

National Disability Insurance Agency

Consultation Paper: *Planning Policy for Personalised Budgets and Plan Flexibility*

Victorian Mental Illness Awareness Council

February 2021

We thank the National Disability Insurance Agency for the opportunity to provide feedback on their proposed Planning Policy for Personalised Budgets and Plan Flexibility

AT A GLANCE

VMIAC does not support the use of mandatory independent assessments to inform and determine a NDIS Participant's level and scope of funding. We have serious concerns about how the processes articulated in NDIA's Proposed Independent Assessment Policy will be able to accurately determine a participants funded level of support.

We call on the NDIA to fulfill its obligations to the Australian Public as expressed under the Convention on the Rights of Persons with Disabilities (CRPD) to work with disabled people, families, supporters and disability organisations to redesign a fit-for-purpose assessment process.

The Victorian Mental Illness Awareness Council (VMIAC) is the peak Victorian non-government organisation for people with lived experience of mental health or emotional issues. We provide advocacy, education, consultation and information to promote the rights of people using, or wanting to use, mental health services.

VMIAC has specialist experience advocating, at an individual and systemic level, for changes to the NDIS and the National Disability Insurance Agency (NDIA). At an individual level VMIAC provides:

Specialised information for consumers on how to apply for the NDIS

Advice and support to gather evidence required for the NDIS

Intensive support through the application process and planning meetings,

Advocacy support for NDIS Reviews and Appeals.

Underpinning this work is VMIAC's NDIS Critical Reference group, which provides ongoing input and advice into VMIAC service delivery and strategic advocacy.

These opportunities give VMIAC a broad understanding of the issues faced by consumers and government in implementing the original intention of the NDIS. There have been many issues with the roll out of the NDIS, particularly as it relates to psychosocial disabilities.

Executive Summary and Recommendations

VMIAC wishes to acknowledge and thank members of the VMIAC NDIS Critical Reference Group for their input into this submission: VMIAC does not believe that the use Independent Assessments to determine personalised budgets and plan flexibility is fit for purpose as the measures employed within Independent were not designed with this task in mind.

We call on the National Disability Insurance Agency to:

- provide funding for independent advocates and have them readily available for all participants when preparing for, and attending, planning meetings and other key NDIS events.
- Provide access to NDIS plan mentors- consumers and existing NDIS participants who can provide an equal-power dynamic through which to improve plan literacy and utilisation.
- use evidence-based best practice when attempting to provide support for people using their plan. This is in line with other disability organisations and agencies. VMIAC supports person-centred and disability-positive approaches to supports, which includes choice of clinicians, supports and assessors.
- All information about the role of Independent Assessments is codesigned with Psychosocial Disability Organisations, consumers and NDIS participants.
- Allow for greater use of Level 3 Support Coordination for participants who request it and can demonstrate it will benefit their engagement of supports.
- Implement the availability of case management for people who seek and require this level of support. This is a missing piece of the psychosocial disability support landscape.
- Improve the availability and quality of support for Plan implementation from Plan delegates, Support Coordinators, Local Area Coordinators and other sources must be vastly increased.
- develop fall back measures and safety mechanisms for participants with fluctuating levels of need

- Create streamlined and simple processes for applying for additional funding when required
- Ensure that consideration is given to requests for placing aside a proportion of a participant's funds for emergencies or needed purchases
- Rollover of unutilised funding from year to year is allowed and support is provided when requested to assist with reconnecting and or finding new supports and services

MANDATORY INDIVIDUAL ASSESSMENTS

VMIAC wishes to acknowledge and thank members of the VMIAC NDIS Critical Reference Group for their input into this submission.

Major concerns around the NDIA's Proposed NDIS Access and Eligibility Independent Assessment Policy include:

A failure of the NDIA to consult people with a disability

The impact of Independent Assessments on NDIS participants' choice and control

The potential harm arising from subjecting NDIS Participants to a Mandatory Independent Assessment Process

That Independent Assessments are not a fit-for-purpose mechanism to assess Access and Eligibility

That Independent Assessments create a deterrent against accessing the NDIS, and

These reforms reflect a broader, and concerning trend, of re-assessing participants without good cause.

