WAAMH
Western Australian Association
for Mental Health

25 February 2021

Committee Secretary
Joint Standing Committee on the National Disability Insurance Scheme
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Committee Secretary,

Re: Joint Standing Committee on the National Disability Insurance Scheme inquiry into Independent Assessments

The Western Australian Association for Mental Health (WAAMH) is the peak body for community mental health in Western Australia. WAAMH influences community attitudes, mental health priorities, policy and practice through mental health promotion, systemic advocacy and development so Western Australians have the rights, resources and support needed for mental wellbeing, recovery, and citizenship. One of the main change priorities of our Strategic Plan 2019-2024 is to influence NDIS implementation in WA to ensure its responsive for people with psychosocial disability, in order to achieve our organizational vision. WAAMH welcomes the Joint Standing Committee on the National Disability Insurance Scheme's invitation to lodge a submission in relation to the Independent Assessments Inquiry.

This letter includes WAAMH's response to those Terms of Reference most relevant to our agenda in relation to the Committee's inquiry into the NDIS Independent Assessments (IAs). Our response is focused on the needs and experiences of NDIS participants, or prospective participants, with psychosocial disability. It has been informed by our NDIS Mental Health Sector Reference Group which includes NDIS participants and family members, lived experience peak bodies and service providers; formal and informal consultations; and WAAMH staff with expertise in psychosocial service provision, policy, advocacy, workforce development and quality assurance processes.

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a. **the human and financial resources needed to effectively implement independent assessments**;

- Given already thin markets within the disability sector, the NDIS may struggle to find an adequate number of independent assessors, to undertake the required number of independent assessments. Inability to meet this demand will see long wait time for participants, both wanting to get onto the Scheme and undergoing plan reviews, potentially leaving people with a disability without adequate support. This is particularly relevant for those with psychosocial disability whose needs may fluctuate over time.
- The other risk that may occur is rushed assessments or a sense for participants or family members of rushed assessments, or assessments that do not meet the requirements of the NDIS Practice standards. The needs of independent assessors to be skilled in culturally secure practices may contribute to a particular challenge in sourcing assessors in regional and remote areas, where workforce shortages and workforce consistency across allied health are already critical and challenging.

b. **the independence, qualifications, training, expertise and quality assurance of assessors;**

- During consultations with WAAMH NDIS providers have raised concerns that even though stating that they are independent, assessors are still employed (and remunerated) by the NDIA, which raises questions for WAAMH and its members around their impartiality, and the perception of their impartiality in the community. Addressing this perception will be important for the NDIAs ability to build trust in the IA process.
- WAAMH supports the NDIA's suggestions of these sessions including a trusted individual who plays a key role in the participant's life, to enable the assessor to develop a better understanding of the individual. It must be noted that not all participants with psychosocial disability may have access to such a trusted person; as such the process should include other ways to bolster this support where this is not the case. As mentioned by a WAAMH member, "A functional assessment may assist in identifying areas for development/capacity building in a person life. However, it doesn't capture the lack of informal supports, relationships, connection to formal services and/or the lack of social presence in the community."
- WAAMH regularly receives reports from providers and participants about the varied level of understanding of psychosocial disability amongst planners and that this results in significant inconsistency in plans, both in the types of supports funded and the amount of supports funded. Recently these reports have focused most on the lack of understanding of Recovery Coaching, with planners incorporating funding for Recovery Coaching into participants plans, where psychosocial disability is their primary disability. This often happens but the details may not fully be explained to participants, meaning the supports go unused or they lose their existing Support Coordinator relationship, for example. Providers have also reported receiving participant plans that include Recovery Coaching, but the details are not in keeping with the role of that support. While this is a new and not yet well understood support,

this is merely the latest example of NDIA staff and their delegates not having sufficient depth of understanding psychosocial disability, resulting in inequitable plans and access issues. WAAMH is thus concerned that a similar lack of depth in understanding psychosocial disability is likely to occur amongst independent assessors, which may result in inequitable access to supports for people with psychosocial disability.

