

MHCC ACT Consultation Paper for NDIS Review 2023

Consultation - Monday 19 June 2023

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About the NDIS Review

General Overview

The NDIS review is looking at the **design, operations, and sustainability of the NDIS**, and is examining ways to build a more **responsive, supportive, and sustainable market and workforce**. The NDIS Review panel is being co-chaired by Professor Bruce Bonyhady (AM) and Ms Lisa Paul AO PSM.

The terms of reference for this review are available [here](#).

The NDIS Review has produced a brief summary of the over 1000 submissions they have received as at 5 May 2023, available from: <https://www.ndisreview.gov.au/news/have-your-say-snapshot-what-weve-heard-so-far>

Mental health, psychosocial disability, and the NDIS review

The National Disability Insurance Agency (NDIA) uses the term psychosocial disability to describe disability that arises from mental ill healthⁱ. The NDIS Review Secretariat has provided statistics in May 2023ⁱⁱ advising:

- 50, 512 NDIS participants (10.4%) have psychosocial disability listed as their primary disability
- An additional 36,057 NDIS participants have psychosocial disability listed as a secondary disability.

Consultation Questions

The NDIS Review Secretariat has advised the key questions the Review Panel are focusing on in relation to psychosocial disability are the following:

1. *Who should be eligible for an NDIS individual package?*
2. *What supports should be provided by this package (what is reasonable and necessary)? Which pricing/payment approaches incentivise best practice?*
3. *What should early intervention look like for psychosocial disability?*
4. *What are the most effective, proportionate and risk-based approaches to quality, safeguards and regulation (including provider registration)?*
5. *What should tier 2 look like for mental health? How can governments address the current cliff between people in and out of the scheme?*
6. *How can NDIS participants have improved access to psychiatric support, noting there are often co-payments and many participants have low incomes?*
7. *Which reforms are specific to improving supports for participants with psychosocial disability and which would benefit all participants?*

Given the breadth of these questions, we intend to focus our submission on early intervention; Tier 2; psychiatric and allied health support; quality, safeguards and regulation; and pricing and payments (the second half of question 2, and questions 3, 4, 5 and 6).

When considering the above questions, we ask that you please give consideration to:

- *What ACT based examples can we provide to support recommendations being made?*
- *What ACT specific insights can we offer as to what works or what is needed?*
- *If particular programs are useful – what was it about those programs that made or makes them work well?*
- *What intersectional gaps need to be addressed? What other barriers to supports need to be addressed?*

We would **especially welcome specific examples and/or case studies** to highlight any points being made (consent needed).

Eligibility and the NDIS

Criteria for entry to the NDIS is determined by the [National Disability Insurance Scheme Act \(2013\)](#) and affected by rules, such as the [NDIA's Becoming a Participant Rules \(2016\)](#).

The NDIS Act was most recently updated in 2022 (via the *National Disability Insurance Scheme Amendment (Participant Service Guarantee and other Measures) Act 2022*).

Changes include the Participant Service Guarantee and updating language (replacing terms such as psychiatric conditions with the term psychosocial disabilities, removing reference to psychosocial functioning, and clarifying that conditions that are episodic and fluctuating can be considered permanent)ⁱⁱⁱ.

Tier 2, and the NDIS

The term “Tier 2” dates from the 2011 Productivity Commission report that recommended the NDIS be introduced^{iv}. The proposed NDIS had three tiers. *Tier 1* is for everyone, acknowledging that the NDIS is an insurance scheme available to all as any of us can acquire disability at any time and promoting inclusion. *Tier 2* involves information and referral services, such that all people with disability and/or families/carers could approach the NDIS for information and assistance to connect with mainstream or community supports offered outside of the NDIS. *Tier 3* comprises the individualised NDIS funding packages offered to eligible people with disability^v.

Tier 2 was originally conceived as “ensuring appropriate support from any system”^{vi}.

The term Tier 2 is currently, however, interpreted in a variety of ways. It is broadly understood to be relevant to people with disability who are not NDIS participants (and their families and carers). Beyond that, however, agreement varies as to whether it refers – or should refer – to:

- Information, referrals and fostering connections to mainstream and community supports, and/or
- Funding for disability support programs or initiatives delivered outside the NDIS to non NDIS participants and their families/carers; and/or
- Targeted efforts supporting reduction of systemic barriers and inclusion of people with disability within mainstream services and community groups^{vii, viii}.

