



Swansea University
Prifysgol Abertawe



Cronfa - Swansea University Open Access Repository

This is an author produced version of a paper published in:
Social Policy & Administration

Cronfa URL for this paper:
<http://cronfa.swan.ac.uk/Record/cronfa50969>

Paper:

Carey, G., Nevile, A., Kay, A. & Malbon, E. (2019). Managing staged policy implementation: Balancing shortterm needs and longterm goals. *Social Policy & Administration*
<http://dx.doi.org/10.1111/spol.12530>

This item is brought to you by Swansea University. Any person downloading material is agreeing to abide by the terms of the repository licence. Copies of full text items may be used or reproduced in any format or medium, without prior permission for personal research or study, educational or non-commercial purposes only. The copyright for any work remains with the original author unless otherwise specified. The full-text must not be sold in any format or medium without the formal permission of the copyright holder.

Permission for multiple reproductions should be obtained from the original author.

Authors are personally responsible for adhering to copyright and publisher restrictions when uploading content to the repository.

<http://www.swansea.ac.uk/library/researchsupport/ris-support/>

Managing staged policy implementation: balancing short-term needs and long-term goals

Introduction

In this paper we focus on the agency of governments engaged in implementation processes which take place over a number of years and through multiple stages. The long timeframes associated with staged implementation leaves reforms vulnerable to the institutional effects that may ultimately derail policy aspirations. Governments engaged in staged implementation need to be able to plan longitudinally; that is exercise foresight capacity (Dror, 2001; Kay and Ackrill, 2012; Wu, Howlett and Ramesh, 2018). Governments also need to be capable of analysing whether staged implementation processes are creating endogenous sources of institutional change, and the likely impact of such change in the medium to long-term; that is governments need to be able to exercise reflective capacity (Kay and Ackrill, 2012). In this paper we argue that being able to plan longitudinally and analyse the impacts of a staged implementation process are necessary, but not sufficient if long-term policy goals are to be realised. Governments must also be able to navigate the inconsistent objectives that arise across the different stages of an implementation process by modifying implementation approaches in ways that reduce the likelihood of unwanted implementation effects occurring – what we have labeled ‘mitigation capacity’.

We argue that mitigation capacity is dependent on reflective capacity and foresight, as well as the availability of relevant information. The long-term nature of staged implementation processes means that, so long as policy goals and priorities remain relatively steady, there is time for evidence to emerge which strengthens policy-makers’ reflective capacity. Thus, the temporal dimensions of staged implementation create tensions, but also provide opportunities for overcoming those tensions.

The insights described in this paper emerged from analysis of the first three waves of data collected in a four year study of the implementation of Australia’s National Disability Insurance Scheme (NDIS), a major social reform whose implementation is taking place over a seven year period with staged implementation (2013-2019). The broad aim of this longitudinal study is to investigate how governance structures enable and/or constrain policy learning and change necessary for successful implementation of complex policy reforms. In this context, ‘successful implementation’ is defined as an implementation process which achieves the short-term implementation solutions needed to keep implementation processes moving forward, whilst retaining sufficient flexibility to meet long-term policy goals (Hill and Hupe, 2009; Nevile, Kay and Carey, 2018). Thus, the study contributes to how we understand policy and institutional change and the capacity of governments to balance short-term political demands and long-term policy goals.

The relationship between structure and agency in public administration

Debate over the extent to which governments are trapped by the legacies of policy design and implementation choices is not new. Twenty years ago Hay and Wincott (1998, p.953) described the relationship between structure and agency

as “one of the perennial issues...of social science”, and suggested that “change occurs in (and through) the *same time* inter-relationship between strategic action and the strategic context within which it is conceived and instantiated, and in the *later*, unfolding of its intended and unintended consequences” (Hay and Wincott, 1998: 955). In setting out their understanding of the relationship between structure and agency, Hay and Wincott (1998: 951) were concerned to focus attention on the need for historical institutionalism to consider the relationship between structure and agency “as a central analytic concern”.

In the intervening years, debate has continued within the historical institutionalism literature, with some historical institutionalists arguing that complex policy structures emerge as a result of historical contingencies, which are then self-reinforcing, whereas for others, complex design is possible as a ‘one-off’ at a certain point in time that lock-in options and trajectories for policy (Hall, 2016). The historical institutionalism literature has tended to stress endogenous change, and evolving and co-evolving institutions through mechanisms of conversion, drift, and layering (Streeck and Thelen, 2005). Below we briefly describe each of these mechanisms and the contexts in which they are currently thought to occur.

Policy layering refers to the process by which new policy goals are added to existing policy rules or policy commitments without removing the existing rules or commitments (Béland, 2007, 2005; Mahoney and Thelen, 2010; Streeck and Thelen, 2005). The effect of policy layering is to change the ways in which the original rules function and structure behaviour (Mahoney and Thelen, 2009; Streeck and Thelen, 2005). While layering does not introduce a whole new set of rules, it can have similar effects by altering the logic of institutions. Mahoney and Thelen (2009) argue that layering takes place when bureaucratic actors lack the capacity to undertake a full restructure or removal of rules, instead they work within the existing system, adding or ‘tinkering’ with rules in place. Drift occurs when rules are not formally changed, but their impacts change as a result of external conditions (for example, population demographics, or shifts in the power of dominant actors). When the process of conversion takes place, rules stay the same, but become interpreted or enacted in new ways. Conversion is thought to occur as a deliberate act, whereby individuals seek to exploit inherent ambiguities in institutions. The end result of conversion can be a fundamentally changed, or new, institution (Mahoney and Thelen, 2009; Streeck and Thelen, 2005).

