



## ***EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE***

**Members present:**

Ms LM Linard MP (Chair)  
Mr N Dametto MP  
Mr MP Healy MP  
Mr BM Saunders MP  
Mrs JA Stuckey MP  
Mrs SM Wilson MP

**Staff present:**

Mr S Finnimore (Committee Secretary)  
Ms M Coorey (Assistant Committee Secretary)

### **PUBLIC BRIEFING—INQUIRY INTO THE DISABILITY SERVICES AND OTHER LEGISLATION (NDIS) AMENDMENT BILL 2019**

#### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 29 APRIL 2019**

**Brisbane**

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**The committee met at 11.28 am.**

**CHAIR:** We will now have a public briefing from representatives from the Department of Communities, Disability Services and Seniors and the Department of Justice and Attorney-General. I acknowledge that the committee has been in contact with other stakeholder groups that are unable to attend today, but we appreciate their contributions as part of this inquiry.

**BIANCHI, Ms Elizabeth, Executive Director, Legal Policy and Legislation, Department of Communities, Disability Services and Seniors**

**CHANDLER, Ms Kim, Director, Strategic Policy and Legal Services, Department of Justice and Attorney-General**

**FERGUSON, Ms Helen, Assistant Director-General, Strategic Policy and Legislation, Department of Communities, Disability Services and Seniors**

**VARDANEGA, Ms Kira, Director, NDIS Legal Policy, Department of Communities, Disability Services and Seniors**

**CHAIR:** Welcome and thank you for coming along today. I also thank the departments for providing a written brief and responses to issues raised in the submissions. Can you provide any additional comments, although obviously you do not need to go through the whole submission, and then we will open for questions?

**Ms Ferguson:** Good morning everyone and thank you for inviting us here today. You have already outlined our roles, so I will not go through that again. I begin by acknowledging the traditional custodians of the land on which we meet today and elders past, present and emerging. You know my colleagues, Elizabeth Bianchi and Kira Vardanega. I also introduce Kim Chandler, the Director of Social Policy in the Department of Justice and Attorney-General. Also in the room we have Deb Dunstone, the Assistant Director-General of the Department of Education, should there be any inquiries in relation to the education or early childhood portfolios, and Professor Karen Nankervis, the Executive Director of Disability Practice and Service Improvement, who may be able to assist the committee with any inquiries about operational matters to do with restrictive practices, if that is required. I thank stakeholders who have provided feedback to the committee today through their submissions and also in the hearing today.

I will start with a couple of clarifications. I note that a number of submissions to the committee and some of the discussions this morning raise issues that are outside the policy objectives of the bill, but are around the operation or the transition to the NDIS more generally. Should there be questions about that, we will take those as we can today and anything that is a particular operational matter that we may not be able to cover we will take on notice.

Similarly, some of the submissions raise some issues that challenge some of the fundamental policy concepts, such as the use of restrictive practices. I map back to the objective of the bill to ensure that Queensland has made all the required urgent and critical amendments to support the commencement of the NDIS Quality and Safeguards Commission in Queensland from 1 July. I map back to that particular milestone, which is happening very soon.

It is important to recognise that ongoing national work with the Commonwealth and other states and territories will further consider some of the issues that have been raised by stakeholders and they may inform further legislative amendments, if required. For example, this bill is designed to make amendments to maintain the current robust authorisation process for restrictive practices in Queensland, acknowledging that work is ongoing to develop nationally consistent minimum standards in relation to restrictive practices.

Another issue noted in some of the submissions to the committee is the importance of maintaining existing quality and safeguards for non-NDIS participants. That was a point of inquiry this morning that the committee had with Michelle Moss from QDN, for example. We can talk about that.

For now, I can confirm that the bill ensures the existing quality and safeguards continue to apply to the same standard currently regulated under the Disability Services Act for services provided outside of the NDIS. In other words, those folk who might not be eligible for the NDIS will continue to be safeguarded under the legislation.

