



Justice Transition Project Recommendation Report

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The Justice Transition Project would like to acknowledge the traditional custodians of the lands on which this report has been written, reviewed, and submitted. We pay our respects to their Elders past, present and future.

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1. Executive Summary

The NDIA completed the Justice Transition Project (the Project) between October 2022 and October 2023, aiming to enhance the experience of people with disability who are transitioning from justice and forensic settings to the community. The Project focussed on improving decision making, operational collaboration and reducing administrative delays for people with disability in adult, youth justice and forensic settings.

During 30 discussions with over 250 state and territory government representatives, and conversations with 60 representatives from 31 First Nations related community, organisations, agencies and Coalition of Peaks members, the Project explored operational, policy and system influences that support people with disability to transition to the community. Importantly, the tailored engagement undertaken with these First Nations groups informed cultural considerations and transition challenges for First Nations people. Additional consultation with a range of operational and executive NDIA staff was completed to ensure a robust view of the current state for justice transition, and what best practice could look like, to support enhanced outcomes for people with disability in contact with the justice system.

After collating and analysing the extensive consultation feedback in the 'Justice Transition Project Engagement Report', the Project has established a range of findings and recommendations that will pave the way for a more holistic and timely service system response, so people with disability receive the support they need to prepare for transition and establish themselves as part of their community.

The Project recommendations include:

1. Developing a nationally consistent, culturally validated disability screening tool and assessment process.
2. Increasing the NDIA First Nations workforce to enhance and embed culturally safe practice, within a best practice framework.
3. Developing NDIS marketing resources for First Nations people.
4. Establish a publicly available framework to describe how the NDIS and other service systems will work together, supporting people entering custody, including transition back to the community.
5. Enhancing the quality of NDIS providers and their workforce through training, competency, and market improvement initiatives
6. Enhancing housing and accommodation options as an essential component of transition to the community.

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7. Clarifying NDIS planning practices and supports for people transitioning to the community.
8. Increasing staff capability through improved training and resources.
9. Developing specialised NDIS justice pathways.
10. Refining NDIS Proof of Identity (POI) policy and processes for people in the justice system, where there is limited documentation available.
11. Refining NDIS forms and processes to make them more relevant, accessible, and easier to understand.
12. Continuing to develop the Justice Liaison service offer, expanding support to key stakeholders.
13. Formalising information sharing within and between governments.

Consistent with the final report and recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission) ¹, and the likely focus of the NDIS Review recommendations, the Project recommendations will require a shared response between governments, organisations and the community over time, though there are opportunities for more immediate impact to improve how we collectively support people with disability who are transitioning to the community.

2. Background

The NDIA currently supports more than 2100 NDIS Participants with a specialised, justice planning response (Complex Support Needs Branch, 26 October 2023). There are many more participants in contact with the justice system, however current data and system limitations make it challenging to accurately understand the size of the cohort. Some of these participants have been in custody for an extended period, remaining incarcerated due to various reasons, including forensic orders, the inability to identify safe support options for their release, inadequate levels of community support, or disagreements about service system responsibilities.

The Royal Commission Public Hearings 11, 15 and 27 heard about the complexities relating to NDIS participants who had been held in long term detention settings; and the need for more collaborative approaches by the NDIA and states and territories to transition participants successfully into the community.

In July 2021, the NDIA's Complex Support Needs (CSN) Branch collaborated with Western Australia and the Northern Territory government representatives to undertake a trial aimed at improving the participant experience when transitioning

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from a custodial setting to a community-based living option. The trial identified challenges faced by participants with cognitive impairments, emphasised the need for flexible transition planning, early intervention, and addressing disparities among state practices.

Previous initiatives such as releasing [the NDIS Justice Guidelines](#) and establishing [Justice Liaison Officers](#) (JLOs) contributed many improvements to the justice interface. These initiatives did not holistically address all the operational challenges associated with planning for and supporting people with disability to transition to the community. Addressing system, policy and operational challenges is crucial for the high proportion of First Nations people in custody, who experience systemic disadvantage and institutional racism, requiring tailored support programs to break the cycle of incarceration.

The Project aligns with the [Australia's Disability Strategy 2021 - 2031](#) and focuses on enhancing human rights and support for people with disability in the justice system. The Project embedded the principles of the [National Agreement on Closing the Gap \(2020\)](#) when discussing inequality for First Nations people, by fostering genuine partnership with First Nations organisations, leveraging their expertise and input.

The recent '[Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability - Final Report \(2023\)](#)', addresses the overrepresentation of individuals with disability in the criminal justice system. Significant emphasis was placed upon human rights, risks for children and young people becoming enmeshed in the system, the need for more robust disability and cultural awareness training, nationally consistent screening protocols; and enhanced flexibility, clarity, and support for people with disability leaving custodial settings.

The consistency between the Royal Commission and the findings of the Justice Transition Project gives further weight to the Project recommendations being implemented. Increasing transparency and collaborative practices between all systems and services is paramount to improving the way people with disability are supported in the justice system, their transition experiences and enhancing outcomes in the community.

