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**Submission to**

**the National**

**Disability Insurance**

**Agency**

Re

:

Supported decision

Making

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About the Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the national professional body representing more than 15,000 social workers throughout Australia. The AASW works to promote the profession of social work including setting the benchmark for professional education and practice in social work, while also advocating on matters of human rights to advance social justice.

Acknowledgements

This submission has been developed in consultation with AASW members who are working across Australia in various social work areas of practice, including disability and other areas intersecting with the National Disability Insurance Scheme (NDIS). The AASW has formalised consultative mechanisms through our

National Advisory Panel (NAP’s) which consist of experts in their field of practice. For this submission, we have specifically consulted with members of the NDIS NAP for guidance and expertise.

For more information or questions relating to this submission, please contact:

**Authors of this submission**

Angela Scarfe – Senior Policy Advisor

Angela.scarfe@aasw.asn.au

**Manager, Social Policy and Advocacy**

Rachel.reilly@aasw.asn.au

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# Executive Summary

A core value of the social work profession is its respect for people’s dignity and autonomy, and so enhancing the self-determination of every person they work with is a central element of the work of a social worker. Therefore, social workers are familiar with the need to maximise people’s capacity to make their own decisions and know that this is most effective in the context of a respectful, trusting relationship built around a full appreciation of their unique circumstances, strengths and world view.

Social workers who work with people living with a disability have broadly welcomed the NDIA’s proposed Supported Decision-making policy and the decision-making framework that accompanies it. Within this broad agreement, they have expressed the concern that implementing this policy will inevitably be complex and will require careful monitoring to ensure that it in fact translates into better outcomes for participants.

**Recommendations:**

* That the Supported Decision-making Framework (the Framework) be amended to include guidelines for referring a participant to services that can provide support and build capacity for decision making.
* That independent advocacy services be extended and strengthened to provide increased support for participants in expressing their wishes and ensuring their preferences are acted on.
* That the NDIA provide planners, and other staff the training and on-going support necessary to enable them to implement this policy effectively.
* That the implementation plan include strategies that actively promote the rights of participants to make their own decisions.
* That the policy specify that service providers must accurately document the instances of successful decision making by each participant.
* That further consultation be undertaken with Aboriginal and / or Torres Strait Islander participants and participants from culturally and Linguistically Diverse backgrounds to ensure that the Framework adequately reflects their respective world views.
* The NDIS Practice Standards and Code of Conduct need to be amended to ensure that providers and staff promote the rights of participants to make decisions and to protect them from undue influence.
* That the NDIS Commission’s role in monitoring and enforcement of quality and safety provisions should include the extent to which participants are encouraged to make decisions and protected from undue influence.
* That the Department of Social Services undertake work to ensure that the range of supports and services available to participants reflect the full range and extent of participants’ needs.

# Background and context for this submission

## Social work, the NDIS and Supported Decision making

The AASW has welcomed the National Disability Insurance Scheme (NDIS). The values of ‘choice

and control’ that underpin the NDIS are consistent with the values and principles of selfdetermination and empowerment that have guided the social work profession for many decades. The AASW Code of Ethics aligns closely to the Objectives and Principles of the NDIS Act[[1]](#footnote-1) and the UN Declaration on the Rights of Disabled Persons[[2]](#footnote-2). Because social workers focus on enhancing quality of life and empowering people to full social and economic inclusion, the values, qualifications, and skills that social workers bring are aligned with the person-centred approach of the NDIS.

Social workers are present throughout the NDIS in a variety of roles, working as individuals or in organisations. Many who have extensive experience in assessment, planning and case management with people living with multi-facetted disabilities are providing Coordination of Supports or Specialist Support Coordination. Many social workers are also providing positive behaviour support, counselling and psychosocial recovery coaching. Social workers are also working in other roles within the NDIS including service development, planning, and local area co-ordination.

In all contexts, social workers operate from a person-in environment perspective which recognises that individuals can best be understood within the multifaceted context of their environment.[[3]](#footnote-3) Social workers focus on individual, family, carer and community strengths and needs, taking a holistic approach that includes the individual’s characteristics and the systemic factors that limit or enhance their lives.

The AASW conducted consultations with members who work with people who are living with disability to obtain their responses to the Framework and the consultation questions. Their comments are:

* There are instances in which a participant needs the assistance of an independent advocate to either assist them make decisions or to implement them.
* The consultation paper does not capture the diversity in the way many cultures approach decision making.
* Not all informal supporters are guided by the best interests of the participant.
* The framework is only as effective as the range of options available to the participant.

# Responses to Consultation Questions

1. **How can we help people with disability to make decisions for themselves**?