Stakeholders have provided mixed views about the flexibility provided in the bill for further matters to be prescribed by regulation. The Public Advocate and the Queenslanders with Disability Network both supported the need for flexibility, while Queensland Advocacy Incorporated identified some concerns around the ability to exclude service providers from some obligations around restrictive practices. I would like to confirm for the committee that the ability to be able to exclude some service providers by regulation is designed to ensure that there is no unnecessary duplication where those service providers are also captured under the NDIS Quality and Safeguarding Framework. We have tried to be very clear about that.

I want to quickly note a couple of things that were raised this morning with both the Public Advocate and the Queenslanders with Disability Network, particularly around, for example, the fact that the NDIS Quality and Safeguards Commission is starting in Queensland on 1 July this year. They will have a number of roles around making sure that there is information exchange between, for example, the Community Visitor Program and the commission, and the office of the Coroners Court and the commission. There will be communication means between that commission and those bodies, which I think is an important piece for us to recall.

We also heard about the fabulous work that the QDN is taking in reaching out to groups of people with disability who may have been hard to reach by the NDIA during the transition period. I commend the QDN for the role that they have undertaken, the number of people they have reached out to and the way that they have reached out to those people.

There was also discussion about market, particularly around what happens where there is a thin market. There are a number of roles around market development that are quite clearly outlined under the NDIS frame. They include the new commission that is setting up in Queensland shortly. They have certainly a role around ensuring that the regulation of the market works and that the market is a quality and safe market for those people who are participants and are using service providers that are registered. That is through their registrar provision and position.

The Commonwealth Department of Social Services also has a policy role around market. The National Disability Insurance Agency has a role around market. States and territories have an important role as well, particularly around influencing market and identifying areas where tailored responses might be very useful to be put in place. There is a number of players in thinking about market and looking at market. There is also some work just about to be underway around thin markets and identifying, through a couple of trial arrangements, the kinds of key matters that would really benefit from being rolled out through thin markets across Queensland and Australia. Those trials will be very interesting for us to all keep our finger on the pulse with.

There has also been a range of pathways that the NDIA has been rolling out, particularly to address matters around—and I think the committee this morning talked about—people with psychosocial disability. There is a particular pathway for those participants to make sure that they do have a smoother access into the NDIS and a quality experience once they are participants of the NDIS. There is a range of pathways like that that have been identified and are being rolled out by the NDIA. I will leave it at that in terms of some of the responses to some of the matters that we were hearing, but there would be more that you might have questions about that we can come back to.

**CHAIR:** Thank you for your general comments in regard to the transition, because it is fair to say that this morning some of the questions from the committee have been broader than the bill itself. The bill is very specific in regard to transition. In the last term of parliament I was the chair of the previous health committee and we had a number of transition bills in this regard. That was within the area of that portfolio committee's expertise. However, some of my fellow committee members have not had the benefit of that, so it has been helpful this morning to have the witnesses and also the department to deal generally with some of those issues. I appreciate that and I am sure my fellow committee members appreciate it, also.

Obviously the bill is quite specific in regard to its transition arrangements. We are significantly down the road on the journey to transition, as we should be, given the deadlines that are coming. This question may well be to JAG. I am interested in getting some additional clarity around the definition of 'death in care'. Obviously that is one of the key things raised in submissions. For the benefit of the committee and the report, it would be good to clarify what is proposed, how it differs or otherwise from the current definition and who falls in and who falls out.

**Ms Chandler:** The current definition of 'death in care' includes a number of places that you would classify as residential services where people are in receipt of very high levels of personal support and care. They are highly dependent. That includes level 3 accredited residential services, which is the highest level of boarding house accommodation where you also get personal care, assistance with your personal hygiene and medical assistance, as well as meals and mealtime assistance; all accommodation funded by the department of communities, so that would be accommodation services and respite services; and other residential services funded by Queensland Health, which would be, for example, the Halwyn Centre at Red Hill and similar facilities where people who are highly dependent on personal care live. Other categories include the Forensic Disability Service and people who are in authorised mental health services. You do get the flavour of the kind of scope of both 'visitable site' and 'death in care'.

For transition, it was effectively broadened because it was a difficult time to be able to determine, in fact, how NDIS legislative and service frameworks would translate to this type of definition. It was broadened to effectively include any NDIS participant living in a service provided to people with disability.