3. About the Justice Transition Project

Project Aims

The NDIA commenced the 12-month Justice Transition Project in October 2022, aiming to enhance the NDIS participant experience during Justice transitions. This involved improving decision making, operational collaboration and reducing administrative delays for participants in adult, youth justice and forensic settings.

Project Phases

The Project included three phases:

- Phase 1: Consultation and Engagement- embarked on the consultation and engagement stage with a broad range of internal and external stakeholders, between October 2022 and August 2023
- Phase 2: Information Collation and Analysis- methodically collated and coded the information gathered from all stakeholders, between April 2023 and August 2023.
- Phase 3: Recommended Practice Guidance and Service Response- carried forward the insights from the previous phases, creating a set of findings and recommendations, between August 2023 and October 2023.

Consultation Overview

External and internal stakeholder consultations focused on how individuals with disabilities progress through the justice system. External stakeholders, including state and territory representatives, participated in Focus Groups and Round Table sessions. These discussions covered operational and policy aspects like participant identification, custody support, and community transition. Tailored engagement undertaken with First Nations people, organisations, and Coalition of Peaks members, was used to better understand cultural considerations and transition challenges for First Nations people.

The project conducted 30 discussions with over 250 state and territory external stakeholders, and 60 representatives from 31 First Nations agencies, organisations, and Coalition of Peaks members, (see Table 1). Additionally, 19 internal feedback sessions were completed to enhance processes and policies. A project evidence based consisted of a broad spectrum of information including over 122 hours of video content, transcripts, notes, submissions and 115 survey responses.

OFFICIAL**Table 1 – External engagement summary - Number of Consultations attended by Government and First Nations stakeholders, by state or territory.**

State or Territory	Focus Groups	Round Tables	First Nations	Total number of consultations attended
VIC	3	2	2	7
TAS	2	1	1	4
NSW	3	1	6	10
ACT	3	1	1	5
QLD	3	1	2	6
SA	2	1	2	5
NT	2	1	4	7
WA	3	1	8	12
NATIONAL	0	0	5	5
TOTAL	21	9	31	61

To analyse the project findings, an iterative code frame structure was created. This code frame is an evidence-based approach to quantifying themes from our engagements.

It contained 151 codes across the following categories:

1. Assessment and evidence
2. NDIS justice planning
3. NDIS Transitions
4. Providers
5. Markets
6. State and territory justice transitions
7. Access
8. Consent.

4. The Project Findings

Finding Area 1 – First Nations

First Nations people are over-represented in the justice system². In some states and territories, screening for disability does not extend beyond self-reporting^{3 4 5 6}, and where it does, it can lack cultural safety⁷. First Nations people with disability experience barriers engaging with services in custody, for transition and in the community, and are often impeded by supports availability or practices that are not culturally safe. Fundamentally, co-designed cultural awareness training⁸ and practice competency reviews are required across all service systems and would be complimented by growing the First Nations workforce. A co-designed response to address any policy, program, or resources developed, will ensure a flexible approach can be implemented for supporting First Nations people.⁹

Finding Area 2 - Specialised Justice Pathways

Part of transforming the way the NDIS provides service is ensuring that a specialised approach, based upon justice and forensic knowledge, skills, and training, is meeting the operational needs of the serviced participants and stakeholders. Embedding this expertise will create positive and consistent influence upon the disability supports people receive and improve transition outcomes. For people in the justice system with complex and intersecting needs, ensuring that NDIS information and processes are simplified will support navigation and receipt of disability support. Particularly for First Nations and other diverse communities, making Consent, NDIS Access, Identity & Planning requirements clearer will enhance collaboration between key stakeholders.

Finding Area 3 - Evidence and Assessment

Assessment, evidence and reporting for NDIS purposes poses challenges from quality, resourcing, and timeliness perspectives. Where professionals were funded and available to conduct assessments, often, these assessments were indicative of functioning in the supported custodial environment, understating a person's actual disability support needs in the community.

Many states and territory services referenced they did not have funding to be able to provide assessments, relying on court ordered and funded resources. When courts do order clinical or forensic assessments, there can be misalignment between the intent of the report and NDIS purposes, rendering it ineffective evidence and the content may unintentionally prejudice disability supports decision making. The recent

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Royal Commission recommendations referenced the need for national guidelines for screening in custody^{10 11}, which was echoed throughout the project, particularly to mitigate the reliance on self-reporting and the challenges accessing timely and appropriate functional assessments and supports.

Finding Area 4 - Transition Process and Planning

For many people in justice and forensic settings, there is not a clear state or territory process to prepare a participant for transition to living in the community and some people with a disability don't receive transition support at all. The experience of NDIA practice and process for transition is equally variable, with people in forensic settings more likely to require support to transition over a longer period but not always receiving it. When following the 12–14-week guidance written in [NDIS Justice Guidelines](#), there was often inadequate time to establish NDIS supports, which could delay a person's release. They may also exit custody and commence life in the community without appropriate disability related supports. This creates challenges embedding best practice such as building rapport with providers and community supports^{12 13}, and delays opportunities for capacity building, which in turn may impact transition outcomes.

