

Options for achieving recovery oriented psychosocial support in the NDIS

Supplementary submission to the Joint Standing Committee on the NDIS inquiry into the provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition

This supplementary submission has been prepared for the Joint Committee on the National Disability Insurance Scheme in response to its question on what needs to change for the Scheme to have a recovery focus for people with psychosocial disability. We believe the issue, which is the subject of widespread stakeholder concern, has arisen in part because the Scheme was initially designed for people with physical disability, with psychosocial disability a late addition.

Our recommendations are informed by the principles in the *National Framework for Recovery-Oriented Mental Health Services*, endorsed by the Australian Health Ministers' Advisory Council in 2013. A recovery-oriented approach aligns with the objective of the NDIS to maximise independence and social and economic participation at the individual level. A recovery orientation is also consistent with the Scheme's emphasis on choice and control.

The options presented are intended to clarify the original intended cohort for the Scheme – i.e. people with the greatest need for disability support – not to expand the Scheme's reach. We do not recommend a relaxation in access criteria or their application, but instead to make improvements in order to assist the right people to access the NDIS as easily as possible.

Legislation

We recommend the following amendments to section 24 of the *National Disability Insurance Scheme Act 2013*:

- Remove references to *psychiatric condition* and replace with *psychosocial disability*. Using a validated assessment tool, a full assessment of a person's functional capacity to undertake activities of daily living can preclude the current requirement that a *psychiatric condition* be demonstrated by medical certification.
- Replace the word *permanent* with *ongoing, enduring, or chronic*
- Consider incorporating into 24.1 (b): *the impairment or impairments are ongoing, or likely to be ongoing without the person receiving supports intended to build their capacity.*

While a change to the legislation is necessary, we believe the urgent priority is to ensure the operation of the Scheme is recovery-oriented for people with psychosocial disability.

Regulation

Amendments to NDIS Rules will give the NDIA greater flexibility to implement the Scheme for people with psychosocial disability based on recovery principles. We recommend the following amendments to the Rules:

Amend the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* to:

- Include the principle of recovery-oriented practice for psychosocial disability.
- Remove the requirement that psychosocial disability must be, or likely to be, permanent. (Subrule 5.1.(e) requires that a person is likely to require support under the NDIS for their lifetime, which adequately covers the longevity of the impairment.)
- Clarify that Rule 5.4 does not apply to psychosocial disability, to reflect that people with mental illness will receive ongoing clinical, medical and other treatments and psychosocial services to aid their recovery.

Rule 5.4 An impairment is, or is likely to be, permanent (see paragraph 5.1(b)) only if there are no known, available and appropriate evidence-based clinical, medical or other treatments that would be likely to remedy the impairment.

- Recognise that medical evidence obtained for the purposes of gaining the Disability Support Pension is sufficient in confirming both the medical fact of and the enduring nature of a psychosocial disability.

Amend the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* to:

- Recognise that a recovery-oriented approach will be taken by the NDIA in determining support needs for people with psychosocial disability.
- Require that a validated assessment tool is used for assessing reasonable and necessary supports for people with psychosocial disability, which would ensure equity for these NDIS participants while enabling the NDIS to operate according to insurance principles with timely investment to minimise lifetime costs.

Operational processes

The universal model of the NDIS is admirable. However, unique needs can and should have tailored approaches, such as that which has already occurred with early childhood. Recovery-oriented practice can be applied to the operational aspects of the Scheme for psychosocial disability.

Given the philosophical differences between the recovery-oriented assessment of and planning processes for people with psychosocial disability and those with other disabilities, the organisational structure of the NDIA should accommodate a specific psychosocial disability stream and NDIA staff (including staff involved in assessment and planning) should have expertise in psychosocial disability.

Other options for recovery-oriented practice in NDIS processes are set out below.

Assessment process

- Remove the requirement for people with psychosocial disability to produce medical evidence of the psychiatric condition and a medical testament to its permanence. This administrative practice to truncate individualised assessment of functional capacity is not a recovery-oriented approach to providing psychosocial supports services for people with mental illness.
- Adopt a validated assessment tool that is fit for purpose to assess the eligibility of people with psychosocial disability that focusses on their impairment and functional capacity to undertake activities of daily living.
- Assessment of people with psychosocial disability should be undertaken by a person with the right professional expertise. This can be done within the NDIA or outsourced, noting that the professional expertise largely exists in community based mental health service provider organisations and mental health professionals working with people with psychosocial disability.

Planning process

- Participants' plans should be oriented to capacity building supports to aid recovery, wherever possible.
- The planning process should be based on evidence of what constitutes effective and recovery-oriented packages of support for psychosocial disability.

Pricing

- Prices for psychosocial supports services should reflect the costs of a recovery-oriented services, i.e. not simply assistance with activities of daily living.

Since rollout commenced, mental health providers have repeatedly highlighted that the price of supports is set well below the hourly rate for psychosocial support work currently delivered by suitably qualified people. There is no hourly price for psychosocial support services in the NDIS Price Guide, and mental health providers have had no involvement in the process to set prices for different support types.

Background

The *National Framework for Recovery-Oriented Mental Health Services* was developed by the Australian Health Ministers' Advisory Council in 2013 and is formal government policy. The Framework acknowledges that "Words and language are critically important in the mental health field where discrimination, disempowerment and loss of self-esteem can cause people to battle with self-stigma". This is why the use of the term "permanent" in the NDIS legislation presents such a big barrier to the cohort for whom the Scheme is intended to support. It is why so many stakeholders have made this point in their submissions to Parliamentary inquiries, review of the NDIS legislation and to the Productivity Commission.

In 2015, reporting on its review of the *National Disability Insurance Scheme Act 2013*, Ernst and Young recommended that the government conduct another review of the Act in two to three years given that the "legislative framework will be exposed to more participants, more

locations and more sources of stress”.¹ Ernst and Young noted that the [second] review will “help government ensure that the legislative framework is ‘fit for purpose’ for full Scheme”.

Eligibility assessment tool

In its advice for implementing the NDIS for people with mental health issues², the NDIS Independent Advisory Council found there was “no commonly accepted and used instruments for assessing functional impairments and indicating support needs related to disability due to a psychiatric condition”. The Council highlighted the risk of inconsistent approaches in both eligibility and support needs being determined by the NDIA.

The issue remains unresolved and the Council has recommended, in its submission to the Parliamentary Joint Standing Committee on the NDIS, that the NDIA “invest in the development of a validated instrument for identifying an evidence-based approach to the determination of functional impairments and support needs for people with an impairment related to a psychiatric condition”. It is unclear what has prevented the NDIA from: a) developing an NDIS specific tool; b) modifying the existing assessment tool for physical disability to assess psychosocial disability; or c) purchasing the licence for an existing psychosocial assessment tool.

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¹ Ernst and Young, *Independent review of the NDIS Act*. December 2015. Page 3.

² Independent Advisory Council for the National Disability Insurance Scheme, *IAC advice on implementing the NDIS for people with mental health issues*, 2014