Social workers have always understood the importance of working collaboratively with people to support them achieve the lives they want, and have sought to do so. Social workers understand that this requires that they build a relationship with the person based on a thorough assessment of their environment: the systemic and structural elements, their family and community supports and their individual strengths and unmet needs. Such a relationship can only be built from a person centred, strengths-based approach. In the case of a person who is not accustomed to having their wishes and preferences implemented, this can take time. The AASW welcomes the services available to participants as described in the companion document to this consultation[[4]](#footnote-4). To ensure that all participants have timely and safe access to these services, the policy should provide guidance on when a referral to one of these services should be made.

Social workers who have experience working within the NDIS have pointed to the responsibility of service providers to fully document the instances where participants have successfully exercised choice and control in the implementation of their plan, so that an adequate picture of the participant’s decision-making capacity is captured and recorded. In that way, future service providers will have evidence that enables them to set opportunities at the optimum level for that participant.

## Recommendations

* That the Supported Decision-making policy include guidelines for when and how a participant should be referred to services that can provide support and build capacity for decision making.
* That independent advocacy services be extended and strengthened to provide increased support for participants in expressing their wishes and ensuring their preferences are acted on.
* That the NDIA provide planners, and other staff the training and on-going support necessary to enable them to implement this policy effectively.
* That the policy specify that service providers must accurately document the instances of successful decision making by each participant.

**2. Who are the best people to help a person with disability to make decisions?**

For social workers, the key consideration is that the person is able to understand the best interests of the participants, and it is equally important that the person has a strong commitment to ensuring that the best interests are attained. Social workers point to instances where participants are surrounded by multi-layered and competing needs and conflicting demands. Many participants make decisions according to their perceptions of their family’s situation, and many families communicate their preferences in subtle ways. Similarly, many participants with complex needs are also connected to other community organisations with conditions and requirements that will be affected by a given decision (such as the need to maintain a minimum number in a group for the

purposes of continuing funding) and which may apply subtle pressure to shape the participants’ decision.

For the AASW, this is a more significant distinction than is the distinction between formal and informal supports. The AASW believes that the implementation plan as described in Appendix C does not adequately reflect the existence of this type of obstacle to participant decision making. The implementation plan’s current focuses on opportunity and capacity needs to be extended to encompass more active strategies to promote participants’ right to make decisions.

## Recommendation

• That the implementation plan include strategies that actively promote the rights of participants to make their own decisions.

9. **Are there different things to consider for people with different disabilities or cultural backgrounds**?

AASW members believe that the framework and policy do not take into account the diverse range of world views among NDIS participants. Their experience is that the presumption of a participant who rationally assesses options with reference to their individual needs and interests, then chooses to maximise their own well-being is not universally applicable. Instead, it is specific to a western industrialised setting. For people in some non-western communities, it makes no sense to consider one’s situation in isolation from the rest of the community, because health and well-being are located within a community, rather than being a condition experienced by an individual. Social workers have reported to the AASW that they have encountered instances of people for whom the decision about where they should live, was not an individual decision but required the consensus of their whole community. In one instance, the AASW member was sufficiently well informed to realise that a participant’s role in their community was part of a complex web of relationships and duties, and that the decision process required sensitivity and time with that community’s elders. The AASW believes that the decision-making framework needs to be adapted so that this dimension of decision making is more explicitly accounted for.

## Recommendation

• That further consultation be undertaken with Aboriginal and / or Torres Strait Islander participants and participants from culturally and Linguistically Diverse backgrounds to ensure that the framework adequately reflects their respective world views.

**11 How can we help reduce undue influence**

AASW members have reportedworrying instances of NDIS participants whose paid workers exercised improper influence to persuade participants to donate large amounts of money from their funded plan to the worker for the worker’s private use. They report that the current mechanisms for retrieving the money, making the worker accountable, and preventing it from re-occurring are all highly dependent on co-operation from the NDIS funded provider. The AASW believes that the third

Implementation Goal of ‘increasing capacity of decision supporter to identify the preference of participants’ should be expanded to include methods of monitoring by the NDIS whether those expressed preferences are acted upon.

## Recommendation

* That the implementation plans for the new policy include mechanisms to ensure that

Participants’ expressed wishes are acted upon.

* The NDIS Practice Standards and Code of Conduct need to be amended to ensure that providers and staff promote the rights of participants to make decisions and to protect them from undue influence
* That the NDIS Commission’s role in monitoring and enforcement of quality and safety provisions should include the extent to which participants are encouraged to make decisions and protected from undue influence.

