Mental Health Australia

# Review of DSP Impairment Tables

Submission to Commonwealth Department of Social Services

30 July 2021

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mentally healthy communities

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Mental Health Australia is pleased to make this submission to the Department of Social Services review of the Disability Support Pension (DSP) Impairment Tables. The appropriateness of this legislative instrument is fundamental to a fair social security system.

Mental Health Australia notes the intended limited scope of this review, however broader reforms are required to ensure a fair and reasonable income support system. Changes to the Impairment Tables legislation must be considered within this broader context and implications.

This submission was prepared through consultation with Mental Health Australia member organisations, representatives of the National Mental Health Consumer and Carer Forum and other sector stakeholders. Mental Health Australia particularly thanks people with lived experience for their input, including permission for inclusion of direct quotes below.

## Mental Health Australia

Mental Health Australia is the peak, national non-government organisation representing and promoting the interests of the Australian mental health sector and committed to achieving better mental health for all Australians. It was established in 1997 as the first independent peak body in Australia to represent the full spectrum of mental health stakeholders and issues. Mental Health Australia members include national organisations representing consumers, carers, special needs groups, clinical service providers, public and private mental health service providers, researchers and state/territory community mental health peak bodies.

Mental Health Australia aims to promote mentally healthy communities, educate Australians on mental health issues, influence mental health reform so that government policies address all contemporary mental health issues, conduct research on mental health issues, and carry out regular consultation to represent the best interests of our members, partners and the community. These endeavours in education and policy reform are matched by our commitment to researching more innovative approaches to the provision of mental health care. In addition, Mental Health Australia continues to focus on the human rights of people with a mental illness.

One in five Australians are affected by mental illness annually. We cannot afford to be complacent in our efforts to achieve changes to our mental health care system when we consider the impact of mental ill-health on our community.

## Psychosocial disability

As the peak national body for the mental health sector, Mental Health Australia provides this submission focusing on the experiences of people with psychosocial disability. Psychosocial disability is a term used by people with lived experience of mental ill-health to describe the disability experience of impairments and participation restrictions related to mental health conditions.[1] Over one million Australians live with psychosocial disability - a quarter (26%) of all Australians with disability.[2]

[1] National Mental Health Consumer & Carer Forum (2011). *Unravelling Psychosocial Disability, A Position Statement by the National Mental Health Consumer & Carer Forum on Psychosocial Disability Associated with Mental Health Conditions.* Canberra: NMHCCF.
[2] Australian Bureau of Statistics (2020). *Psychosocial disability*. Retrieved 6 July 2021 from **https://www.abs.gov.au/articles/psychosocial-disability**

People with psychosocial disability are much more likely to report profound or severe limitations than people with other disabilities, and most people with psychosocial disability (85.5%) also report having another impairment/s.[3]

People with primary psychosocial disability make up the largest cohort of people receiving the Disability Support Pension (DSP), according to the Department of Social Services categorisation of conditions, where people with primary psychological/psychiatric conditions make up 35% of DSP recipients.[4]

Evidence suggests the vast majority of people with experience of severe and ongoing mental ill-health would prefer to work, but often face barriers not of their own making. Almost a quarter of people with psychosocial disability report being treated unfairly because of their disability, and 85% report employment restrictions – a higher rate compared to people with other disabilities.[5] Further, the current system of income and employment support is complex and confusing with perverse incentives that can discourage people from entering the workforce or working more hours.

Reforms must tackle these major structural challenges if we are to build an income support system that empowers rather than undermines the capacity of people with psychosocial disability to maintain mental health and wellbeing and lead contributing lives.

## The DSP is an essential component of a social safety net

Our social support system should provide a pathway to work for those who can and realistic and fair support for people when they cannot. The DSP is an essential component of Australia's social safety net, as illustrated by the following feedback from people with lived experience of psychosocial disability and receipt of the DSP:

*"It is difficult enough to deal with a severe mental illness anyway. Having the DSP enables you to survive."*

*"Without the combined DSP and Department of Housing assistance I would have been relegated to years of extreme poverty existing on meagre unemployment benefits with no chance of being able to work full time and have a life of any dignity and meaning."*

The manner of provision of DSP must reflect Australia's commitment to the right of people with disability to an adequate standard of living and social protection that is inclusive of participation in employment and community life.[6] The DSP should support people to live with dignity and choice, and support the recovery journey of people living with psychosocial disability.