We call on the National Disability Insurance Agency to:

Ensure the safety of NDIS participants by not exposing participants to unnecessary risk if evidence exists that participation in an Independent Assessment will be harmful

Offer Independent Assessments as optional as opposed to mandatory, whilst maintaining the option of choosing an assessor

Cover the costs of all assessments, whether they be independent or of one's own choosing. This will ensure greater equity for people

Make fully public the fine detail about how Independent Assessments will be used to determine the Eligibility of NDIS Participants

NOTHING ABOUT US WITHOUT US – THE FAILURE TO CONSULT PEOPLE WITH A DISABILITY

The NDIA has developed and is now introducing Independent Assessments without appropriate and transparent consultation with people with a disability, their families, supporters and the wider disability sector as to whether such a process will benefit and be suitable for people with a disability.

Such an approach is at odds with the Convention on the Rights of People with a Disability (CRPD) and the National Disability Standards(2010 -2020 which seek to embed the rights of disabled people to decision making and their active participation in the design of systems that are meant to support them (see Articles 4(3) and 33, CRPD)

CHOICE AND CONTROL

Choice and control are core principles upon which the NDIS was founded. Subjecting NDIS Participants to mandatory Independent Assessments, undertaken by contracted independent assessors who may not have disability-specific expertise, is contrary to principles of choice and control.

THE POTENTIAL FOR HARM

There are many NDIS participants with a disability caused by injury and accident who in their long journeys through Workcover and TAC Insurance Schemes have already experienced psychological injury and significant trauma through being subjected to mandatory Independent Medical Assessments. Around the world increased scrutiny is being applied to the psychosocial harm caused to people by such processes (Grant, O'Donnell et al 2014).

Additionally, there are numerous participants with a psychosocial disability who have experienced compulsory treatment and/or involuntary detention under a Mental Health Act and who know first-hand the deeply disempowering and harmful effects of being subject to institutional power. For many NDIS Participants the prospect of being forced to undertake a Mandatory Assessment in order to participate in the NDIS will be deeply triggering.

In the United Kingdom, where a similar mandatory functional assessment process was employed to reassess the eligibility status of over a million United Kingdom citizens who were receiving disability payment benefits and supports, research has been able to directly link an alarming rise in the rates of suicide and mental illness amongst disabled people to the introduction of this flawed and ill-considered policy (Barret al al, 2015).

NOT FIT FOR PURPOSE: AN INADEQUATE PROCESS OF ASSESSMENT

Under the NDIA's Independent Assessment process NDIS participants will no longer be able to use assessments by people they know or trust. It is questionable efficacy to require an NDIS participant to be assessed by someone who knows nothing about him or her.

The NDIA in released tender documents stipulates a time frame for assessments carried out (1 to 4 hours in total) by an allied health practitioner. The assessor will have no prior knowledge of the individual in question or their disability history and will rely instead on undertaking their assessment by asking a series of questions drawn from a suite of functional assessment screening tools to assess functional capacity.

The individual undertaking the assessment may have no knowledge or experience of the disability that they are assessing and in fact the NDIA has said that the assessment process will be Disability Agnostic with capacity to assess any disability accurately. But the NDIS has presented no evidence that such a limited assessment process is actually fit for purpose and capable of accurately assessing or measuring a person's level of disability or disability support needs.

It is unclear how an Independent Assessment will be able to capture and measure the fluctuating and episodic nature of psychosocial disability. This is especially concerning since the Independent Assessment process that the NDIA is proposing to implement is completely untried anywhere in the world apart from a small non-representative pilot undertaken in the Hunter Valley yet to be completed.

Feedback from NDIS Participants with a psychosocial disability is that they have no trust or safety in such processes. The NDIA has not provided any evidence that its proposed process will result in a fair assessment of a person with trauma or with episodic or fluctuating needs.

