

Joint Standing Committee on Independent Assessments

March 2021

# Improve the mental health of communities

### About the Royal Australian and New Zealand College of Psychiatrists

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback on the implementation, performance and governance of independent assessments proposed by the National Disability Insurance Agency (NDIA).

The RANZCP is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness and advises governments on mental health care.

The RANZCP has more than 6900 members including more than 5100 qualified psychiatrists and over 1800 members who are training to qualify as psychiatrists. Psychiatrists are clinical leaders in the provision of mental health care in the community and use a range of evidence-based treatments to support a person in their journey of recovery.

### Key findings

- All people with disability should be treated as individuals with respect and dignity.
- The NDIS was developed to provide people with disability with choice around their life and this choice should be reflected through all policies and processes throughout the NDIS.
- While alternative options should be explored, it is critical that all independent assessors are adequately trained and educated to have the skills necessary to undertake functional assessments particularly for people with disability who have behaviours that require a complex response.
- If put in place, a rigorous independent appeals process is needed for people with disability to appeal independent assessments which they feel do not reflect their needs.

### Introduction

The RANZCP shares the overarching aim of the NDIA that there should be consistent, equitable access to the National Disability Insurance Scheme (NDIS) across Australia that is not impacted by a participant's location. However, the RANZCP has concerns that inequity will still remain due to a variety of social and economic determinants not addressed by the implementation of independent assessments [1].

The RANZCP has concerns around the introduction of independent assessments as part of the eligibility, assessment and planning NDIS process. We share concerns with disability advocates that assessments will be conducted by people who are unfamiliar with the individual, taking away participant choice with the potential to create further trauma and distress for people with disability. How will independent assessments be individualised without strong consultation with carers and medical professionals particularly for those who do not have families or advocates to support them (for example, older people with intellectual disability who have few supports) and apply across all demographics (for example, age, culture, gender, communication levels and complex behaviours). Further to this there are several additional concerns which require further consideration around the implementation of independent assessments including:

- Application of independent assessments for people with disability who have behaviours that require a complex response
- Difficulties in applying independent assessments for acute, fluctuating mental health conditions
- Quality control of independent assessors including experience and qualifications in psychosocial and physical disability
- Exploration of possible alternatives to independent assessments

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- Lack of truly independent review panel and appeals process for people with disability and support people who disagree with the outcomes of their independent assessment
- Confusion and lack of transparency between sectors especially health and disability, and
- Provision of evidence to the NDIS by medical practitioners and other health professionals.

### *People with disability who have behaviours that require a complex response*

The RANZCP holds concerns that appropriate assessments for people with disability who have behaviours that require a complex response will not be feasible using independent assessments. People with challenging or complex behaviours and their families and carers will be significantly impacted by inaccurate or incomplete assessments recommending incorrect funding and resources with no avenue for appeal and review.

### *Acute and fluctuating mental health conditions*

A large factor for mental health conditions, or psychosocial disability, is its fluctuating and acute nature, for example, people with psychosocial disability may have long periods of recovery, interspersed with short periods of significant illness, which severely impacts on their functionality. Further information is required to better understand how independent assessments will account for the fluctuating nature of psychosocial disability. The RANZCP also has concerns as to the possibility of people being removed as an NDIS participant, based on an independent assessment, who then go on to have further episodes of mental illness which significantly impacts their function (and who will no longer have access to support). Re-applying for the NDIS takes significant time and resources which will prove impossible for those struggling with acute mental health conditions. No supports may also mean recovery time is longer or not achieved at all.

### *Quality control of independent assessors*

A deep understanding and knowledge of psychosocial disability through appropriate experience and qualifications is important to assist in a proper functional capacity assessment. All independent assessors should be proven competent in psychosocial and physical disability and with understanding of the strong correlation between the two. Plans should support people with psychosocial disability to build their capacity. How people in rural and remote areas will be impacted by independent assessments given the minimal health workforce in these areas and the large geographical distances for independent assessors to cover also needs to be better considered. The RANZCP would welcome the opportunity to discuss how we may assist in providing training to independent assessors in conducting mental health assessments.

### *Exploring alternatives to independent assessments*

The RANZCP understand NDIA reasonings behind the implementation of independent assessments to reduce inequity, concerns remain that inequity will still remain due to a variety of social and economic determinants not addressed by the implementation of independent assessments.

The creation of Medicare Benefit Schedule-style items for health and medical professionals could be a better way to create equitable access for people with disability seeking to access the NDIS and allow people with disability more choice in decisions which impact their NDIS journey. Alternatively, a multi-disciplinary meeting could be undertaken instead of independent assessments. This would encourage a more holistic approach, involving a variety of allied, medical and support staff as well as family and carers to support the person with disability in presenting their case for consideration as the functional capacity and

supports required. Professionals could then be remunerated for their attendance and input. This would be beneficial to people with disability and their families as those in attendance would be allied health and medical professionals who are familiar with their history, strengths and functioning. Further discussion with relevant stakeholders is required.

### *Lack of a proper independent appeals process and review*

The RANZCP would also urge that there is a rigorous independent appeals process in place to ensure people who disagree with any decisions made by the NDIA or independent assessors can have the decision re-evaluated independently. The RANZCP has concerns that the information purported in the [Consultation Paper on Independent Assessments](#) recently released by the NDIA under, point '3.11 Appeal rights and complaints', limits the ability of people with disability and their support people to question the legitimacy of decisions made during the independent assessment process through an external agency. This goes against the recommendation in the Tune Review Report which states that 'participants having the right to challenge the results of the functional capacity assessment, including the ability to undertake a second assessment or seek some form of arbitration if, for whatever reason, they are unsatisfied with the assessment'. [2] Disengagement and distrust of the NDIS may be the result of such action especially for groups which already face barriers accessing the NDIS such as Aboriginal and Torres Strait Islander and culturally and linguistically diverse people.

An independent review panel made up of experts, separate to the NDIA and independent assessors, should be available to people with disability and their families to appeal independent assessment decisions. In addition, the appeals process should be clearly communicated to people with disability and their support people using a variety of methods.

### *Interaction between sectors*

The RANZCP has ongoing concerns as to the blurring of health and disability related areas and the impact this has on people with disability. On page 8 of the Consultation Paper on Independent Assessments, it identified that the NDIS will 'provide detail on the most appropriate treatment system for health conditions'. While we would welcome any clarification of this sentence, we seek assurance that only health and medical professionals should provide advice on appropriate treatment systems for health conditions.

The management of challenging or complex behaviours is an area where we feel there is confusion over sector responsibility. To our understanding the NDIS does currently support people with disability who have behaviours that require a complex response which is important in maintaining the safety of individuals and others. The treatment of challenging and complex behaviours should be considered a health-related issue and the RANZCP has concerns that these behaviours may not be adequately captured using independent assessments. An integrated approach between health and disability services with clear accountability and governance arrangements is required.

### *Providing evidence*

When seeking evidence from a medical or health professional as to the impact on functionality or other related information a clearly designed template should be provided. The RANZCP would welcome the opportunity to assist in the development of any evidence documentation for participants.

## **Conclusion**

The RANZCP supports changes to the NDIS which facilitate access, equity, transparency and choice for people with disability. We suggest that the implementation of independent assessments requires further consultation with stakeholders, particularly people with disability and their families.

## **References**

1. Australian Institute of Health and Welfare. Australia's health 2016. Canberra: AIHW; 2016.
2. Tune D. Review of the National Disability Insurance Scheme Act 2013: Removing red tape and implementing the NDIS Participant Service Guarantee. 2019.