The new definition will continue to capture all those places that I just mentioned: level 3 accredited services; any people who are not perhaps funded by NDIS, but are still getting services from the department of communities; and any people living in the Halwyn Centre or any of the other health funded services will still be visitable sites and deaths in care. In terms of NDIS participants, it is not all NDIS participants, no. It is really only those who are living in a place where they are receiving services from a registered NDIS provider who is registered to provide a certain class of supports.

**CHAIR:** What about individuals living with disability who are living in aged-care facilities? I imagine there are some individuals in those facilities who are not aged. They seem to fall within a certain class where they do not have to be reported. To be fair, I think that is a return to or continuation of the current system. Can you add any value in that regard?

**Ms Chandler:** Yes, you are right in the fact that exclusion of aged-care services continues the current arrangements. That was the scope of deaths in care and visitable sites. It did not extend to the Commonwealth. Most aged-care services are mostly Commonwealth funded. That is not to say, I guess, that there are no other safeguards. Maybe they are not those particular safeguards, but if there was a death in an aged-care facility that was designated as a healthcare related death that would be reportable under the Coroners Act and could be investigated. In certain circumstances an inquest may have to be held. If you look on the website for the Coroners Act and at the Coroner's findings, you will see numerous findings in related to aged-care related deaths.

**CHAIR:** That is the point that I am trying to get to and am most interested in. I know there is a requirement to report those deaths currently if they relate to some kind of health misadventure or potential health misadventure. I do take the point that was raised earlier by the Public Advocate that sometimes there can be confusion as to what falls within a reportable death and what does not. I make the point that we have heard that. I think it is a fair point to make, given that the market or individuals and stakeholders raise that similarly sometimes. Hospitals understand it well, because that is their space, but sometimes those other facilities do not necessarily. Thank you very much for that clarity.

The other thing that I wanted to raise with the department is on page 8 of your submission, the second bottom paragraph, where it states—

Part 6, division 3, subdivisions 2 and 3 of the DSA apply to the effect that where a disability service provider, including an NDIS service provider, seeks to contain or seclude an adult—

So this goes to restrictive practice—

with an intellectual or cognitive disability the chief executive of DCDSS is required to develop, or change, a positive behaviour support plan for an adult.

Can you please explain to me how that intersects or otherwise with the current QCAT process in that regard?

**Ms Bianchi:** Is that in the table or before we get to the table, or is it in our written briefing?

**CHAIR:** My apologies: this is in your written briefing, not your responses to submissions. It is your written briefing, at the bottom of page 8.

**Ms Bianchi:** At the moment the restrictive practices framework in place in Queensland has a range of different pieces of legislation that sit around it. I think your query was particularly in relation to containment and seclusion.

**CHAIR:** That is right.

**Ms Bianchi:** There are some different arrangements in place in relation to that particular type of restrictive practice. As you correctly identified, the chief executive of the department of communities has a specific role where a person may be subject to the use of containment and seclusion and is responsible for the preparation of the positive behaviour support plan in relation to that person. That plan is then submitted to QCAT and QCAT is the responsible entity for actually authorising the use of that containment and seclusion.

**CHAIR:** My last question is a little broader and is with regard to the number of provisions you are seeking to move to regulation—subordinate legislation. We have heard consistently this morning that the transition is dynamic. I do not think there is any way to avoid that. We are making a significant change and in my view—and I think most people would agree—it is a very positive change. I already have constituents who have received a better level of support. Obviously, we will hear different stories. I think there is a lot of hope for the system. I appreciate the dynamic nature of what the department is doing. I have had a lot of briefings in my electorate for providers of services. We are trying to take everyone with us, but it will be a big process.

I am interested whether the other jurisdictions have taken the same approach in terms of moving this sort of volume of decision-making and transition arrangements into subordinate legislation? Has that been their approach? Obviously it is about three months away, but we are moving a significant component out of the substantive act. Can you talk a little bit about that, particularly as it relates to that restrictive practice?

**Ms Bianchi:** The restrictive practices frameworks that are currently in place across jurisdictions differ quite significantly. Like Queensland, other jurisdictions are still working their way through what that is going to look like at full scheme. I probably do not have to hand the detail of how all of that is going to look.

