



Consumers of Mental Health WA (Inc)

**Submission to the  
Senate Standing Committee  
for the  
National Disability Insurance Scheme  
Independent Assessments**

**By Consumers of Mental Health WA (Inc)**

**Submitted 26 March 2021**

## RECOMMENDATIONS

Consumers of Mental Health WA calls on the National Disability Insurance Agency to:

1. Halt the pilot implementation of the Independent Assessments to review complaints and recommendations and to conduct a co-design process directly involving people with psychosocial disabilities including those who are hardly ever reached.
2. Provide the option of funded assessments by the health professional of the prospective participants choice for people who request them to support equity of access.
3. Enable prospective participants to have a choice of suitably qualified and skilled potential Assessors through:
  - a. Provision of Supported Decision Making.
  - b. Access to information on individual Assessors.
  - c. The option to meet with individual Assessors.
4. Achieve equity of access and minimize potential harm to prospective participants by ensuring the Independent Assessment process is universally culturally appropriate for ATSI and CALD communities throughout Australia.
5. Review the right of appeal to ensure those with the least capacity to engage are not further disadvantaged.
6. Assessment Tools:
  - a. Uphold the right of the individual with a psychosocial disability to involve or not to involve carers and others.
  - b. Supplement assessment tools with an interview that includes assessment of an individual's living situation, physical health, level of social contact, and employment status.

Consumers of Mental Health WA (CoMHWa) is the peak body for people with mental health issues and psychosocial disabilities in Western Australia. The submission draws on extensive and extended consultation with people who have psychosocial disabilities, including those who are hardly ever reached.

## MODEL FOR PEOPLE WITH PSYCHOSOCIAL DISABILITY

People with psychosocial disabilities report the following barriers that currently exist to accessing the NDIS:

1. Lack of awareness of the NDIS.
2. Unsure if their severe mental health issue is 'bad enough' to access NDIS.
3. Not feeling culturally secure going into NDIS.
4. Difficulty collating evidence for eligibility and the costs incurred.
5. Not understanding the disability sector and/or NDIS.
6. Feeling misunderstood.
7. Fear of being judged and rejected by people they don't know.
8. Feeling vulnerable, unsupported, and fearful.

Exempting people with psychosocial disabilities from attending Independent Assessments without addressing the current barriers will lead to continued inequities of access for individuals who have psychosocial disabilities.

However, the model for Independent Assessments also risks harm to potential NDIS participants and increasing the inequalities of access to the NDIS for people with psychosocial disabilities.

To address the potential for harm to the mental health of people with disabilities and likelihood of inequities of access to the Scheme, CoMHWAs call for a halt to the rollout to enable thorough consultation with a diverse range of people with disabilities, review of complaints and due consideration of recommendations.

### **Recommendation 1**

Halt the pilot implementation of the Independent Assessments to review complaints and recommendations and to conduct a co-design process directly involving people with psychosocial disabilities including those who are hardly ever reached.

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## SAFEGUARDS FOR PEOPLE WITH PSYCHOSOCIAL DISABILITIES

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The following safeguards will assist in ameliorating the risk of harm for people with psychosocial disabilities as they apply to enter and are reviewed in the NDIS:

- **Discretionary Assessments**

Mandating participation in Independent Assessments does not support the individual's autonomy and threatens them with denial of access to the Scheme. Disadvantage, impaired decision making, and social isolation contribute to people with psychosocial disabilities being less likely to engage, respond and comply and therefore more likely to lose reasonable and necessary supports.

Barriers to complete mandated Assessments for people with psychosocial disabilities include difficulties in gathering evidence, being less likely to have the capacity to cope or comply with the Assessment, less likely to apply for an exemption and less likely to engage the complaints process.

The barriers are heightened with the potential for a lack of capacity and expertise of the Independent Assessor to assess an individual's complex disability or circumstances.

People with psychosocial disabilities report disengaging from services, including NDIS, when they perceive staff are not skilled in engagement and/or knowledgeable about psychosocial disability<sup>1</sup>.

Provision of discretionary powers for the NDIA for the participant to undergo an assessment for the purposes of decision making will support increased control and equity of access. Funding an individual to be assessed by a suitably qualified health professional of their choice would overcome the barriers of financial costs.

## **Recommendation 2**

An option of funded assessments by the health professional of the prospective participants choice for people who request them to support equity of access.

- **Access to suitably qualified Assessors**

People with psychosocial disability face challenges in accessing NDIS due to their limited knowledge of the disability sector, the episodic nature of their disability, the potential for impaired decision making, potential difficulties interacting with strangers and the barriers to access Assessors with appropriate experience and qualifications relevant to psychosocial disability.

