21 June 2024

A team of justice experts will work on a new panel to examine the management of prisoners exiting jails who have been identified as current or potential participants on the National Disability Insurance Scheme (NDIS).

The panel will be led by former Victorian chief of police Ken Lay AO, alongside Adjunct Associate Professor and CEO of Synapse Jennifer Cullen AM and former Victorian Supreme Court Judge the Hon. David Harper AM.

All three have considerable experience with law enforcement, forensic psychology, criminology and risk mitigation.

The panel will provide advice on the management of current or potential NDIS participants with serious violent or sexual criminal histories.

It will also include considerations to protect NDIS workers against unacceptable risks, as well as the management of participants' NDIS supports and the intersection with mainstream obligations.

The NDIS provides supports in conjunction with other mainstream services, including the state and territory justice systems. A key consideration of all agencies and systems is ensuring appropriate supports are in place to manage community safety concerns and the risks of reoffending, under agreements between jurisdictions.

Minister Shorten said keeping the community, participants and workers safe will be at the centre of this panel's work and reaffirm the responsibilities in the delivery of supports by federal and state systems.

"The NDIA has assembled a team of some of Australia's' leading disability, criminal and justice experts to lead this panel and I thank them for their service to the community," Minister Shorten said.

"This is a very serious matter to ensure the community and disability workers are sufficiently safe and protected. I am pleased all States and Territories are engaged in this issue.

"There urgently needs to be greater accountability to ensure the NDIS is not replacing other mainstream systems, such as housing, police and correctional support services.

"Critically, we must also ensure the safety of the NDIS workforce, and the panel will closely consider whether future participants exiting jail can be supported appropriately by the Scheme.

"The NDIS is designed to fund disability-related supports and will continue to work closely state and territory systems on the intersection with the justice and housing systems, in relation to people leaving prisons.

“Like Medicare, the NDIS is available to every Australian who needs it, including people who have criminal records or have been in prison.

“We know a disproportionate number of people who have been in prison have a disability, including an intellectual disability.

“This panel will be working with states and territories to ensure people exiting prisons and forensic facilities have the right supports in place and the NDIS workforce are appropriately supported and safe.”

Mr Lay (AO), the former Chief Commissioner of Victoria Police, said the panel would play a key role in the management of those exiting prison who require disability supports.

“From my experience in law enforcement, I’m looking forward to seeing how this panel provides expertise and guidance to ensure all agencies and systems, including those responsible for community safety, play their part,” Mr Lay said.

Professor Cullen AM has been a long-serving member of the NDIS Independent Advisory Council (IAC). Professor Cullen AM is a descendant of the Bidjara and Wakka Wakka people.

“It’s important that people with significant disability, whether they are part of the justice system or not, are afforded the appropriate support to live their lives. The panel’s role is not only ensuring community safety, but making sure people have the right supports so we reduce the risk of re-offending,” Professor Cullen said.

Former Supreme Court Judge, the Honourable David Harper AM, will give the Panel expertise in the role the justice system plays supporting people with disability.

“It’s important that all systems are clear about their responsibilities to support someone’s return into the broader community, and I look forward to this panel drawing on its experience across different areas to ensure we’re providing the best possible service to the community, to individuals and to the systems that support them,” Mr Harper said.

The NDIS, under law, is not allowed to put in place restrictive practices that equate to custody. The only system able to do this is the justice system.

Minister Shorten wrote to all State and Territory Premiers and Chief Ministers on 9 April urging the need for better collaboration and data sharing about criminals with dangerous histories accessing the NDIS directly out of prisons and forensic facilities.

Minister Shorten has been advised the NDIA had sought further information about serious and violent criminals exiting forensic facilities and rejoining the community previously. The letter from Minister Shorten formalised this request.

More detailed data on NDIS participants exiting state justice systems will ensure greater visibility as the Agency seeks to strengthen planning and access pathways.

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