



NDIS Access and Eligibility Policy with Independent Assessments

**Response to Consultation Paper**

**23 February 2021**

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## Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural, and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure, and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e., self-advocate).
- To educate and inform stakeholders (i.e.: about the needs of people with a physical disability) so that they can achieve and maintain full participation, equality of opportunity and equality of citizenship.

## Recommendations

### **Recommendation 1:**

*Retain Lists A, C and D as useful tools for people seeking to access the NDIS (or early intervention programs)*

### **Recommendation 2:**

*Ensure that the NDIS is resourced to manage additional enquiries and misconstrued applications.*

### **Recommendation 3:**

*Engage directly with medical professionals to determine the most appropriate way to frame questions so that health professionals can understand what is being asked of them with a view to broader education and training of the medical profession.*

### **Recommendation 4:**

*Provide a hotline service to provide support for medical practitioners completing NDIS paperwork to assist them to understand how to interpret questions and answer appropriately.*

### **Recommendation 5:**

*Encourage NDIS staff to seek additional information from medical professionals, providing express consent is provided by the individual and the information is specific to the participant's NDIS support needs.*

### **Recommendation 6:**

*As part the preparation for an independent assessment, require assessors to have pre-assessment contact with the participant to establish rapport, address any concerns that the participant might have and to ensure that the participant has all the information they need.*

### **Recommendation 7:**

*That assessors contact participants prior to the independent assessment to determine what the participant's access requirements may be, with a view to facilitating these requirements at the Independent Assessment and familiarising themselves in advance with any assistive technologies they may be required to use.*

### **Recommendation 8:**

*That the NDIS maintain a flexible approach to the assessments – including allowing participants to take breaks when needed, allowing participants to end the assessment if they feel that they are no longer able to participate effectively and allowing participants to cancel assessments at short notice without penalty with sufficient reason, e.g., flare up of condition, hospitalisation.*

### **Recommendation 9:**

*That the NDIS set up standing advisory committees consisting of people with disability from CALD backgrounds and their representative peaks, as well as people with disability and disability advocacy peaks more broadly to work towards cultural safety and inclusion for both scheme participants and those applying to access the scheme.*

**Recommendation 10**

*That the NDIA works towards establishing itself as an example of best practice in terms of inclusive engagement with people with disabilities.*

**Recommendation 11:**

*That the NDIS permits the option to “opt in” to the independent assessment scheme as an alternative to the current model – and that this option should apply both to existing participants and those seeking to apply to the NDIS.*

**Recommendation 12:**

*That people with stable, permanent conditions where it is expected that there is no change in functional capacity be excluded from the requirement to undergo an independent assessment until such time as their circumstances change.*

**Recommendation 13:**

*If the NDIS does not allow for an ‘opt in’ model, then the NDIS should have the discretionary power to exempt an individual from having to utilise an independent assessment as a mechanism for assessing functional capacity, should there be compelling reasons to do so, based on the individual’s specific circumstances.*

**Recommendation 14**

*That the NDIS ensure that Independent Assessors comply with a robust Quality Assurance Framework.*

**Recommendation 15**

*That the NDIS looks to assessing both a participant’s practical experience of undergoing an Independent Assessment and their satisfaction with the decisions arising because of the Independent Assessment Report*

**Recommendation 16**

*That the NDIS establish a framework which allows participants to lodge complaints about the Independent Assessment process and seek appropriate remedies.*

**Recommendation 17:**

*Participants should be able to access the full results of their independent assessments, including the results of any surveys or questionnaires, should they wish to have this information.*

**Recommendation 18:**

*Participants should be provided with results in at least one written form.*

**Recommendation 19:**

*Participants should have the results of the assessment communicated to them in a way that is clear and easy to understand.*

*Participants should be provided with results in at least one written form.*

**Recommendation 20:**

*Where raw data is provided to a participant, they should be given advice on how to interpret this data.*

## Introduction

As the peak representative body for people with physical disability across NSW, PDCN welcomes the opportunity to provide feedback to the NDIA its consultation paper – *Access and Eligibility Policy with independent assessments*.

