



**Mental Health
Australia**

The Hon. Kevin Andrews MP
Chair
Joint Standing Committee on the National Disability Insurance Scheme
Parliament of Australia

To The Hon. Kevin Andrews MP,
**Re: Joint Standing Committee on the National Disability Insurance Scheme Inquiry
into Independent Assessments**

Thank you for the opportunity to provide a submission to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) Inquiry into Independent Assessments. Mental Health Australia (MHA), Community Mental Health Australia (CMHA) and the Mental Health Fellowship of Australia (MIFA) are the leading organisations representing and promoting the interests of the Australian mental health sector. We are eager to ensure people with psychosocial disability are able to engage with fair and equitable eligibility processes to gain access to NDIS support.

In late 2020, Mental Health Australia conducted consultations with consumers, carers and members to ensure the input we provide to the National Disability Insurance Agency (NDIA) on the issue of Independent Assessments is an accurate reflection of the issues and proposed solutions offered by mental health and psychosocial disability sector stakeholders. This consultation resulted in a policy paper, which is provided at Attachment A as a submission to the current Joint Standing Committee into NDIS Inquiry.

Mental health consumers, carers and members of MHA, CMHA and MIFA have raised many concerns about the proposed model for the introduction of mandatory Independent Assessments, including that the Independent Assessments do not align with a recovery-oriented approach as they are currently proposed to be implemented.

One of key issues is that for many people with a psychosocial disability they will need a trusted person to proactively engage with them in making an application and supporting them through the assessment process. This lack of proactive outreach was identified as a major gap in earlier consultations with consumers and carers undertaken in 2018. This gap was partially addressed by the National Community Connector Program that was funded for a 12 month period in a small number of identified LGAs for people with a psychosocial disability. While response to the initiative was overwhelmingly positive the NDIA will cease funding the program at end of June 2021. This will negatively impact upon some of the most highly vulnerable members of the community.

In addition, Independent Assessors, who do not have an existing relationship with the person being assessed, and/or who don't have the necessary skills and experience in working with someone who has a psychosocial disability may not be best placed to assess their functional capacity. The use of the designated assessment tools and the process for their use also runs the risk of an assessment which doesn't accurately reflect the complexity of psychosocial disability.

While the cost-free nature of Independent Assessments addresses a significant financial barrier to NDIS access, it does not address other important barriers faced by people with psychosocial disability such as language, cultural, and locational barriers. Indeed the Independent Assessment process in and of itself creates barriers directly relevant to the functional impacts of psychosocial disability.

The attached policy paper proposes solutions to address these issues. Key amongst these recommendations is an offer to collaborate with the NDIA to build flexibility into the assessment process for people with psychosocial disability who will not benefit from Independent Assessments.

We understand the NDIA is establishing a working group looking at the design of the Independent Assessment process. This is a welcome development and we look forward to continuing to work with the NDIA to assist in improving the proposed implementation method for assessing NDIS eligibility.

Yours sincerely,



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National Disability Insurance Scheme Independent Assessments

Introduction

There has been strong advocacy for the introduction of validated functional assessments by the National Disability Insurance Scheme (NDIS) Independent Advisory Council and Mental Health Australia; and others have previously raised concerns about the costs of professional assessments which generate inequities.

The National Disability Insurance Agency (NDIA) has announced that it will be introducing a suite of assessment tools and administering these assessments by Independent Assessors. For adults, three assessment tools will be used:

- World Health Organisation Disability Assessment Schedule (WHODAS) 2.00 (36 questions)
- Vineland 3 Domain Version
- Craig Hospital Inventory of Environmental Factors (CHIEF)

The NDIA will pay for the costs of these assessments and people will receive feedback on the results of the tests. People can choose from a panel of assessors in their area. The information from Independent Assessments will be used alongside information provided by the applicant, health professional and others in making decisions about access.