It is probably fair to say that in the NDIS legislative framework more generally there is a substantial amount of detail that actually falls to subordinate legislation. A lot of the information is contained in the NDIS rules which sit underneath the primary legislation of the NDIS Act. I think at a general level it is fair to say that there has had to be a reliance on the use of subordinate legislation given the flexibility that is required. As Helen articulated in her opening comments, in their submissions stakeholders have obviously provided some mixed views on that. Some have recognised the need to ensure that there is that level of flexibility and others have raised some concerns about some discrete aspects of that.

I think as far as we can probably take it is to say that we acknowledge that there are a number of regulation-making powers contained in the bill. That is the reason there is a specific review requirement also contained in the bill. After 12 months those regulation-making powers need to be looked at again to determine whether or not they should remain in the legislative framework. The purpose is there to acknowledge that we are still negotiating and Queensland has not yet agreed to some of those NDIS rules that I spoke about before, particularly in relation to restrictive practices and behaviour support and also in relation to worker screening. There are two sets of Commonwealth rules—

**CHAIR:** That was my second point. Obviously the yellow card system operates concurrently with the blue card system. We have just looked at the blue card system. My recollection is not perfect so I am not sure how much of that is held in subordinate legislation. A key role of the committee is to look at fundamental legislative principles. Certainly from my experience this is by nature maybe required but has the most volume being moved into subordinate legislation. I think that is why I am raising it.

The submission that you have provided obviously goes to that, but mostly just talks about 'for the purposes of flexibility'. While that might be the case, I think any additional commentary from the department as to why or that that approach is the only one that can be taken by the jurisdictions—there is no other way that it can be achieved—would be helpful.

**Ms Bianchi:** Speaking at an officer level, having been involved in a lot of the negotiations with other jurisdictions, I think it is fair to say that they are experiencing the same challenge. A lot of the officer level conversations we are having with them are about—

**CHAIR:** I expected that was the case.

**Ms Bianchi:** We would probably need to come back to you if you wanted us to really specify what those other legislative frameworks look like.

**CHAIR:** Not in detail. I think it is just to give the committee confidence because we need to ensure that that is the case. I appreciate when you look at history that maybe the Medicare process was like that, but realistically this is the first of its nature here with such a significant transition from state responsibility into Commonwealth jurisdiction that has required this sort of move into subordinate legislation. I will not labour the point any further.

**Mrs STUCKEY:** I wanted to follow on about restrictive practices. It seems to me from what we are hearing that you are not able to really list what restrictive practices Queensland will be authorising, is that correct?

**Ms Bianchi:** The range or scope of restrictive practices that are proposed to continue to be authorised by Queensland will not change under the bill. We obviously have a range now which relate to physical and chemical restraint and also restricting access to objects for adults with an intellectual or cognitive disability. There is no substantive change under the bill to the range of restrictive practices that will be authorised in Queensland.

The substance of the changes in this bill, as they relate to restrictive practices, is to acknowledge that there will be new roles and responsibilities come full scheme operation. Queensland will remain responsible for authorisation, but there will be a new entity that has roles and responsibilities as well—that being the NDIS commission.

The changes in this bill are actually about making sure that our legislation works with the proposed behaviour support rules and the Commonwealth legislation in terms of how they intersect to ensure that for service providers there is not inconsistency across those legislative frameworks. There are no substantive changes to how the system operates in Queensland at the moment in terms of the types of restrictive practices which can be utilised, but, as Helen also spoke to you about in her opening comments, it is important to also acknowledge that there is a specific function under the NDIS legislation for the NDIS commissioner to undertake particular behaviour support functions, and one of those is actually to work with states and territories to develop nationally consistent minimum standards in relation to restrictive practices. The national quality and safeguards framework acknowledged that that work was unlikely to be completed by full scheme implementation because of the complexity and different arrangements that are in place across jurisdictions. That work will continue for some period of time, with negotiation to obviously occur between all states and territories and the Commonwealth.

**Mrs STUCKEY:** That then brings me to AEIOU's submission which states—

The proposed legislation will require organisations such as AEIOU to report the use of un-authorised restrictive practice if a child, for example, stands on a bench and is removed.

Is this an accurate claim and is it perhaps too high a regulatory burden?