When supporting people with complex circumstances and needs, there are significant challenges applying the [Applied Principles and Tables of Support \(APTOS\)](#) in complex circumstances. The sector would benefit from clarified guidance about these roles and responsibilities. It was clear that quality support coordination enables transition preparation and is needed and valued across service systems. Stakeholders acknowledged that preparation for transition should commence as soon as possible after a person enters custody, be collaborative and clearly articulate roles and responsibilities.

Finding Area 5 - Training, Workforce and Capability

All governments and the wider sector would benefit from enhanced training and increasing the workforce supporting people with a disability and specifically, First Nations people^{14 15}. Resoundingly, justice staff voiced the challenges balancing their business-as-usual workloads, the resource requirements of NDIS related actions and need to prioritise safety, which often came at the cost of supporting people with disability. It is important that staff are provided with the appropriate training and resources to be able to deliver trauma informed¹⁶, tailored services for people with disability that focus on prevalent and emerging conditions in justice populations, and supporting cultural, complex, and intersectional needs.

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Continuing to provide education and support for state and territory government staff about the NDIS legislation and processes is fundamental to enhancing collaborative practice and should be extended to more external stakeholders.

It is important to acknowledge that the operating environment for providers who support people in the justice system can be complex and has a range of legal considerations at state, territory and national level that need to be navigated. The responsibility to enhance training, practice guidance and support is shared between governing agencies and providers themselves. This is essential to ensuring people with disability are safe and supported throughout transition and in the community.

Finding Area 6 - Service Response

Housing, or the lack thereof, was the most discussed topic in each of the project consultations. Suitable and stable accommodation poses a barrier for many individuals to transition to the community, to meet their parole or bail requirements, especially those in rural, regional, or remote areas or those experiencing homelessness.^{17 18 19} The Royal Commission has called on all agencies to formulate a shared response to address the current housing climate²⁰. In addition, there is recognised need to ensure that the NDIS is not utilised as the default housing response for people with disability.

Outside of housing, people face challenges finding NDIS, community, and mainstream support to meet their needs, particularly when cultural, complex personal and situational factors, and/or geography intersect²¹. For many people, when they do find NDIS supports, there can be variability in the quality of the service, a lack of understanding about justice, long wait times and there is no clear framework for monitoring or reporting these challenges²². The quality of Positive Behaviour Support Plans (PBSP), in particular the use of regulated restrictive practices, can mean people with disability experience significant negative and traumatic impacts based on the quality of the plan and service they receive.

Finding Area 7 - Court and Judiciary

The way the NDIS works with court and judiciary systems is evolving. Often, a lack of timely notification about a person's impending court or leave of absence means that they do not have a NDIS plan in place to support their transition²³. The court therefore cannot be satisfied that the participant will have appropriate supports in the community, and the release is either delayed or a series of escalated decisions are required, placing strain on the time and resources of the NDIA, court, and judiciary systems alike.²⁴

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In many states and territories, the court process is one of the few ways funding for disability assessments can be obtained for a person. Education for court and judicial members will grow understanding of the NDIS and other parties' roles and responsibilities for supports, safety, lawful orders, and compliance for people with disability in the community. Many stakeholders identified that the court and judicial system has limited capacity to adjust support for people with a disability or First Nations people, and court-imposed conditions may unintentionally set people with disability along a path of reoffending. ²⁵ ²⁶

5. Recommendations

Recommendation 1: Develop a nationally consistent, culturally validated disability screening tool and assessment processes

About the recommendation

Disability screening in most state and territory justice settings is limited, relies on self-reporting methods and when in use, may not consider the cultural and safety needs of First Nations people. Working with First Nations people with disability to understand their needs and story, and collecting their information in a culturally safe and sensitive manner will support them to get the disability support they require to participate in cultural and community life. Creating disability screening tools and assessment processes that are culturally validated is aligned with Royal Commission Recommendation 8.14²⁷ and findings that spoke to the need for consistent screening practices that are trauma informed, culturally safe and do not rely on self-reporting. Development of a culturally validated screening tool should:

- Be co-designed with First Nations organisations, community members and people with disability, alongside State and Territory Governments, with support from the Commonwealth / NDIA.
- Be implemented by State and Territory Governments, enhancing the ability to screen for disability, particularly for First Nations people and other diverse communities.
- Embed social and emotional wellbeing elements, as well as the functional considerations of the NDIS legislation.
- Consider the needs of people across the lifespan, including children, young people, and adults.
- Be administered in a variety of ways that are culturally safe and respect individual needs and preferences. For example, Elders may utilise validated 'Yarning Methodology'.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 3
- Finding Area 5
- Royal Commission Recommendation 4.11 Consultation with people with disability

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- Royal Commission Recommendation 8.14 National practice guidelines for screening in custody
- Royal Commission Recommendation 8.4 Screening and assessment for disability in youth detention
- Royal Commission Recommendation 9.12 Disability-inclusive cultural safety standards
- Royal Commission Recommendation 9.2 Ages and Stages Questionnaire-Talking about Raising Aboriginal Kids (ASQ-TRAK).

