 2009 to 51.4 per cent in 2015 (figure B.10).

Data for both the unemployment rate and underemployment rate for carers were only available for 2012 and 2015. Nationally, the unemployment rate for carers was 10.5 per cent in 2015; up from 9.2 per cent in 2012 (SCRGSP 2018, table 15A.83). The underemployment rate rose by 2.7 percentage points over the same period, from 7.9 per cent in 2012 to 10.6 per cent in 2015. Changes across these four measures were not statistically significant.

Figure B.10 **Employment-to-population ratio for primary carers of people with disability^{a,b}**



^a Black bars denote 95 per cent confidence intervals. ^b Data were not published for South Australia, Tasmania, the ACT and the Northern Territory in 2009 due to small sample sizes.

Source: SCRGSP (2018, table 15A.82).

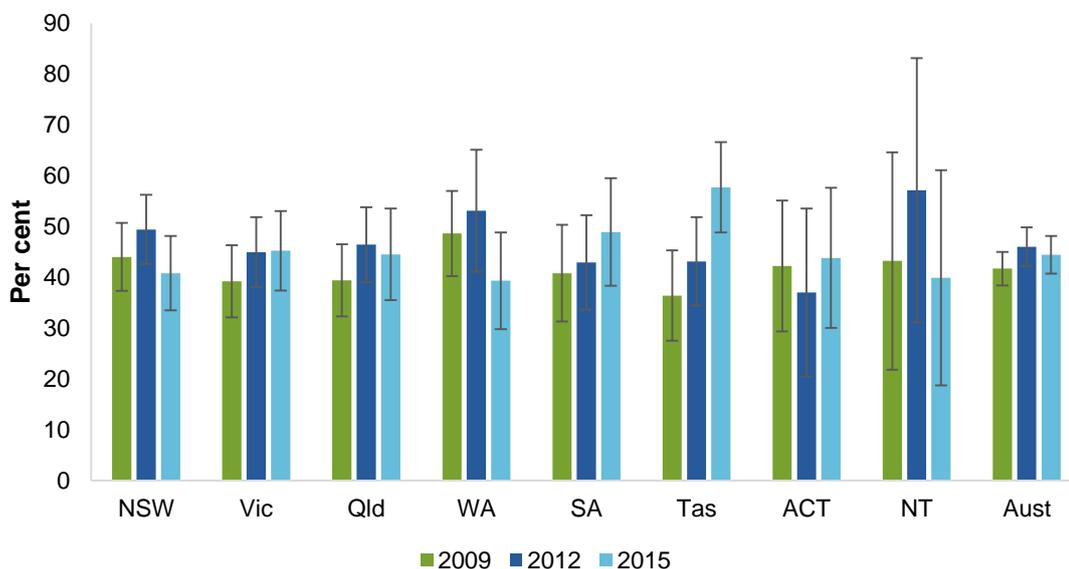
Proportion of carers of people with disability who report their health and wellbeing as positive

The RoGS uses two measures for carer health and wellbeing.

- Proportion of primary carers of people with disability who feel satisfied with their caring role.
- Proportion of primary carers of people with disability who do not experience negative impacts on their wellbeing due to their caring role.

Across Australia in 2015, less than one quarter of primary carers of people with disability were satisfied with their caring role (22.9 per cent) (SCRGSP 2018, table 15A.21). More than half (55.6 per cent) experienced negative impacts due to their caring role (44.4 per cent experienced none), although the change compared to 2012 or 2009 was not statistically significant (figure B.11).

Figure B.11 **Proportion of primary carers who do not experience negative impacts due to caring role^a**



^a Black bars denote 95 per cent confidence intervals.

Source: SCRGSP (2018, table 15A.22).

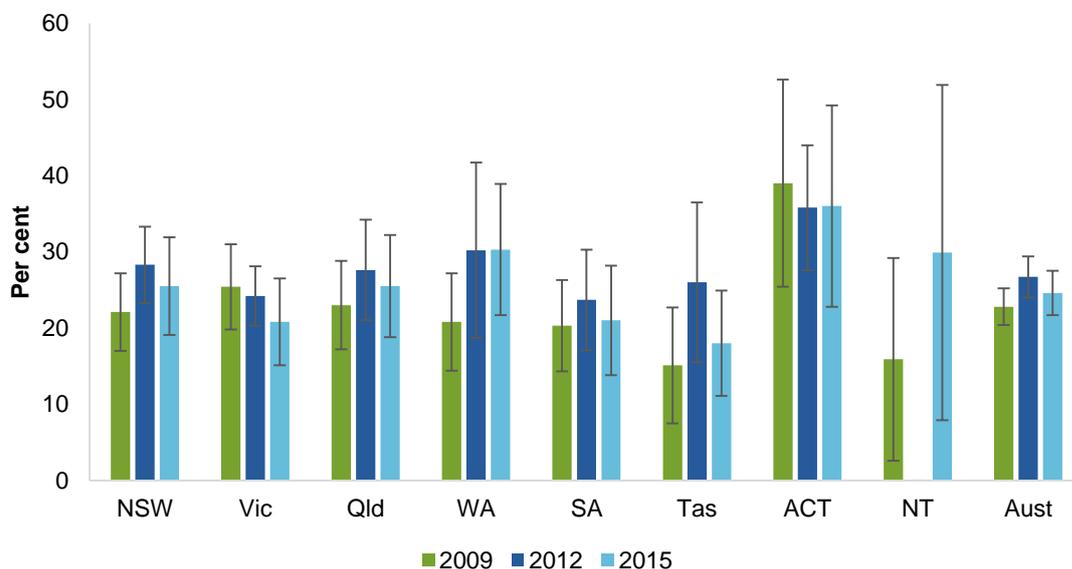
Proportion of primary carers of people with disability who are satisfied with the range of services available, and with the adequacy and quality of services provided, to the person with disability and to the carer

The RoGS uses three measures of ‘carer satisfaction’.

- Proportion of primary carers (of people with disability aged 0–64 years) who report a need for more formal assistance in their caring role.
- Proportion of primary carers (of people with disability aged 0–64 years) who are satisfied with the range of formal service options available to help them in their caring role.
- Proportion of primary carers (of people with disability aged 0–64 years) who are satisfied with the quality of assistance received from formal services, by the person with disability and by the carer in the last six months.

Nationally, there was a small increase in the proportion of carers reporting a need for more formal assistance, increasing by 1.8 percentage points from 22.8 per cent in 2009 to 24.6 per cent in 2015 (figure B.12).

Figure B.12 **Proportion of primary carers who report a need for further assistance in their caring roles^{a,b}**



^a Black bars denote 95 per cent confidence intervals. ^b Data were not published for the Northern Territory in 2012 due to small sample size.

Source: SCRGSP (2018, table 15A.44).

Data for the other two measures were not available for 2009. Nationally, the proportion of carers who were satisfied with the quality of services received was 73.4 per cent in 2015, up 4.4 percentage points from 69.0 per cent in 2012 (SCRGSP 2018, table 15A.58). There was a smaller change in satisfaction with the range of services received (32.5 per cent in 2015 and 33.7 per cent in 2012) (SCRGSP 2018, table 15A.63).

None of the changes for these three measures were statistically significant.

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