

EXECUTIVE SUMMARY

Submission to the Joint Standing Committee on the National Disability Insurance Scheme NDIS Independent Assessments

31 March 2021

“People with disabilities need to continue setting their own NDIS goals and being funded appropriately to be able to achieve them. People should have their own therapists and medical professionals who know and assess them, and write reports for the NDIS. Why the NDIS thinks that treating professionals would put their own professionalism at stake to write favourable reports for participants is questionable.”

Family member

Contact

VALID Inc.

130 Cremorne Street

Cremorne, Victoria, 3121

Phone | 03 9416 4003

Email | office@valid.org.au

Website | www.valid.org.au

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The National Disability Insurance Agency (NDIA) is proposing to replace goals and individualised planning with compulsory functional assessments – they call it Independent Assessments. VALID took part in early discussions with the NDIA about Independent Assessments in good faith. We understood that the process would be co-designed, that there would be tested and evaluated properly, and that it would be voluntary.

However, when we saw the results of the NDIA's first pilot of Independent Assessments in 2018-2019, we were concerned. Then we were told that Independent Assessments would be compulsory because the NDIA have a budget problem. We learned that the compulsory assessments would be run by organisations hand-picked, and directly funded by, the NDIA itself. It became clear that one of the reasons why the NDIA wanted to make the changes is because they believe allied health therapists are biased.

VALID has asked the NDIA a lot of questions about Independent Assessments. We have not been satisfied with their answers. In VALID's view, the NDIA have failed to produce clear evidence to justify compulsory assessments. The NDIA have not done the work needed to prove to people with disabilities and their families that compulsory assessments will uphold and protect their human rights. They have not convinced us that people with intellectual disability will not be worse off.

VALID supports the idea of assessments that are independent of government, the NDIA and other vested interests. We are proud that the National Disability Insurance Scheme Act 2013 is built on the foundation of the United Nations Convention on the Rights of Persons with Disabilities and includes principles about choice, control and the right to engage as decision-making equals.

We believe that the NDIA's proposal for Independent Assessments puts the NDIS that people with disabilities and their families fought for in danger. VALID's submission explains our opposition to the introduction of Independent Assessments and makes recommendations for positive change.

ABOUT VALID

VALID is an award-winning Disabled People's Organisation that has been at the forefront of advocating for people with intellectual disability and their families in Victoria since 1988. VALID provides independent individual advocacy support, self-advocacy workshops, peer-led training, self-advocacy networks, peer action groups, the annual Having a Say Conference and has a network of more than 18,000 online subscribers.

THE NDIA HAS BIG PROBLEMS

The NDIA say that compulsory assessments will solve problems with funding inequality. However, VALID believes the NDIA needs to fix other problems including:

- Mistrust of people with disabilities, families and advocates
- Planning that is focussed on goals, aspirations, needs and rights
- Giving information to allied health therapists about what the NDIA want to know
- Making NDIS access easy and free
- Support for decision-making, and more.

MISSING EVIDENCE

Scheme sustainability

The NDIA says that we need compulsory assessments to solve problems with ‘Scheme sustainability’. They have failed to show the evidence that the budget is at risk, if and how the proposal will save money, and not harm people with disabilities in the process.

The postcode problem

The former Minister for the NDIS, Stuart Robert, has said people from more affluent postcodes get more funding than people living in disadvantaged areas. The NDIA has failed to show us why this is happening, how compulsory assessments will fix the problem, and to prove that there is no agenda for funding cuts overall.

“Sympathy bias”

The NDIA say that allied health therapists that know a participant well, have a bias that makes their reports less trustworthy than an assessor who doesn’t know the person at all. The NDIA have failed to give us evidence that allied health therapists working with NDIS participants now are misrepresenting participants’ support needs or that contracted assessors will not be biased in favour of the NDIA.

Disability, not functional impairment

The tests the NDIA is using in the trials are not fit-for-purpose. The tests focus on functional impairment, but the NDIA is instead using them to predict how much funding people need. The NDIA have failed to describe, test or evaluate how this can work.

Data, data, data

The tests the NDIA are using will collect a lot of personal data about Australian citizens with disabilities and it is unclear if or how this data will be used by other government agencies. The NDIA has failed to show how collecting this data will help people with disabilities and that it won’t harm them.

UNINTENDED CONSEQUENCES

VALID is extremely concerned that the NDIA is focussing only on the benefits of Independent Assessments. It is highly likely that there will be major negative impacts including services turning underfunded people away and massive pressure on state systems which remain the last resort. We predict that some people will pass the assessment test and get a good outcome, and others will fail and go without support.

WHAT IS AN INDEPENDENT ASSESSMENT?

An assessment should be independent of the decision-maker – in this case the NDIA. Assessments should use the right tools for the individual at the time. The NDIA have cherry-picked recommendations made by the 2011 Productivity Commission report and the Tune Review to match their own plan for Independent Assessments. Assessment tools must be valid, reliable *and* person-centred.

OVERWHELMING OPPOSITION

Many people with disabilities, families, advocacy organisations, peak bodies, allied health associations, and independent statutory agencies have publicly said that compulsory assessments are a bad idea. This should matter to the Federal government and the NDIA. It is unacceptable that the views of people with disabilities and their supporters are being ignored by decision-makers.

CONCLUSION

VALID strongly opposes the NDIA's current proposal for compulsory assessments. VALID believes that the proposal is not aligned with the UNCRPD, the NDIS Act and its General Principles, and does not meet the expectations of NDIS participants, their families and supporters. As always, VALID will work with decision-makers to get it right for people with intellectual disabilities and their families. However, VALID will continue to campaign against Independent Assessments unless there is a major overhaul of the principles, design and implementation of the proposal. We thank the Joint Standing Committee on the National Disability Insurance Scheme for the opportunity to make this submission. We hope that the Committee will make the recommendations that are needed to ensure the NDIS is the best it can be – an NDIS that works for everyone.

RECOMMENDATIONS

- 1** Immediately stop the rollout of compulsory assessments
- 2** Make transparent the proposed methodology for formulating personal budgets on the basis of functional needs assessments
- 3** Undertake an independent evaluation of both the proposed methodology and the outcomes for participants
- 4** Commit to improving the planning process through co-design including a focus on individual goals and aspirations, the potential contribution of the participant, and their needs and human rights
- 5** Co-design comprehensive training for all NDIA staff, including senior management, on intellectual disability including history, rights and practice
- 6** Fund independent person-centred planning for all participants who want or need it
- 7** Publish detailed guidance for general practitioners, specialists and allied health therapists about the information the NDIA needs for access and planning
- 8** Provide free allied health assessments for people accessing the NDIS for the first time through Medicare with the therapist of the participant's choice
- 9** Complete a review of all Administrative Appeals (AAT) outcomes relating to access and allied health therapy and consider changes to NDIS operational guidelines that better reflect AAT decisions
- 10** On the basis of evidence provided through an independent evaluation, co-design with the disability sector a fit-for-purpose method for conducting credible, reliable and voluntary independent assessments