In June 2019, the Federal Government commissioned a review of the National Disability Insurance Scheme (NDIS) Act 2013, to be undertaken by independent expert Mr David Tune AO PSM, otherwise known as the Tune Review. The aim of the review was to improve the overall experience for NDIS participants; by cutting legislative ‘red tape’ and streamlining the process.<sup>i</sup> We understand that Independent Assessments (IAs), are seen as a way of improving the overall functionality of the NDIS including overall participant outcomes.

We agree that there are current problems in terms of the wide variation of practical outcomes for participants, and that those variations can be driven by disadvantage.

Assessing functional capacity could provide a more accurate assessment of a person’s support needs, enhance efficiency across the assessment process and provide for a more equitable distribution of supports and services across the scheme, but we are highly uncomfortable with the suggestion that independent assessments would be the primary tool for determining, first, a person’s eligibility for the NDIS, and secondly, the supports and services they receive. We are also concerned about the proposed model of conducting independent assessments, which we will discuss across this submission.

We understand that independent assessments will be rolled out across applicants to the NDIS scheme in mid-2021 and that it is expected that all NDIS participants will be required to do independent assessments by the end of the year.

Despite the high rates of recorded participant satisfaction across the pilot program, we know that, for a significant proportion of those who are already in the scheme, there is a sense that IAs represent a step backwards in terms of realising their goals, rather than forwards.

As part of our research for this submission, PDCN, together with MDNSW and SCIA, conducted a roundtable discussion across our respected memberships to discuss the changes. Some of the participants of the roundtable had participated in the pilot programs themselves and were able to talk to their experiences.

Common themes from the roundtable, were concern and scepticism as to whether Independent Assessments will actually improve participants access to the funding and supports that they need, with several participants interpreting the changes as a loss of choice and control.

There is suspicion that the primary motivation for the change is cost cutting across the NDIS, and that positive client outcomes are secondary to such cost cuts. There is also concern that independent assessments will be utilised as a tool to try to funnel people out of the scheme or to reduce the supports and funding they currently receive.

*“I was asked what supports I might need to get out of the NDIS [in the independent assessment meeting], I have a permanent disability, I can’t exit the scheme”*

We consider that any scepticism is valid and that people with physical disability have good cause to be concerned with IAs as they have been envisioned to date.

Our concern is on achieving the best overall outcomes for our members so that they receive the supports and funding they need to fulfil their goals and live as active members of the community.

IA's may be a useful tool in achieving this, but not to the extent that other important assessment tools, are overlooked or excluded. People with disability deserve the right to exercise choice and control in terms of how they communicate their functional needs to the NDIS.

We also highlight that perceptions regarding IAs will vary considerably depending on whether someone is attempting to access the scheme for the first time or whether they are already participants - for those who are already in the scheme, there is a sense that IAs represent a step backwards in terms of realising their goals, rather than forwards.

### Question 1:

Transparency about the process itself, and the motivation behind the use of independent assessments is vitally important.

Whether the participant is applying to the scheme for the first time or being reassessed, an IA is likely to trigger significant stress. Members have spoken about experiencing high levels of anxiety around assessment meetings and there appears to be a strong desire to be able to prepare as much as possible in advance, which is logical, when considering the significant impact such a meeting could have on the levels of funding and support a participant receives.

To reduce that anxiety, and ensure that participants were able to gain the best outcomes from IAs, best practice should include:

- Information about what the independent assessment is for, e.g., assessing individual capacity, not medical assessment.
- What a simple assessment could involve, including venue, length of time, number of questions, types of questions and who would be expected to be at the assessment.
- What the assessment will be used for specifically – *to determine and reassess* whether someone is eligible for the NDIS and if so, the level of funding and supports they would be able to receive.
- Any variations around IA assessments participants can request, including extended time, accessibility requirements and different venues and how to apply for a variation.
- Who would **not** be expected to do an independent assessment and how to seek an exemption.
- General information around independent assessors, including the types of qualifications they may have, the fact that they are independent (and what this means) and the fact that they need to comply with a Quality Assurance Framework
- Appeals processes, specifically what can be appealed, what an appeal process would involve and what types of remedies can be expected.
- Questions should be provided to participants in advance.