**Ms Bianchi:** I can provide some further clarifying information to the committee on that. I know that our actual response did not go into a great degree of detail so if the committee would like a little bit more written information on that we would also be happy to provide it. I can confirm that it is the department's view in terms of the issue raised in that submission that some of the examples provided in relation to what might constitute a restrictive practice may not actually reach the definition of a restrictive practice. Removing a child off a bench is not what would traditionally be considered within the definition of restrictive practice.

Further to that, as I said before, there is a range of NDIS rules in place. There is a specific rule in place in relation to reportable incidents. Under that rule that reporting requirement does not arise. The rule acknowledges that there are different processes in place across different jurisdictions and it acknowledges that there will be some circumstances where there may not be an authorisation framework in place in the particular state or territory. In that instance, as long as the use of the restrictive practice is in accordance with a behaviour support plan, it does not require reporting to the NDIS commission. I think there is possibly a little bit of confusion in that submission which we would be happy to provide some further information on and which we can also undertake to go back to AEIOU on.

**Mrs STUCKEY:** I would be happy to accept some more information, if that is okay with everyone. For providers of both disability support services and aged-care services does the department envisage any additional cost implications to comply with this bill?

**Ms Bianchi:** The bill is fairly technical in its nature in terms of ensuring that our legislative framework sits alongside the Commonwealth framework. I am racking my brain thinking through all of the changes. I think it is probably fair to say that the answer to that would be no there would not be expected to be significant financial implications associated with this bill. Of course, as we have heard

today, lots of things are moving and changing as the NDIS transition is completed in Queensland and we move into full scheme, but I would not expect that there would necessarily be significant financial implications arising from the particular changes made by this bill.

**Mrs STUCKEY:** What about any training or certification costs for current staff working in disability and aged-care services?

**Ms Bianchi:** There will be a need for service providers to understand the new requirements in terms of us reaching full scheme. There may well be training required to understand more generally how the role of the NDIS commission will intersect with the state based frameworks and the state based policies and procedures. Again, I am not sure that they arise directly from the changes that are made from this bill but probably arise more generally from the implementation of the NDIS and us reaching full scheme implementation.

Those contacts and communications with service providers have certainly already commenced. There is a significant session tomorrow being run by NDS to work with the service providers particularly. There is a presentation in relation to restrictive practices et cetera. That work has already commenced in terms of those communications. There is a suite of materials being developed and prepared so service providers can understand those new responsibilities. Obviously the NDIS commission has a significant role in undertaking that work with service providers as well.

**Mrs STUCKEY:** Are medical practitioners considered registered NDIS providers and if not can they be registered if they apply?

**Ms Bianchi:** I may have to confirm this, but my understanding is yes they can be registered NDIS providers.

**Mrs STUCKEY:** Are out-of-pocket costs associated with medical and pharmaceutical care covered by NDIS funding?

**Ms Bianchi:** I could not answer that off the top of my head.

**Ms Ferguson:** We would have to take that one on notice.

**Mrs STUCKEY:** Whether that can be included in their package because people have more control over how they spend that now?

**Ms Ferguson:** I think it would depend what the package covers. We would need to tease that one out.

**Mrs STUCKEY:** Would you be able to do that and get back to us?

**Ms Ferguson:** Yes.

**Mrs WILSON:** Has the minister and the shadow cabinet been briefed on the progress of the NDIS transition so far to help facilitate this bill?

**Ms Ferguson:** Certainly the minister has been briefed. The second part of your question—

**Mrs WILSON:** And the shadow cabinet?

**Ms Ferguson:** We have certainly provided advice to the minister. We provide advice through the minister to the cabinet. The minister would be providing advice to her colleagues as required.

**Mrs WILSON:** On page 2 under the heading 'Participating jurisdiction' it states—

In February 2019, the Commonwealth Minister for Families and Social Services wrote to the Minister for Communities and Minister for Disability Services and Seniors seeking Queensland's agreement to become a 'participating jurisdiction' for the NDIS from 1 July.

Was there any reason for the delay? How does that process work? Did you have to be contacted by the Commonwealth or were the other states approaching the Commonwealth or was Queensland a bit slow to get off the mark?