Responsible stakeholders

- State and Territory Governments
- First Nations People, Communities, Elders
- Mainstream or Allied Health Professionals
- NDIA.

Recommendation 2: Increase the NDIA First Nations workforce to enhance and embed culturally safe practice, within a best practice framework

About the recommendation

Growing First Nations representation within the NDIA workforce is essential to providing culturally safe service to First Nations participants. Increasing the First Nations workforce moves the Agency toward its First Nations employee target of 3% and promotes being an employer of choice. Many First Nations stakeholders identified the importance of the initial point of contact with the NDIS being a First Nations person, who has specific skills and experience working alongside First Nations people, families, and communities. The NDIA can support non-Indigenous staff to develop their cultural understanding and practices in a peer led approach and undertake recruitment using Identified Positions in relevant contexts. This can be implemented by:

- Establishing a phone line staffed by First Nations personnel, to provide NDIS support and information (1800 number).
- Embedding First Nations Liaison Officers, service delivery and support staff across NDIA business areas including recruitment strategies using Affirmative Measures provisions.

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- Using a cultural pairing model to build cultural capability and competency of non-Indigenous staff. This uses a peer lead approach, where First Nations staff work alongside non-Indigenous staff members. Those who participate in the pairing model will have their cultural capability recognised by NDIA.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 5
- Royal Commission Recommendation 9.12 Disability-inclusive cultural safety standards
- Priority Reform 3, Transforming Government Organisations – National Agreement on Closing the Gap (2020),
- Policy Priority 2: Policies, processes and programs provide better responses to people with disability who have experienced trauma, Australia’s Disability Strategy 2021 – 2031

Responsible Stakeholders

- NDIA
- First Nations Community and Organisations
- Recruitment Agencies

Recommendation 3: Development of NDIS marketing resources for First Nations people**About the recommendation**

For people with disability, NDIS marketing resources, forms and booklets can be complex and long. Stakeholders advised, particularly for First Nations and other diverse communities where English may not be their first language, the complexity of resources was an additional barrier to engaging with and using NDIS supports. Changes to these resources will improve cultural competency and accessibility for First Nations people. Refined resources should consider:

- Co-design of NDIS booklets with First Nations organisations, community members and people with disability.
- Focus on reducing the jargon, complexity, and length of information.

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- Provide translation into a range of languages that consider the use of First Nations images, art, or voice, recognising that First Nations people are not a homogenous group and therefore, require tailored approaches.
- Consider how materials can be created and used in a variety of different formats and provide practice guidance and support to implement these approaches.
- Use existing technology trials in justice settings to make updated NDIS information and resources 'approved content,' accessible for people in custody.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Royal Commission Recommendation 4.11 Consultation with people with disability
- Royal Commission Recommendation 4.14 The duty to provide accessible information
- Royal Commission Recommendation 6.1 A national plan to promote accessible information and communications.

Responsible Stakeholders

- NDIA
- First Nations people and organisations.

Recommendation 4: Establish a publicly available framework to describe how the NDIS and other service systems will work together, supporting people entering custody, including transition back to the community.

About the recommendation

People with disability in the justice system experience inconsistent practices, processes and supports that contribute to varied outcomes. Most stakeholders spoke to 'best practice' preparation for transition commencing as soon as a person enters custody, noting transparent documentation of the process, practices and timelines would benefit inter-agency collaboration and participant outcomes. Key considerations toward establishing a publicly available framework include:

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- Establishing agreed parameters for information sharing and action, that clearly articulate the timeframes for key milestones, including notification of entry into custody, commencement of NDIS supports assessment, and state and territory supports and practices. This could consider existing intergovernmental arrangements, such as Hospital Discharge process as an exemplar.
- State and Territory Governments making available to the NDIA, endorsed documents that explain their various approaches, process and practices, from entry into custody, through to post release support in the community, including how NDIS considerations are embedded.
- Removing the dependency for a release date for NDIA to commence transition planning, in favour of an approach that commences upon entry into a justice setting. It should consider the complexity of a person's circumstances, and the appropriate and timely support required to transition back to the community.
- Clear articulation of the roles and responsibilities of the NDIS, and how these work alongside justice and other mainstream interfaces, consistent with the NDIS Legislation and [APTOS](#).