We note that Q1 does not ask what information should be provided to a participant who already has an NDIS plan. Since independent assessments will also apply to existing NDIS participants, it is important to consider whether there is any additional information that this group might need to ensure that they are fully informed.

Current NDIS participants need to be aware that an independent assessment will be used to make decisions around their existing level of supports and funding and that this may result in funding and services increasing, reducing, or remaining the same.

It is also important to flag that an independent assessment may be used to determine whether an NDIS participant remains eligible for the scheme all together.

Information should be provided in the most accessible format for the participant. This will vary from individual to individual, and participants should be able to nominate the method that best suits

them. Regardless of their preferred method, it is important that the participant receives at least one written form, e.g., letter or email.

### Question 2:

The lists are a useful tool for expectation setting – they allow someone to make a prima facie assessment about whether they might be eligible for the scheme, and if so, whether the process of being assessed will be fairly straightforward (in the case of List A) or involve more in-depth assessment of the person’s capabilities (List B).

Likewise, List C sets out a list of conditions where early intervention supports will be assumed necessary – List D sets out a range of supports across state and territories that will be assumed to be covered under NDIS funding.

We would be concerned that the removal of the lists might result in an increased volume of applications from individuals who do not meet requirements for the NDIS, and a greater volume of inquiries relating to both early intervention and whether supports and services would ordinarily be covered under the scheme.

The NDIS should anticipate increased workloads both across applications by ineligible people and in responding to enquiries more broadly.

There is still value in retaining information that gives potential participants a quick assessment of whether there is value in applying under the scheme.

We do not see a need to remove List A, List C or List D where there is no real ambiguity in terms of whether someone might reach a threshold of functional impairment either to be covered under the scheme, or if they are underage, to receive early intervention as a precursor to entering the scheme. Likewise, if a defined program has met the requirements to be NDIS approved, we do not see why this information should not be available to assist people with disability make informed choices regarding the programs they seek to utilise.

If the existing lists are removed, some guidance should be available based on the functional capacity model to provide people with an indication of whether they might be eligible for the NDIS. There may be some use in looking to applying a percentage scale of an individual’s functional capacity verses full functionality, like the *Civil Liability Act 2002* (NSW) which applies a percentage scale for determining civil damages.

### **Recommendation 1:**

*Retain Lists A, C and D as useful tools for people seeking to access the NDIS (or early intervention programs)*

### **Recommendation 2:**

*Ensure that the NDIS is resourced to manage additional enquiries and misconstrued applications.*

### Question 3:

We consider that the best way to answer this question is to engage with health professionals as stakeholders, explain what information the NDIS is looking to obtain and the most appropriate way of framing questions so that health professionals can understand what they are being asked.

We would highly suspect that the way that health professionals perceive disability within a patient as very different to how the NDIS interprets disability.



Health professionals, in their day-to-day life are focused on treatment geared towards improvement of a person's condition using supports and interventions. NDIS assessments are focused on the limits of an individual's capacities.

A response from a medical practitioner regarding the capabilities of a person may require some unpacking – perhaps a participant can achieve something from a purely physiological sense, but this may cause significant pain or be counter-productive to their future functionality, for instance. It is important to explore and consider how these perceptions might lead to circumstances where a health care professional and the NDIS may be talking at cross-purposes, and to work towards mutual understandings around interpretation of both questions and responses.

There may be scope for education and training across the health sector, including the use of explanatory notes on any documents medical professionals are expected to complete. Medical professionals may also benefit from having access to a specific support line, with staff who can help them to interpret questions and understand what is being asked.

At the same time, there would be significant advantage in open dialogue between the NDIS and health care professionals **specific to** information around a participant's disability for the purpose of assessing support needs under the NDIS, providing that there is clear and informed consent from the NDIS participant or their guardian.