Recommendation: *Due to the complex nature of psychosocial disability, and characteristics that differentiate it from other physical and intellectual disabilities, such as its episodic and fluctuating nature[1], WAAMH recommends that assessors undertaking functional assessments of people with psychosocial disability should have the specific skills, knowledge and experience in working with people with psychosocial disability. This should include training in Recovery-Oriented Practice and Trauma-Informed Care, to prevent further deterioration of the individual due to the IA process. The NDIA or its delegate should provide access to this training (perhaps through state and territory peak bodies that hold this expertise) with this training extending to Planners and Local Area Coordinators (LACs) to maintain a person centred approach throughout the entire process.*

c. the appropriateness of the assessment tools selected for use in independent assessments to determine plan funding;

- Of the proposed tools to be used in the functional assessments for adults (LEFS, CHIEF and WHODAS 2.0), concerns have been raised about the length of these tools, specifically the WHODAS 2.0, which is most likely to be used for people with psychosocial disability. Reduced motivation, lower levels of stamina and limited ability to concentrate are often experienced by individuals with psychosocial disability[2] therefore questions are raised around an independent assessor's ability to successfully capture an accurate picture of the individual, the impact their disability has and complete the functional assessment within the allocated 3-hour time frame.
- In addition, the WHODAS 2.0, only looks at the last 30 days of the individual's life (prior to assessment) and therefore cannot adequately capture the fluctuating and episodic nature of psychosocial disability in such a short period of time.
- The process of a functional assessment, as well as the tools selected by the NDIA for IAs, are not in line with a Recovery-Oriented approach. This alignment, for example, would help achieve the NDIS objectives and principles of "supporting the independence and social and economic participation of people with disability" [3] and its insurance ethos. The NDIS is "an incentive to make short-term investments in participants aimed at increasing their independence and participation in the community and the workforce in the hope of reducing long-term costs."[4]

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[1] https://nmhccf.org.au/sites/default/files/docs/nmhccf_psychosocial_disability_booklet_web_version_27oct11.pdf
[2] https://www.health.nsw.gov.au/mentalhealth/psychosocial/foundations/Pages/psychosocial-whatis.aspx
[3] https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/rp/rp1617/quick_guides/disabilityinsurancescheme
[4] https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/rp/rp1617/quick_guides/disabilityinsurancescheme

Recommendation: *WAAMH emphasizes the need for a Recovery-Oriented, strengths-based assessment process. A strengths-based approach has the potential to help plans focus on the capacity building component of participant's supports as opposed to a maintenance approach.*

Recommendation: *While individual's recovery/NDIA plans will differ (depending on their goals and aspirations), provider experience suggests that a frequent element of Recovery plans is to reconnect with family, friends, their community and formal supports. An eco-map of the person's supports, relationships and social presence would provide rich information about the support needs and quantum of supports required either as an adjunct to the IA or instead of the IA as would a recovery plan developed with the participant with trusted others.*

d. the implications of independent assessments for access to and eligibility for the NDIS;

- Functional Capacity Assessments generally focus on what a person can or can't do within their everyday life, contradictory to the NDIS focus on goals, outcomes and uncovering potential in individuals.
- Functional Assessments are undertaken by 'independent assessors who are qualified health care professionals'[5], meaning the individual has no prior relationship with the person with psychosocial disability. This raises a number of issues:
    - Building trusting relationships with health care professionals is fundamental to Recovery-Oriented practice within mental health[6], thus individuals with psychosocial disability may be reluctant to undergo such assessments with an unknown individual.
    - Furthermore, lack of trust is prevalent with individuals with psychosocial disability, especially within unknown individuals, making the success of this assessment more unlikely. Additional barriers may arise if the participant is required to do this over the phone.
- *"[With] Regards to NDIS Individual Assessments, how does an occupational therapist (OT) who has only met you for 1 or 2 hours get a proper understanding of you overall and how can they base the funding on this when your current OT has known you for years? [This process is] Only cost saving."* Andrew, NDIS participant.
- WAAMH echoes Andrew's concerns, unsure as to how an assessor will adequately capture the fluctuating and episodic nature of psychosocial disability within the allocated time frame of 3 hours, in comparison to a health professional who has a long standing relationship with the participant.
- The current proportion of NDIS participants that are people with psychosocial disability remains significantly lower than the rates estimated by the Productivity