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Planning Policy for Personalised Budgets and Plan Flexibility

Question	Response	Suggestion
<p>1. How should a participant's plan be set out so it's easier to understand? How can we make it easy for participants to understand how their funding can be spent?</p>	<p>The complexity of plans is a barrier to for people trying to access and organise funded supports, even when a support coordinator is assisting. Clearly written, accessible information is key to resolving this.</p> <p>The NDIS has departed from using language that is familiar within the broader mental health service space and psychosocial discourse. This poses a barrier because many people, including workers, do not know what terms mean, even when they are assumed knowledge, such as "capacity building" and 'core". Information needs to be clearer, more consistent and designed with participants in mind.</p> <p>Aboriginal and Torres Strait Islander People, people with multiple disabilities and culturally and linguistically diverse communities face multiple barriers in understanding plans. Examples of this include language gaps, and concepts that do</p>	<p>Improve the cultural and linguistic diversity of information that is available about plans by using grassroots and consumer-based codesign process.</p> <p>The layout and information in plans need to be written more clearly, with less jargon, so information clearly translates into what supports can be accessed.</p>

	<p>not make sense or do not exist in some cultural settings. This can be addressed through community-based and consumer codesign.</p>	
<p>2. How can we support participants to prepare for a planning meeting? What might be needed to support participant decision-making?</p>	<p>The NDIA (National Disability insurance Agency) needs to publish clear and accessible guidelines about what can be funded within a participant's plan under the NDIS's Reasonable and Criteria</p> <p>Currently the process of preparing for a planning meeting is not readily available for many NDIS participants.</p> <p>The lack of support to prepare for and take part in a NDIS Planning is major barrier for many participants in receiving a plan that meets their disability support needs and supports them to achieve cherished life goals</p> <p>A draft budget estimate needs to be provided to the participant in a timely fashion. Funding for supports that can assist a participant to prepare for or challenge</p>	<p>It is VMIAC's view that Independent consumer advocates are a crucial element in planning meetings. They must be funded and made readily available for all participants to prepare for, and attend, planning meetings.</p> <p>Funding specific to Planning and Reviews is made available to participants undertaking</p>

	the NDIA's allocation of funding need to be made available to all participants as part of the planning cycle	
3. Which supports should always be in the fixed budget? What principles should apply in determining when supports should be included in the fixed budget?	<p>The current plan utilisation rates for people with psychosocial disability are <50%, signalling a major failure in the current system. VMIAC interprets an increase in fixed budgets as increased surveillance over plan utilisation, and by no means a solution for improving plan utilisation which is the underpinning goal.</p> <p>The dignity of risk should be applied as a guiding principle when allocating supports as a fixed budget. The flexibility to make choices and decisions about how to use funds mean that fluctuating and changing support needs can be addressed without having to overhaul the plan needlessly.</p>	The supports that are fixed needs to be organised in a case-by-case basis, with increased support made available for individuals to understand, implement, and adjust their flexible funding allocations over time. Such implementation should employ a co-design approach directly involving people living with disability.
4. How can we assure participants that their plan budgets are at the right level? (e.g., panels of the	In its submission to the Joint Standing Committee into the NDIS General Issues Inquiry VMIAC expressed major concerns that Independent	The NDIA makes public the fine detail about how funding for Plans will be determined by Independent Assessor Scores. Extensive independent research is funded that explores the basis and validity of the processes that underpin

<p>Independent Advisory Council that meet every six-months to review learnings and suggest improvements)</p>	<p>Assessments are not a fit-for-purpose mechanism to assess participants disabilities. Subsequently the NDIA has still not released any information that provides clear guidance into how the outcomes of the Independent Assessors measurement will be used to accurately and realistically determine the level of funding required by a participant.</p>	<p>Independent Assessments and allocation of funding for NDIS participants</p>
<p>5. What new tools and resources should we provide to support people using their plan and new plan flexibilities?</p>	<p>People with psychosocial disability have frequently reported to VMIAC that, under current NDIS processes, they do not receive adequate support to understand and implement their Plan. Even in regions where Plan handover discussions have theoretically been rolled out, and regular LAC check-ins are outlined in VMIAC can report that these implementation supports frequently do not happen or do not provide tailored support.</p> <p>The NDIA is urged to use evidence-based best practice when</p>	<p>To the avoid harm and to ensure supports are utilised, the availability and quality of support for Plan implementation from Plan delegates, Support Coordinators, Local Area Coordinators and other sources must be vastly increased. VMIAC urges the NDIA to roll out NDIS plan mentors-consumers and existing NDIS participants who can provide an equal-power dynamic through which to improve plan literacy and utilisation. VMIAC urges the NDIS to engage Mental health and psychosocial consumer organisations to inform all current and proposed NDIA plan-utilisation strategies.</p>

