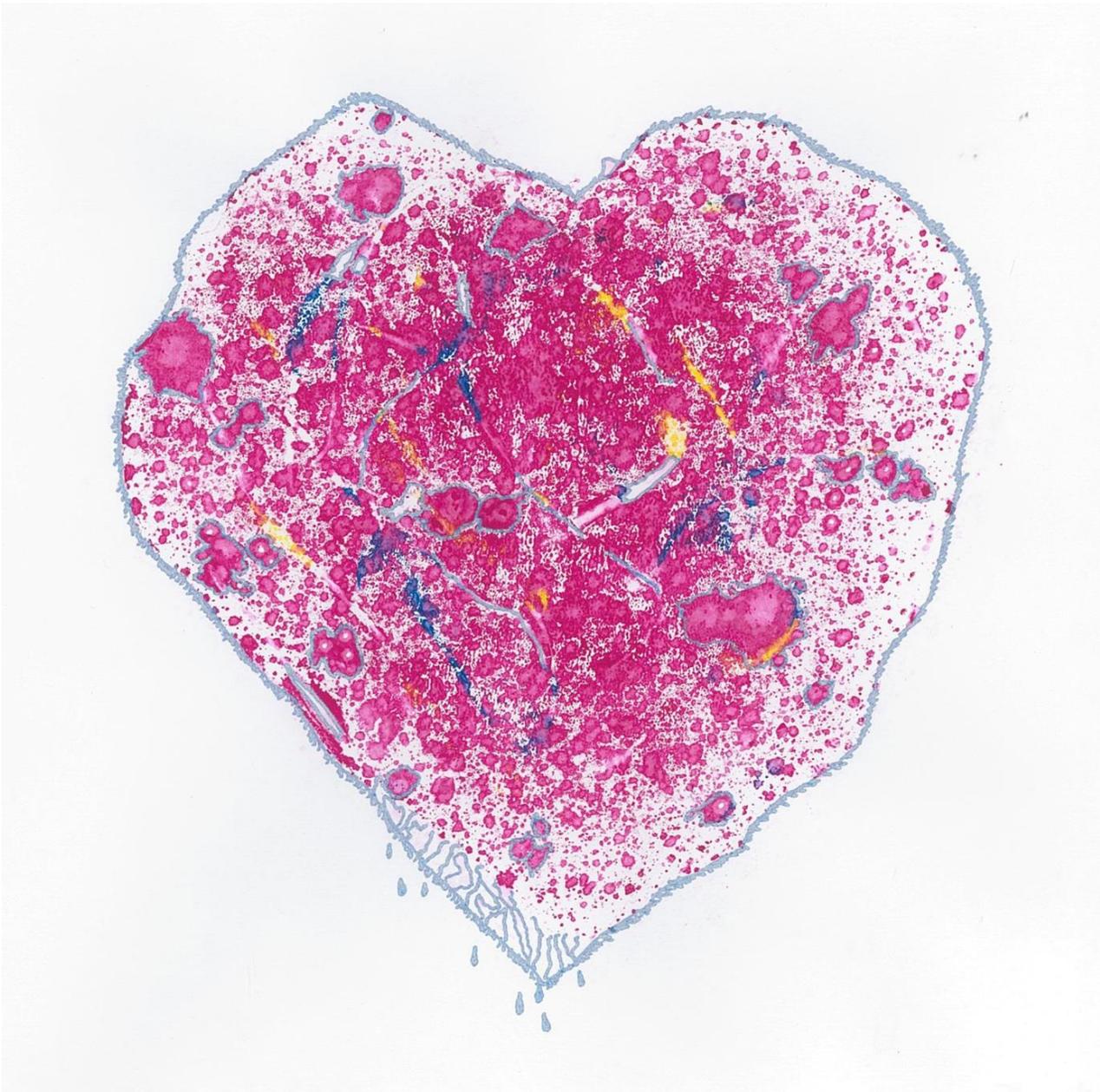


Submission to the Joint Standing Committee into the NDIS  
Independent Assessments



## SUBMISSION: Independent Assessments

We thank the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) for the opportunity to provide feedback on the proposed implementation of Independent Assessments by the NDIA.

AT A GLANCE VMIAC does not support the introduction of mandatory Independent Assessments and calls on the Commonwealth Government and NDIA to work with disabled people, families, and supporters to develop assessment and planning processes that are aligned with the ethos, principles, and spirit of change on which the NDIS was founded.