We argue that the capacity for intelligent policy design demands attention to the insights of historical institutionalism, such as layering, drift and conversion. In thinking about policy design, there is no assumption that policy is made *tabula rasa*; in Richard Rose’s memorable phrase, policy-makers are inheritors more than they are choosers (Rose, 1990). The aphorism of policy designers may well be: ‘I wouldn’t start from here’; but policy is still able to be designed using combinations of legacies. In practice, policy design is always constrained, given it is about making choices in context (Ackrill and Kay, 2014).

The second generation of historical institutionalism literature argued that there is a role for creative agency and, critically, endogenous mechanisms of institutional change can be directed by policy-makers for particular purposes (Mahoney and Thelen, 2009). However, the historical institutionalism literature depicts policy layering as taking place only when institutional actors lack the capacity for formal rule change. However, empirical research on policy design and implementation indicates that layering can be used as a tool, even when actors have the ability to make new institutional rules (see, for example, Carey, Kay and Nevile, 2017).

Empirical findings which demonstrate how institutional actors consciously choose from a palette of options, rather than choosing the only option available to them, suggests the need for a more nuanced understanding of government agency such as can be found in the policy capacity literature which identifies foresight capacity, the ability to plan longitudinally (Dror, 2001; Kay and Ackrill, 2012), and reflective capacity, the ability of public servants to monitor where they have come from, where they are going and how they might get there (Kay and Ackrill, 2012). Reflective capacity is dependent upon the extent to which the policymaking system, “has access to, and can utilise, institutions that allow current policies to be critically examined” (Kay and Ackrill, 2012: 298). Foresight capacity and reflective capacity are particularly important when policy design and implementation takes place over a number of years because the potential for institutional effects, such as layering, which restrict subsequent policy choices are magnified. For this reason we argue that foresight capacity and reflective capacity are necessary but not sufficient conditions if governments wish to reduce the risk of short-term implementation priorities creating legacies that work against the achievement of long-term policy goals.

As well as being able to plan longitudinally and monitor the effects of current policy settings, governments need the capacity to identify corrective actions which will minimise the effects of unwanted policy outcomes; what we have labeled ‘mitigation capacity’. This is not a concept that has appeared previously in the literature, however we believe it captures a key skill required for implementing long term policy goals. Mitigation capacity, as we define it, refers to the ability to navigate inconsistent objectives that arise across different timeframes. Without this, the desire to achieve short term policy goals can derail longer term ambitions. As Hay and Wincott (1998: 956) observed, individuals (and groups of individuals) are reflexive and capable of assessing the immediate and unfolding impacts of prior strategies in relation to both short and long-term goals.

In this paper we use a historical institutionalist lens to examine an empirical case study of long-term policy implementation. From this, we identify the need for a range of policy capacities which need to be developed in order to balance short term and long-term policy goals. In the following section we outline the case which will be examined in this paper, followed by methods and analysis.

The case study: The Australian National Disability Insurance Scheme

The NDIS is the largest reform to public administration in Australia in a generation, and it is part of the international personalisation agenda (Dickinson and Glasby, 2008) that sees the delivery of welfare services both personalised and marketised. The AU\$22billion scheme sees a shift from block-funded disability services to a personalised funding model for disability care.

The NDIS is said to replace an inequitable and fractured system (Productivity Commission, 2011; Collings, Dew and Dowse, 2016). Previously, Australian disability services were the responsibility of State and Territory governments, and different models have been developed across the eight jurisdictions (Fisher, 2010). In 2011, the Australian Productivity Commission (an independent statutory body) was charged with investigating the organization and funding of disability services and developing a design for a national disability insurance scheme. The Commission found that the existing system was 'underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports' (Productivity Commission, 2011, p.2). The report set out the design for a market-based social insurance scheme: the NDIS. The NDIS was passed into legislation with bi-partisan support in 2013 and broad public support, with the Productivity Commission report forming the blueprint for design and – to a lesser degree - implementation (Thill, 2015).

Under the NDIS, approximately 460 000 individuals who have a significant and permanent disability will receive personalized funding budgets, paid for by the state, to fund their care (Productivity Commission, 2011; Collings, Dew and Dowse, 2016). Compared to other personalisation schemes, for example in the UK, which took thirty years to implement, the Australian scheme is being implemented at the rapid and almost unprecedented rate of seven years, with all eligible Australians due to be signed up to the scheme by 2019 after a phased implementation that began in 2013 (Carey *et al.*, 2018).

Implementation began in seven trial sites around the country, each with a different population focus. It then proceeded to 'transition' in which enrollment in the scheme is expected to grow to include all eligible citizens, who will be placed on initial (yet to be developed) service plans while old supports are dismantled, and 'full scheme' where all participants are enrolled and have a sophisticated plan (Productivity Commission, 2011, 2017). While phasing was envisaged as a way to manage the scope of change, it has left the scheme vulnerable to being 'caught' at different stages (Carey, Kay and Nevile, 2017) The scope combined with the short timeframe and the phased approach of this reform makes it vulnerable to problems caused by the pressures of implementation.

Research design and methods

As noted earlier, this paper draws on data from a longitudinal study of the implementation of the NDIS. The study aims to investigate implementation with a particular focus on how governance structures enable and/or constrain policy learning and change necessary for successful implementation of complex policy reforms. The study utilizes a case study research design because it enabled us to investigate these changes in-depth and in their real-life contexts over time (Yin, 2014). Semi-structured interviews (N=58) were conducted with key policymakers in the Commonwealth government department with policy responsibility for the design and implementation of the NDIS over a period of three years to capture change over time.

Participants were identified by the head of the Commonwealth department as key to the implementation of the NDIS. In total, 41 participants were interviewed, Six participants have taken part in all three rounds of data collection, while other participants have only taken part in one or two interviews, depending on when they started or left their role. The NDIS branch of the Commonwealth Department of Social Services (DSS) has expanded considerably since the research began, bringing new participants into the study, while others have moved on reflecting the natural movements in the Australian Public Service .

