Australian
Psychological
Society

February 22nd 2021

National Disability Insurance Agency
Department of Social Services
GPO Box 9820
Canberra ACT 2601

Level 13, 257 Collins Street
Melbourne VIC 3000
PO Box 38
Flinders Lane VIC 8009
T: (03) 8662 3300
F: (03) 9663 6177
psychology.org.au

Dear Sir/Madam

Consultation site: Have your say

Dear Sir/Madam

Submission to the 2021 National Disability Insurance Scheme consultation on "Access and Eligibility Policy with independent assessments"

The Australian Psychological Society (APS) welcomes the opportunity to provide a submission to this important consultation.

The APS is the peak professional body for psychology in Australia, representing over 25,000 members nationally, many of whom work in the disability sector. For the past 77 years, the APS has played a central role in establishing standards to ensure the quality and safety of mental health care in Australia.

In this role, the APS is responsible for promoting excellence and ethical practice in the science, education and practise of psychology as the key discipline for the reducing the burden of mental ill-health and increasing the wellbeing of all Australians. It sees the importance of ensuring people with a disability receive high quality and effective psychological services to support their mental health and enable them to live active and fulfilling lives as valued members of the community.

The submission that follows is based on feedback sought from those members. It addresses the consultation questions where relevant to psychology and member feedback.

If the NDIS requires further APS input, I may be contacted through my office on (03) 8662 3300 or by email at z.burgess@psychology.org.au.

Yours sincerely

Zena Burgess FAPS FAICD
Chief Executive Officer

Submission to the 2021 NDIS consultation on independent assessments consultation on "Access and Eligibility Policy with independent assessments"

Question 1. What will people who apply for the NDIS need to know about the independent assessments process? How this information is best provided?

The APS believes there are two considerations which need to be taken into account in informing Scheme (referred herein as the Scheme) applicants about the independent assessments (IA) process. The first relates to the purpose of IAs. The NDIA has indicated that an IA is "an assessment of a person's functional capacity, which will be used to inform decisions about eligibility for the NDIS and about funding in a participant's plan".[1]

It has indicated that the IA process is necessary to address barriers which have arisen in relation to Scheme entry. According to it, these barriers have resulted in the acceptance of markedly fewer Scheme participants than forecast and an inequity of access based on relative disadvantage. It has proposed that the IA process is necessary to reduce waiting times for entry into the Scheme, restore the Scheme's universality by rebuilding its equity of access and better inform decision-making by Scheme planners.[2] These objectives were identified by the Australian Disability Council in response to the Tune Report commissioned by the NDIA in 2019.[3]

The problem from the APS's perspective is, however, that the NDIA is yet to indicate how functional capacity will be measured and, given it is only one measure of a person's capacity to live successfully with disability, clearly define what it intends around a range of other important assessment issues; for example, the need for:

- appropriately developed measures of participation and adaptive skill
- authentic, comprehensive assessment of the individual, their environments and support systems, conducted by appropriately qualified practitioners with an area of practice endorsement - for example, and as outlined in the APS White Paper on the Future of Psychology in Australia[4], clinical, neuropsychology, educational and developmental and counselling psychologists - that will inform decision-making by planners and
- clear communication about the relationship between diagnosis and Scheme eligibility and the difference between assessments for screening and surveillance/monitoring, progress and outcome purposes.

What the NDIA intends to do about these important considerations is not clear to stakeholders. In the absence of clear intent, there is a substantial perceptual problem surrounding the proposed IA process. This is illustrated by the commentaries of prominent participant spokespersons and representative groups who have asserted the NDIA has alternate, unpublicised motivations for the IA process. Exemplifying this, different commentators have suggested its primary motivation is to reduce the dollar value of plans, sideline service providers from the assessment process and constrain the choice and control of participants.