The psychosocial disability sector and the disability sector more broadly have been concerned about the announcement of mandatory use of assessments and the lack of consultation and evidence underpinning their implementation. These actions appear to undermine the Scheme's central tenant of consumer choice and control. The sectors have also raised concerns about whether assessors will have appropriate skills, experience and knowledge and the appropriateness of the assessment tools themselves for people with psychosocial disability.

The NDIA and the Government have acknowledged a range of implementation issues and are setting up processes for review and input from key stakeholder groups in considering the proposed processes for assessment and seeking feedback. This paper has been developed to inform these consultations.

Background

Mental Health Australia has undertaken a consultation process with representatives of consumers and carers and member stakeholders, which underpins the recommendations contained in this paper.

Consumers, carers, service providers and other key stakeholders have previously raised concerns that current NDIS access, planning and plan review processes for people experiencing psychosocial disability are inconsistent and lack transparency. This can result in unfair decision making about who is eligible and what supports are included in participants' plans.



To address this issue Mental Health Australia has previously recommended that:

“the NDIA implement as a matter of urgency a validated, agreed and transparent assessment tool for determining the severity, impact and likely persistence of psychosocial disability.”¹

Mental Health Australia has also made recommendations to improve the process through which people are assessed for NDIS access including that access processes should be iterative, include families and carers and be undertaken by people who are assertive and empathetic listeners with the skills, knowledge and experience to accurately assess psychosocial functioning.

These recommendations are partially addressed through the NDIA’s proposed model to implement Independent Assessments. For example, family, carers, health professionals and support workers can participate in assessment meetings and assessors will be health professionals who are trained in undertaking the relevant functional assessments. However, the NDIA’s proposed model also raises some serious concerns for people with psychosocial disability. The lack of consultation and transparency around the Independent Assessments has resulted in concerns that the introduction of NDIS Independent Assessments signals a major policy shift for the NDIS away from its fundamental tenants of choice and control and life-long support.

Psychosocial disability sector stakeholders are concerned that the proposed process of implementation of NDIS Independent Assessments does not align with a recovery-oriented approach. Independent Assessors, who do not have an existing relationship with the person, and or who don’t have the necessary skills and experience in working with someone who has a psychosocial disability may not be best placed to assess their functional capacity. In addition, the use of the designated assessment tools and the process for their use runs the risk of an assessment which doesn’t accurately reflect the complexity of psychosocial disability.

While the cost-free nature of Independent Assessments addresses a significant financial barrier to NDIS access, it does not address other important barriers faced by people with psychosocial disability such as language barriers, cultural barriers, locational barriers and the functional impacts of psychosocial disability itself.

These issues are discussed in more detail below, alongside recommendations to improve the implementation of NDIS Independent Assessments for people with psychosocial disability. In order for Independent Assessments to result in improved consistency of access and planning decision making by the sector and the NDIA, it is imperative that the NDIA works with the psychosocial disability sector collaboratively on the recommendations outlined below.

Key issues and recommendations

Consumer rights

Many people with a psychosocial disability may have limited understanding of the NDIS, its processes and their rights in relation to becoming a potential NDIS participant. It is paramount consumers are fully informed. This will require written and verbal advice, to ensure consumers understand what is written and this is accessible for all multicultural groups.

Recommendation 1

That all people who are seeking to become a NDIS participant should be provided an information sheet about the Independent Assessment process, along with verbal advice that clearly outlines their rights, the processes and timelines in relation to their involvement and that of others working on behalf of the NDIA.