Interviews were recorded and transcribed verbatim. Each round of interviews focused on current implementation challenges, guided by participants and their work. The first round of interviews took place in March/April 2016. Themes, generated by participants, with each interview commencing with the interviewer asking participants to reflect on current challenges and opportunities. In the first round of interviews discussed: decisions regarding the governance structure of the NDIS; deviations from the structure proposed by the Productivity Commission in its report, *Disability care and support*; and the impact of the newly elected Liberal-National Coalition Government on the design and implementation of the NDIS. The second round of interviews took place in April/May 2017 and focused on the interrelated issues of market development, regulation and accountability which was the main focus of implementation at this time. The third round of interviews took place in April 2018 and focused on the nature of the relationship between the National Disability Insurance Agency (NDIA) and the newly operational NDIS Quality and Safeguards Commission as well as evolution in thinking in relation to market development.

Data was analysed using a thematic approach (Blaikie, 2010). 'Like' data were grouped together to form categories and subcategories. These categories were developed into more substantive themes, by linking and drawing connections between initial categories and hypothesizing about consequences and likely explanations for the appearance of certain phenomena (Strauss, 1987). This was done through discussion between the team. In the refining of themes, selective coding was carried out, whereby transcripts were revisited with the explicit

intent of finding further linkages and connections between the central issue being explored and other themes.

Findings

As noted previously, the blueprint for the implementation of the NDIS set out three stages: a trial phase where implementation of specific cohorts commenced in seven locations across Australia; a transition phase during which time enrolment of eligible participants was expected to grow from 20,000 to 460,000 and 'full scheme' operation, by which time it was anticipated that all eligible participants would be enrolled in the Scheme. As the NDIS approaches full scheme, a fourth stage has emerged, with a distinction being drawn between 'full scheme' and 'scheme maturity'.

I think we have in the last year come to the realisation that we see a difference between full scheme and mature scheme. So we have full scheme agreements and that basically happens when we agree transition ends and there is a new funding mechanism where we lock things in based on a per population basis. But we know that the work for the NDIS is not [finished] when we've got full scheme agreements because there is a great deal to be done in the maturation of the scheme, particular markets and workforce, because...we think [these issues] will pose continual risks to how things roll out (Senior public servant P33 2018).

Because of the roll out ... three models are being designed. So you were really using trial to experiment... And then you've got this disruptor in the middle where you need a rapid intake process, where you actually need elements of the model designed differently, just for transition (Senior public servant P21 2016).

As implementation has proceeded through the trial and transition phases, senior public servants responsible for managing the staged implementation were aware that decisions being made in response to short-term implementation priorities had the potential to create unwanted policy legacies.

You also want to make sure that things in transition don't leave a legacy in full scheme that is a bit hard to unpick, because you've got to do [certain] things in transition (Senior public servant P3 2016).

So there'll still be an evolution but I think one of the big changes we've seen is a lot of things that were operating in trial were never going to be scalable for transition to full scheme (Senior public servant P13 2017).

In our analysis, tensions between the short-term priorities of staged implementation and long-term goals of the Scheme where legacies had the potential to become entrenched were found to be particularly acute in four key areas: participant planning, funding mechanisms, the establishment of markets for disability support service; and national consistency. Each of these areas are discussed in turn before attention turns to the ways in which those responsible

for on-going implementation are able to negotiate tensions between short-term implementation priorities and long-term goals.

Participant planning

One of the major innovations of the NDIS is the creation of 'Local Area Coordinators' (LACs). In the original blueprint for the Scheme, the role of LACs was to provide local level support by linking people with disability to local community groups, providing small grants to assist individuals access community activities, identifying voluntary resources people with disability could access, as well as case management and brokerage functions (Productivity Commission, 2011). However the shape of this important 'street level' role has undergone significant change as the Scheme has moved through its various implementation phases.

As noted previously, the aim of the transition phase was to increase enrolments in the Scheme from 20,000 to 460,000. Not surprisingly, implementation priorities centred on getting participants enrolled and drawing up personalised budget plans as quickly as possible, with less consideration given to the quality of the personalised budget plans (Knaus, 2017). The focus on increasing enrolments as quickly as possible was driven by political imperatives:

I think it was pretty much a politically-driven thing and there were several times where we asked questions like, 'Do you really want to stick to these numbers? They're unrealistic?' And the political response, because there was probably a fear of being seen to be slowing down, or not being supportive of the NDIS and the Opposition [Party] getting political capital out of it, I think the answer was, 'no, we're sticking to the numbers. You just got to make it happen' (Senior public servant P28 2018).

To reach the targets LACs were redirected away from their original role of providing local level support and required to focus their attention on enrolling participants and placing them on plans (Senior public servants P18, P28). This occurred through a process of policy conversion – with LACs being outsourced by an incoming government, the ambiguity around their function was exploited to cover the shortfall of planners. This is reflected in LAC contracts, which now stipulate that at least 80 per cent of their time should be spent on planning activities, as distinct from their original planned activities (NDIA, 2016, 2016) which were intended to help participants build capacity by accessing local services (Senior public servant P18). The change in LAC roles was noted in recent research evaluating aspects of the scheme.

LACs are... not doing what they were employed to do. Many felt the specific skills and connections to the community that they brought to the position were not being utilised. All of the LACs who were interviewed described being required to spend the largest portion of their time supporting the planning process and plan implementation (Mavromaras et al, 2018: 107).