Our concerns about Independent Assessments were first raised with the Joint Standing Committee in our October 2020 submission to the Inquiry into General issues around the implementation and performance of the NDIS and are further expanded on here.<sup>1</sup>

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

Major concerns around the introduction of Independent Assessments include:

- A failure of the NDIA to meaningfully consult people with disability
- The impact of Independent Assessments on NDIS participants' choice and control
- The potential harm and lack of safeguarding associated with this reform
- That Independent Assessments are not a fit-for-purpose mechanism to assess NDIS participants disabilities
- That Independent Assessments are not a fit-for-purpose mechanism to determine the level of funding that an NDIS Plan will require
- The loss of NDIS's Participants rights subject to Independent Assessments

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<sup>1</sup> VMIAC submission to the Inquiry into General issues around the implementation and performance of the NDIS, October 2020 [https://www.vmiac.org.au/wp-content/uploads/VMIAC\\_Joint-Standing-Committee\\_NDIS-General-Issues-Submission-Oct-2020-3-1-1.pdf](https://www.vmiac.org.au/wp-content/uploads/VMIAC_Joint-Standing-Committee_NDIS-General-Issues-Submission-Oct-2020-3-1-1.pdf)

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 the 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 governments in implementing the original intention of the NDIS.

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## The development, modelling, reasons and justifications for the introduction of independent assessments into the NDIS

The NDIA's intention to implement Independent Assessments is a deeply concerning policy change that has serious implications for disabled people, their families, friends, and supporters.

It is VMIAC's position that whilst there is a great deal of work that needs to be undertaken to make the NDIS fairer, more equitable, and sustainable; the introduction of Independent Assessments is not an appropriate or viable solution and will only work to further disadvantage disabled people.

VMIAC would like to highlight that NDIA has developed, and is now introducing, Independent Assessments without appropriate and transparent consultation 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 (Articles 4(3) and 33, CRPD), and the National Disability Strategy 2010 -2020 (2010), which embed the rights of disabled people to decision making and their active participation in the design of systems that are meant to support them.

In reviewing the literature that has been published by the NDIA regarding Independent Assessments it is difficult to see how such a large-scale policy reform and a fundamental reshaping of the NDIS can be justified.

Questions abound about how participants within the NDIS or the Scheme itself will benefit from Independent Assessments; and whether sufficient substance, quality, and integrity exist within the Independent Assessment process to accurately assess and support the highly diverse functioning and support needs of disabled people.

The Independent Assessment process developed by the NDIA draws on a suite of six standardised measurement tools already in use across the disability and health sectors. In a process that the NDIA has not made public, scores from multiple measurement tools are combined into an algorithm that determines whether NDIS access eligibility is met and what level of funding a participant will receive. Of great concern is the fact, that there is no evidence base for the use of standardised measurement tools for this purpose as the tools being employed by the NDIA were not designed or have been validated for use in this way.

In consultations with NDIS Participants living with a psychosocial disability, participants expressed their distress and unease in being forced to participate in an assessment process, not of their choice that was not appropriately safeguarded.

It was noted that many of the assessment tools were not appropriate for use with people with a psychosocial disability nor able to capture an accurate picture of how a participant might experience disability.

For example, the 36 item WHODAS self-report questionnaire requires participants to make attributions about their source of disability which is problematic for many people with a psychosocial disability.

NDIS participants also relayed that the use of standardised measurement tools only plays a small part in how a functional assessment takes place within mental health.

Independent Assessments were viewed by NDIS participants with a psychosocial disability as being dangerously reductionistic and simplistic and unsuitable to assess the functional impact of psychosocial disability.

Under the current NDIS system, NDIS plans are built around the diverse and individualised support needs of people with a disability. Assessments are carried out through a collaborative multi-disciplinary approach between health professionals based on their understanding of how disability manifests within the context of a participant's life and drawing on their expertise within their field of practice.

Individualised support and person-centred planning are fundamental cornerstones of the NDIS which has been one of the longest overdue reforms in Australian Society. Understanding an individual's disability support need's combined with the allocation of appropriate funding that allows participants to achieve their stated goals in life is what makes the NDIS a landmark in social change and policy reform for disabled people. Removing these essential elements of the NDIS which largely would occur with the use of Independent Assessments would be a major backward step for the rights of disabled people across Australia.

Currently, within the NDIS a picture is built up over time around the reasonable and necessary supports required by NDIS Participants to live an ordinary and good life on an equal footing with other Australians. The Assessment process that the NDIS employs is essential to gaining this deep level of understanding.

VMIAC acknowledges that disparities exist between NDIS Participants who are better resourced to access assessments and participants with less access. VMIAC along with other disability advocacy organisations has for several years lobbied the Government and the NDIA to intervene in this matter by making assessments freely accessible to all Australians through Medicare or for targeted support measures that can address social disadvantage.

Proper and full assessments are an investment in the future for disabled people that grow and return substantial benefits and costs savings over time building the capacity of disabled people, the families, supports, and the NDIS to work towards overcoming the barriers and challenges in life that disability presents.

It is an approach that counters years and often decades of systemic and structural neglect and discrimination experienced by disabled people.

Unlike a full and proper assessment, Independent Assessments will not routinely draw on medical evidence, prior assessments, and reports from health professionals. Independent Assessments rely solely on the use of standardised measurement scales and the responses of the person with a disability, their family, carers, and /or supports in a short on average three-hour assessment process.

NDIS participants are only provided with a summary of an Independent Assessment Report unless specifically requested. An Independent Assessment doesn't provide expert guidance on the specific type and nature of the support and assistance required but seeks merely to determine levels of functioning and capacity in a range of life domains. The results of an Independent Assessment are calculated using a complex algorithm that NDIA has not made public that is used to determine the amount of funding that an NDIS participant's plan will receive.