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[3] Australian Bureau of Statistics (2020). *Psychosocial disability*. Retrieved 6 July 2021 from **https://www.abs.gov.au/articles/psychosocial-disability**

[4] Department of Social Services (2021*). Impairment Tables Review Issues Paper, 'Top 5 primary medical condition categories: June 2020'*, p.6. Retrieved 7 July 2021 from **https://engage.dss.gov.au/wp-content/uploads/2021/06/D21-536572-4168-DSS-Impairment-Tables-Review-FA-Accessible-.pdf**

[5] Australian Bureau of Statistics (2020). *Psychosocial disability*. Retrieved 6 July 2021 from **https://www.abs.gov.au/articles/psychosocial-disability**

[6] United Nations (2006) *Convention on the Rights of Persons with Disabilities and Optional Protocol*. Retrieved 9 July 2021 from **https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf**

## The DSP is difficult to access

Policy changes by successive governments have made the DSP far harder to access and the application and appeals processes far more difficult to navigate.

*"The DSP is well known to be extremely difficult to access or get on at present"*

Feedback from people with lived experience of mental ill-health or caring for someone with mental ill-health is that the DSP application process is overwhelming and "almost impossible" to navigate. People with lived experience report the system is not trauma-informed nor recovery-oriented. This is further reflected in the reduced proportion of successful DSP applicants with psychosocial disability since 2012-13, due to government policy changes.[7]

This is the context in which Mental Health Australia makes the following recommendations to the Department of Social Services. Changes to the Impairment Tables and broader income support policy are needed to create a fairer system which recognises the rights of people living with disability. For ease of reference, the following feedback is structured under the survey questions proposed by the Department.

## Aspects for improvement

### Greater support to access the DSP

The application process for DSP is complex and can be overwhelming for applicants, especially for people who do not have support of family members or other informal carers. The processes of getting appropriate reports from health professionals, following up these reports (which are often delayed), and navigating the increasingly complex requirements and online systems of Services Australia to submit an application are all extremely challenging. This is even more so for people experiencing cognitive impairments associated with psychosocial disability. Further, the cost of appointments to gather necessary evidence is prohibitive for many people with disability.

Mental Health Australia and program delivery partners in the NDIS National Community Connectors Program found that there are many vulnerable people with psychosocial disability who would be eligible for income support or other services, but who lack the support necessary to engage with the application process. This often means people remain reliant on crisis services.

Mental Health Australia calls for the Australian Government to provide support for people with psychosocial disability experiencing vulnerability to engage with services, including income support applications and appeals. This was also recommended by the Productivity Commission in their inquiry into economic impacts of mental ill-health, who advised "Improved access to care coordinators…, as well as coordinators taking on the burden of payment application for consumers, could reduce the bureaucratic burden for applicants and carers and help ensure equitable access to the DSP."[8]

**Recommendation 1: Provide support for people with psychosocial disability to engage with services, including to apply for income support.**

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[7] Productivity Commission (2020), *Mental Health*, Report no. 95. p.956. Retrieved 7 July 2021 from **https://www.pc.gov.au/inquiries/completed/mental-health/report**

[8] Productivity Commission (2020), *Mental Health*, Report no. 95. p.960.

### Government-contracted doctor

The impact of assessments by government-contracted doctors can disadvantage people with psychosocial disability and fluctuating conditions, where it is difficult for assessment at one point in time (without previous/ongoing engagement with the person) to accurately reflect their overall needs.

People with lived experience report that despite evidence of significant ongoing impairment, if someone has presented on a "good day" to the government-contracted doctor they can be deemed ineligible for the DSP. This is similar to concerns raised with the proposed NDIA independent functional assessments model, which has since been discontinued.

While the legislation of the Impairment Tables acknowledges episodic and fluctuating conditions and that an overall assessment should be taken, the nature and weight given to government-contracted doctor assessments means this is not always followed in practice.

**Recommendation 2: Review government-contracted doctor policies and weighting to improve fairness of assessment for people with episodic and fluctuating impairments of disability.**

## Specific Table analysis and re-wording

### Table 5 – Mental Health Function

Further analysis and changes are needed to improve Table 5 regarding mental health function.

This table specifies that "the diagnosis of the condition must be made by an appropriately qualified medical practitioner (this includes a psychiatrist) with evidence from a clinical psychologist (if the diagnosis has not been made by a psychiatrist)".

The restriction of diagnostic evidence to a psychiatrist or clinical psychologist is a significant barrier. Access to psychiatrists and clinical psychologists is limited due to workforce shortages, appointment costs and availability of services. For those who can make an appointment with these professionals, there are often significant wait times, and further delays in receiving the completed paperwork to support a DSP application. This requirement also excludes the expertise of other health professionals who have an ongoing engagement with the applicant.