Entry into custody:

- State and territory justice stakeholders should, as part of updated screening and assessment process, notify the NDIA when a person with disability enters a justice facility, within agreed timeframes.
- This notification will be used as an indicator for the NDIA to commence, within an agreed timeframe, NDIS eligibility, planning and transition considerations including an immediate review of a person's disability related needs, and where applicable plan utilisation, available supports and reassessment.
- For people with disability who do not yet have NDIS Access, State and Territory Governments should initiate information and evidence gathering, working with the Justice Liaison Officers to submit an Access request. For people who are on remand and short sentences (as below), the NDIA will use priority pathways to expedite Access decision making.
- As soon as practical upon entry to a justice facility, led by the state or territory justice stakeholder, determine, and document the required approach to transition planning, including the estimated timing, on a continuum, of any support required from:

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- a. the NDIS;
- b. other parties such as mainstream health and housing, transition programs or community supports.

Preparing for transition

- The transition plan established by state and territory justice stakeholders should be updated routinely, and clearly demonstrate the mainstream and community foundational supports that will work alongside NDIS disability supports, both in preparation for and post transition to the community.
- Generally, the NDIA will communicate legislated and escalated timeframes for NDIS processes, and work with the justice system, and a person's supporters to ensure that they can provide timely and relevant information and evidence.
- People on remand, many young people, those with short sentences and some people under indefinite detention, require timely consideration of the appropriate, imminent transition supports available in their NDIS plan, or a reassessment may be required.
 - a. Existing supports in the NDIS plan are unlikely to be reduced, however, plan claiming and utilisation, particularly from core supports budgets will have a targeted monitoring strategy.
 - b. Frequent monitoring and case conferences (justice led) between all parties are a key aspect of supporting this cohort.
 - c. Timelines for providing relevant information and evidence to support NDIS process are likely to be compressed, requiring rapid responses by all parties.
 - d. NDIS priority pathways may be initiated for creating the first NDIS plan or NDIS plan for transition, for people who are anticipated to be in a justice facility for a short or unknown period.
- People on medium to longer term sentences, require support to build capacity, develop relationships and support coordination to explore options for transition and post release supports.
 - a. Agreed monitoring and justice led case conferencing will occur between all parties.
 - b. For many people in this cohort, a plan reassessment may be initiated, acknowledging it is unlikely that NDIS core supports will be reasonable and necessary.

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- People in long term custody or forensic settings are likely to require a graduated approach to transition.
 - a. Whilst support coordination may take a monitoring only approach with reporting to the NDIA for these individuals, it is likely that planning for transition may formally commence multiple years before an anticipated transition to the community.
 - b. For many people in this cohort, it is unlikely that NDIS core supports will be reasonable and necessary, however, all parties should work to ensure transparency about likely supports availability when preparing for transition.

In the community

- In the first 3 months post transition, the NDIA will work collaboratively with state and territory justice stakeholders and providers to ensure people with disability have the supports that meet their changing needs.
 - a. This may include frequent monitoring and case conferences.
 - b. Where a person has more complex circumstances and transition requirements, the NDIA may continue justice specific support beyond three months.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 4
- Finding Area 5
- Finding Area 6
- Royal Commission Recommendation 8.10 Transition from custodial supervision in the Northern Territory
- Royal Commission Recommendation 8.14 National practice guidelines for screening in custody
- Royal Commission Recommendation 8.15 Policies and practices on screening, identifying, and diagnosing disability in custody
- Royal Commission Recommendation 8.18 Timing of NDIA-funded transition supports.

Responsible Stakeholders

- NDIA

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- State and Territory Governments.

Recommendation 5: Enhance the quality of NDIS providers and their workforce through specialised training, competency, and market improvement initiatives

About the recommendation

NDIS providers and their workforce require specialised justice skills and training to provide high quality services to some of the most complex and vulnerable NDIS participants. Providers who work within the justice interface should be easily identifiable, have ready access to custodial settings and understand their role and responsibilities in the context of lawful orders. A long term and multi-faceted approach to enhancing services for participants with a justice interface will be well supported by:

- Developing best practice guidance with case examples about provider roles, responsibilities and requirements when engaging with justice settings, and for supporting people who have conditions or orders restricting their community interaction.
- Develop a checklist and guidance for providers undertaking assessments to meet NDIS standards.
- Mandating competency-based training for the provider workforce inclusive of Cultural Awareness, Trauma Informed Practice, Acquired Brain Injury & Fetal Alcohol Spectrum Disorder, for those working within the justice interface.
- Improving monitoring, reporting and compliance practices for all providers with a significant focus on quality of (Specialist) Support Coordinators and Specialist Behaviour Support Providers.
- Updating NDIS Provider registration and the Provider Search tool to allow for skill tagging, to include First Nations, CALD, Justice, and other related fields.
- Further incentivising providers who support people with complex circumstances and service response requirements, including how 'best practice' providers may be utilised to develop the complex supports market.
- Consideration of a range of funding and initiatives, using a community-by-community approach, to improve service response and markets in rural and

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remote areas. Thought should be given to how existing policies and approaches about paying family members can be leveraged.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 5
- Finding Area 6
- Royal Commission Recommendation 6.35 Legal frameworks for the authorisation, review, and oversight of restrictive practices
- Royal Commission Recommendation 9.12 Disability-inclusive cultural safety standards
- Royal Commission Recommendation 9.13 Remote workforce development
- Royal Commission Recommendation 10.11 Internal procedures for monitoring reportable incidents
- Royal Commission Recommendation 10.21 Registration and audit process
- Royal Commission Recommendation 10.30 Engagement and capacity building activities
- Royal Commission Recommendation 10.4 Quality of support coordination
- Royal Commission Recommendation 10.7 Practical guidance on supported decision-making
- Royal Commission Recommendation 10.8 A national disability support worker registration scheme.

