Re: Comment on, and requested inclusion into, Draft Insights – Section 10 document

The National Mental Health Consumer Alliance (the Alliance) is writing in response to the invitation to comment on the Draft Insights – Section 10 document. Our feedback is based on our submission to the Consultation on Draft Lists of National Disability Insurance (NDIS) supports.

The Alliance remains concerned about the lack of meaningful consultation on the proposed changes, specifically a lack of engagement with people with psychosocial disability. In addition, as the legislation has been passed that impacts Section 10, and given the lack of co-design to date, the Alliance is unsure what impact this Draft Insights – Section 10 document is expected to have.

The Alliance has the following recommendations to be considered in further drafting of the Insights – Section 10 report:

1) **Inclusion of trauma informed language**: The language used in the Insights – Section 10 report and the Lists of Included and Excluded NDIS Supports (included and excluded, carve outs, mainstream), the timing constraints placed on feedback opportunities (1 week to comment on a list of things that help people survive, 1 week to provide feedback on the Draft Insights – Section 10), and the lack of evidence provided behind the decisions being made is not trauma informed. The result is that people are confused, concerned and distressed. We ask that all future work and processes be conducted in a trauma informed way using trauma informed language.

2) **Consideration of the rapid increase in demand for psychosocial services from State/Territory Governments**: The Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme[1] identified that in 2022–23, an estimated 230,500 people with severe mental illness and 263,100 people with moderate mental illness aged 12 to 64 years were not receiving required psychosocial support through the NDIS or other government-funded programs. The Alliance is concerned that the supports that mental health consumers currently rely on will no longer be available through the NDIS knowing that these services/supports are not available any other way.

   With the proposed changes to what is available through the NDIS, even more people will either not be eligible for the NDIS or have their supports drastically limited, placing even greater pressure on the States and Territories to provide these support services. The Alliance is concerned that the numbers of people with psychosocial disability that are unable to access required services will rapidly increase, with demand far outstripping supply. In addition, the transitional legislation is likely to be in effect for some time, as achieving agreement between States, Territories and Commonwealth will be a lengthy process. A clear timeline and implementation plan for co-design and development of the new rules, and exactly how long the transitional rule will be in effect, would ensure accountability to promises made about co-design of changes to NDIS legislation

   The inflated costs of services and supports that exist due to the NDIS will have a greater impact on individuals trying to cover these costs and State and Territory governments.

[1] Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme, Health Policy Analysis, 15 August 2024

3) **Amend the draft lists to avoid the exclusion of co-commissioning**: this decision will impact people in thin markets in rural and regional areas where support options are extremely limited will be disproportionately impacted by this rule. This is reflected on p.99 in the Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme[2], "*Stakeholders described in consultation throughout the analysis insufficiencies in NDIS provision, such as delivery of services in rural and remote areas.".*

4) **Clarification regarding supports included in the carve-outs that may be considered NDIS supports under mainstream mental health**: there is a need to specify whether it is the profession of the person providing the paid service, or the location in which service is provided (i.e. medical offices) that renders a support clinical.

5) **Recognition of the Inability to cover private fees**: currently, under the NDIS people can choose to use group, peer and other psychosocial recovery supports provided by non-clinical professionals that are offered through mental health clinics, facilities and residential environments. Due to private access fees participants who cannot afford private access fees will be left without access to these support options.

6) **Inclusion of specific supports for people with psychosocial disability:** The development of a section on disability-related mental health supports in the list of inclusions to specify key supports relevant to those accessing NDIS with psychosocial disability.

The Alliance included specific feedback on the lists of Included and Excluded Supports in our submission to the Consultation on Draft Lists of National Disability Insurance (NDIS) supports and they are repeated at the end of this correspondence for your consideration.

Once again, we urge that DSS undertake authentic, trauma informed, co-design engaging communities and NDIS participants that will be most impacted by proposed changes before any rules are put into place, transitional or otherwise.

Yours sincerely

Darren Munday
Chief Executive Officer

[2] Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme, Health Policy Analysis, 15 August 2024

1. Feedback on List of Included Supports

Overall, a section on disability-related mental health supports could be useful in the list of inclusions to specify key supports relevant to those accessing NDIS with psychosocial disability.