While it is anticipated that, in time, LACs will return to their original roles, planning within the NDIS is currently fraught, with financial cuts to the amount of money available to participants and major inconsistencies in care plans on both a case-by-case and year-by-year basis (Commonwealth Ombudsman, 2018; Joint Standing Committee on the NDIS, 2018). The Commonwealth Ombudsman found that the NDIS had around 8,100 requests for revisions or alterations to NDIS care plans in February 2018, with around 600 new requests occurring per week at that time (Commonwealth Ombudsman, 2018). There was significant attention on the NDIS's plan revision process at this time, with media highlighting the backlog and the Ombudsman's report recording 400 complaints relating to the plan revision process (Commonwealth Ombudsman, 2018). This has the potential to erode community trust in the planning process and lessen the ability of the LACS, who have become the face of the planning process in many locations, to fulfil the original vision of their role.

Policymakers also noticed a change in the culture of the Scheme as a result of the pressure to enroll participants and place them on plans as quickly as possible. In the following quote the interviewee refers to 'Centrelink', a Federal government agency whose main responsibility is to process social security payments. In many locations NDIA offices are co-located with Centrelink offices. The comparison of the NDIS to Centrelink demonstrates the concern felt by many both inside and outside the bureaucracy that the NDIS planning process was becoming standardized and de-personalised.

You could see a shift in culture from a philosophy that was individually needs-focused to almost a Centrelink kind of focus and ... now ... it's moved totally to a Centrelink - a sausage factory - approach (Senior public servant P28 2018).

One of the downsides of this focus on targets has been...a shifting in emphasis in the whole basic focus of the NDIS. So initially it was conceived as very much tailored to the individual and their circumstances, and really understanding their circumstances, and developing a particular package for the person. And I think the pressure of just get through hundreds of people has kind of shifted it from that emphasis. And I think there's a real danger for the NDIS that it basically turns into Centrelink (Senior public servant P28 2017).

A review was launched in recognition of the drift that occurred in NDIS planning – away from the individualised vision, towards a 'sausage factory' or 'cookie cutter' model where the goals of assessing individual needs and aspirations were standardised and streamlined in order to meet participant enrolment targets. The Pathways Review identified the policy drift in the planning process as the NDIS was implemented, as a result of pressure on the scheme.

From the commencement of transition in July 2016 and as the number of participants entering the Scheme ramped up, it became obvious that the NDIA's processes and systems had not always resulted in a participant and provider experience of a consistently high standard. Systems and processes migrated to at transition posed Information and Communication Technology challenges. This combined with the use of telephone contact to develop participant plans and the very pace of participants entering the Scheme collectively caused many participants and providers to report poor plan experiences (NDIA, 2018a, p.8).

The review identified that participants wanted the planning process and LACs to be returned to the original vision of the NDIS.

Participants told the NDIA that they did not feel engaged in the process of developing their plans, experiences were inconsistent and they had to retell their stories to different people. Participants wanted more of a relationship of trust built through face-to-face interaction; they wanted the NDIA staff and LACs to understand their individual needs; they needed clear communication in a format that suited their individual needs; they required greater consideration of other government and community supports in their plans; and they looked for systems that were user friendly (NDIA, 2018a, p.9).

A combination of policy drift (with the planning process moving away from the more bespoke and developmental approach) and conversion (with LACs diverted from community development to planning) puts the long-term goals of the NDIS at risk. The original LAC role is fundamental to the long-term goals of the scheme to see individuals with a disability empowered and well connected to their communities, exercising choice and control over services. In diverting LACs into planning in the midst of widespread discontent with the planning process, these professionals lose community and participant trust. Moreover, the structures and culture of the NDIS may become cemented in ways that do not allow the LAC role to return to the original vision – leaving it permanently converted to a planning role. The potential for this was noted by one policymaker in 2016.

There will be a bit more of a juggling of the general Local Area Coordination stuff, and assisting the claiming and bringing people in. You would hope then in three years' time, LACs can go to that real intent much more because people will be in and actually looking at how the community supports them, how are the linkages with mainstream...So, to me there's a risk in these things - and in some ways I think that's why the transition of only two or three years is a good thing - because it's really hard, once you've done things, to sort of pull back. There will need to be some pragmatic approaches in transition but not locked in (Senior public servant P21 2016).

Now, three years after this statement was made, the LACs are in fact further away from fulfilling their community development roles, with planning roles now enshrined in their contracts.

Funding mechanisms

In transitioning from a State funded to a federally funded approach those responsible for policy design and implementation have been obliged to create a range of interim measures which leave a legacy on subsequent stages of implementation. For example, existing services offered either by State and Territory governments directly, or through contracts between State and Territory governments and third party providers, have continued through all stages of implementation. The agreement negotiated between the Commonwealth government and the various State and Territory governments which allowed implementation to commence, requires participants to use State and Territory funded services (referred to as 'in-kind' services) before 'cash' services where individuals are given money to purchase alternatives from the market. This is a form of policy layering where new policy goals are layered onto an old arrangement, thereby compromising the goals of the reform. What is particularly interesting about this example is the way in which layering was sought out as a tool to deal with complexity rather than policy makers choosing to introduce a completely new set of rules (Carey et al, 2017). That is, the requirement for participants to source support services from existing State and Territory contracts until such contracts expire, was introduced in order to meet the short-term priority of managing the financial transition from State and Territory governments to the Commonwealth government.

[The States] need to use the in-kind services above cash, because if they don't, the in-kind services might disappear.... But that puts pressure on the cash. I think that is a really huge challenge and something if you're looking at from an implementation perspective, is very difficult to administer. Now the reason we've got in-kind is to help us transition out of the existing contracts, but that can take years (Senior public servant P14 2016).

However, the requirement for individuals to continue to use existing government services limits both choice and control for participants and, over time, retards the growth of the disability services market.

By using in-kind, you're also restricting choice and control of the participations, because you're saying, 'well we've still got this service that we're going to have for the next three years, as a contract'. So although we're telling you, 'you can go and get whatever provider you want', you actually have to use this [provider] first because otherwise we'll run out of money (Senior public servant P14 2016).