Assessors have a pivotal role as gatekeepers to entering the NDIS and accessing necessary and reasonable support. Individuals with psychosocial disabilities can experience distress and trauma having to be observed and assessed by a stranger. Although a person can bring a treating health professional to the assessment meeting this is likely to be difficult to achieve and will almost certainly incur costs for the individual.

The ability of an individual to ascertain the skills and qualifications of the Assessor is unclear and appears limited. This raises the risk of Assessors who are likely to be unknown to the person, lacking in the required skills to engage and assess people with psychosocial disabilities. This can result in reduced access to NDIS and can cause unintended harm to the prospective participant.

- **Independent Supported Decision Making (SDM)**

Supported Decision Making is one of the most important human rights concepts for people with psychosocial disability that provides support for the person to make their own decisions<sup>2</sup>.

People with psychosocial disabilities can have, or be perceived to have, impaired decision making. Supporting a person to select their Independent Assessor will maximise the accuracy of eligibility and uphold the individual's rights of choice.

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<sup>1</sup> Feedback to CoMHWA from people with psychosocial disabilities via one on one, focus groups, interviews, forums.

<sup>2</sup> Office of Public Advocate. [2020] Supported Decision Making in Victoria.

<https://www.publicadvocate.vic.gov.au/resources/booklets/supported-decision-making-1/447-guide-to-supported-decision-making/file>

Utilising members of the Peer Support Workforce in Supported Decision Making is in line with contemporary practice, will facilitate consumer engagement, and support the effectiveness and efficiency of the Assessment process.

### **Recommendation 3**

Enable prospective participants to have a choice of suitably qualified and skilled potential Assessors through:

- a. Access to Supported Decision Making.
- b. Access to information on individual Assessors.
- c. The option to meet with individual Assessors.

- **Cultural Appropriateness**

The current NDIS entry and review processes vary in the capacity to be culturally appropriate. To achieve equity of access and minimize potential harm to prospective participants the Independent Assessment process must be universally culturally appropriate for ATSI and CALD communities throughout Australia.

### **Recommendation 4**

To achieve equity of access and minimize potential harm to prospective participants the Independent Assessment process must be universally culturally appropriate for ATSI and CALD communities throughout Australia.

- **Right of Appeal and Review**

The Independent Assessment relies on a few hours' assessment by a stranger which the Administrative Appeals Tribunal found provided less useful and reliable outcomes than the evidence of clinicians with whom the individual has a long-standing relationship<sup>3</sup>. The difficulty with conducting assessments for eligibility into NDIS is compounded for people with psychosocial disabilities where the episodic nature of their disability can adversely impact the requirement for permanence of disability.

The findings of the Assessor are critical for an individual to be able to access support through NDIS. Despite this, the appeal process for such an important decision is an internal process by the Agency that will rely on the findings of the original Assessment. The requirement to progress an appeal through the complaints process creates a significant barrier for accessing NDIS for people with psychosocial disability.

### **Recommendation 5**

Review the right of appeal to ensure those with the least capacity to engage are not further disadvantaged.

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<sup>3</sup> Ray and National Disability Insurance Agency [2020] AATA 3452 (<https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2020/3452.html>)

- **Assessment Tools**

The National Standards for Mental Health Services<sup>4</sup> state the right of people with psychosocial disability to involve or not to involve carers and others must be recognised and respected. The rights of the individual may be infringed by the LSP39 being completed by the Assessor +/- carers making judgements of a person's appearance, compliance, and social interactions.

There are domains that may not be assessed in sufficient detail by the WHODAS that are relevant for assessing psychosocial disability and interpretation guidelines for use with specific populations (e.g., people who are unemployed, homeless, or have physical disabilities) are clearly needed<sup>5</sup>.

To address the deficiencies of assessment tools and respond to the unique aspects of psychosocial disabilities it is recommended to supplement use of assessment tools with an interview that includes assessment of an individual's living situation, physical health, level of social contact, and employment status.

### **Recommendations 6**

Uphold the right of the individual with a psychosocial disability to involve or not to involve carers and others.

### **Recommendations 7**

Supplement assessment tools with an interview that includes assessment of an individual's living situation, physical health, level of social contact, and employment status.

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<sup>4</sup> National Standards for Mental Health Services [2010] <https://www1.health.gov.au/internet/publications/publishing.nsf/Content/mental-pubs-n-servst10-toc>

<sup>5</sup> Konecky B, Meyer E. et al [2014] Using the WHODAS 2.0 to assess functional disability associated with mental disorders. Am J Psychiatry. Aug; 171(8): 818–820.