	<p>attempting to provide support for people using their plan and new plan flexibilities, the latter of which we do not support. An example of evidence-based practice is that therapeutic relationships are core to all productive interactions in psychosocial support / policy.</p>	
<p>6. What do we need to consider for children aged 7 and above in the new planning process?</p>		
<p>7. What ideas do you have for how people can use their plan more innovatively?</p>	<p>NMIAC has observed that NDIS participants with psychosocial disability struggle to understand how their plans work and convert into actual supports, largely due to the complexity of plans. This is reflected in the underutilisation of plans, as well as the support constantly sought through VMIAC and other non-NDIS organisations to interpret plans.</p> <p>Ideas for increasing innovative plan use include: Meaningful consultation and codesign with</p>	<p>Each participant will have unique needs and ways of understanding their plan. Therefore, the most effective way to make plans more user friendly and “innovative” is to listen to the participant when creating the plan.</p> <p>Prescriptive measures about what a plan consists of is not a means to improve plan innovation and usage. It must be codesigned with the participant.</p>

	<p>consumers, participants and mental health organisations.</p> <p>Well-trained staff and adequate staff numbers - there are currently insufficient long-term, well trained staff members with whom participants can engage with on a consistent basis for plan support.</p>	
<p>8. How best to handle the timing of the release of funds into plans and rollover of unused funds?</p>	<p>VMIAC is concerned about the unintended consequences for NDIS Participants with a psychosocial disability of a wholesale blanket approach to the release of funds on a pro-rata monthly or quarterly basis.</p> <p>In consulting with participants, we have been told that timed release of funds is a poor substitute to properly funded and well thought out plans that provide options for flexibility of spending when needed.</p> <p>As is well known people with a psychosocial disability often have fluctuating episodic needs and there is real risk that the pro-rata release of funds will stifle the access to supports when they are most in need.</p>	<p>Fall back and safety mechanisms need to be developed for participants with fluctuating levels of need</p> <p>Streamlined and simple processes for applying for additional funding when required are put in place</p> <p>Consideration is given when requested for placing aside a proportion of a participant's funds for emergencies or needed purchases</p> <p>Rollover of unutilised funding from year to year is allowed and support is provided when requested to assist with reconnecting and or finding new supports and services</p>

	<p>Additionally, participants should not be penalised if for reasons beyond their control they find themselves in situations where they are unable to utilise NDIS supports</p> <p>Having a timed release of funds will stymie any attempts by participants to forward plan or upfront purchase services and supports thus limiting choice. Pro-rata will introduce an unwarranted and unneeded layer of complexity and regulation to process of managing one's funding which may well contribute to the further underutilisation of funds.</p>	
<p>9. How should check-ins be undertaken? Under what circumstances is a check-in needed? Who should be involved in a check-in?</p>	<p>It is vital that NDIS participants retain a sense of trust and engagement with the NDIA's proposed Check In processes. Consequently, the processes supporting Check ins need to be flexible and tailored to individual needs.</p> <p>An unnuanced, arbitrary approach to conducting check-ins could potentially be very damaging and</p>	<p>Check-ins should be optional and pre-negotiated so that any contact made will meet the participant's individual instructions about what makes the interaction safe and useful.</p> <p>Participants must be able to decide how the check occurs- by what means, how often and by whom. Only then can check-ins be a safeguard to ensure people using the NDIS are accessing supports through their plan.</p>

