

My Plan Manager / Response: Access and Eligibility Policy with independent assessments Consultation Paper

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About My Plan Manager

My Plan Manager is the leading plan manager and largest service provider for the National Disability Insurance Scheme (NDIS).

We recognise and value the key role we play in helping participants achieve their social and economic outcomes, increasing their ability to live an ordinary life and achieve their goals and aspirations. For us, this means helping participants to have access to the widest choice of NDIS providers that best suit their needs, with control over their budget and finances. We constantly strive to be an organisation that not only positively influences our clients' lives, but also strongly advocates for societal change for the wider disability community.

Since our beginning, My Plan Manager has invested significantly in technology and improvements in the way we do things, so participants can exercise more choice and control in the purchasing of the right services to achieve their goals. Critically, we do this whilst protecting and managing an individuals' vulnerability and risk by ensuring appropriate safeguards are in place.

We believe, My Plan Manager will continue to have an important role in the success of the NDIS.

Executive Summary

My Plan Manager welcomes the opportunity to respond to the NDIS Consultation Paper: *Access and Eligibility Policy with independent assessments*.

Our review of this consultation paper and the consultation paper: *Planning Policy for Personalised Budgets and Plan Flexibility*, recognises the importance the NDIS is placing on independent assessments for decision-making relating to Scheme accessibility and funding levels for both new and existing participants.

We wish to highlight three important points in our response.

1. We agree a move to a more consistent and objective form of assessment for the purpose of accessibility is important, and support creating a consistent approach to determining accessibility to the Scheme.

Providing clearer and streamlined pathways for new individuals entering the NDIS will help to make their first interaction with the NDIS a positive one and ensure they receive more timely access to necessary supports. Similarly, better clarity and certainty on Reasonable and Necessary (R&N) funding decisions will also provide a better experience and lead to improved outcomes for participants.

2. However, we are concerned about the apparent move away from the original intention of the NDIS, where R&N funding decisions are based on "the supports needed to assist a participant achieve their goals" to a more apparent means tested assessment, aligned with a medical model

that results in “how much R&N funding will be received based on a participant’s assessed disability”.

Attempting to standardise flexible funding based on a person’s disability, is inconsistent with the intention of the Scheme and Objects of the NDIA Act and moves away from the “individualised insurance-based thinking” model to an “aggregate welfare-based approach”. This approach, we believe is not the best way of ensuring equity and consistency around what supports are needed for participants.

Critically, having independent assessments focussed on a deficit mode, that is, what an individual cannot do, rather than what is needed to assist them achieve their goals, will remove the fundamental rights an individual has enshrined in section 34(1)(a) of NDIS Act, to expect to receive supports that will enable them to pursue their goals, objectives, and aspirations.

A more Scheme aligned approach is to provide equal opportunity for an individual to meet their goals and achieve social and economic independence and access mainstream services with the provision of individualised funding.

Importantly, we see the outcome of an independent assessment as providing the base level or starting point of funding, with other individualised funding based on the above principles.

3. Also, we agree the NDIS should only continue to support those participants who meet the eligibility criteria of the NDIS Act. However, for existing participants who continue to meet the eligibility criteria, we propose, until a subsequent independent assessment is conducted that the ‘no disadvantage’ principle previously applied (during the introduction of the NDIS for those individuals transferring from State Disability Services to the NDIS) is again utilised to ensure that any existing supports provided to a NDIS participant remains.

This will be a critical step towards ensuring continuity, mitigating anxiety, and mitigating potential reputational damage for the NDIA during the transition period of any proposed changes.

Our responses to each of the consultation questions is outlined in the following pages.

We look forward to the opportunity of discussing our views further with the NDIA as they work with participants and the broader disability sector to shape the future design of the NDIS.

Ms Jane Kittel
Chief Executive Officer
My Plan Manager

17 February 2021

Responses

Learning about the NDIS

1. What will people who apply for the NDIS need to know about the independent assessment process? How is this information best provided?

Our view is that prior to an independent assessment participants or prospective participants should have the option to participate in a pre-meeting, to discuss the process and prepare them for the upcoming assessment, as well as answer any concerns or questions. This will help to ensure that participants are well prepared for an assessment and minimise the potential for surprises.