Therapeutic Supports: Psychosocial recovery supports should be included here. Details about how decisions are made about what is evidence based need to be provided: are these based on formal evaluations such as clinical efficacy, cost effectiveness, or more rudimentary decisions?

Specialised Support Coordination: Include explicit mention of inclusion of support from a psychosocial recovery navigator, as suggested in the final report of the NDIS Review.[3]

Participation in Community, Social and Civic Activities: Include cost of participation in the activity itself, otherwise many NDIS participants will be unable to afford the costs of participating in community and social life.

Assistance to Access and Maintain Employment or higher education: Remove carve outs proposed which would prevent participants from accessing support in interviews or negotiating accommodations in the workplace when that participant does not receive Disability Employment Services support.

Assistance to Access and Maintain Employment or higher education: Remove the carve-out excluding "work-specific support related to recruitment processes, work arrangements or the working environment" as such support are necessary in order to assist participants to "successfully obtain and/or retain employment in the open or supported labour market" per the item's description. It is unclear what supports are funded here if supports related to recruitment, work arrangements and environment are carved out, especially where participants are unable to access disability employment support services.

2. Feedback on List of Excluded Supports

Mainstream – Mental Health: More details about what supports are included in carve-outs that may be considered NDIS supports under Mainstream mental health would provide clarity for participants accessing NDIS for psychosocial disability.

There is a need to specify whether it is the profession of the person providing the paid service, or the location in which they provide the service (i.e. medical offices) that renders a support clinical in "Supports related to mental health that are clinical in nature, including acute, ambulatory and continuing care, rehabilitation."

Carve outs should be specified for the following items:

- Support from a psychologist for people with psychosocial disability, as existing mainstream access options do not cover full fees, leaving individuals to pay a gap fee many cannot afford, and provide an insufficient number of subsidised sessions for many participants with psychosocial disability.
- Accessing non-clinical psychosocial support within a clinical environment. There are often group, peer, and other psychosocial recovery supports provided by non-clinical professionals that are offered through mental health clinics, facilities and residential environments that, if these are excluded from NDIS funding, will leave participants who cannot afford private access fees without access to these support options.
- Access to Occupational Therapists who may sometimes be working in a clinical environment or classed as having clinical expertise, but who provide psychosocial recovery support services.

Not value for money/not effective or beneficial: Provide details about how decisions are made about what is and is not value for money or beneficial, and for which groups.

---

[3] NDIS Review (2023). *Psychosocial supports.* https://www.ndisreview.gov.au/resources/fact-sheet/psychosocial-supports (accessed 15/08/2024)

Participants with psychosocial disability could be disproportionality impacted by exclusions on this list, especially if evidence about what best supports their needs has not been considered. Some supports have promising or emerging evidence bases that, if excluded now, may mean that supports found in the future to be beneficial are excluded. The needs of participants with psychosocial disability need to be accounted for when excluding certain therapeutic items on this list.

- Wellness and coaching related supports should not be excluded. We are particularly concerned that psychosocial recovery coaching could be excluded under this list. Excluding Life/wellness/career coach/cultural coaching removes access to key supports for NDIS participants with psychosocial disability. Excluding cultural coaching and wilderness therapy could result in fewer culturally appropriate supports for Aboriginal and/or Torres Strait Islander NDIS participants.
- Carve-outs should be noted for participants with psychosocial disability to access meditation and yoga, given the benefits of these activities for mental health.[4]

Day-to-day living costs:
The following items should be removed from exclusion:

- Sex work, sex toys and sexual aids, and access to sex therapists, educators and family planners should be removed from exclusion and should be classed as funded supports. Supports for sexual expression functioning and relationship building are essential to the wellbeing of people with disability, who are a group whose sexual needs and expression are often stigmatised or denied. In 2020, the federal court upheld the right of a person with disability to use their NDIS funding to access a sex worker, and we oppose the reversal of this court decision. We support the statements and recommendations in the *Joint Statement: Ten Organisations Call for People with Disability's Access to NDIS Funded Sexuality Services to be Protected:*[5]
    - *"The exclusion of sexuality and sex work services from the NDIS would undermine the fundamental human rights and the choice, control and access of people with disability to essential supports that enable full participation in all aspects of life, including sexual expression, health, reproduction and relationships."*
- Smart watches and phones can support independence and recovery for those experiencing anxiety, agoraphobia and other mental health challenges and should not be on the list of exclusions.
- Hair and personal care services, as these are essential to support participants with daily personal-care tasks or with participation in social and community life. Seeing a professional for these services is more cost-effective and more appropriate than engaging a support worker. If they are not removed, then carve-outs should be specified.