[5] https://www.ndis.gov.au/participants/independent-assessments
[6] https://www1.health.gov.au/internet/publications/publishing.nsf/Content/mental-pubs-i-nongov-toc~mental-pubs-i-nongov-pri

Commission, especially in some jurisdictions. WAAMH is deeply concerned that the new barriers created by IAs may amplify and compound the existing access barriers to the NDIS for people with psychosocial disability; these barriers have been well documented for example by the Joint Standing Committee into the NDIS. The risk that IAs will create additional barrier that compromise access and eligibility is a significant issue that requires the attention of the NDIA to overcome.

e. the implications of independent assessments for NDIS planning, including decisions related to funding reasonable and necessary supports;

- Whilst independent functional assessments have been introduced to overcome complex issues associated with access, eligibility and gathering of evidence, questions arise from providers in the WAAMH NDIS Reference Group as to whether this is simplifying the process too much. Sometimes a more detailed, thorough process can provide a better picture of an individual, particularly for those with co-morbidities and complex needs, and thus facilitate better decisions around funding and provide more adequate and appropriate supports for individuals.
- Given the assessments will be completed for both new and existing Scheme participants, concerns have been raised with WAAMH that existing participants may cease to receive funding, or receive reduced funding, after the completion of such an assessment. The NDIS needs to implement a level of safeguarding for participants and build trust with these already vulnerable individuals. The potential for participants to lose funding after already being part of the Scheme, is contradictory to the 'lifelong approach' of the NDIS.
- In the NDIA's consultation paper on Access and Eligibility Policy with Independent Assessments, it is said that all NDIS applicants are required to provide evidence of their disability and its permanency before they are even offered an independent assessment[7]. It is common knowledge that gathering evidence is difficult and often very expensive for people with psychosocial disability in particular; it is hard to see how this will create equity of access into the Scheme. This creates a barrier to access before the barrier to functional assessments is even considered.
- The IA may be perceived or experienced as an additional barrier to accessing the Scheme, resulting in lower uptake by people with psychosocial disability. This is a problem in itself, but particularly so because people with psychosocial disability are already accessing the NDIS at lower rates than the Productivity Commission modelled.

f. the circumstances in which a person may not be required to complete an independent assessment;

- Whilst WAAMH understands that the functional assessments are to be done in order to decide on funding and budgets, the IA's are only offered after the individual has already proven they have a disability and its permanency. The WHODAS 2.0 (which will be the most likely used tool for IA's for people with psychosocial disability) may often already be used by treating medical professionals and therefore used as evidence of

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[7] https://www.ndis.gov.au/community/have-your-say/access-and-eligibility-policy-independent-assessments

disability/permanency, meaning doing it again may be both re-traumatising for the participant, financially wasteful and provide a completely different result when done by an independent assessor. This could create confusion as to which one is correct, and which information can therefore be relied on.

- Additionally, the episodic nature of psychosocial disability should mean that the opinion of the participants treating professional and any family members or carers should be highly regarded in the assessment process, to help protect against the potential for gaps in assessment, particularly if the assessment is conducted in one session. WAAMH further submits that a process for exception for an IA should in place, particularly if people are unwell at the time. People experiencing severe mental health issues, where there is a well-documented history of the illness and supporting evidence from their treating specialists /team, should not be required to undergo an independent assessment. Assessments under these circumstances can present risks to the participant.