Two aspects of the current landscape relevant to Tier 2^{ix} include:

- “Information, Linkages and Capacity Building” (ILC) grants, which are fixed-term grants to projects that benefit people with disability, their carers, and families beyond those in receipt of NDIS funding packages, currently administered by the Department of Social Services (DSS)^x.
- NDIS Local Area Coordinators (LACs) that deliver information, referral, and community connection services^{xi}. The ability of LACs to deliver these services has been strongly impacted by requirements from the NDIA to take an active role with NDIS participants^{xii}.

As mental health, mental ill health and psychosocial disability are often considered to exist on a continuum, system design and managing the interfaces and interactions between the health, mental health, disability, and aged care systems becomes increasingly important. The NDIS has published operational guidelines to delineate areas of responsibility on interface issues^{xiii}, and work in response to the Aged Care Royal Commission on such topics also continues. The impacts of stigma or fear of discrimination can also mean that people who experience impacts from mental ill health or psychosocial disability may or may not be comfortable identifying with these terms, or accessing support from these systems. Accordingly, ongoing efforts to address these interface issues remain critically important.

Early intervention/early support

When thinking of early intervention (early support), it is important to include not solely mental health support and assistance **early in life**, but also **early post onset of symptoms** at whatever age they might occur. For people with fluctuating or episodic experiences, we include **early in episode**. We highlight the importance of a **prevention** focus, also personal **recovery**, and the person at the centre of the circumstance having **choice and control** over their experiences and how they access supports or services to the greatest extent possible. We emphasise also the importance of responding equitably to the **diversity** of the community, and ensuring especially that people at risk of intersectional harm are prioritised.

NDIS and the mental health workforce

It is imperative funding and regulatory arrangements ensure a sustainable, skilled, and experienced workforce providing psychosocial support under the NDIS. At present, this is extremely difficult for providers operating purely within NDIS pricing structures. Current pricing arrangements are insufficient to meet essential requirements such as one-on-one professional supervision and development, investment in quality and improvement, and an adequate hourly rate to attract and retain people with required skills, experience, and qualifications. This situation persists, despite the NDIA's update to the psychosocial recovery coach support item, and the NDIA's stated intention in the NDIS Psychosocial Disability Recovery-Oriented Framework to "work with DSS in the roll out of the NDIS National Workforce Plan on workforce and learning and development strategies for psychosocial disability services".^{xiv}

In the ACT, the inadequacy of the NDIS pricing structure has resulted in some providers either discontinuing psychosocial disability services or scaling down and reducing their service offering, which ultimately limits consumer choice around which providers they can access. Other providers have casualised their workforce and/or reduced workforce supports and supervision to enable a viable business model. This, combined with challenges inherent in the incompatibilities between the NDIS model and employment awards, has contributed to higher staff turnover and reduced availability of experienced and appropriately qualified staff. Ultimately, it is consumers and carers that will miss out on the benefits of a skilled workforce and the NDIS will incur costs for services that deliver on poorer outcomes for participants. The consequences of market failure can be particularly detrimental for people in more complex circumstances furthering the impacts of stigma, discrimination, and exacerbating disadvantage.

Psychosocial Support Services outside the NDIS

Following the Productivity Commission report on Mental Health^{xv} (2020), there is a gap analysis occurring between the current supply of psychosocial support services outside of the NDIS and the need for such services. It is due for completion in March 2024, with both the federal and state/territory governments committing in principle to work together to address gaps once the analysis is completed.

Psychiatric and allied health services outside the NDIS:

The evaluation of the Better Access to Mental Health program (Medicare subsidies to enable people with mental ill health to access mental health care) found that it provided positive outcomes, but that access arrangements disproportionately favour people on higher incomes living in cities^{xvi}. Financial barriers (co-payments), but also the availability of medical appointments (GP) and allied health such as psychologist, social work, and psychiatric appointments have a significant impact.

Some Proposed recommendations:

We propose supporting points made by Mental Health Australia (and many others) on the following topics:

1. Update the NDIA (Becoming a Participant Rule) 2016 to assist NDIA staff with their considerations about whether the psychosocial disability of NDIS applicants is permanent for eligibility purposes.
2. Continue to improve NDIS access and assessment processes, including via co-design with mental health consumers, carers, advocacy and representative organisations, service providers and other stakeholders, but also via other actions to reduce barriers to access*.
3. Improvements should uphold a recovery focus, be trauma-informed, person/family centred, culturally responsive and ensure processes are accessible. Different processes may be needed to ensure equitable outcomes for all cohorts, especially for those experiencing intersectional barriers to entry.
4. Improve training/recruitment processes to ensure mental health and psychosocial disability expertise of NDIA assessors, and of planners (both those working at the NDIA, and with Local Area Coordinators (LACs)).
5. Expand and strengthen assertive outreach efforts to find people who might need support, information and assistance to connect in with services (whether this means to apply for NDIS entry, or to access other supports/services) etc. Advocacy support may also be needed in some instances to assist in achieving the system changes required. *(In an ACT context, we would speak of Community Connector programs, ACDC project (doorknocking) being run by Community Mental Health Australia – which other programs might be important to highlight?)*
6. Tier 2 and early support and intervention:
 - Strengthen support options for people with mental ill health not on the NDIS, as per the findings of the Productivity Commission into Mental Health report and evaluations of programs such as Better Access to Mental Health. Continue to build on learnings from previous programs such as PHAMs, current programs such as New Path, Step-up/ Step down, WayBack, Head to Health, perinatal/postnatal mental health programs etc. Ensure a diverse array of options to suit diverse population and to allow for choice by mental health consumers. Programs designed to provide early support under the Commonwealth Psychosocial Support Program are insufficient in scale to meet need and are currently only funded to 30 June 2025. There is an especial need to focus on the needs of people with complex and severe mental ill health who are not NDIS participants, or who are unable to meet the current eligibility criteria.
 - Co-design Tier 2 and early support approaches with priority populations – priority populations including but not limited to those which ACT government focuses on as part of the ACT Wellbeing Framework: Aboriginal and Torres Strait Islander people; Carers; Children and Young people; Culturally and Linguistically Diverse communities; Gender; LGBTQIA+ populations; Older people; People with Disability^{xvii}. *(Also, for consideration – Veterans, People from Rural/Regional Areas)*
 - Ensure that the mental health support needs for people with mental ill health and/or psychosocial disability in specific settings are addressed – such as those living in hospital beyond when acute care is needed, those who are homeless (or at risk of

homelessness), those detained in prison settings (or at risk of incarceration), people in forensic mental health settings etc.

7. Mental Health Workforce:

- Address the drivers of mental health workforce issues: including issues with NDIS funding models and pricing, and organisational sustainability of continuing with NDIS service provision. It is important funding models cover the cost of business, including supervision and training for staff, and allow for wages at levels that allow organisations to attract and retain qualified and experienced staff, and recognise the skills/experience needed to work with all people with psychosocial disability inclusive of those in complex situations and/or with co-occurring disabilities, and facing intersectional barriers or other health issues.
- Streamline regulatory structures to more effectively balance reporting and safeguarding responsibilities, with demands on NDIS service providers.
- Address and resolve the conflicts between the NDIS funding model and employment award conditions
- Increase and support a Lived Experience workforce.
- Ensure that quality, ongoing professional development training is available for mental health workforce staff, including in health, disability and intersectionality topics, and that staff are paid whilst this training occurs.
- Address market failure issues, including by ensuring providers of last resort are available.

8. Implement the NDIS Psychosocial Disability Recovery-Orientated Framework <https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis#new-psychosocial-recovery-oriented-framework>

9. Address stigma/counter discrimination, in general, but specifically for people with complex mental ill health/psychosocial disability (noting National Stigma and Discrimination Reduction Strategy is in development).

We also would separately seek to recommend -

1. Continued improvements to NDIS appeals processes, so that processes become accessible to all, including people with psychosocial disability and/or mental ill health.
2. Ensure equitable access to mental health support for people with psychosocial disability receiving aged care support. When considering the structure of mental health and disability systems and supports, further efforts are needed to ensure equitable access to mental health support across the lifespan, proportionate to need (as per Recommendation 72 of the Final Report of the Aged Care Royal Commission and the associated Government response^{xviii}.)
3. Ensure adequate support for Carers/families of people who experience mental ill health/psychosocial disability.

We look forward to input on recommendations (including on those yet to be included). We expect that these recommendations will continue to evolve following post consultation feedback.

Additional Information

National Submissions

Some national submissions specific to mental health to be aware of:

- **Mental Health Australia (MHA)**, a national peak advocacy body for the mental health sector^{xix} is generating a submission with input nationally. <https://mhaustralia.org/>, available soon via: <https://mhaustralia.org/resources/submissions>
- **National Mental Health Consumer and Carer Forum**, which advocates at a national level for consumer and carer rights, has a submission already available at: <https://nmhccf.org.au/our-work/submissions/submission-independent-review-of-the-national-disability-insurance-scheme-ndis>

Other relevant work

- [NDIS Engagement Framework \(2022\)](#)
- [National Stigma and Discrimination Reduction Strategy Project \(Mental Health Commission\)](#)
- [Australia's Disability Strategy 2021-2031](#) – and the corresponding [ACT Disability Strategy](#) – is currently under development.

Endnotes:

ⁱ NDIS (2023), NDIS website: Mental health and the NDIS webpage, available at:

<https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis>, accessed in May 2023.