---

[1] See Joint Standing Committee on the NDIS: Terms of Reference for Independent Assessments Inquiry

[2] In its final report into planners the JSC noted that as the approving delegate for plans and, hence, initial budgets for participants, planner decision-making has too often been inappropriate, inadequate and unable to be reviewed within reasonable timeframes – see NDIS Planning Final Report Joint Standing Committee on the NDIS (December 2020)

[3] Australian Government Department of Social Services: Review of the NDIS Act report (January 2020)

[4] APS White Paper: The Future of Psychology in Australia (June 2019)

Others have argued that the IA process will make matters worse and that it is intended that the IA process be applied to plan reviews of existing participants.

The APS does not necessarily endorse these views. It is apparent from them, however, and frequent media reports citing them, that the NDIA has a significant "image problem" around the IA process. It believes this situation reflects a failure by the NDIA to explain the IA process to applicants and participants, their families, carers and guardians, provider organisations, workers and health professionals and the peak bodies representing them (henceforth referred to as stakeholders) and consult with them about the same.

This lack of clarity has the capacity to create uncertainty and fear in some applicants, their families, carers and guardians. There is, accordingly, a need for a compelling IA rationale to be developed from authentic bottom-up consultation with all stakeholders.

Associated with this, the second consideration that needs to be addressed in relation to the IA process, is how the information about it will be communicated to applicants. The APS is, accordingly, keen to know how the IA process will:

- be compatible with other NDIS aims, such as increasing the "voice" of participants
- set the scene for engagement with by key stakeholders
- disseminate information, and to whom about the process
- work with stakeholders to develop confidence that thorough and person-centred psychological disability assessments will be the norm and
- review eligibility, at what juncture(s) it will occur, and what will trigger a review.

The APS is aware members are concerned that already too many families too-often have difficulty understanding how to enter the Scheme and the relationship of an assessment to an NDIS plan and its outcomes. For example, it is aware from members that under the current arrangements, there are frequently significant barriers in obtaining consent for a range of applicants around plans for children with guardianship orders.

Members are further concerned that this lack of understanding may be exacerbated by the introduction of IAs. They have emphasised the need for clear, well-co-ordinated client-centred plans/plan coordination that ensures the IA process does not become another barrier for these vulnerable groups. They have, for example, asked how consent will be managed, especially for non-verbal, children and children in out of home care or where DHHS is guardian.

There is potential duress related with an assessment for the Scheme. It is, accordingly, important that this is reduced, not increased, by the implementation of the proposed IA process. To counter the possibility that the IA process will have an adverse and unintended effect, it needs to be explained in plain language using processes that are inclusive of applicants and their families, carers and guardians. The use of a graphical decision tree that clearly, comprehensively and simply represents the pathway to, through and from IAs to planners and plan outcomes will also be important.

It is unclear how the proposed IA will serve the needs of the participants, not just those of the NDIS/NDIA. It is important that any pressure on potential participants (and their carers) is reduced rather than increased by the implementation of the proposed IA process. Based on the declared intentions of the NDIA, involvement in an IA will not be elective. Because IAs will be mandatory, it is critical that the NDIA demonstrates how it will address consent issues for potential participants, from whom will consent for the IA be sought and obtained and how it will be recorded. This also relates to the storage and use of information obtained from applicants.

The APS is aware that members are concerned that some families (including those from low SES, CALD, refugee, first nations and rural/remote backgrounds) may not fully understand the assessment process and its purpose and that such issues may impact assessment outcomes. Thus, the IA process needs to be explained, in plain language of a low Fog index[5], video and other disability accessible versions.

Because IAs will be conducted by health professionals, the APS is strongly of the view that irrespective of whether they are conducted by partner organisations or external contractors, the practitioners providing them will require significant orientation and training. This needs to involve much more than orientation to the assessment tools and must cover the values, principles and processes underlying the NDIS. Additionally, it must cover deep and specific knowledge of types of disabilities, development issues and their implications for the IA process before health professionals are considered suitable assessors (see the response to question five for more comment).