Recommendation: *Where a participant with psychosocial disability has included one of the IA tools as part of their access and eligibility criteria to evidence their disability, they should not have to undergo a repeat of this process with an independent assessor. This includes those who have recently been hospitalised for their psychosocial disability or mental health condition, where a functional assessment was used to inform their treatment and recovery.*

Recommendation*: The IA takes into account the opinion of participants treating professional and their family members or carers.*

Recommendation*: A process for exception from IA should be in place and readily accessible to people with psychosocial disability and/or severe mental health issues.*

g. opportunities to review or challenge the outcomes of independent assessments;

- At this stage, the NDIS reports that participants will receive a copy of the assessment results[8] but it is unclear at which point during the process this will occur. In line with the fundamental NDIS principle of participant choice and control, WAAMH recommends individuals should be able to review the outcomes after the completion of the IA, before they are submitted to the NDIA as part of evidence to determine funding. This will ensure any discussions between the participant and the assessor can occur, and changes can be made where appropriate before they are used to make decisions about funding levels.

h. the appropriateness of independent assessments for particular cohorts of people with disability, including Aboriginal and Torres Strait Islander peoples, people from regional, rural and remote areas, and people from culturally and linguistically diverse backgrounds;

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[8] https://www.ndis.gov.au/community/have-your-say/access-and-eligibility-policy-independent-assessments

- Thin markets are mentioned above, but are an even bigger issue in regional, rural and remote areas[9]. This issue may be compounded when attempting to provide a suitable and participant preferred health care professional to undertake an individual's IA in these areas. Regional, rural and remote individuals are entitled to have an IA undertaken in their preferred location (e.g. at their house, in their community) and mode (e.g. Face to Face). The issue of already thin markets in these areas may be further exacerbated by requirement of an independent assessor who is previously unknown to the individual.
- Stigma associated with psychosocial disability and mental health might be further intensified in regional, rural and remote areas, with additional complexities present if an individual is from a culturally and linguistically diverse or Aboriginal and Torres Strait Islander background. Whilst the WHODAS 2.0 has been validated across 19 countries, they may be misinterpretations that occur due to cultural barriers that may exist, such as language barriers, or different cultural contexts and understandings.
- The presence of thin markets, stigma, and applicability of the IA tools may contribute to the exclusion of certain population groups from the Scheme, or potentially delay acceptance.

i. the appropriateness of independent assessments for people with particular disability types, including psychosocial disability;

- WAAMH has repeatedly heard experiences from individuals and providers that people with psychosocial disability have difficulty gathering information for evidence of their disability and its permanency. Health care professionals are reluctant to sign-off on permanency, gathering evidence is time-consuming, numerous medical appointments can be expensive, evidence gathering creates an administrative burden, and the process can sometimes retraumatise participants.
- Furthermore, inequity of access to the NDIS based on socioeconomic status is well known[10]. Given the current structure of the access process, with independent assessments only offered after disability and permanency have been established, we fail to see how this will fulfill the IA's aim of "mak(ing) the process fairer and more equitable by removing the financial burden on prospective participants to provide the information required."[11] Therefore, those in higher socioeconomic areas are still more likely to obtain access to the Scheme, given they have the resources to obtain additional evidence to get through this first stage of the access process.
- People with psychosocial disability and mental illness often state they have had enough of repeating their story to each new health professional or service provider they meet. Given the independent assessors are not previously known to the individual, the introduction of independent assessments and their compulsory nature will require individuals to repeat their story again. This issue may be reinforced should

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[9] https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024349/toc_pdf/Generalissues.pdf;fileType=application%2Fpdf
[10] https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024349/toc_pdf/Generalissues.pdf;fileType=application%2Fpdf
[11] https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-framework

they undergo an additional IA (i.e. during a plan review), with a different independent assessor to the individual who completed their initial IA. This could result in significant re-traumatisation and/or fatigue for the participant each time they are required to retell their story, impacting their psychosocial disability and/or mental health.