Responsible Stakeholders

- NDIS Quality & Safeguards Commission
- NDIA
- NDIS Providers

Recommendation 6: Housing and accommodation options are enhanced, as an essential component of transition to the community**About the recommendation**

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Housing creates challenges for transition to the community, safety and reducing the risk of reoffending, and is a whole of service system issue shared by the NDIS and States and Territories. Fundamentally, a lack of available housing options can prevent release from custody or parole, create indefinite detention despite lawful orders concluding, or the person may be released into homelessness. For people requiring a longer-term transition, there are limited housing options to enable a graduated move from custody to the community. A shared approach to address the housing pressures across all systems is needed, including:

- Consideration of how existing housing stock can be utilised to address barriers for transitional, social and community housing.
- Development of innovative approaches to increase accessible and culturally appropriate housing stock.
- Development of the housing market in rural and remote areas, particularly to support transition from justice settings.
- Further incentives to support the development of the NDIS Supported Independent Living (SIL) and Specialist Disability Accommodation (SDA) market, particularly for First Nations people and those with complex support needs.
- Exploring opportunities for agreements with state and territory government housing systems, to support transitional arrangements for social housing, where a NDIS participant is not eligible for a SIL or SDA solution. This housing should facilitate a graduated, step down to community living, particularly for people who have been in long term detention.
- Enhancing education and resources to address the perception that the NDIS should provide a housing response for all NDIS participants, particularly as an alternative to homelessness.

Finding, Strategy and Royal Commission Links

- Finding Area 6
- Finding Area 7
- Royal Commission Recommendation 7.33 Prioritise people with disability in key national housing and homelessness approaches.
- Royal Commission Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings.
- Royal Commission Recommendation 7.40 Address homelessness for people with disability in the National Housing and Homelessness Plan

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- Royal Commission Recommendation 7.42 Improve access to alternative housing options.
- Royal Commission Recommendation 8.10 Transition from custodial supervision in the Northern Territory.

Responsible Stakeholders

- Commonwealth Government
- State and Territory Governments
- NDIA

Recommendation 7: Clarify NDIS planning practices and supports for people transitioning to the community

About the recommendation

Improvements to the consistency of NDIS planning practices and funded supports for transition are required to enhance participant outcomes and manage stakeholder expectations. There is variation in the approach to shared funding responsibilities. For jurisdictions that were part of the project trial, negotiation was more nuanced and understood, whilst in other areas, rigid operational interpretations about NDIS supports and processes in some cases lead to transition delays. First Nations stakeholders told us planning processes are not culturally safe and can lead to poor outcomes, plan under-utilisation, and disengagement from the NDIS. Improvements for NDIS planning practices should consider:

- Updates to planning process and practice guides to include clear roles & responsibilities for all stakeholders.
- NDIS Participant plans are strengths and outcomes focused, and communicated in a way that suits the participant, for example using artworks or converting plans into voice or language.
- Face to face planning meetings should be considered, particularly where this is the participant's preference. Using a planner from a First Nations background or undertaking a 'paired model' should be an option for First Nations people, and the length of the planning meeting should be considered.
- This approach to discussion with the participant is more likely to be culturally safe, and enhance the NDIA's opportunities to support decision making, goals, informed consent, and safeguarding.

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- Considerations should be given to who a participant chooses to be included in a planning meeting, particularly for those in kinship care arrangements or from diverse communities.
- NDIS funding should include:
 - Specialist Support Coordination/ Support Coordination and supports that focus on early intervention and capacity building, including Positive Behaviour Support, where evidenced. Consideration should be given to whether core supports are reasonable and necessary, consistent with the parameters mentioned in Recommendation 4.
 - A focus on supporting informal supports. This could include flexible funding for paying of family members particularly for First Nations people.
 - Kinship care structures are not always favourable to informal support arrangements and the appropriate level of funded supports need to be considered.
 - Plans should include the levels of funding to allow for a Bi-cultural Model of supports, whereby First Nations representatives are paired with (non-Indigenous) Allied Health professionals to work together, building capability and providing support including cultural safety.
- A dedicated quality assurance process for justice related NDIS plans, to drive continuous improvement and inform ongoing refinement of training and resources, aligned with Recommendation 8.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 4
- Finding Area 5
- Finding Area 6
- Royal Commission Recommendation 6.1 A national plan to promote accessible information and communications
- Royal Commission Recommendation 6.32 Increase capacity to provide supports and adaptations through improved guidance, funding and accessible information

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- Royal Commission Recommendation 9.9 Criteria for funding family supports
- Royal Commission Recommendation 10.3 Adequate support coordination

Responsible Stakeholders

- NDIA

Recommendation 8: Increase staff capability through improved training and resources**About the recommendation**

It is essential that all staff who support people in the justice system have a range of skills, training, and resources to ensure high quality service provision to people with disability in custody, and for their transition to the community. Integral to this is the adoption of culturally safe and appropriate practices with people with disability from diverse backgrounds, which promotes a trauma informed approach, aligning with Australia's Disability Strategy 2021-2023 - Priority Area 2, Safety Rights & Justice.