Many of these 'in-kind' arrangements will stay in place into full implementation (Senior public servant P14) .

In the most recent interviews, three years after the above statements were made by policymakers, there is a growing recognition that this policy layering is creating a legacy of distortions that could be difficult, or at least take considerable time, to 'wash out'. This is one of the reasons why policymakers are envisaging a fourth stage of implementation - 'scheme maturity'- whereby market distortions and constraints on choice and control created by layered effects of previous policies, begin to dissolve. In recognition of the ways in which layering is now impacting the growth of markets and the vision of choice and control, the Federal government has tried to wrap-up the in-kind contributions by making it non-negotiable "that in-kind needs to come out of the scheme. There's a few areas, as you will have heard, where we're looking at the form that that might take, but the Commonwealth's pretty committed that there'll be no in-kind...[beyond] 2023 (Senior public servant P31 2018).

However, 2023 is well into the fourth stage of 'full scheme' implementation. The hangover effects in terms of market development and the ability of individuals to exercise choice and control will have gone well past transition, placing limits on market development and also the development of capabilities of individuals to exercise choice and control (rather than continue to receive standard government services). Hence, while the in-kind arrangement met the immediate priority of managing the financial transition from State and Territory governments to the Federal government, it also has the potential to entrench expectations, practices and cultures that are inconsistent with the ultimate goals of the NDIS.

Disability markets

The success of the NDIS hinges on development of robust disability markets across the country, as without multiple care options for participants to choose from, they cannot exercise choice and control over their care services. The establishment and maintenance of markets for disability support services relies on participants having funds to purchase services, thereby creating demand and driving provider growth in the markets (Productivity Commission, 2011).

During transition, the scheme has been characterised by higher numbers of participants and larger funding packages than anticipated in early modeling (Productivity Commission, 2017). While the scheme remains within its budget envelope, this is because participants have not utilised the full funding within their plans (Productivity Commission, 2017), highlighting a major budgetary problem within the NDIS. Lack of spending of care plan budgets is no doubt driven by a range of factors, however a lack of markets from which to purchase services have been identified as major cause of participants not spending their allocated budgets (Productivity Commission, 2017).

In response to pressures to keep the NDIS within the current funding allotment, underspent money in plans has been withdrawn from participants' budgets (Morton, 2017). Similarly, while there is no systematic evidence, there are reports in the media that participants' plans are being reduced over time,

particularly if people are perceived to be doing well (Morton, 2017). One interviewee explained her personal experience of this:

I've got a friend who's in her mid 50s. She has a diagnosis of schizophrenia and 12 months ago she had been given 12 hours of NDIS care a week and that meant that pretty much every second day she had someone coming in for social support. She was... in a little bedsit, and she was functioning really well, probably the best that she had been in more than 10 years. Anyway, her review came up and, because she was doing so well, her 12 hours went to one hour. So literally what had been built up for her over the past couple of years just went out the window within less than two months. The social support was totally withdrawn (Senior public servant P40 2018).

Pulling unspent money back into the scheme, and reducing people's packages over time, meets the immediate demands on the NDIS to rapidly reduce costs and prevent a budget blowout. However, it places longer-term goals in jeopardy – without money in the hands of participants there is no means by which to stimulate market growth. This can be considered a form of policy drift. If the service markets do not develop as a result of a lack of funds to stimulate growth, the NDIS will fail to deliver on choice and control (Productivity Commission, 2017).

Emerging efforts to address market problems may also generate undesirable side effects. For example, in South Australia a public sector mutual has been established by public servants to address a current market gap in child therapeutic care (Easton, 2018). In doing so, the immediate gap has been addressed. However, in the longer term, the mutual may play a monopoly role in the market and prevent this area of care from becoming contestable. At present, the implications of these approaches are not known.

National consistency

One of the original aims of the NDIS was to create a national scheme supported by the Commonwealth government with consistency across individual States and Territories (Productivity Commission, 2011), thereby ensuring equitable treatment of people with disability across Australia.

It is definitely a goal under the NDIS to achieve national consistency, particularly in respect of the policies and the objects and principles of the Act, the principles of choice and control, reasonable and necessary access requirements (Senior public servant P22 2016).

National consistency in the scheme and therefore national consistency in decision making around the scheme and what people are able to access...[and] how that's delivered (Senior public servant P8 2016).

In order to transition the diverse range of State based models that have emerged over the last twenty years into a single national scheme, a series of bi-lateral agreements were developed for each State and Territory at each stage of implementation. These bi-lateral agreements both introduce and codify policy

layering. During the transition phase of implementation there was recognition that different arrangements will apply in different States and Territories, despite the desire for national consistency.

I think there's a recognition that there's that need for national consistency. There's going to be an awkward year, probably next year where the phasing in is commencing with South Australia and New South Wales, because of that link to the bilateral agreements in those two jurisdictions (Senior public servant P36 2018).

However, differences still exist between States, even in the third round of bilateral agreements. This means that the legacies of former disability models will endure into full scheme, creating variations which may prevent national consistency from being achieved. For example, in Western Australia the Scheme is delivered under State legislation (not Federal legislation, as is the case elsewhere in the country) and administered through a different implementation agency governed by an independent Western Australia Board (Buckmaster, 2017). Here the short-term priority has been to shift from a State to a Federal model, which required significant negotiations, and different compromises, with each State and Territory. In the long-term, this raises the possibility that the Scheme will look different in different States and Territories. The practical implication of this will be that, should participants move interstate, they may experience differences in their care planning processes and rules, a situation the national design originally intended to avoid.