- Echoing the issue highlighted by Mental Health Australia Members Policy Hub in their NDIS Independent Assessment Policy Paper, observations made by a treating health professional who have a relationship with the individual being assessed, are more accurate than those of an Independent Assessor[12], further evidenced in *Ray and National Disability Insurance Agency [2020]*[13]. Therefore, a treating health care professional may be better placed to undertake the functional assessment, due to their longstanding relationships with the participant, and better understanding of the fluctuating nature of their condition, and changes in capacity.
- WAAMH is aware that the LSP16 was used in the Pilot of Independent Assessments[14], and is currently included with the NDIS Evidence of Psychosocial Disability Form[15]. WAAMH recommends the reintroduction of the LSP16 into the suite of Independent Assessment tools, due to greater of ease incorporating Recovery-Oriented principles, as opposed to the WHODAS 2.0. Furthermore, WAAMH endorses the use of the Recovery Star™ for the assessment and ongoing Recovery of individuals with psychosocial disability within the NDIS.
- Whilst the tools are there to assess functional capacity, the main focus of these types of tools is that they capture what an individual can't do, rather than being strengths-based/focused and on what they can do. WAAMH has concerns around participants and their support network adequately proving the impacts of their disability to an unknown individual in the short period of time allocated.
- The was only a small percentage of individuals with primary psychosocial disability who undertook the independent assessment pilot 1 and 2, 7% and 9% respectively[16].This small representation may mean the process of IA's for people with psychosocial disability may not have been adequately evaluated.

Recommendation: *WAAMH suggests a more expansive trial be undertaken before IAs are mandatory for all participants or potential participants with psychosocial disability. This may facilitate a better evaluation of the effectiveness of IA's for people with psychosocial disability and the ability of IAs to support the Scheme to address equity and achieve its overall objectives.*

Recommendation: *Given the NDIA ethos of choice and control, WAAMH recommends that people with psychosocial disability have the option of an independent IA or a functional assessment by their treating health professional.*

[12] https://mhaustralia.org/sites/default/files/docs/members_policy_hub_-_ndis_independant_assessement_-_policy_paper_-_final_dec_2020.pdf
[13] https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA//2020/3452.html
[14] https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-pilot
[15] https://www.ndis.gov.au/applying-access-ndis/how-apply/information-support-your-request/providing-evidence-your-disability#what
[16] https://www.ndis.gov.au/participants/independent-assessments/independent-assessment-pilot

j. any other related matters

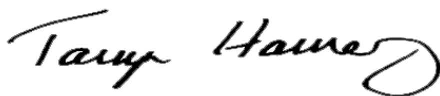
- Whilst the NDIA is seeking community input, that consultation has occurred too late in the process, appearing tokenistic after significant decisions impacting participants, their support networks and providers have already been made. In line with person-centred care and participant choice and control, the NDIA should seek to improve its engagement processes in line with the International Association for Public Participation's (IAP2) Spectrum of Public Participation. Given the Scheme's focus on choice and control and "nothing about us without us", it would be most appropriate for NDIA consultation and engagement processes to align with the Collaborate and Empower aspects of the Spectrum.
- The wording in the recent Consultation Paper on the Access and Eligibility policy with Independent Assessments has created a lot of confusion. The paper often refers to Independent Assessments in the context of eligibility and access (to the Scheme) but in reality, it is used for the planning of Participant budgets, after access and eligibility have already been determined.

Recommendation: *WAAMH recommends the NDIA strongly reconsiders its approach to community engagement, to better align with the International Association for Public Participation's (IAP2) Spectrum of Public Participation.*

Recommendation: *WAAMH recommends the NDIA provide a clearer explanation of the Independent Assessment and its relationship with access, eligibility and planning.*

WAAMH welcomes any future opportunity to consult with the NDIA and the Joint Standing Committee on this and other matters, continuing to advocate for and instigate reform in the mental health and broader disability sectors.

Sincerely,



Taryn Harvey

Chief Executive Officer

WA Association for Mental Health