General Training

- Education packages developed by leading researchers provide training about Fetal Alcohol Spectrum Disorder (FASD), Acquired Brain Injury (ABI), Psychosocial Disability and Trauma Informed Practice.
- Cultural awareness training developed and delivered by First Nations people.
- Enhanced guidance for each of the mainstream interfaces, which is publicly available.

Specific to the justice interface

Note: Training and resources should be made available to all NDIS staff working in the justice interface, including applicable specialised and national delivery business areas.

- Enhanced guidance, including principles for applying the NDIS Legislation in complex, justice circumstances for planning and enabling areas, including case examples.
- Justice training and enhanced guidance for decision makers, such as NDIS Access Assessors and Planners.

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- Training to clarify NDIS internal roles and responsibilities for forensic justice and health system interactions.
- Specialised learning about FASD, ABI, Psychosocial Disability, and Trauma Informed practice in the justice interface, as part of onboarding and ongoing training requirements.
- Training about the nuances of adult, youth justice and forensic participant cohorts.
- Develop and document a comprehensive Justice Liaison onboarding and training program, including specialist training for commonly occurring conditions.
- Establish a formal 'Justice Community of Practice' with representation across the Agency, to embed continuous improvement, training, and skills development opportunities.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 3
- Finding Area 5
- Royal Commission Recommendation 4.11 Consultation with people with disability
- Royal Commission Recommendation 8.5 Disability training for staff in youth detention
- Royal Commission Recommendation 8.17 NDIS Applied Principles and Tables of Support concerning the justice system
- Australia's Disability Strategy 2021-2023 - Priority Area 2 - Safety Rights & Justice.

Responsible Stakeholders

- NDIA
- First Nations People and Communities.

Recommendation 9: Develop specialised NDIS Justice pathways

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People with a justice interface require a specialised approach to NDIS Access and Planning, that is underpinned by experienced, knowledgeable personnel. There are a range of missed opportunities that arise due to information being 'lost in translation' between justice systems and the NDIA, and significant resources used to further negotiate, or evidence support needs, often requiring escalation between stakeholders. This can also result in missed opportunities for early identification and transition planning. Specialised justice pathways should include:

- Development of dedicated NDIS Access & Planning pathways which are staffed by skilled decision makers with understanding of key justice and forensic reports and concepts, state legislation and lawful orders.
- Embedding the Justice Transition Framework and Planning practices
- Completion of a comprehensive justice onboarding and training package
- Education for state and territory justice staff about working in partnership with the NDIA, including use of NDIS escalation pathways.

Finding, Strategy and Royal Commission Links

- Finding Area 2
- Finding Area 4
- Finding Area 5

Responsible Stakeholders

- NDIA

Recommendation 10: Refine NDIS Proof of Identity policy and processes for people in the justice system, where there is limited documentation available

About the recommendation

People in the justice system may have challenges providing acceptable Proof of Identity (POI) information to the NDIS. This can be for several reasons including impact of historical government practices such as the 'Stolen Generation', not having been registered at birth, lack of formal identification, experiences of domestic violence, and those who have previously left custody without identification.

Reviewing POI operational policy and processes may alleviate barriers to accessing NDIS supports, and reduce administrative burden for people with disability, the NDIS and state and territory stakeholders alike. These improvements should consider:

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- Enhancing the NDIA's existing POI processes for people who require alternate pathways, by modelling other Commonwealth & State government organisational approaches e.g., Centrelink, alternative identification check.
- Create easier to understand information for people with disability who are unable to provide evidence of identity, which clarifies other accepted forms of identification.
- Enhance the training and resources available to NDIA staff and Partners that explain sensitivities for and how to support First Nations people who may be unable to provide evidence of identity.
- Include specific information about recognising Kinship Care arrangements, and how this may impact POI for people with disability and their supporters.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 5
- Royal Commission Recommendation 4.11 Consultation with people with disability
- Royal Commission Recommendation 4.14 The duty to provide accessible information.