Mental Health Australia recommends the Government consider broadening this clause to include other suitably qualified health professionals who can provide diagnostic and other evidence relating to Table 5. This is similarly recommended by the Australian Psychological Society and the Australian Association of Psychologists.[9]

**Recommendation 3: Expand the list of qualified health professionals who can provide diagnostic and other evidence for Table 5: Mental Health Function.**

[9] Australian Psychological Society (2021), *Submission to the Senate Inquiry into the Purpose, Intent and Adequacy of the Disability Support Pension*. Retrieved 28 July 2021 from **https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/DisabilitySupportPensio/Submissions** ; Australian Association of Psychologists incorporated (2021), *Submission to Senate Inquiry into the Purpose, Intent and Adequacy of the Disability Support Pension*. Retrieved 28 July 2021 from **https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/DisabilitySupportPensio/Submissions**

Further, the application instructions and content of Table 5 should be further reviewed to ensure it is in line with current understandings of psychosocial disability, including the contribution of mental health carers to maintaining functioning, and the impact of medications.

The Rules for applying the Impairment Tables specify that "the impairment of a person must be assessed on the basis of what the person can, or could do, not on the basis of what the person chooses to do or what others do for the person".

However, in practice people who have supports from very involved informal carers can be disadvantaged in the assessment process. The assessment process does not explicitly capture the role of family or informal carers in prompting day to day self-care and activities. As such, someone with psychosocial disability may not have a history of hospitalisations or other evidence of the impact of psychosocial disability, not because they do not experience severe impairments but because support of family/informal carers means they are able to maintain their wellbeing in the community. This could in part be addressed through accepting evidence of disability provided by informal supports (such as a carer statement) as corroborating evidence for DSP applications.

Medications prescribed in relation to mental health conditions can themselves have significant side-effects, which impact people's day to day functioning and capacity to work. As an impairment related to a disability, these functional impacts of medication should also explicitly be taken into account.

Mental Health Australia calls for review of the Impairment Tables to be guided by expertise of people with lived experience and independent mental health professionals, to improve the appropriateness of Table 5, and ensure the Table is updated to reflect progress in understanding of psychosocial disability.

**Recommendation 4: Undertake further analysis of Table 5 regarding mental health in consultation with people with lived experience and mental health professional experts.**

## Improving clarity and ease of application of Impairment Tables

The current Impairment Tables legislation stipulates that to be eligible for the DSP a person's impairment must be the result of a permanent condition and likely to persist for more than two years, where a permanent condition is defined as being "fully diagnosed, treated and stabilised".[10]

The language of this requirement particularly impacts people with psychosocial disability, where the terms 'permanent', 'fully treated' and 'stabilised' have particular connotations in mental health. Best-practice mental health treatment and service delivery is recovery-oriented, supporting people to address impacts of mental ill-health and live a contributing life with or without ongoing symptoms. A recovery-approach maintains hope and is strengths based.

Language used by mental health professionals reflects this recovery approach and recognises the fluctuating nature of many mental health conditions. This does not easily correspond to the language of the DSP Impairment Tables around 'permanency', 'fully

[10] Department of Social Services (2021*). Impairment Tables Review Issues Paper*. p.7. Retrieved 7 July 2021 from **https://engage.dss.gov.au/wp-content/uploads/2021/06/D21-536572-4168-DSS-Impairment-Tables-Review-FA-Accessible-.pdf**

treated' and 'stabilised'. This has caused significant confusion for health professionals providing evidence, and barriers for people with psychosocial disability in accessing the DSP.

People with psychosocial disability face the same barriers in demonstrating eligibility for the National Disability Insurance Scheme, where eligibility is based on living with a condition that is 'permanent or likely to be permanent'. The Government-commissioned review of the NDIS Act found that this language regarding permanency caused significant issues for people with psychosocial disability applying for the NDIS, and recommended amendment of the NDIS Act and Rules to "provide clearer guidance for the NDIA in considering whether a psychosocial impairment is permanent, recognising that some conditions may be episodic or fluctuating". Mental Health Australia recommends similar review and clearer guidance of the application criteria regarding 'permanency' for DSP.