These problems require lengthy consideration and significant resource planning, and in-depth expert and peak professional body input, before any implementation should be attempted. Where the issues at stake relate to the psychological needs of Scheme applicants, the APS must be involved in consultation with the NDIS and engaged in preparing professionals for the different types of involvement that will occur with the Scheme and its applicants/participants. In the case of sensory, cognitive intellectual and psychosocial disabilities (as the primary impairment or secondary to another disability, like physical disability), the APS encourages the NDIS to engage researchers in further study of the relationships between disabilities, functions and outcomes as they affect participant trajectories.

A decision tree that clearly, comprehensively and simply documents the pathway and gates to access and exit from the Scheme also needs to be developed.

Question 2. What should we consider in removing the access lists?

The APS notes the intention to remove the ("list A and List D") access lists, which have hitherto identified disorders (e.g., Down syndrome, quadriplegia and high-impact sensory disability).

The APS does not necessarily agree with that the proposition that removal of Lists A and D will act to increase access. It contends that, when Scheme access is central to the NDIA's justification for the IA process, this proposition is ironic and the APS fears it will do nothing to increase access for individuals affected by the conditions in question. The APS does not fully understand the motivation behind this decision. Those lists have resulted in automated Scheme acceptance. The APS is surprised that this decision has been taken without consultation with key stakeholders and that feedback is instead being sought post hoc about considerations which might mitigate any potentially negative effects of the list's removal. The

---

[5] See http://gunning-fog-index.com/

APS is of the view that this must not occur for a range of applicants (e.g., children under three years of age), especially for the stress it will place on families.

Accordingly, the APS urges the NDIA to release further information aimed at elucidating the purpose of these proposed changes. It encourages the NDIA to further study the relationship between diagnoses and functional outcomes.

The potential added intrusion into applicants' privacy and the compliance-duress of the proposed assessment process, along with the lack of known, context-informed assessors and the statistical weakness of many of the questionnaires proposed, all make the removal of Lists A and D highly problematic. It is unclear whether, based on the type of generalist assessment proposed by the NDIA - which will effectively require all applicants to prove eligibility – is likely to act as a barrier to access and lead to negative outcomes for applicants and increase the burden on applicants and their supporters. For example, it is unclear how these requirements will be funded, the extent to which applicants may need to fund other assessments to demonstrate eligibility and, especially pertinent in light of the professed motivation for the IA process, how IAs will increase equity and access given such uncertainties (a clearly expressed fear in the disability community is that IAs will actually make access more difficult).

Consequently, the APS strongly suggests that the proposal needs to be studied carefully from the perspective of the applicants and participants to understand the full range of potential, unintended effects on them. It is adamant that no applicant should be disadvantaged by or be made be worse off by the decision to remove the lists.

Central to this, the APS also proposes that detailed assessments by trusted health professionals should continue to be available for former List A and D access impairments and disabilities. Until the picture is clearer, the decision making process must include the option (with no limits on it) for follow up, detailed assessments undertaken by appropriately qualified practitioners and, in the case of psychological disability, the types of psychologist described above in relation to the APS's White Paper.

The APS is concerned the type of generalist assessment proposed by the NDIA/NDIS will not meet the needs of Scheme applicants with a range of disabilities and impairments. This is obviously the case for profound physical and cognitive disabilities such as paralyses and ABIs derived from accidents and injuries. Not as obvious, but potentially as profound, is the case of severe psychosocial disability: as expressed at various places in this submission, this must be undertaken by appropriately qualified and experienced psychologists.

Illustrative of this is the case known to an APS member of where a person who is a highly intelligent, young 22 year old unemployed man with yet to be confirmed Autism Spectrum Disorder, Obsessive-Compulsive Disorder and profound Generalised Anxiety disorder, who is living at home with parents in an isolated lifestyle. His parents have reported him as housebound as he becomes extremely uncomfortable, anxious and distressed in unfamiliar environments and incapable of successfully undertaking day-to-day functional tasks. They further stated that he is resistant to undertake or commit to interventions as he is uncomfortable with, and suspicious of, health professionals. He is not on the disability support pension and is totally dependent on his parents for his financial needs. He requires a thorough assessment. It is inconceivable, however, that his needs for assistance will be adequately catered for and described by the kind of one-off assessment proposed under the IA process.