ⁱⁱ Australian Government NDIS Review (2023), *Presentation Slides: NDIS Review and Psychosocial Disability* delivered by James MacIsaac and Dr Gerry Naughtin, NDIS Review Secretariat, to Mental Health Australia Members' Policy Forum, 11 May 2023.

ⁱⁱⁱ NDIA (2022), *2022 NDIS legislation amendments – July update webpage*, specifically section: What's changing for people with psychosocial disabilities?, available via: <https://www.ndis.gov.au/news/7975-2022-ndis-legislation-amendments-july-update>, accessed in May 2023.

^{iv} Productivity Commission (2011), *Disability Care and Support: Productivity Commission Inquiry Report: Volume 1, No 54*, page 163, report available via: <https://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume1.pdf>, accessed in May 2023.

^v Productivity Commission (2011), *Disability Care and Support: Productivity Commission Inquiry Report: Volume 1, No 54*, page 159 and 163, report available via: <https://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume1.pdf>, accessed in May 2023.

^{vi} Productivity Commission (2011), *Disability Care and Support: Productivity Commission Inquiry Report: Volume 1, No 54*, page 163, report available via: <https://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume1.pdf>, accessed in May 2023.

^{vii} Gibbs, El (2022), "What the hell is Tier 2?", article on the Disability Services Consulting website (Team DSC), available via <https://teamdsc.com.au/resources/what-the-hell-is-tier-2>, accessed in May 2023.

^{viii} Olney S, Mills A & Fallon L (2022) *The Tier 2 tipping point: access to support for working-age Australians with disability without individual NDIS funding*. Melbourne Disability Institute, University of Melbourne ISBN 978 0 7340 5695 5, available via: <https://disability.unimelb.edu.au/home/projects/support-outside-ndis>, accessed in May 2023.

^{ix} Olney S, Mills A & Fallon L (2022) *The Tier 2 tipping point: access to support for working-age Australians with disability without individual NDIS funding*. Melbourne Disability Institute, University of Melbourne ISBN 978 0 7340 5695 5, available via: <https://disability.unimelb.edu.au/home/projects/support-outside-ndis>, accessed in May 2023.

^x Australian Government Department of Social Services (2022), *Information Linkages and Capacity Building (ILC) program webpage*, available via: <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability/information-linkages-and-capacity-building-ilc-program>, accessed in May 2023.



^{xi} Olney S, Mills A & Fallon L (2022) *The Tier 2 tipping point: access to support for working-age Australians with disability without individual NDIS funding*. Melbourne Disability Institute, University of Melbourne ISBN 978 0 7340 5695 5, available via: <https://disability.unimelb.edu.au/home/projects/support-outside-ndis>, accessed in May 2023.

^{xii} Gibbs, El (2022), "What the hell is Tier 2?", article on the Disability Services Consulting website (Team DSC), available via <https://teamdsc.com.au/resources/what-the-hell-is-tier-2>, accessed in May 2023.

^{xiii} NDIS (2022), *NDIS guidelines webpage: Who is responsible for the supports you need?* Available via: <https://ourguidelines.ndis.gov.au/how-ndis-supports-work-menu/mainstream-and-community-supports/who-responsible-supports-you-need>, accessed in May 2023.

^{xiv} NDIA (2021), *National Disability Insurance Scheme: Psychosocial Disability Recovery-Oriented Framework*, available via: <https://www.ndis.gov.au/understanding/how-ndis-works/mental-health-and-ndis#new-psychosocial-recovery-oriented-framework>, accessed in May 2023.

^{xv} Productivity Commission (2020), *Mental Health, Report no 95*, Canberra. Available via: <https://www.pc.gov.au/inquiries/completed/mental-health/report>, accessed in May 2023.

^{xvi} University of Melbourne (2022), *Evaluation of the Better Access Initiative – Final Report*, available via: <https://www.health.gov.au/resources/collections/evaluation-of-the-better-access-initiative-final-report>, accessed in May 2023.

^{xvii} ACT Government (2020), *ACT Wellbeing Framework – Explore wellbeing of Specific Groups* webpage, available via: <https://www.act.gov.au/wellbeing/explore-wellbeing-of-specific-groups>, accessed in May 2023.

^{xviii} Australian Government (2021), *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, available online via: <https://www.health.gov.au/sites/default/files/documents/2021/05/australian-government-response-to-the-final-report-of-the-royal-commission-into-aged-care-quality-and-safety.pdf>, accessed in May 2023.

^{xix} Mental Health Australia (2023), *Mental Health Australia website*, available via: <https://mhaustralia.org/> and accessed in May 2023.