**Recommendation 5: Review and provide clearer guidance of the application of DSP eligibility criteria regarding 'permanency' for people with psychosocial disability, recognising fluctuating nature of many mental health conditions and emphasis on recovery-based language.**

As the Department of Social Services has previously heard, the Impairment Tables currently do not account well for the assessment of comorbidities.[11] With such a high proportion of people with psychosocial disability also experiencing another impairment (85%)[12], this has significant implications for this cohort. People with lived experience applying or supporting someone to apply for the DSP have found the assessment to have a narrow or siloed approach, rather than a more accurate consideration of the person as a whole and the cumulative effect of multiple conditions on functionality. This also interacts with interpretation of requirements regarding 'permanency', where a person may be deemed ineligible as they are still waiting for/continuing treatment for one condition, and so unable to access DSP income support despite multiple conditions which together mean they are unable to work. Clinicians have also noted assessment of co-morbidities through Impairment Tables can be problematic, and are calling for clearer processes to assess co-morbidities to improve holistic assessment.[13]

The movement towards focusing on functionality rather than conditions in the Impairment Tables was positive, however will be incomplete until holistic functional impacts of co-occurring conditions are better accounted for.

**Recommendation 6: Review and provide clearer guidance on the assessment of co-morbidities through the Impairment Tables, to move towards holistic assessment.**

[11] Department of Social Services (2021), *Impairment Tables Review Issues Paper*, Retrieved 20 July from **https://engage.dss.gov.au/wp-content/uploads/2021/06/D21-536572-4168-DSS-Impairment-Tables-Review-FA-Accessible-.pdf**

[12] Australian Bureau of Statistics (2020). *Psychosocial disability*. Retrieved 6 July 2021 from **https://www.abs.gov.au/articles/psychosocial-disability**

[13] See Royal Australian and New Zealand College of Psychiatrists (2021) *Submission to Disability Support Pension: Impairment Tables Review*

## Other comments

### Flexibility to support psychosocial recovery

As noted in the DSP Impairment Tables, mental health conditions can have fluctuating functional impairments, and recovery is often not a linear trajectory. Policies governing DSP should be improved to better reflect this, and support recovery through greater flexibility to engage with work and return to DSP if required.

As noted earlier, many people with experience of mental ill-health want to work and see it as a key part of their recovery. However, losing benefits or financial security is a great fear for many people, who are then less likely to engage in seeking employment if their income support is threatened. People with lived experience have also reported that once someone has moved off DSP, it is far harder to regain access if needed. These are significant disincentives for recovery and economic participation.

Clearer communication to participants about the number of hours/length of time they can work before losing their eligibility for the payment is needed. The Productivity Commission recommended that "the Australian Government should improve the work incentives for Disability Support Pension recipients and recipients should be well informed of their entitlement to work for a period without losing access to the Disability Support Pension by Services Australia" (Action 19.5).[14] The Productivity Commission also found there was a "strong rationale" for increasing the number of hours per week DSP recipients can work over a two-year period before losing the payment from 30hrs to 38hrs.[15]

Further, barriers should be reduced for people who have previously had access to DSP and then moved off the payment, to re-access the support if needed. This would increase the incentives for recipients to participate in employment and take on longer work hours, as the opportunity-cost would be far more favourable with less potential impact on long-term security.

People with lived experience have also called for a commitment from Services Australia to better communication throughout the application process. Regular updates advising where an application is up to would be helpful in reducing anxiety and stress for applicants and people caring for them. Ability to check application status online is not accessible or reliable for all applicants.

Finally, the DSP appeals process is extremely difficult, with what has been described as a presumption of guilt by applicants from the start.

**Recommendation 7: Review broader DSP policies to better support mental health recovery, through increasing the number of hours per week DSP recipients can work before losing eligibility, improving communication with DSP applicants and recipients, and reducing barriers to re-entry for DSP support where needed.**

[14] Productivity Commission (2020), *Mental Health*, Report no. 95. p.926. Retrieved 7 July 2021 from **https://www.pc.gov.au/inquiries/completed/mental-health/report**

[15] Productivity Commission (2020), *Mental Health*, Report no. 95. p.962. Retrieved 7 July 2021 from **https://www.pc.gov.au/inquiries/completed/mental-health/report**

## Conclusion

The real support needs of people with psychosocial disability can be hidden by stigma, discrimination and ignorance. At the same time, people living with psychosocial disability are disproportionately affected by poor social determinants of health and wellbeing, reducing availability of opportunities that are taken for granted by the rest of the Australian population.

This review, while limited by its current scope, can nonetheless contribute to addressing some of these biases by implementing the recommendations made in this submission. Mental Health Australia is keen to provide any additional supporting information to further assist in this review as required.

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