Responsible Stakeholders

- NDIA
- First Nations People and Communities

Recommendation 11: Refine NDIS forms and processes to make them more relevant, accessible, and easier to understand

About the recommendation

The current length, format and complexity of NDIS Access and Consent forms can create challenges for people with disability including barriers to obtaining NDIS Access and missing out on vital disability related support. The variation between consent processes of the NDIS and state and territories can create challenges obtaining informed consent. This is most relevant for young people who may wish to

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make decisions for themselves, and people who are hard to reach or unable to contact. In some jurisdictions, concerns have been raised about whether a person in the justice setting is providing informed consent for state and territory staff to act on their behalf, and whether this authority is more suited to a nominee arrangement. This can influence whether the NDIS plan reflects the person's goals and aspirations. Considerations for refinement include:

- Creating a variety of accessible formats for NDIS Access & Consent forms, written in plain language, with concepts clearly explained.
- Enhancing consent guidance, process, and parameters for:
 - Young People providing their own consent.
 - Approaches to working with key stakeholders, where young people and unable to contact processes intersect.
 - Verifying informed consent for people in a justice setting.
 - Clarifying boundaries between consent to act and nominees for justice teams, and subsequent remediation activities.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 5
- Royal Commission Recommendation 4.14 The duty to provide accessible information.

Responsible Stakeholders

- NDIA

Recommendation 12: Continue to develop the Justice Liaison service offer, expanding support to key stakeholders

About the recommendation

The Project consultations heard about the benefit of Justice Liaison Officers (JLO), working with state and territory justice and forensic staff to support people with a disability to transition into community, and dedicated support for NDIS Access. The first 3 months after a person leaves custody or forensic settings were identified as a high-risk period where increased support and monitoring was required by all stakeholders. It was noted in some areas there are not enough JLO's to support demand for the service offer and some First Nations stakeholders identified limited

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knowledge about how the NDIS and JLOs can support people with disability. Further development of the JLO role should include:

- Initiating an internal review of the Justice Liaison service offer to consider its efficacy and resourcing.
- Explore best practice models for optimising First Nations personnel representation.
- Where there is no existing NDIA service, extend the JLO service offer to support transition for up to 12 weeks after a person leaves custody, where required.
- Commence a national service offer to support court and judiciary settings, focused initially on education about the NDIS responsibilities and processes.
- Establishing a publicly available framework that communicates the Justice Liaison service offer.

Finding, Strategy and Royal Commission Links

- Finding Area 1
- Finding Area 2
- Finding Area 5
- Finding Area 7.

Responsible Stakeholders

- NDIA

Recommendation 13: Information sharing within and between governments is formalised**About the recommendation**

Ongoing work between governments to formalise data sharing opportunities is acknowledged as a work in progress, however, state and territory government stakeholders also raised barriers about internal information sharing. This was typically because of ad hoc or informal arrangements, or the use of multiple systems that do not interact. Information sharing is essential for preparation for transition, and deficits can lead to lack of support, inability to identify potential fraud and missed opportunities for early intervention. Particularly for children and young people, timely use of data to drive early intervention can act as a protective factor against youth justice engagement. Opportunities for improvement include:

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- An approach to the use of individual Nationally Consistent Collection of Data on School Students with Disability (NCCD) data, enhancing disability screening, identification and early intervention opportunities for children and young people. The NCCD data could also establish geographical areas for targeted investment and prevention strategies.
- Information sharing between Services Australia and NDIA to be consolidated, ensuring justice data is shared with operational teams to provide timely information about people requiring justice and transition related supports considerations.
- Work should continue towards formalising Data Sharing Agreements between the NDIA and State and Territory Governments.

Finding, Strategy and Royal Commission Links

- Finding Area 4
- Finding Area 5
- Finding Area 7
- Royal Commission Recommendation 7.9 Data, evidence and building best practice.
- Recommendation 8.13 Data about people detained in forensic systems.

Responsible Stakeholders

- Commonwealth Government
- NDIA
- State and Territory Governments.

6. Conclusion

The Justice Transition Project was established to find a shared way towards improving experiences and outcomes for people with disability transitioning from justice settings.

The Project used a listening approach to walk alongside more than 300 of our First Nations and state and territory government colleagues. We learned about their experiences supporting people with disability, their challenges and vision for what best practice can look like, facilitating collaborative, person centered transition practices into the future.

The findings uncovered by the project were not unexpected, but the unintended benefits experienced from listening to our colleagues and working through challenges together can't be under-sold:

- Establishing new connections and maintaining important existing relationships with First Nations stakeholders.
- New relationships were formed between the NDIA, and state and territory government departments, enabling additional pathways for supporting people with disability.
- Justice Liaison Officers now work with facilities they had never previously been able to access.
- State and territory government colleagues across their internal departments connecting for the first time during Project engagements.
- Recognition of the importance of and opportunities for early intervention.

The responsibility to enhance the participant experience when transitioning from a custodial setting is shared by all governments, though many of the Project recommendations centre around how the NDIA can make improvements.

Consistent with the Royal Commission findings and recommendations, all stakeholders should consider how the Project work may influence a co-ordinated approach to changing process, practice, and policy, supporting system wide change for people with disability in the justice system.

For First Nations people, co-designed and collaborative work alongside community members will be more likely to drive appropriate change, creating a system that is better placed to support everyone's needs.

7. References

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