Discussion

While staged implementation is set out as a process by which to instigate and scale up reforms, the experiences of implementing the NDIS has involved three (and potentially four) distinct stages with different structures, values and objectives. This is in contrast to the rationale provided for the staged approach, which is presented as a natural continuum from trial to full implementation (Productivity Commission, 2011). This is, in part, an issue of policy design. The trial sites of the NDIS all operated under different models, with different priority populations and different operational arrangements. As such, a feasible 'scale up' process was doubtful. However, a range of policy legacies and emerging political interests also contributed to the 'stickiness' of transition phases. In some instances these legacies were deliberately created in order to address political and implementation pressures. The development and use of policy legacies in implementation offers insights and warning to those interested in large-scale policy change in other jurisdictions. While the experiences of the NDIS overall demonstrate the need for policymakers to develop a range of capacities relating to the temporal dimensions of policy implementation.

The experiences of policymakers charged with implementing the NDIS demonstrate that phased implementation poses the risk of policies being pulled off course during transition phases, thereby inhibiting the implementation of the long-term policy vision. We found that in a number of key areas the need to meet short-term priorities, which were often political in nature, set in motion the

creation of structures and cultures which are likely to become entrenched. Indeed, the longitudinal nature of the study has enabled us to show that some changes are indeed becoming intractable. Three years ago, interviewees raised concerns about LACs (Local Area Coordinators) becoming 'locked' into planning roles and in 2018 we find that planning now takes up 80 per cent of LACs' time and has been written into contracts. Phased implementation may help policymakers negotiate the enormity of large-scale change, whereby ambiguous or incomplete policy ideas become a way to navigate immediate implementation concerns. However, the NDIS demonstrates that the risk of policies becoming stuck in early implementation stages is genuine and material.

To avoid this, policymakers need to identify where processes such as drift layering and conversion are occurring, and determining strategies to *mitigate* their impacts. This requires policymakers to develop a range of policy capacities with a sensitivity to the temporal dimensions of policy, in particular, foresight capacity, reflective capacity and mitigation capacity. In the remainder of the we discuss each of these in turn.

The ability to plan longitudinally, or use foresight capacity, is seen as a key capacity of government (Dror, 2001; Kay and Ackrill, 2012). Governments have come under scrutiny and criticism in this area, largely as a result of the short-termism created by fixed political terms (Kay and Ackrill, 2012). Political pressures are indeed responsible for some implementation challenges within the NDIS. For example, the pressure on planning which has seen critical positions diverted has largely been driven by political desires to not be seen to be slowing down such an important reform (Knaus, 2017; Nevile, Kay and Carey, 2018). This demonstrates the ways in which political pressures can intersect with phased implementation to pull reforms in different directions. Several authors have noted the lack of attention to the interplay of politics and implementation in the policy implementation literature (Moe, 1989; Nevile, Kay and Carey, 2018; Patashnik, 2008). However, as Moe (1989 p268) argues, policy implementation cannot be separated from politics – “guided by technical criteria of efficiency and effectiveness”. Nevile (et al 2018) has demonstrated the way that government departments, agencies and positions are structured is both a political instrument and an implementation mechanism. Hence, public servants need to grapple with the ways in which politics may interrupt long term policy implementation through shifting the structures or cultures of institutions. For example, with the NDIS the public eye has been on the overall cost of the scheme. In response, the costs of the scheme have been carefully maintained, while politically motivated changes have been made which effect implementation (Carey *et al.*, 2017). These include the change to Local Coordinator Roles and a decision to outsource a range of functions to non-government agencies (Bo'sher, 2015; Carey *et al.*, 2017). Here the structure and governance of the scheme has been altered for political reasons with consequences for implementation – demonstrating, as Nevile et al (2018) argue, that it is not a case of either/or but both.

In the third round of interviews, we found evidence of foresight capacity in that there was a growing recognition that the requirement to use existing State and Territory government contracts (in kind services) was creating a legacy of

distortions that could be difficult, or at the very least, take some time to ‘wash out’ of the system. This is one of the reasons why policymakers are now talking about a fourth stage of implementation – scheme maturity – whereby market distortions and constraints on choice and control by layered effects of previous policies begin to dissolve.

The case of the NDIS also raises other fundamental questions about the ability and need for governments to plan long term. Phased implementation is an effort to grapple with the temporal and logistical complexities of large-scale reform. Yet, signaling that a policy will be ‘mature’ in the future gives public servants room to move in the present – limitations or problems are more tolerable in the present because they are part of achieving the full vision of reform. Hence, rather than merely a tool to map out future policy steps, phased implementation may actually allow policymakers to leave some complexities unchallenged and unaddressed. Phased implementation needs to account for, not side step, these issues through foresight and long term planning. A key part of this is the ability to foresee endogenous sources of institutional change, such as the stickiness of institutional layers (seen in the NDIS in funding mechanisms) and drift or conversion (seen in the Local Area Coordinator positions). The longitudinal nature of our research captures the early awareness of NDIS policymakers to these issues, suggesting that they can be anticipated and, potentially, managed.

Reflective capacity is concerned with the ability of public servants to continually monitor where they have come from, where they are going and how they might get there (Kay and Ackrill, 2012). The extent to which the policy-making system “has access to, and an utilise, institutions that allow current policies to be critically examined, to look back to recover historical lessons ... to maintain or restore travel towards far-distant goals, is constitutive of policy capacity” (Kay and Ackrill, 2012). Reflective capacity is in fact an essential part of government’s steering and stewarding role – gauging whether policies are on track and determining how to bring them back on course if not.

The NDIS case highlights the importance of reflective capacity for identifying and ameliorating processes of institutional change with could entrench reforms in early phases. For example, interviewees have always been aware that the success of the NDIS depends upon the development of a robust market in disability services, but little agreement on what should be done to monitor and facilitate market development (Nevile *et al.*, 2019; Carey *et al.*, 2017). However, by the third round of interviews, there was evidence of reflective capacity, rather than just recognition of a potential problem. For example, with the NDIS Quality and Safeguards Commission in operation, there is evidence of an understanding about the sort of information sharing between the National Disability Agency (the main implementation body) and the Commission, which will enable the two agencies to recognise potential risks and take action to reduce the possibility of unwanted outcomes. This includes identifying the potential exist of a large provider, or identify risky providers operating in the scheme (Commonwealth Department of Family and Community Services, 2016; Joint Standing Committee on the NDIS, 2018).