In a full reversal of current NDIS planning processes, an NDIS Plan will need to be developed from a fixed amount of funding determined by an Independent Assessment rather than being the sum of Reasonable and Necessary supports identified then approved within the NDIS Planning process.

To implement Independent Assessments substantial legislative changes to the NDIS Act will be required which will significantly alter and possibly remove the Reasonable and Necessary criteria from the NDIS Act. This amounts to a substantial undermining of the whole ethos and principles on which the NDIS was founded and should not be allowed to occur at any cost.

### [The independence, qualifications, training, expertise, and quality assurance of assessors](#)

For many people with a psycho-social disability, the opportunity to choose who undertakes their assessment is a fundamental and crucial part of coping with the anxiety and distress that an assessment can generate. It is also often key to whether an assessment is successful in conveying true functional capacity and support needs, or whether it has deficits as is the case with assessments that are too short or compiled by a wrongly matched clinician.

Mandating NDIS participants and applicants to undertake Independent Assessments is a high-risk low reward proposition that poses a serious risk to the safety and wellbeing of disabled people.

Given that a common feature of psychosocial disability is the experience of trauma and difficulty with interpersonal engagement, the impersonal nature of Independent Assessments will be a further barrier to support.

In VMIAC's consultations, NDIS Participants identified that engaging with clinicians for an assessment is one of the more challenging parts of the NDIS process. Having one's life and circumstances understood and responded to affirmatively within the context of mental illness and/or trauma when in the past this has too often not taken place creates great insecurity.

Participants were concerned by the prospect of having to be assessed by a stranger who may only have limited experience in working as an allied health professional and no relevant experience in mental health. As Independent Assessors are only required to have 12 months of professional working experience it is likely they will be insufficiently skilled and equipped to pick up let alone provide support to a participant who is experiencing re-traumatisation. There is a high likelihood that within such circumstances an Independent Assessment will be flawed. There is only limited safeguarding to protect NDIS participants who may be at risk in such situations.

Many of the NDIS participants with a psychosocial disability that VMIAC spoke with said that the Independent Assessments will contribute to further disengagement and opting out of the scheme by both participants and potential future applicants.

It is well known that a therapeutic relationship is a key to an accurate, strong functional assessment for people with a psychosocial disability. This perspective is universally supported and shared by evidence-based, best practice clinical professions. A three-hour Independent Assessment will not allow for therapeutic working relationships to develop between a person with a psychosocial disability and an assessor.

The NDIA's Independent Assessment Framework cites the Productivity Commissions Disability Care and Support Report's recommendation for an Independent Assessment process within the NDIS as justification for the process it has developed.<sup>2</sup>

It fails however to relay important recommendations made by the Productivity Commission about how an Independent Assessment would need to be safe-guarded if established and that these safeguards are missing from the Independent Assessment Process.

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2 Productivity Commission 2011, Disability Care and Support, Report no. 54, Pg. 327, Canberra.

The Independent Assessment Framework attempts to discredit current methods of assessment by implying that 'sympathy bias', along with 'inter-rater reliability' distort the assessment process within the NDIS.<sup>3 4</sup>

Despite the perception generated by the NDIA's citing of a small-scale research study on 'rater reliability'<sup>5</sup> very little evidence exists that sympathy bias is in any way an issue of concern within our country's health system.

'Sympathy bias', misrepresents a therapeutic clinical relationship for an unnecessary overprescribing of supports. This unfairly positions service users as people who abuse the NDIS for unnecessary resources whilst simultaneously undermining the framework of clinical best practice. It is demeaning and reinforces discrimination, self-stigma, and the delegitimisation of disability.

### The circumstances in which a person may not be required to complete an independent assessment

VMIAC is deeply concerned about the loss of rights disabled people will experience through the introduction of Independent Assessments.

The NDIA has stated that only in exceptional circumstances will a participant be granted an exemption from undertaking an Independent Assessment.

It is unclear what the threshold for granting an exemption for Independent Assessments will be. However, the NDIA's signaling on this matter appears that it will be very high. The decision by the NDIA about granting an exemption is non-reviewable and disadvantages participants lacking resources and/ or supports to build a case that will allow an exemption.

### Opportunities to review or challenge the outcomes of independent assessments

VMIAC believes that Independent Assessments need to be reviewable and optional and that all NDIS participants should have an automatic right to a second opinion.

Independent Assessments must not be used to determine or re-assess the eligibility of people with a disability to be NDIS Participants

It's VMIAC's position that where the results of an Independent Assessment contrast widely with well-evidenced understandings of an NDIS participant's functioning then alternative methods of Assessment must be employed.

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<sup>3</sup> Productivity Commission 2011, Disability Care and Support, Report no. 54, Pg. 327, Canberra.

<sup>4</sup> Harries, Kirby and Nettelbeck (2006)

<sup>5</sup> Guscia, Harries, Kirby and Nettelbeck (2006)