The relationship between the IA results and the complexity of contextual issues affect the focus and depth of intervention required for successful outcomes. Yet, the relationship between IA eligibility, the contextual issues and funding allocation is opaque.

It is the position of the APS that the decision making process must include the option (with no limits on it) of initial or follow up detailed assessments by qualified health professionals for those who would otherwise have fallen under the former List A and D access impairments and disabilities.

The APS urges the NDIA to place itself in the shoes of such individuals and adopt a person-centred appreciation of what the removal of automatic eligibility under the former Lists A and D of conditions means to them, their carers and their families. Consistent with this, the APS reiterates the need for NDIA confirmation that no applicant will be disadvantaged by nor be made be worse off by the decision to implement IAs via the application of a *Better Off Overall Test*.

Question 3. How can we clarify evidence requirements from health professionals about a person’s disability and whether or not it is, or is likely to be, permanent and life long?

The NDIA has expressed dissatisfaction in discussions with the APS about the quality and usefulness of the reports received from psychologists for assessment, planning and the plan review processes.

The APS has expressed its concern at this perception and its willingness to work with the NDIA/NDIS to address the situation. It has, however, not been contacted by the NDIA/NDIS about these matters.

It again expresses its willingness to consult about reporting and especially so around IA reporting as the APS believes that the NDIA/NDIS cannot afford for there to be sub-optimal quality reporting about it. The APS, therefore, proposes that the NDIS takes up the opportunity to increasingly work with it to anticipate and, as far as possible eliminate, this and all other misunderstandings around NDIS policy, protocols and procedures as they relate to the IA process and other matters of significance.

By the NDIS being clear about what is required of health professionals, they can be enabled to expand their assessments and be best placed to assist applicants and participants.

Any disconnection between disability, eligibility assessment and plan intervention is a detriment to applicants. The NDIS could be enhanced by partnering with the APS to guide the field in meeting the need for information rather than take peremptory action (the APS is strongly of the view that placing/updating information on the NDIS website is not consultation). In this way, positive outcomes will be more likely to flow to all stakeholders.

Question 4. How should we make the distinction between disability and chronic, acute or palliative health conditions clearer?

Repeat assessments are required to ensure diagnostic distinctions between disability, chronic, acute and palliative health conditions. Plain language communications with scenario illustrations and a graphical decision tree are required to assist all stakeholders.

Question 5. What are the traits and skills that you most want in an assessor?

The NDIA will be aware the APS was involved, as one of six peak bodies in the IA planning project, which the NDIA funded and was auspiced through Allied Health Professions Australia (AHPA). The APS, from its involvement in the IA project argued, along with the other peak professional bodies involved, that IA clinicians must have:

- demonstrable knowledge and mandatory minimum level (e.g., 3 years) of experience
- the experience and qualification relevant to the disability for which the applicant is seeking NDIS assistance
- capacity to operate with independence of decision-making and no conflicts of interest (e.g., as can occur from avaricious behaviour by providers who are awarded government contracts and then workers who engage sub-optimal practice based on the organisation's business model)
- adequate discipline specific supervision (this was seen as is obligatory).
- detailed training - train the trainer was seen as an <u>inappropriate</u> means for training assessors as it puts continuous improvement at risk when independence is not embedded in the process
- appropriate use of instruments/metrics by health professional who are by experience and qualification equipped to use them and
- the empathy, understanding, knowledge and skill to look behind scores on metrics to the underlying client story.

Additionally, all metrics need to be specifically and independently reviewed by field recognised experts in conjunction with peak bodies (e.g., the APS test and testing committee for cognitive, sensory and behavioural tools).