Similarly, policymakers noted the potential for cultures and practices to become stuck in transition phases, but there was evidence of some attempts to redress issues of layering and drift in response. While the 'Pathways Review' (NDIA, 2018b) of the planning process has been contentious, it is nonetheless an effort to set implementation back on track – redressing a “sausage factory” culture that had emerged in the main implementation agency and return the planning process to the original vision. While the review was only launched this year, its success or failure will tell us much about the capability of governments to redirect implementation once processes of layering, drift and conversion have been identified.

At the core of the challenges within the implementation of the NDIS is the ability to navigate inconsistent objectives, referred to here as mitigation capacity. While Painter and Pierre (2005) describe the need to balance conflicting goals and objectives as a political problem, the NDIS demonstrates that it is also a temporal challenge.

While staged implementation is set out as a process by which to instigate and scale up reforms, the experiences of implementing the NDIS has been three (and potentially four) distinct phases with different structures, values and objectives. This is in contrast to the rationale provided for the phased approach, which presents it as a natural continuum from trial to full implementation (Productivity Commission, 2011). This is in part an issue of policy design. The trial sites of the NDIS all operated under different models, with different priority populations and different existing contexts (Productivity Commission, 2011; Commonwealth Department of Family and Community Services, 2016). As such, a 'scale up' process was doubtful. However, a range of policy legacies and emerging political interests also contributed to the 'stickiness' of transition phases. Moreover, these legacies have also been used as an implementation tool, which can be seen in the use of in-kind funding supports and also a deferral to business as usual approaches to participant planning in order to address political and implementation pressure (Carey, Kay and Nevile, 2017).

While foresight capacity is an attempt to predict future problems, and reflective capacity to learn from past ones, mitigation capacity refers to the ability of governments to navigate real time decisions where conflicting goals are present. The NDIS suggests that this mitigation capacity is critical regarding large scale policy reforms, where there are likely to be conflicts between immediate objectives and longer term aims. Without mitigation capacity, processes of institutional layering and path dependency that come into play in any large-scale efforts to change institutions may render governments incapable of seeing reforms through to their full vision. Hence, mitigation capacity is important for any government and/or policymaker seeking to achieve long-term goals in policy reform.

Analysis of the NDIS case suggests that when governments exercise mitigation capacity, they tend to do so in a piecemeal manner. That is, by addressing some, but not all, of the factors that have the potential to produce an unwanted outcome. For example, a number of mitigation strategies are under

consideration in the area of market development, but there is an hesitancy on the part of policy makers to address what service providers identify as the major barrier to market development; namely that price regulation by the NDIA is “preventing the development of the market [and] threatening the financial viability of many organisations” (Joint Standing Committee on the NDIS, 2018, p.65). This is because of the perceived need for independence in the setting of prices for the scheme (Productivity Commission, 2017). The experience of the NDIS suggests that mitigation capacity is an area which requires explicit development, though it is worth noting that mitigation capacity may be constrained by contextual factors and the power or particular actors.

Conclusion

Staged implementation is used as a tool by government to manage large scale policy change, particularly where time frames are long. Using the case study of the Australian NDIS we have explored the difficulty of balancing short-term implementation solutions while retaining the freedom and flexibility to meet long-term desired policy outcomes in staged implementation approaches. By applying a historical institutionalist lens, it is apparent that a range of policy capacities are important in long-term policymaking which can help draw policymakers’ attention to temporal dimensions of implementation. Many of the challenges identified in the NDIS, relating to layering, conversion and drift, are inherent in all long-term policy aspirations, and historical institutionalism reveals a number of concepts common to policy change worldwide that should be considered at the point of policy design and beyond. This can ensure that short-term thinking is not to the detriment of long-term policy aspirations.

We have argued that the literature on historical institutionalism indicates a number of key areas of policy capacity that need to be better developed in long term policy objectives are to be reached: foresight and reflective capacity (which are already described in the literature), and mitigation capacity, a concept introduced here. Being able to plan longitudinally and analyse the impacts of a staged implementation process are necessary, but not sufficient if long-term policy goals are to be realised. Governments must also be able to navigate the inconsistent objectives that arise across the different stages of an implementation process by modifying implementation approaches in ways that reduce the likelihood of unwanted implementation effects occurring, that is develop ‘mitigation capacity’.

This paper has highlighted the importance of developing a range of temporal capacities, for policy design and implementation. This is because historical institutionalism has demonstrated that early policy decisions and practices can become intractable norms over time (Mahoney and Thelen, 2010), turning a short-term solution into a long-term policy misalignment. However, capacity for intelligent policy design and implementation may be possible when these key concepts of policy change are taken into account.