**Recommendation 3:**

*Engage directly with medical professionals to determine the most appropriate way to frame questions so that health professionals can understand what is being asked of them with a view to broader education and training of the medical profession.*

**Recommendation 4:**

*Provide a hotline service to provide support for medical practitioners completing NDIS paperwork to assist them to understand how to interpret questions and answer appropriately.*

**Recommendation 5:**

*Encourage NDIS staff to seek additional information from medical professionals, providing express consent is provided by the individual and the information is specific to the participant's NDIS support needs.*

**Question 4:**

We agree that it can be very difficult to understand what aspects of a person's disability will be covered under the NDIS and what aspects are the responsibility of the broader health system. It is important for expectation setting that NDIS participants understand which authority is responsible for certain aspects of their health and functionality.

In realising this, may be useful to go back to the original vision of the NDIS as an insurance scheme. The NDIS is concerned with increasing functional capacity to enable people with disability to participate fully as members of society and the scheme accordingly funds the supports that are needed to realise this.

Similarly, we find the use of examples very useful to drawing the distinction between what the NDIS will cover and what it will not. We note that there are several good examples on the NDIS website which assist in explaining the distinction.

*For example, the NDIS may fund disability supports for a person who has had a lower limb amputation due to peripheral artery disease in the setting of diabetes (physical impairment resulting in disability secondary to a health condition), as long as they meet all of the access requirements.*

*However, the NDIS will not fund medication or medical care relating to the treatment of diabetes or peripheral artery disease.<sup>ii</sup>*

While we certainly support clear information for participants and think that this should be focused on as part of ongoing quality improvement, we anticipate that the move to a focus on functional capacities, rather than disabilities may work towards addressing any confusion.

### Question 5:

*"[the assessor] just literally read out the questions. They said, that's all I'm here to do, just gather data."*

*"I was asked [by the assessor] what supports I might need to get out of the NDIS [in the independent assessment meeting], I have a permanent disability, I can't exit the scheme".*

- Comment by pilot participants, 11<sup>th</sup> February 2021

We have heard some worrying information regarding the quality of assessors over the trial. The above quotes are drawn from information from pilot participants – those participants reported being generally unhappy with the independent assessment and lacking confidence that their needs would be met.

Assessors should be allied health professionals with expertise specific to the participant's disability or disabilities. They should be able to demonstrate that they meet the relevant accreditation standards for their profession.

In the case where the individual presents with multiple disabilities which affect different aspects of their functional capabilities, multiple suitably trained assessors should be utilised. We have heard conflicting information as to whether a single Independent assessor will be appointed who is qualified in treating the participant's primary disability or whether multiple assessors will be utilised, and if so, what such a model might look like.

We can anticipate that there will be many participants that will present with multiple, often entirely unrelated functional capacity issues – for example, in the case of someone who has experienced stroke which may result in reduced functioning across both their cognitive and physical capabilities.

In such a context, we would strongly push for both an independent assessor specialising in physical capacity and an assessor to assess cognitive function as the fairest way to gain an accurate picture of the participant's overall capabilities and limitations.

Assessors should be sufficiently trained and knowledgeable enough to understand the potential types of challenges an individual might experience across their day-to-day life but also realise that every person's experience is unique - to be able to know the questions to ask, but not assume that they know the answers.

They should have demonstrated skills in assessing patients, be familiar with the suite of assessment tools and know how to apply them appropriately. Given the large volume of questions that assessors

will have to ask across a limited timeframe, they must be able to quickly establish trust and rapport with the participant.

Rather than attempt this during the assessment itself, we would recommend that independent assessors arrange a short pre-assessment contact with the participant to introduce themselves, ensure that the participant is sufficiently prepared and to answer any concerns the participant may have. We consider that such a process may greatly enhance the participant experience, and many provide an opportunity for the participant to pre-emptively raise any concerns about the choice of assessor, for example, if the assessor was culturally inappropriate.

Our members have highlighted compassion, empathy, professionalism, and respect as necessary attributes - they want someone who is willing to give them the time they need to explain and actively listen to them talk about information that might be distressing or highly intimate. Assessors may need to de-escalate situations and manage challenging behaviours – so experience working with complex clients would be a distinct advantage.

We would also expect that assessors were highly ethical, unbiased, and perceptive enough to know where they may need to ask more detail or clarify their understanding.

Assessors should have to comply with a Quality Safeguards Framework and abide by a Code of Conduct. It is preferable that participants from CALD backgrounds can access an assessor who can communicate with them in their own language. Assessors should also undergo standard checks including Police Checks and where relevant Working with Children Checks.