Independent Assessors

Independent Assessors who do not have a relationship with the person with disability, whom they are assessing, may not be best placed to provide an accurate assessment of the person’s functional capacity. This was recently demonstrated in *Ray and National Disability Insurance Agency [2020]*, in which the Administrative Appeals Tribunal found that observations made by a treating health professional who had a

¹ Mental Health Australia (2018) *National Disability Insurance Scheme: Psychosocial Disability Pathway*, pp.32, Retrieved on 23 October 2020 from https://mhaustralia.org/sites/default/files/docs/ndis_psychosocial_pathway_consultation_project_-_final_report_-_may_2018.pdf



relationship with the person were more accurate than those of the Independent Assessor.² International studies have also provided evidence of the potential for harm when disability assessments are conducted by a mandated assessor using a point-in-time standardised checklist approach.³

Psychosocial disability and associated functional capacity and needs are episodic in nature and therefore it is preferable that the person undertaking the assessment has a relationship over time with the person with psychosocial disability, in order to have established a good understanding of their fluctuating capacity and needs. Assessments undertaken by Independent Assessors who do not know the person risk people with psychosocial disability being denied access to the NDIS or provided with inadequate support through planning or plan review.

It is also imperative that Independent Assessors have psychosocial disability specific skills, knowledge and experience to undertake the assessment. The complexity of assessing psychosocial functioning requires specific expertise and without this the value of the assessment is likely to be diminished.

There is a strong sentiment within the sector that the use of a health professional who has an existing relationship with a person is seen as the preferred model. Whilst acknowledging the issues of potential bias, cost and consistency, many feel that these risks are lesser concerns than using assessors who do not have a thorough knowledge and existing relationship of the person they are assessing.

Of course, many people will not have an existing health professional and so the ability to access a free assessor will be positive. As mentioned above, assessors will require skills and training in psychosocial disability otherwise inconsistency in the assessment process will continue that will disadvantage people with a psychosocial disability.

There are several recent examples where the introduction of Independent Assessments has resulted in a negative process and outcome. For example, a recent policy shift in relation to the Disability Support Pension required applicants to be assessed by government-contracted doctors. This led to a reduction in the number of people accessing the payment.⁴ People with psychosocial disability may also have been subject to similar and distressing experiences through Workcover and Transport and Accident Commission Insurance schemes or through compulsory treatment and/or involuntary detention under their state's relevant Mental Health Act.⁵

There is no doubt that the success or otherwise of Independent Assessments hinges on the skills and expertise of those chosen through the NDIA's commissioning for the Independent Assessors. It is imperative that people with psychosocial disability can access assessments by assessors who have psychosocial disability specific skills, knowledge and experience. In addition people with psychosocial disability should have the option for their assessment to be undertaken or supported by a health professional, with whom they have an existing relationship. The assessment process should also be inclusive of trusted others who have an existing relationship with the person being assessed.

Recommendation 2

Independent Assessors who undertake assessments of people with psychosocial disability should have psychosocial disability specific skills, knowledge and experience.

The NDIS assessment process should be inclusive of (and consider information provided by) trusted others, who have an existing relationship with the consumer.

The NDIA should engage with people with psychosocial disability, carers and other key mental health sector stakeholders to build flexibility, choice and control into the Independent Assessment process. This should include consideration of an alternate assessment process where people with psychosocial disability can choose to use a trusted health provider, with whom they have an existing relationship to undertake the assessment.

² Administrative Appeals Tribunal of Australia (2020) *Ray and National Disability Insurance Agency [2020] AATA 3452 (8 September 2020)*, Retrieved on 12 November 2020 from <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2020/3452.html>

³ Barr, Taylor-Robinson, Stuckler, Loopstra, Reeves (2015) *'First do no harm': are disability assessments associate with adverse trends in mental health? A longitudinal ecological study*. *Journal of Epidemiology and Community Health* Vol 70 (4)

⁴ The Hon Scott Morrison MP (2015) *Disability support payment rules tighten*, Retrieved on 23 October 2020 from <https://formerministers.dss.gov.au/15788/disability-support-payment-rules-tighten/>

⁵ VMIAAC (2020) *Submission: General Issues around Implementation and Performance of the NDIS*



Recovery

The NDIA is developing an NDIS Psychosocial Disability Recovery Framework ('the Framework'), due to be released in mid-2021. It is important that this Framework guides all NDIS related interaction with people with psychosocial disability. The proposed Independent Assessments do not align with a recovery-oriented approach.