**Ms Ferguson:** The approach to Queensland was the approach that was taken with all jurisdictions. The response to the Commonwealth was in line with the process for all jurisdictions.

**Mrs WILSON:** On page 2 of the briefing notes it is noted that New South Wales and South Australia commenced operation of the NDIS commission. Is there any feedback at the moment as to how that is working in those states?

**Ms Ferguson:** I will answer that in a couple of ways. The commission started with them on 1 July 2018 because they had much shorter transition bilateral agreements. They had two-year bilateral agreements for their transition. They were invited to become a participating jurisdiction for the commission to go live in those two jurisdictions from 1 July last year.

That process took its course, as we have just described. The commission has an office in Penrith for New South Wales and in Adelaide for South Australia. They are fully staffed with the full complement of staff that the commission requires. They are working diligently under the provisions of the legislation. You may be aware that they have recently released their report on those two jurisdictions and the range of matters that come before the commission. Yes, it seems to be working as—

**Mrs WILSON:** As well as can be expected.

**Ms Ferguson:** As planned.

**Mrs WILSON:** Was the department disappointed with the low number of submissions? Has there been any thought as to why not as many people put in written submissions?

**Mrs STUCKEY:** There was only about six.

**Mrs WILSON:** Yes, there was only a handful—six submissions.

**Ms Bianchi:** One of the reasons we are considering for why there may be a lower number of submissions is that the bill is quite technical in nature. It does not fundamentally go to a revisiting substantially of the policy positions in Queensland in relation to restrictive practices et cetera. It is fairly technical in its approach and it is really about ensuring that one legislative framework lines up with another one and that they do not bump into one another. That is one of the reasons that we are considering why there may have been a lower number of submissions.

**Mr DAMETTO:** I thank the department for coming along this morning and giving us a briefing. It has been quite informative. With the transition of the NDIS, would the department be able to speak to how participants in the current NDIS system are being communicated the changes and how their day-to-day dealings with the NDIS will change from 1 July?

**Ms Ferguson:** There is a range of communication means. We are now in the transition period where the NDIS is available to all eligible Queenslanders. It is open everywhere across the state. The NDIA and the department continue to communicate with people across the state on what the NDIS has to offer. The NDIA has also put in place positions called local area coordinators through funded partners in the community, and those positions have, and should have, a strong role in making sure that people locally understand about the NDIS, how to access the NDIS and making those links for people between the current situation and the NDIS arrangements. Those positions have been quite late in being established in Queensland. We have raised that many times with both the NDIA and the Commonwealth government. That said, those positions are in place now and that is the role that they need to be taking so they are part of that engagement, reaching out, communication mechanism.

The department has also provided a range of information to people across the state and has funded a range of readiness processes for participants or potential participants and their families, for providers and for employees already in the market and potential employees. I think the department has spent around \$25 million over the last five years in assisting that preparedness process for those very key cohorts who are engaging with the NDIS. We also have a mechanism called 'eblasts', which is using electronic communication to get information through to providers and to representative organisations like Queenslanders with Disability Network and other representative organisations so they can get information out to their networks of clients, families and colleague providers as well. There is a range of mechanisms for engaging in communicating.

**Mrs STUCKEY:** I have been reading quite a bit about the transition from yellow card to the worker screening check taking some time. Do you know what length of time you anticipate for that to be fully implemented?

**Ms Bianchi:** At this stage we would be intending that our transition to the NDIS worker screening check would occur in 2020.

**Mrs STUCKEY:** Any time in 2020?

**Ms Bianchi:** By mid-2020.

**Mrs STUCKEY:** That is about 12 months after. That is better than we thought.

**Ms Bianchi:** There are some matters that still require resolution at a national level which will drive and impact on some of those time frames and still some policy documents under the intergovernmental agreement that are yet to be agreed through the formal governance arrangements that are in place to support the NDIS. There are some things at a national level that will impact on some of those time frames potentially.



**Mrs STUCKEY:** Ms Ferguson, I think you were saying that there were some safeguards in place for people who are currently receiving some disability services who perhaps are not captured or do not manage to access NDIS that they would still be receiving that funding?

**Ms Ferguson:** They would still be receiving those safeguards if they are in receipt of funding under the department; that is correct.