We note that there may also be specific cultural considerations that need to be factored in when matching an assessor to a participant, for example, a female in some cultures may feel uncomfortable being assessed by a male assessor, it may be more culturally appropriate for an ATSI participant to be assessed by an ATSI.

#### **Recommendation 6:**

*As part the preparation for an independent assessment, require assessors to have pre-assessment contact with the participant to establish rapport, address any concerns that the participant might have and to ensure that the participant has all the information they need.*

#### **Question 6:**

*“There were 180 questions across 3 hours. By the end I felt completely wasted. After a while it felt like all the questions were pretty much the same.”*

- experience of a pilot participant, 11 February 2021.

Accessibility will look different across different contexts, but certainly, for our membership the option to have the assessment at home will be extremely useful.

We would suggest that the key factors will be whether the assessments are able to be conducted in a way that is accessible for participants (which may include considerations such as the use of accessible venues, communication aids and other assistive technologies) and also whether flexibility is incorporated into the process itself – that is, are breaks factored into the assessment, can a participant stop the assessment part way if necessary, and can the individual cancel and reschedule if they are not capable of completing the assessment on the assigned day without penalty.

Critical to ensuring flexibility is the capacity to understand the participant’s needs prior to the assessment. As stated previously, we would recommend that Independent Assessors connect with

participants before an independent assessment – part of this contact could include scoping the participants needs in advance and the Independent Assessor potentially then being able to familiarise themselves with the use of any assistive technologies that might be required.

This, to our minds would build rapport, enhance participant satisfaction and lead to greater efficiencies across the assessment itself.

**Recommendation 7:**

*That assessors contact participants prior to the independent assessment to determine what the participant's access requirements may be, with a view to facilitating these requirements at the Independent Assessment and familiarising themselves in advance with any assistive technologies they may be required to use.*

**Recommendation 8:**

*That the NDIS maintain a flexible approach to the assessments – including allowing participants to take breaks when needed, allowing participants to end the assessment if they feel that they are no longer able to participate effectively and allowing participants to cancel assessments at short notice without penalty with sufficient reason, e.g., flare up of condition, hospitalisation.*

**Question 7:**

In keeping with the philosophies behind the NDIS, we would expect the NDIS to work toward setting the standards for best practice in terms of inclusion.

Cultural safety and inclusion are broader issues which extend across all interactions that the NDIS may have with participants or people who are trying to access the scheme. We would argue that they are top level organisational responsibilities that should operate across the administration of the NDIS as a whole.

From initial contact, any person seeking to become an NDIS participant should be encouraged to disclose their cultural heritage and disability status and nominate any specific adjustments or accommodations they require to feel safe and included. The follow through should be that the NDIS makes every reasonable effort to accommodate any requests.

At the same time, as part of ongoing improvement processes the NDIS should work with advocacy bodies representing people with disability, including people from CALD backgrounds to identify areas for improvement. We are strongly in favour of standing advisory groups as a way of responding to the needs of consumer groups and have seen successful initiatives result from sector and Departmental collaborations.

All staff should receive both cultural and disability awareness training as standard.

Specific to independent assessments, it is important to engage with participants from CALD backgrounds themselves, and to seek information **pre assessment** regarding any cultural considerations that should be factored into the independent assessment process. Participants should be able to request specific accommodations, where these accommodations relate to their cultural heritage, for example, that a Muslim female participant be assessed by a female assessor, and every effort should be made to accommodate these requests.

Independent assessors should be required to undergo cultural and disability awareness training as part of the Quality Assurance Framework.

Participants should also be encouraged to provide feedback on their experiences, with targeted questions relating to cultural safety (if relevant) and inclusion more generally.

**Recommendation 9:**

*That the NDIS set up standing advisory committees consisting of people with disability from CALD backgrounds and their representative peaks, as well as people with disability and disability advocacy peaks more broadly to work towards cultural safety and inclusion for both scheme participants and those applying to access the scheme.*

**Recommendation 10**

*That the NDIA works towards establishing itself as an example of best practice in terms of inclusive engagement with people with disabilities.*

**Question 8:**

*“They say that we have choice and control and then they do this. This removes choice and control from us.”*

Quote from person with disability, 11 February 2021.