In practice, for Independent Assessments, a recovery-oriented approach would include undertaking assessments through the lens of a strengths perspective and in an iterative way in collaboration with the person being assessed. Mental Health Australia supports the NDIA's intention to share the assessment with the person being assessed, however it is unclear at what stage during the assessment process this might occur.

Recommendation 3

The NDIA should ensure the implementation of NDIS Independent Assessments aligns with a recovery-oriented approach. This should include but not be limited to:

- the assessor building the assessment in a collaborative and iterative manner with the person being assessed
- the assessor undertaking the assessment using a strengths perspective.

The assessment tools

The NDIA has chosen three assessment tools, which Independent Assessors will use. Of these three tools, Mental Health Australia understands that it is most likely that Independent Assessors will use the WHODAS 2.00 (36 questions) to undertake Assessments with people experiencing psychosocial disability. Mental Health Australia understands the NDIA conducted an extensive search to choose assessment tools, which would encourage consistency in NDIS access request outcomes.

However, mental health sector stakeholders have raised concerns that the WHODAS and the process through which the NDIA proposes it be implemented runs the risk of resulting in assessments which are too reductive. In addition, the 30 day time period covered by the WHODAS is too short to accurately assess fluctuating psychosocial impairment for some people with psychosocial disability. In addition, stakeholders have raised concerns that the WHODAS does not comprehensively assess functional capacity for self-care.

The impact on functioning caused by psychosocial disability is complex — as such its assessment needs to adequately reflect this complexity in order to accurately inform decisions about eligibility and planning. Further, in order to align with the forthcoming NDIS Recovery Framework and to reflect good practice, assessment tools should also be used to identify and build on strengths rather than simply to identify gaps.

The NDIA's decision to allow other supporting information to be submitted in addition to the assessment, and trusted others to participate in the assessment will go some way to addressing the limitations of the WHODAS. However, it is unclear what weighting will be given to the Independent Assessment in comparison to other information submitted.

Recommendation 4

The NDIA should regularly review the appropriateness of assessment tools used for Independent Assessments for:

- their impact on the person being assessed
- their alignment with a recovery-oriented approach
- their effectiveness in improving consistency in access and planning decision making.

The NDIA should make information publicly available about the weighting it intends to use when considering Independent Assessments and supporting information to determine eligibility for NDIS.



Equity of access

Mental Health Australia welcomes the NDIA's decision to pay for the cost of Independent Assessments. This will go some way to addressing the financial barriers experienced by people with psychosocial disability to access the NDIS. However, it does not address other barriers to equity of access such as language barriers, cultural barriers, stigma, homelessness, regional and remote location specific barriers, and the impact of the functional impairment itself.

People with psychosocial disability may have reduced functional capacity in the very areas of capacity required to engage in the NDIS Independent Assessment process. For example, the WHODAS itself assesses a person's ability to understand, communicate and interact with other people.⁶ These functions are required to participate in the Independent Assessment process. Furthermore, experience with the current access process has demonstrated that the episodic nature of psychosocial disability could cause people to be too unwell to participate in an assessment at a specific point in time.⁷

The accessibility of the NDIS access process is currently very reliant on support provided by the surrounding system, for example, where local health systems are better linked and coordinated and there is more access to GPs, public psychiatry, allied health professionals and or psychosocial support services, people are better supported to engage with the NDIS. The result is that the current process of supporting people with complex service needs to access the Scheme is influenced profoundly by the quality of the local service system. This will also be the case for people accessing Independent Assessments.

It is often the most vulnerable people who will need the most support to access the NDIS. It is important to support access to Independent Assessments for these people. For example, Mental Health Australia is running a component of the NDIS Community Connectors Program, providing outreach to people with psychosocial disability who are experiencing or at risk of homelessness and providing them with support to access the NDIS. However, this program is only available in seven locations. It is unclear how people who are isolated, have been in institutional settings or who have difficulty engaging with the Independent Assessment process, and are not in a location where the NDIS Psychosocial Community Connectors Program is operating, will be linked with NDIS Independent Assessments.