Specifically, individuals applying to the NDIS will need to know the following about the independent assessment process:

- The purpose of the assessment – which includes answering any questions or concerns. A key focus is to build trust and reduce anxiety
- The steps involved in the assessment
- How Cultural safety for participants will be assured
- What information participants need to obtain before the assessment can be completed
- Whether there are any costs associated with the assessment that need to be borne by the participant
- What they need to bring to the assessment
- What the assessment involves
- The expected duration of the assessment
- Who will complete the assessment, including the assessor's area of specialisation
- Where the assessment will be completed, and whether they can choose the location and time, etc.
- Whether their access and/or accessibility requirements have been considered and how will they be addressed
- Whether they can bring a support person and what role they can or cannot play
- What is the complaint or feedback processes, including their rights should a problem occur during the assessment and/or if they are dissatisfied with the outcome
- What happens when the assessment is completed, including do they get a copy of the assessment, where does the results of the assessment go and who might receive the information

This information will need to be provided in a variety of means and ways, including through the NDIA website, health professionals, support coordinators, support persons and intermediaries, including plan managers who can potentially assist participants prepare for the assessment.

Accessing the NDIS

2. What should we consider in removing the access lists?

We agree the 'Lists' should be removed as they were largely introduced for administrative purposes to bring participants from existing State disability systems more efficiently into the NDIS.

In removing the 'Lists' it will be important that clear and current information is available to potential participants, providers, intermediaries and others around the NDIS eligibility criteria and what information will be needed to enable an access decision to be made in a timely and easy way.

In addition, and importantly, for existing participants who continue to meet the eligibility criteria we propose that the 'no disadvantage' principle previously applied during the introduction of the NDIS and the transferring of individuals from State Disability Services to the NDIS is again utilised to ensure that any existing supports provided to a future NDIS participant by any State system remains.

This will be a critical step towards ensuring continuity, mitigating anxiety, and mitigating potential reputational damage for the NDIA during the transition period of any changes. Plan Managers could have a role to play to assist existing participants during this transition.

Below is an excerpt of section 10.9.1 from the NDIA Planning Operational Guideline – *Deciding to include supports in a participant's plan* relating to "no disadvantage".

Excerpt

What is the principle of "no disadvantage"?

Governments made a commitment – through the Intergovernmental Agreement for the NDIS Launch (IGA) – that if you were receiving supports before becoming a participant in the NDIS you should not be disadvantaged by your transition to the NDIS.

The commitment is that people who become participants in the NDIS should be able to achieve at least the same outcomes under the NDIS.

This does not mean that you will always have the same level of funding or supports provided in the same way. You will have access to reasonable and necessary supports consistent with the National Disability Insurance Scheme Act 2013.

Where the NDIS does not fund a support you previously received under another program, the Agency will seek to identify alternative supports or refer you to other systems with a view to ensuring you are able to achieve substantially the same outcomes as a participant in the NDIS. For further information, please refer to the Operational Guidelines dealing with specific types of supports, for example, the Operational Guideline - Planning and Assessment - Supports in the Plan.

3. How can we clarify evidence requirements from health professionals about a person's disability and whether or not it is, or is likely to be, permanent and life long?

From the perspective of determining accessibility to the Scheme, My Plan Manager does not believe a 'one size fits all' approach will work. There will be different needs for the different groups who might seek to enter the NDIS, e.g. children, adults with a new disability from a trauma or through a degenerative or a gradual onset condition.

It is, therefore, vital that independent assessors build strong "pathway partnerships" with medical practitioners and other health professionals" in the person's life. With appropriate consents, the development of "pathway partnerships" could lead to the sharing of information and expertise as the basis for the "clarification of evidence".

By way of an example, children are very likely to have had an intervention from medical and other state funded services (e.g., education) prior to applying to access the Scheme. Similarly, persons impacted by learning disabilities, physical disabilities and by trauma (Acquired Brain Injury) will all have had 'health related interventions". In these instances, strong "pathway partnerships" and existing medical information should be relied upon to help inform the independent assessor.

Degenerative disability and disability-related conditions and intermittent disabilities (mental health, behavioural) are less suited to a "one-off" point in time sharing of evidence for the purposes of an independent assessment.

What is "permanent" and what is "life-long" requires a "duality of focus" and should be considered as part of the independent assessment. Whilst, permanent is ongoing with a "health or medical mindset", lifelong requires an additional consideration about the impact of life-stage changes and any changes to a person's support systems and levels of independence. As a result, this will need to be considered differently in the approach to be taken.

4. How should we make the distinction between disability and chronic, acute, or palliative health conditions clearer?

My Plan Manager notes this is a difficult area to clearly define the differences so the terms can be understood by all in every or most circumstances.

In our view, "chronic" from a health perspective means it is ongoing, whilst "acute" is short-term, but which from a disability perspective may be evidenced by intermittent disability related episodes. Palliative is at the end-of-life stage, where the dignity and wellbeing of the participant and their family is paramount.

Ideally, to help in this overall understanding the starting point should be the needs of the person.