	<p>traumatising for participants as well as the relationships between participants and the NDIS.</p> <p>Most consumers who engage the VMIAC NDIS Advocacy service request support with communicating with the NDIS as this is a significant cause of anxiety, re-traumatisation and distress. Any check-ins that are conducted by the NDIS (or others) must be guided by the needs and preferences of each individual participant.</p>	
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<p>10. How often should we check-in with participants in different circumstances?</p>	<p>Factors that need to be taken into consideration include: having a high level of control about when and how a check in will take place, whom a NDIS Participant can have present to support them and how check ins are conducted are all key factors for consideration.</p> <p>Clear information must be made available to the participant prior to the check in about the purpose of the check in along with a list of what questions will be asked in the meeting.</p> <p>Equally important is the question about who will be conducting the Check In.</p> <p>Check ins need to be conducted by someone the Participant already knows and with whom the participant has a trusting relationship with.</p> <p>Check Ins processes need to be trauma – informed, safe, and contained. Participants need to feel that they are being heard and understood.</p>	<p>The rights of participants with regards to taking part in a check in are made available when a Check in Request is being made.</p> <p>NDIS Participants have a right to have supports present when a check in takes place</p> <p>Alternative processes are developed for participants who do not want to take place in face-to-face meetings</p> <p>NDIA staff conducting check ins have training and skills to support people who are experiencing emotional distress, pain, and anxiety</p>
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	<p>In circumstances where this is not possible extra considerations and care need to be put into place with regards to supporting the NDIS participant through the process.</p> <p>For Check Ins to be acceptable and non-traumatizing NDIS participants need to be able to have the right to cancel, reschedule and in certain situations request a different form of contact, communication and/or support.</p>	
<p>11. How can the NDIS ensure positive relationships between participants and planners?</p>	<p>A broad cultural and operational shift needs to occur within the NDIS if positive relationships between participants and planners are to be achieved.</p> <p>This shift needs to address the current problems facing participants when engaging with planners</p>	<p>Greater Availability of planners – currently phone numbers and email addresses are not supplied.</p> <p>NDIS participant co-designed and co-produced trauma-informed training is delivered to NDIA planners</p> <p>Good practice on the part of NDIA Planners is supported and incentivised. The NDIA embraces and supports a</p>

	<p>which include re-traumatisation, not being heard, include meaningful training about psychosocial disability, greater staff retention rates, and eliminating harmful practices such as planners cold-calling participants for planning meetings.</p> <p>There needs to be more accountability and transparency about plan decisions and outcomes. By applying trauma informed practice when communicating with participants, and strengthening a commitment to disability rights, the NDIS can take steps towards building more positive relationships with participants. Such changes will connect the NDIS to broader mental health best practice and consumer lived-experience expertise.</p> <p>The ability to respond and to sensitively engage with the complexities in individual lives and circumstances is paramount to building trust and shoring up relationships</p>	<p>culture shift towards person-centred practice</p>
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<p>12. How can we best support participants to transition to this new planning model?</p>	<p>It is VMIAC's view that the proposed Assessment and Planning Processes are inadequate, ill-considered, and deeply flawed. The NDIA firstly needs to undertake a proper codesign process and then undertake a full and genuine trial process before this new planning process is implemented. Anything less will be putting thousands of vulnerable NDIS participants at risk of potentially harmful unintended consequences of a flawed and ill-considered planning process that operates without sufficient safeguards or protections in place.</p>	<p>NDIS Participants & other Stakeholders are invited to take part in a full and proper co-design process to develop an assessment and planning process. A full and extensive trialling process is implemented with a wide range of different cohorts and population groups and communities. After being trialled and reviewed with new amendments in place with the planning model is rolled out in start-up areas which allow for thorough and proper training of Independent Assessors. Training of Assessors should be conducted by disability specific cohort and or peak organisations that provide avenues for people with a disability to train up assessors in engagement. Extensive safeguards, accommodations, protections and avenues for appeal are put into place throughout the planning process.</p>
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