**13. What else could we do to help people with disability to make decisions for themselves? Is there anything missing?**

The framework included in the discussion paper will only assist participants choose between the existing options. There are many parts of Australia where the available options do not meet the needs of people because of ‘Thin Markets”. Similarly, there are many participants with complex needs for which there are no services or who cannot get access to services because of the limited transport available to them. The AASW believes that the ideal of participants being able to decide on services that meet their needs is out of reach to many participants. The work on supporting decision making should be accompanied by work to maximise the range of possible supports and services available to all participants.

## Recommendation

• That the Department of Social Security undertake work to ensure that the range of supports and services available to participants reflect the full range and extent of participants’ needs.

# Conclusion

The AASW believes that there is still much work required from all levels of government, the disability sector, the mainstream services sector, participants and their carers to successfully embed the principles of supported decision making into the NDIS. We would welcome the broader distribution of this document among all these stakeholders for their input into this framework. The AASW anticipates that collaboration across all these sectors will be required to ensure that this framework is adopted and enacted for the benefit of participants; and we look forward to continuing to participate in that work.

*Submitted by and on behalf of the Australian Association of Social Workers*



**www.aasw.asn.au**

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Workers

Level 7, 14

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20

Blackwood Street

NORTH MELBOURNE VIC 3051

PO Box 2008

ROYAL MELBOURNE HOSPITAL VIC

3050

P: 03 9320 1027

E: socialpolicy@aasw.asn.au

www.aasw.asn.au

ACN 008 576 010

ABN 93 008 576 010

**Support for Decision Making consultation submission**

**Name:** Australian Association of Social Workers (National)

**Date and time submitted:** 9/10/2021 4:35:00 AM

# How can we help people with disability make decisions for themselves?

* Resources: No
* Information: No
* Decision Guides: No
* Having a person help: No
* Other: No

# Who are the best people to help you (or a person with a disability) to make decisions?

* Family: No
* Friends: No
* Peer Support Networks: No
* Mentors: No
* Coordinators: No
* LAC: No
* NDIA Partners: No
* Advocates: No
* Service Providers: No
* Other: No

# What should they do to help with decision-making?

No answer recorded

# How can they get better at helping?

* Getting to know the participant well: No
* Doing some training on decision support: No
* By having resources and information about providing decision support: No
* Other: No

# How can we make sure the right people are helping?

* They are chosen by the NDIS Participant as a decision supporter: No
* They value the rights of people to make decisions with support: No
* They are a registered provider: No
* They enable the participant to take risks: No
* Other: No

# What should decision supporters know about so they can better help people with disability make decisions?

* Guidelines for decision supporters: No
* Scenarios or Examples: No
* Information Sessions: No
* Support Networks: No
* Other: No

# Can you tell us about a time when someone helped you (or a person with disability) to make a big decision?

No answer recorded

## What worked well?

No answer recorded

## What could have been better?

No answer recorded

# What is the best way to support people with disability to make decisions about their NDIS plan?

* Practice: No
* Peer Support Networks: No
* Information and Resources: No
* Guidance Tools: No
* Not Sure: No
* Other: No

# Are there different things to consider for people with different disabilities or cultural backgrounds?

**An intellectual disability:** No

**A disability that impacts how they think, a cognitive impairment:** No

**A psychosocial disability:** No

**A disability that impacts their ability to communicate:** No

**From a CALD community:** No

**From an Aboriginal or Torres Strait Islander Community:** No

**From the LGBTIQA community:** No

# How can we help reduce conflict of interest?

No response recorded

# How can we help reduce undue influence?

No response recorded

# What are your concerns (if any) around people with disability being more involved in making decisions for themselves?

No response recorded

# What else could we do to help people with disability to make decisions for themselves? Is there anything missing?

No response recorded

# Do you have any feedback on our proposed actions in Appendix C of the paper?

No response recorded

1. [https://www.ndis.gov.au/about-us/operational-guidelines/overview-ndis-operational-guideline/overview-ndis-operationalguideline-about-ndis](https://www.ndis.gov.au/about-us/operational-guidelines/overview-ndis-operational-guideline/overview-ndis-operational-guideline-about-ndis)  [↑](#footnote-ref-1)
2. United Nations Declaration on the Rights of disabled Persons,

   https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx [↑](#footnote-ref-2)
3. Australian Association of Social Workers 2015. “The Scope of Social Work Practice: Psychosocial Assessments.” *Australian Association of Social Workers.* December. Accessed April 18, 2019. https://www.aasw.asn.au/practitionerresources/the-scope-of-social-work-practice [↑](#footnote-ref-3)
4. (National Disability Insurance Agency 2021) [↑](#footnote-ref-4)