We also outline in our response to question 8 that a participant with a palliative health condition should be exempt from the need to complete an independent assessment for obvious reasons.

Undertaking an independent assessment

5. What are the traits and skills that you most want in an assessor?

The assessors performing the independent assessment need to be highly experienced allied health professionals with a comprehensive knowledge of disabilities. Independent assessors must meet an appropriate level of skills, experience, and knowledge of disabilities. As part of this, the underpinning skill and expertise level of the assessor “must” encompass the impact of both the primary and secondary disabilities of the participant and should be informed by the information provided by the participants medical practitioner or other important health professionals.

Further, the assessor should be able to demonstrate a good understanding of the NDIA Act as it relates to the Objects and Principles of the Act and understanding their obligations toward the participant in the context of the Act (as opposed to the limitation of their professional registration bodies).

More broadly, it is recommended that assessors have a good understanding of the principles of the insurance-based scheme (as opposed to welfare-based thinking around a persons functionality) and can contextualise their assessment accordingly.

As part of the Independent Assessment Panel arrangement, it is recommended that the NDIS Code of Conduct is applicable to assessors and the Assessor organisations, and participants are made aware of the qualifications of the Assessor.

Assessors must be able to connect with the participant and their key people. An essential pre-requisite will be the need to have good interpersonal skills and be able to communicate effectively, so a trusting relationship can be established with participants. A participant needs to feel that they can perform optimally during an assessment and that the assessment being undertaken is fair and considers all the available information presented during the assessment.

Importantly, the assessor needs to be professional, act with integrity, maintain confidentiality and ensure the participant’s privacy and operate consistent with the relevant standards set by each assessors’ professional body and the NDIS Code of Conduct.

Ensuring the assessment is conducted in a relaxed and normalised environment for each person will be important. This will help to create genuine and honest conversations and deliver a successful outcome.

Further, any real or potential conflicts of interest need to be declared and managed in accordance with an established Conflict of Interest Policy, so participants can be assured that the assessment is independent and free from any bias.

Independent assessors must hold current NDIS Work Screening clearance and a working with vulnerable people and children registration if applicable.

Cultural Competencies are a key requisite and are referenced in our response to question 9 below.

6. What makes this process the most accessible that it can be?

In addition to the items outlined in response to questions 1 (pre-meeting) and 5, providing the participant with the maximum choice for how and where the assessment is conducted will be important.

7. How can we ensure independent assessments are delivered in a way that considers and promotes cultural safety and inclusion?

To promote cultural safety and inclusion, pre-meetings (refer our response to question 1) and follow up independent assessments need to be provided in a way that is suitable for each participant, with a degree of choice as to how, when and where the assessment can be undertaken.

Contact with the participant or the key person of the participant should occur beforehand so that the pre-assessment meeting can occur and, as an outcome of the pre-assessment meeting matters relating to cultural safety can be accommodated wherever possible.

It is essential that the NDIA work collaboratively with cultural leaders to ensure ATSI peoples for example, fully participate in the NDIA and prospective or existing participants are not disenfranchised by the proposed independent assessment gateway.

Exemptions

8. What are the limited circumstances which may lead to a person not needing to complete an independent assessment?

My Plan Manager believe there are several scenarios where an exemption for the need to complete an independent assessment should apply. These are:

1. Where doing the assessment is likely to cause significant harm to a participant or where there is a safety risk to either the participant or the assessor.
2. Where the assessment is not likely to give a reliable result, e.g., where a participant's disability does not allow them to actively undertake the assessment and no other person is able to provide the additional information required to complete a proper assessment.
3. Where an interim assessment may be the preferred option (see above)
4. Where a participant is in palliative care and at the end-of-life stage. In this scenario, the participant may still require supports and a Health plan could provide detail on the health supports to be provided, avoiding the potential for any duplication of funding
5. When the participant determines they will not participate or refuse to acknowledge the need to attend (but continues to access vital services through their existing plan)
6. Unforeseen and prolonged circumstances (e.g., pandemic)
7. High complex support needs
8. Participants progressing from an ECEI funded pathway
9. High levels of vulnerability, including young people under the Guardianship of the Minister
10. High levels of socio risk (e.g., homelessness or risk of homelessness, experiencing domestic violence, experiencing emotional trauma)

As plan managers with an established relationship with many clients, we are well positioned, subject to consent arrangements, to be able to assist in “discussions” relating to the “triggering” of temporary or ongoing “exemption” arrangements.

There may be other scenarios where an exemption should apply.

Quality assurance

9. How can we best monitor the quality of independent assessments being delivered and ensure the process is meeting participant expectations?

An effective and robust quality assurance framework is critical to provide the sector and individual participants with the necessary confidence that the independent assessment processes are working effectively.