We will note that a proportion of members have expressed a desire for an opt-in system for those who are already in the scheme in preference to being required to change over. A small proportion said that they would actively fight the transition.

Participants who are already part of the scheme have often invested significant time and effort in establishing Plans that they are satisfied with. They interpret the transition to Independent Assessments as overriding the efforts that they have already made to no tangible benefit.

A number expressed that they see Independent Assessments as antithetical to the NDIS’ core values of choice and control for people with disability – eroding their confidence in the Scheme as a whole.

We would recommend that the NDIS consider an opt-in system both for existing participants and for those attempting to access the Scheme. We note that, particularly in the case of existing participants, those who opt not to sign up to the Scheme would, most likely be happy with their plans – therefore less inclined to challenge decisions stemming from assessments, which is one of the reasons cited for the changeover.

There are two classes of people who we consider would not be suitable for Independent Assessments. The first case would be people with very complex disabilities where there may be significant communication barriers or other extenuating circumstances which would mean that it was highly unlikely that an independent assessment could accurately determine their functional capacities – for example, if someone has experienced a catastrophic brain injury.

The second class of persons are those who have stable, permanent conditions where it is expected that there will be no change in functional capacity. Several of our members have expressed frustration at what they view as useless periodic reviews where their supports and funding remain consistent. More must be done by the NDIS to improve efficiencies across the assessment process – removing the requirement for assessments for people with stable functional capacities would work towards this.

**Recommendation 11:**

*That the NDIS permits the option to “opt in” to the independent assessment scheme as an alternative to the current model – and that this option should apply both to existing participants and those seeking to apply to the NDIS.*

**Recommendation 12:**

*That people with stable, permanent conditions where it is expected that there is no change in functional capacity be excluded from the requirement to undergo an independent assessment until such time as their circumstances change.*

**Recommendation 13:**

*If the NDIS does not allow for an 'opt in' model, then the NDIS should have the discretionary power to exempt an individual from having to utilise an independent assessment as a mechanism for assessing functional capacity, should there be compelling reasons to do so, based on the individual's specific circumstances.*

**Question 9:**

Most critical to achieving this is the applying a robust Quality Assurance Framework which all independent assessors would be expected to comply with. The second aspect would involve collecting data on participant experiences both in relation to specific assessors and across the scheme more broadly. We would see that there two aspects that should be assessed including:

- I. **the participant's practical experience across the Independent Assessment** – including issues such as how informed they were prior to the assessment, whether their access needs were sufficiently accommodated, whether they felt cultural safe, and whether the independent Assessor complied with the Quality Assurance Framework; and
- II. Whether the Independent Assessment accurately captured their functional capacities and whether this translated to an appropriate plan and funding.

The NDIS should also track appeals relating to decision resulting from Independent Assessments and any complaints regarding the Independent Assessment process.

As part of monitoring and evaluating independent assessments there needs to be a mechanism for participants to lodge complaints about Independent Assessments specifically. Currently we understand that participants can raise an appeal about decisions made *as a result of* an Independent Assessment report, but no mechanism has been described for complaints regarding the Independent Assessment process and this needs to be remedied.

**Recommendation 14**

*That the NDIS ensure that Independent Assessors comply with a robust Quality Assurance Framework.*

**Recommendation 15**

*That the NDIS looks to assessing both a participant's practical experience of undergoing an Independent Assessment and their satisfaction with the decisions arising as a result of the Independent Assessment Report*

**Recommendation 16**

*That the NDIS establish a framework which allows participants to lodge complaints about the Independent Assessment process and seek appropriate remedies.*

**Question 10:**

People who participate in an Independent Assessment should be provided with a copy of the full resulting report, in assessable format. They should also receive a written copy of the report as a matter of course.

We have two reasons for this proposal. Firstly, it is information relating directly to their functional capacities. Whilst the information is arguably not information that is directly produced by the NDIS, we consider that the same principles around Government transparency should apply. We understand that there have been concerns that the information may be distressing to participants – even if this is so, it should be up to the participant to determine whether they want to read the information or not.