The APS is concerned that as NDIA is yet to endorse these requirements, there is a high risk that they will not be endorsed and implemented by the NDIS.

The NDIA/NDIS needs to publicly acknowledge that IAs are typically a stressful and unpleasant process for participants and their families, and many participants are reticent with unfamiliar professionals whose role it is to assess them. Illustrative of this, the parent of a participant known to an APS member indicated that their daughter with Down syndrome and Verbal Dyspraxia (and hence very limited spoken communication skills), is quite aware of when she is being assessed, whatever the type of "required tasks", and does not enjoy it at all. The mother of the young woman has questioned the quality of the information that will be obtained from a single session assessment with participants (likely to be report only) including those with an intellectual disability, in particular.

The NDIS proposals outlined thus far by the NDIA run the risk of developing a pool of ill-equipped and inexperienced clinicians making critical decisions regarding the welfare of NDIS participants. As per the response to question one, there is community criticism that sole assessor practitioners may create situations where inappropriately qualified assessors will be required to conduct assessments - the example being given is of physiotherapists conducting assessments related to psycho-social disability - in the absence of prior, specified relevant age/disability specific experience. The APS believes this scenario remains a risk and needs to be preventatively addressed in the "program description" for the IA process and the position descriptions of workers and provider managers who will be involved the conduct of IAs.

It is critically important that any assessment under the NDIS is undertaken by well trained, equipped, qualified, appropriately and experienced professionals with whom applicants are comfortable. For psychological assessments, best practice dictates that psychologist assessors with area of practice endorsement will be appointed to the case on the basis of a match with presenting condition; for example, neuropsychologist assessors will be used to assess for those with ABIs and educational and developmental psychologists will be appointed to assess those with of school age with developmental problems. This matching process will require that the NDIS appoints a diverse pool of psychologist assessors to the IA assessor pool.

It is important the IA task is not conducted by professionals who, for whatever reason, have either been incapable or unwilling to establish a successful career in their field or are at entry or near-entry level in their professional career. That would be a grave disservice to applicants.

Question 6. What makes this process the most accessible that it can be? For example, is it by holding the assessment in your home?

The APS cannot, of course, answer this question from the perspective of applicants to the Scheme. It is, however, informed by its members that participants will have a range of preferences for accessibility. The home will be suitable for some. It cannot be assumed, however, that all applicants will prefer home assessments and some others will not live at home (e.g., those who are in Out of Home Care and forensic settings), thus home assessment must not be mandatory. In line with a person-centred approach, the person should have a voice and options regarding the choice of setting for an assessment. As noted in the response to question five, IAs are often distressing and ultimately need to be undertaken where applicants feel safe. This may include an online "Safe place".

Question 7. How can we ensure independent assessments are delivered in a way that considers and promotes cultural safety and inclusion?

The APS has previously emphasised - for example, through the NDIS AHPA-auspiced IA project and a variety of submissions to the NDIS and the Federal Parliament's Joint Standing Committee on the NDIS (JSC) - the need for the NDIS to pay due attention to the needs of culturally and linguistically diverse families, including first Nations peoples and members of CALD communities across its policies and protocols. It is also important that the needs of socially disadvantaged families, parents with intellectual disabilities or mental illness and children in Out of Home Care, and adults in residential care settings are similarly catered for in such policies and protocols.

The APS remains concerned around the assessment tools that are proposed for use in IAs (see its submission on the NDIA submission to the NDIA's concurrent consultation on early childhood for greater detail). The APS questions whether there is the evidence for use of the tools prescribed with diverse populations, including with Aboriginal and Torres Strait Islander adults and children. Additionally, some standardised tools are inaccurate or inappropriate for use with some populations (e.g., asking cultures that eat using hands whether their child can use cutlery). This is because they have not been validated on these populations and this renders them inappropriate to use and given the diversity and our agreement at a national level to close the gap between First nations peoples, it is necessary for the NDIA to ensure that a one-size-fits-all approach is implemented. Thus there needs to be careful consideration of the tools and high level of diversity understanding from the assessors.