References

- Ackrill, R. and Kay, A. (2014) *The growth of biofuels in the 21st century: policy drivers and market challenges*. UK: Springer.
- Béland, D. (2007) Ideas and Institutional Change in Social Security: Conversion, Layering, and Policy Drift. *Social Science Quarterly*. 88 (1), pp. 20–40.
- Béland, D. (2005) Ideas and social policy: An institutionalist perspective. *Social Policy & Administration*. 39 (1), pp. 1–18.
- Blaikie, N. (2010) *Designing Social Research*. 2nd Edition. MA, USA: Polity.
- Bo'sher, L. (2015) *7,000 NDIA jobs to be outsourced* [online]. Available from: <http://disabilityservicesconsulting.com.au/>.
- Buckmaster, L. (2017) *The National Disability Insurance Scheme: a quick guide*.
- Carey, G., Dickinson, H., Malbon, E. and Reeder, D. (2017) The Vexed Question of Market Stewardship in the Public Sector: Examining Equity and the Social Contract through the Australian National Disability Insurance Scheme. *Social Policy & Administration* [online]. Online first . Available from: <http://doi.wiley.com/10.1111/spol.12321>doi:10.1111/spol.12321 [Accessed 5 June 2017].
- Carey, G., Kay, A. and Nevile, A. (2017) Institutional Legacies and “Sticky Layers”: What Happens in Cases of Transformative Policy Change? *Administration & Society*. pp. 0095399717704682.
- Carey, G., Malbon, E., Olney, S. and Reeder, D. (2018) The personalisation agenda: the case of the Australian National Disability Insurance Scheme. *International Review of Sociology*. 28 (1), pp. 20–34.
- Collings, S., Dew, A. and Dowse, L. (2016) Support planning with people with intellectual disability and complex support needs in the Australian National Disability Insurance Scheme. *Journal of Intellectual and Developmental Disability*. 41 (3), pp. 272–276.
- Commonwealth Department of Family and Community Services (2016) *NDIS Quality and Safeguarding Framework*.
- Commonwealth Ombudsman (2018) *Administration of reviews under the National Disability Insurance Scheme*.
- Dickinson, H. and Glasby, J. (2008) Not throwing out the partnership agenda with the personalisation bathwater. *Journal of Integrated Care*. 16 (4), pp. 3–8.
- Dror, Y. (2001) *Capacity to govern: A report to the club of Rome*. London: Frank Cass.

- Easton, S. (2018) SA spins off Australia's first employee-led public service mutual. *The Mandarin* [online]. Available from: <https://www.themandarin.com.au/89371-sa-spins-off-australias-first-employee-led-public-service-mutual/>.
- Fisher, K. (2010) *Effectiveness of individual funding approaches for disability support*. Canberra: Dept. of Families, Housing, Community Services and Indigenous Affairs.
- Hall, P. (2016) Politics as a Process Structured in Space and Time. In: O Fioretos, T Falleti, and A Sheingate (eds.). *The Oxford Handbook of Historical Institutionalism*. (no place) Oxford University Press. pp. 31–51.
- Hay, C. and Wincott, D. (1998) Structure, Agency and Historical Institutionalism. *Political Studies*. XLVI pp. 951–957.
- Hill, M. and Hupe, P. (2009) *Implementing Public Policy*. Second Edition. London: Sage.
- Joint Standing Committee on the NDIS (2018) *Joint Standing Committee on the National Disability Insurance Scheme Public Inquiry. Hansard Report*.
- Kay, A. and Ackrill, R. (2012) Governing the transition to a biofuels economy in the US and EU: Accommodating value conflicts, implementing uncertainty. *Policy and Society*. 31 (4), pp. 295–306.
doi:10.1016/j.polsoc.2012.10.001.
- Knaus, C. (2017) NDIS rollout targets in doubt because of lack of resourcing. *The Guardian*. 20th September
- Mahoney, J. and Thelen, K. (2009) *Explaining Institutional Change*. New York: Cambridge University Press.
- Mahoney, J. and Thelen, K. (2010) *Explaining Institutional Change: Ambiguity, Agency and Power*. Cambridge: Cambridge University Press.
- Moe, T. (1989) The Politics of Bureaucratic Structure. In: J Chubb and P Peterson (eds.). *Can the Government Govern?* Washington: The Brookings Institute. pp. 267–392.
- Morton, R. (2017) Families' NDIS support slashed in crackdown. *The Australian*
- NDIA (2016) *Draft Grant Agreement Terms and Conditions NDIS Partners in the Community Program*.
- NDIA (2018a) *Improving the NDIS Participants and Provider Experience*.
- NDIA (2018b) *Pathways Review*.
- Nevile, A., Kay, A. and Carey, G. (2018) Value choices in a mixed economy of care: How politics shapes the implementation of complex social policies. *Social*

Policy & Administration [online]. Available from:
<http://doi.wiley.com/10.1111/spol.12391>doi:10.1111/spol.12391
[Accessed 26 June 2018].

- Nevile, A., Malbon, E., Kay, A. and Carey, G. (2019) The implementation of complex social policy: Institutional layering and unintended consequences in the National Disability Insurance Scheme. *Australian Journal of Public Administration*. Early view .
- Painter, J. and Pierre, J. (2005) *Challenges to state policy capacity*. Basingstoke: Palgrave Macmillan.
- Patashnik, E. (2008) *Reforms at Risk: What happens after major policy changes are enacted?* Princeton: Princeton University Press.
- Productivity Commission (2011) *Disability care and support: productivity commission inquiry report*. Canberra: Commonwealth Government of Australia.
- Productivity Commission (2017) *National Disability Insurance Scheme (NDIS) Costs: Issues paper*.
- Rose, R. (1990) Inheritance before choice in public policy. *Journal of Theoretical Politics*. 2 (3), pp. 263–291.
- Strauss, A. (1987) *Qualitative Analysis for Social Scientists*. Cambridge: Cambridge University Press.
- Streeck, W. and Thelen, K. (2005) *Beyond Continuity: Institutional Change in Advanced Political Economies*. Oxford: Oxford University Press.
- Thill, C. (2015) Listening for policy change: how the voices of disabled people shaped Australia's National Disability Insurance Scheme. *Disability & Society*. 30 (1), pp. 15–28. doi:10.1080/09687599.2014.987220.
- Wu, X., Howlett, M. and Ramesh, M. (2018) Policy Capacity and Governance. In: X Wu, M Howlett, and M Ramesh (eds.). *Studies in the Political Economy of Public Policy*. UK: Palgrave. pp. 1–28.