**Mrs STUCKEY:** That funding would end with the uptake of NDIS even if those people find themselves not eligible.

**Ms Ferguson:** I will provide a quick explanation to take us to some of the other means that people are supported. If someone is not eligible for the NDIS and they are under the age of 65 in Queensland and they have been receiving supports from the department under the Disability Services Act until now, they are eligible to receive what we call continuity of support. One of those provisions in the transition bilateral agreement—one of the many schedules—is about continuity of support. We are obliged—and they are obliged to hold us to account—to continue to assist them with funded arrangements to meet their needs. We also make sure that the safeguards under the DSA continue to provide for them.

**Mrs STUCKEY:** There is no time line on that apart from when it would normally have been to be renegotiated?

**Ms Ferguson:** Correct. Some people who are being assisted under the continuity of support provisions have made their way into the NDIS. Once they become eligible and are participants then the continuity of support obligations for the state are no longer in place because they are getting the supports they are after and often more supports than what they were receiving. There is no time frame for those who are not eligible and will never be eligible. We will continue to provide those supports.

**Mr SAUNDERS:** Thank you for coming in today. How was it from one government department to another working with the federal government on the NDIS? How was the relationship? Did it work smoothly working through all the issues to sort this legislation out?

**Ms Ferguson:** In terms of the legislation, yes.

**Ms Bianchi:** We have been in close contact with our colleagues at the Department Of Social Services and at the NDIS commission as required. Things have worked smoothly in terms of us undertaking those detailed mapping exercises that have been required to assess what the Queensland legislation looks like, how that interfaces with the Commonwealth legislation and the various instruments that sit underneath that. From our perspective it was a smooth process and worked well.

**Ms Ferguson:** Clearly you can see that it is not an easy set of amendments that are being made. It is a very complex set of amendments. Liz was explaining before that under the NDIS Act there are a number of rules and some of those are very complex. States, territories and the Commonwealth and us have worked really diligently and really collaboratively and cooperatively to land the positions that we have all landed despite the fact that all the jurisdictions have had very different approaches to these things to date. The overarching commitment has been to achieve as consistent as possible a nationally consistent approach to all of this. That has taken a bit of time, but it has gone reasonably well considering those complexities.

**Mrs WILSON:** You were talking about the continuity of support. Is the department monitoring people who are currently receiving funding through the Queensland packages? With people going over to NDIS I want to ensure that people who will not be able to get NDIS are still being monitored so they do not lose out in the long run.

**Ms Ferguson:** It is a great question and, again, it opens up a whole lot of work that has happened in the department. Under the Disability Services Act we have been able to identify those people who have been deemed eligible for the NDIS, they have become participants and where they are at with their plans. We know therefore that of those people who we supported through our department roughly 95 per cent have become participants already. There is a small percentage—just under two per cent—who are in the planning process or about to start their planning process to receive their plan.

We know where those people who we have supported are at in their planning processes. We know that we need to move all their funding arrangements across and those sorts of things. We also know those people who have been receiving funds under the Disability Services Act who are not in

the NDIS and may be ineligible for it. As the phasing continues through this final transition year, which is the largest transition year, we are identifying further folk who may not become eligible. So we know finite numbers and what is happening for them and then we know if they become eligible through a review process.

**Mrs WILSON:** Just going off those figures, you are saying possibly three per cent of our population will not be eligible for NDIS currently?

**Ms Ferguson:** You are talking to a figure that I have not gone to yet but that little proportion.

**Mrs WILSON:** Okay.

**Ms Ferguson:** At the moment as it stands.

**CHAIR:** To clarify, that is three per cent of those who are currently funded by the state, not of our population.

**Ms Ferguson:** Funded through our department. I have brought that up as an exemplar if you like.

**CHAIR:** It is important to clarify. Thank you to everyone for coming and those who we did not have questions for today but who have kindly participated. We appreciate how important this transition is and that there will be many learnings through it. It has been a long journey for you and continuing. Each of our stakeholders has taken at least one matter on notice. To remind you, by close of business tomorrow if you could provide some additional responses that would be appreciated. I now declare this public briefing on the Disability Services and Other Legislation (NDIS) Amendment Bill closed.

**The committee adjourned at 12.12 pm.**