For the most vulnerable people with psychosocial disability to engage with the NDIS, it is imperative that there is support available to engage in Independent Assessments.

Recommendation 5

The NDIA should work with the mental health sector to address the various barriers people with psychosocial disability will face in accessing Independent Assessments. This could include developing approaches such as:

- enabling consumers to nominate a point of contact to assist and support them throughout their NDIS access request, including through their Independent Assessment
- considering an alternate assessment process for people whose functional impairment precludes them from effective participation in an NDIS Independent Assessment - this should include enabling people with psychosocial disability to choose a trusted health professional to undertake the assessment as outlined under Recommendation 2 above
- expanding assertive outreach for people with psychosocial disability to access the NDIS to more locations.

Transparency

Many across the psychosocial disability sector have raised concerns around the lack of consultation in relation to the implementation method of NDIS Independent Assessments. In addition, some stakeholders have interpreted the introduction of Independent Assessments as a significant shift in two key areas of NDIS policy intent.

⁶ World Health Organisation (2018) Classifications: WHO Disability Assessment Schedule 2.0 (WHODAS 2.0), Retrieved on 11 November 2020 from https://www.who.int/classifications/icf/more_whodas/en/

⁷ Mental Health Australia (2018) *National Disability Insurance Scheme: Psychosocial Disability Pathway*, Retrieved on 23 October 2020 from https://mhaustralia.org/sites/default/files/docs/ndis_psychosocial_pathway_consultation_project_-_final_report_-_may_2018.pdf



First, when the NDIS was introduced one of the most important policy imperatives was that it would provide lifelong support for people who were deemed eligible. The NDIA has advised that Independent Assessments could result in current participants being found ineligible and therefore no longer receiving support. This would result instead in a Scheme where people may dip in and out of eligibility, and therefore not have lifelong access. In fact, the move has raised concern that the intent may be to limit the number of people found to be eligible and remove existing participants from the NDIS in order to control cost.

Second, the NDIS prides itself on enabling choice and control by people with disability. Enacting compulsory Independent Assessments appears to erode choice and control by people with disability, because there is no choice whether or not to participate. Enabling consumers to choose their own health professional to inform the assessment (where practicable) could go some way to returning some choice and control to the consumer.

There is a strong need for genuine collaboration with the psychosocial disability sector and greater transparency on the part of the NDIA in order to dispel some of these more profound concerns emerging amongst people with psychosocial disability about NDIS Independent Assessments. Both genuine consultation and transparency are needed on national and individual levels to move forward constructively.

Recommendation 6

The NDIA should undertake genuine consultation with psychosocial disability sector stakeholders, and most importantly people with psychosocial disability, their families and carers, on the implementation design of Independent Assessments.

The NDIA should make publicly available key information about the Independent Assessments at a systemic and individual level. At the systemic level this could include:

- the entire evaluation of the Independent Assessment Pilots
- information about the weighting to be used for the Independent Assessments and other supporting information to inform access decisions
- more detail around the proposed Independent Assessments, for example:
 - what qualifications will Independent Assessors have?
 - how long will each Independent Assessment meeting take?
- as the pilots are rolled out, providing public information about numbers of assessments completed by disability cohort and number of people granted and declined access. These numbers need to be reported over time to establish trends.

At an individual level, information should be provided to prospective participants to enable them to collaboratively participate in the Independent Assessment process (as recommended under 'Consumer Rights' above).

Conclusion

Mental Health Australia supports the intent of the NDIA to improve consistency of outcomes arising from NDIS assessments and plan reviews. However, there are serious concerns remaining about the method of implementation of NDIS Independent Assessments that requires a more nuanced and flexible implementation.

The NDIA must undertake genuine collaboration with the disability sector around improving the implementation method for NDIS Independent Assessments. Mental Health Australia is keen to facilitate such collaboration with the psychosocial disability sector and looks forward to significantly improving the implementation design for Independent Assessments in advance of any national rollout.