Secondly, the information may become important, should the participant seek to challenge any decision made as a result of the information in the report.

We appreciate that the assessment results may consist of raw data which will have limited value in a practical sense to the participant. We see two ways around this. One option would be to provide a plain English summary of the report that is easily able to be understood by the participant with the option for the participant to access the more comprehensive data materials, should they want this, and the alternative is to provide the full assessment results as standard with a summary report and resources to interpret the data.

We do not have a particular preference in either instance.

**Recommendation 17:**

*Participants should be able to access the full results of their independent assessments, including the results of any surveys or questionnaires, should they wish to have this information.*

**Recommendation 18:**

*Participants should be provided with results in at least one written form.*

**Recommendation 19:**

*Participants should have the results of the assessment communicated to them in a way that is clear and easy to understand.*

**Recommendation 20:**

*Where raw data is provided to a participant, they should be given advice on how to interpret this data.*

## Final comments

Independent assessments represent a major change for NDIS participants, and we share many of the scepticisms around whether switching to independent assessments will in fact lead to a more equitable distribution of supports and funding, redress inequities stemming from disadvantage, reduce appeals or resolve issues of patient bias.

In terms of addressing inequities resulting in supports and funding, we imagine that there will still be variations across the capabilities of independent assessors to accurately identify a participant's functional capacities – and in areas where there are limited numbers of assessors, for example, rural and regional areas, or where Independent Assessors are highly specialised or have particular skills, e.g. speak a community language, we may see similar pockets of disadvantage develop, not to mention backlogs and delays in assessments in areas where assessors are in limited supply – a situation that is currently avoided by the use of the participant's preestablished network of health professionals.

Likewise we cannot envision that there will be less appeals as a result of this process – if anything, placing participants in a scenario where they may not trust the Independent Assessor to be able to understand their level of functional capacity may well make participants pre-disposed to find fault across the decisions – what the Independent Assessments could be interpreted as doing is removing the choice and control over the information that participants choose to provide for the purposes of assessment and replacing this with a mechanism that they do not understand.

Lastly, we feel that it is necessary to address the premises that Independent Assessments will ensure that health professionals do not overstate the support needs of their patients because of subconscious or deliberate 'patient bias'.

We do not know where the basis that patient bias affects the level of supports and services comes from. Under the current scheme, all participants or those seeking to apply to the NDIS utilise reports and assessments from their treating health professionals, which would lead to an assumption that all participant's support needs are overemphasised, in which case there is no inequality, and the issue relates more to expenditure.

We do not know where the basis for the assumption comes from, and whether there is any evidence that this happens in the context of NDIS assessments, but notwithstanding this, we point out that a process which switches the focus to the individual (and to a limited extent a support person who has an understanding of their functional capabilities) would, to our minds run an even greater risk that the individual would have less objective understanding of their capacities and limitations, than their health professionals.

Given our scepticism around the capacity of independent assessments to result in positive changes to members and the strong push back we have heard across our membership as individuals who will be subject to the changes, we cannot endorse independent assessments as they are currently proposed.

We see Independent Assessments as a tool that could complement and possibly even enhance the effectiveness of determining the supports and services that people with disability need - but we emphasise that PDCN does not support the proposal to remove the current system of relying on information from treating health professionals in preference of Independent Assessments.



## References

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<sup>i</sup> Tune, D, *Review of the National Disability Insurance Scheme Act – Removing Red Tape and Implementing the NDIS Participant Service Guarantee*, Dec 2019 < [https://www.dss.gov.au/sites/default/files/documents/01\\_2020/ndis-act-review-final-accessibility-and-prepared-publishing1.pdf](https://www.dss.gov.au/sites/default/files/documents/01_2020/ndis-act-review-final-accessibility-and-prepared-publishing1.pdf)> accessed 23 February 2021, p. 17

<sup>ii</sup> National Disability Insurance Scheme, *Eligibility and medical conditions FAQ | NDIS* < <https://www.ndis.gov.au/applying-access-ndis/how-apply/information-gps-and-health-professionals/eligibility-and-medical-conditions-faq>> accessed 22 February 2021.