To ensure the quality of the independent assessment process, My Plan Manager believe several areas need to be considered or implemented within the approach taken. These include:

Areas of focus	Key components or aspects for NDIA or sector consideration
Professional qualifications and competencies of assessors	<ul style="list-style-type: none"> • The conduct of assessors needs to be professional, meet the needs of the NDIS Code of Conduct and consistent with the relevant standards set by the assessors’ respective professional bodies. • Understand the principles and objectives of the of NDIS Act and the rights of participants. • Contextualise assessments with an “insurance based” framework as opposed to a functional “welfare based” framework. • Independent assessors must hold current NDIS Worker Clearance and working with vulnerable people and children registration if applicable. • Independent assessors must meet an appropriate level of qualification, skills, experience, and knowledge of disabilities which align with both the primary and secondary disabilities of participants. • Real or potential conflicts of interest need to be declared and managed in accordance with an established Conflict of Interest Policy. • Cultural competencies, as necessary.
Consistent and valid completion of assessments tools	<ul style="list-style-type: none"> • Assessments made by individual assessors need to be high quality, valid, objective and produce consistent and equitable results. This applies both between assessors and assessor organisations. • Independent assessors need to have completed a standard of training and competency determined by the NDIA, including competencies for specific participant cohorts, standards for ongoing assessment and supervision within assessor organisations. In addition, assessors need to have

Areas of focus	Key components or aspects for NDIA or sector consideration
	<p>a good working knowledge of NDIA administrative processes, e.g., how an independent assessment will be utilised in making an Access or Planning decision.</p> <ul style="list-style-type: none"> • A supervision framework for assessor organisations needs to be in place. • Consideration should also be given to the creation of a peer review process and a way for periodic evaluation of interrater reliability to be assessed by requiring assessors to check for evidence of systemic bias. • Development of “partnership pathways” with health professionals.
Adherence to a set of performance standards	<ul style="list-style-type: none"> • The NDIA should set relevant service standards, e.g., completion of reports, timeliness of undertaking appointments once a referral is made etc, that assessor organisations need to meet. • It will be important that the service standards set do not drive unintended consequences. • Quality assurance, monitoring and reporting activities should be performed by the NDIA to verify compliance with these standards.
Meeting participant experience and complaints management	<ul style="list-style-type: none"> • Experience of participants should be in accordance with the NDIA’s Participant Service Charter that covers; transparency, respect, responsiveness, empowering and connectiveness. Consideration should be given to surveying participants as part of assuring these aspects, together with other items like privacy, accessibility etc. • Participants need to be able to raise issues or make complaints with assessor organisations, or the NDIS Quality and Safeguarding Commission about assessors or their independent assessment experience. It will be critical for sector confidence that complaints and reportable incidents are acted upon in a timely and appropriate manner. • Assessors are also mandatory reporters. • The complaints processes need to be published and made clear to participants, support persons and intermediaries.
Independent governance and oversight by the NDIS sector	<ul style="list-style-type: none"> • The sector should have a level of oversight and voice in the quality and ongoing implementation of the Independent Assessment processes. This could take the form of the NDIA publishing results of quality assurance reviews, details of complaints and results of participant survey feedback.
Continuous improvement	<ul style="list-style-type: none"> • It will be critical that the NDIA assures the continued improvement of the independent assessment processes based on its implementation and the results of the above areas of focus.

Areas of focus	Key components or aspects for NDIA or sector consideration
	<ul style="list-style-type: none"> • There will also need to be a remediation mechanism when Assessor organisations do not meet the quality standards, to ensure appropriate corrective action is taken.

There are various methods that can be used to verify these components and provide the NDIS sector with the confidence that the independent assessment processes are working as intended. These include:

- Completion of regular audits on assessor qualifications and experience
- Declarations by panel organisations that assessors have completed relevant training and competency assessments
- Completion of quality assurance on compliance with the service standards
- Completion of participant surveys to measure adherence to the aspects with the Participant Service Guarantee
- Evaluation of whether the implementation of independent assessments is meeting their intended objectives and delivering the expected benefits to the NDIS
- The publishing of reporting completed on the various quality measures to enable the required sector oversight, and the ability for the sector to give consideration and provide feedback will also be important

Communications and accessibility of information

10. How should we provide the assessment results to the person applying for the NDIS?

The results of an assessment need to be provided to participants in a timely manner, reflective of their own cultural and linguistic circumstances, meet accessibility requirements and be available in a variety of formats one of which must be “in writing”.

Participants should be provided with a copy of their full assessment, to assist with transparency and ensure that participants have access to the same information prior to attending their planning meeting.