Time pressured and inadequately skilled and experienced assessor-practitioners will be potentially mislead by applicants. This is because the parents of applicants frequently report to members that their child, adolescent or adult dependent can convincingly claim skills and abilities they do not have or deny problems they do have. To prevent this, it is critical that all families and carers are maximally included in the assessment process and that detailed information and personal testimony is sought from families and carers. Self- report alone can be highly inaccurate and use of this method alone is not an evidence-based assessment processes. The APS holds that it is not possible to conduct an appropriate evidence-based assessment in the time allocated to an IA as is currently proposed.

The APS, accordingly, underscores the importance of facilitating meaningful inclusion of applicants, participants and their families, carers and guardians in decision-making by communicating clearly with them about an IA's results and its implications for planning. This will include the NDIS taking direct responsibility for engaging all relevant parties in the implementation of planning based on an IA's results and the connection of the IA to their needs, concerns and wants. Only in this way, will applicants' self-knowledge and goal-reflection be enhanced.

Question 8. What are the limited circumstances which may lead to a person not needing to complete an independent assessment?

To reiterate the response provide to question two, such a circumstance will occur where an applicant has a demonstrable disability of the kind that would have been accepted under Lists A or D and there is a DSP entitlement. Also, as previously stated, detailed assessments must be available instead of, or in addition to IAs, so that no applicant is worse off than they would have been under existing arrangements.

Question 9. How can we best monitor the quality of independent assessments being delivered and ensure the process is meeting participant expectations?

The APS proposes that this can only be assured by mandatory monitoring and reporting that compares the rates of acceptance into the Scheme as a proportion of assessments performed by each assessor and overall. At a minimum, there is a need for monitoring of outcomes, as well as service guidelines, standards and accountability. It will also be important to distinguish between satisfaction about the processes and the outcomes of the assessment.

The APS believes that the NDIA Quality and Safeguards Commission is the gatekeeper of this responsibility. It also believes it would be apt for a reference group of peak professional bodies, including the APS, to be appointed to support the Commission in this task, to embed independence and appropriate expertise.

Question 10. How should we provide the assessment results to the person applying for the NDIS?

The APS strongly suggests that the result of assessments must be promptly communicated in an open, transparent and person-centred manner to applicants. It also believes that at all points, applicants and participants must be informed about their right to contest and appeal decisions and (as has been observed in several parliamentary inquiries) without such requests for review proceeding to the AAT.

It again expresses its appreciation of the opportunity to submit to this consultation. It remains concerned, however, that various changes outlined in this consultation exist as a fait accompli (e.g., removal of access lists). As per its many previous submissions to NDIA consultations and various inquiries into the NDIS, the APS actively seeks the opportunity to engage in meaningful (i.e., not faux consultation where information is placed the website or in a consumer newsletter and post hoc discussion is sought), top-down and bottom-up ongoing consultation processes.

The APS perceives there is much work to do on the IA process before the best model for it is able to be implemented. It emphasises that failing to act on views expressed to this consultation by the APS and the advice previously provided to the NDIA by the APS and other peak bodies (especially those provided in the AHPA-auspiced IA project) would be gravely remiss. It also considers the failure to consult around or report back about the two IA pilots conducted thus far is disappointing and looms as an opportunity lost. In line with reforms underway for the mental health system, there is a need to improve the transparency, accountability and responsiveness of the NDIS as a Government funded Scheme relying on public money.

Finally, as in the past, the APS emphasises its willingness to partner with the NDIA/NDIS around education, training and research for providers and other stakeholders requiring information around psychological matters pertinent to the IA and other critical aspects on the way it functions. This is important if participants are to optimally benefit from the Scheme's initial intention to support Australian's with a disability.