Carve outs should be specified for the following items:

- Clothing and menstrual products, where participants with sensory issues need specific, specialised clothing or menstrual products as a part of daily living and personal care needs. Menstrual products should not be classed as 'lifestyle' items, as they are essential to daily living for many people.
- Holidays, where they can be used to facilitate respite. Holiday options and accommodation can currently be used to provide respite for families/carers, in making possible the respite by providing a place participants want to go. The participant may not want to leave the house or have someone live with them whilst the family has the respite, and therefore a carve-out needs to be specified.
- Standard household items such as dishwashers, where they are required to support some participants with daily living and personal care support needs resulting from their disability or

[4] Vancampfort et al. (2021). The efficacy of meditation-based mind-body interventions for mental disorders: A meta-review of 17 meta-analyses of randomized controlled trials, *Journal of Psychiatric Research*, 134, p. 181-191, https://doi.org/10.1016/j.jpsychires.2020.12.048.

[5] *Joint Statement: Ten Organisations Call for People with Disability's Access to NDIS Funded Sexuality Services to be Protected*. (2024). https://www.touchingbase.org/ndis-and-sex-work/joint-statement-ten-organisations-call-for-people-with-disabilitys-access-to-ndis-funded-sexuality-services-to-be-protected/ (accessed 21/08/2024)

psychosocial disability. Funding these items is much more cost-effective than engaging a support worker to carry out tasks such as dishwashing.

Mainstream – Health:
Carve outs should be specified for the following items:

- Sleep consultant services for participants with psychosocial disability, given the co-occurrence of insomnia and psychiatric disorders of 40-50%.[6]
- Non-clinical support for chronic pain for participants with psychosocial disability, because chronic pain and mental health challenges often co-occur, with a significant proportion of Australians experiencing mental health challenges also experiencing long term chronic pain.[7] Decline experienced in one of these areas can adverse effects leading to decline in the other.
- Equipment or assistive technology prescribed as a result of clinical care, treatment or management from a medical practitioner delivered in the context of clinical care, where participants require these items on an ongoing basis after the episode of care.

Mainstream – Aged Care: A carve out is needed for psychosocial supports for people that live in aged care who access NDIS for psychosocial disability.

Mainstream – Housing and Community Infrastructure: Carve-outs should be included to enable participants in Specialist Disability Accommodation and Supported Independent Living arrangements to access appropriate crisis housing and short- or medium-term accommodation if they are evicted. There is a risk of participants having no choice but to sleep rough if they are not provided with this support.

Mainstream – Child Protection and Family Support: Family therapy, parenting programs, dating and relationship services, and marriage and relationship counselling should not be on the list of exclusions. Support options that enable people with psychosocial disability to participate fully in relationships, including romantic relationships, and to engage with their families, are an essential part of building capacity and providing support for social and community participation.[8]

Mainstream – Justice:
The following items should not be excluded from funding or should be specified in carve outs:

- Specific identified supports enabling access to NDIS supports immediately upon release, such as specialist support coordination and navigation, pre-sentencing psychiatric reports to support access to NDIS items upon release, and psychosocial recovery coaching. There is also a broader need for amended legislation to specify when a person is to be no longer labelled an 'offender.'
- Suitable short- or medium-term accommodation for NDIS participants who require specialist disability accommodation or supported independent living arrangements upon release from prison but for whom long-term accommodation has not yet been sourced. Without this support, participants are often released into homelessness.
- NDIS supports to meet the access and daily living needs of participants who are in custody awaiting decisions about trial, for instance, those individuals classed as mentally impaired accused being held in secure mental health facilities, who are otherwise denied not only their liberty, but access to items essential for their health and wellbeing.

---

[6] Fornaro, M., et al. (2024). Insomnia and related mental health conditions: Essential neurobiological underpinnings towards reduced polypharmacy utilization rates, *Sleep Medicine*, 113, pp. 198-214, https://doi.org/10.1016/j.sleep.2023.11.033.

[7] Australian Institute of Health and Welfare (2024). *Physical health of people with mental illness*. https://www.aihw.gov.au/reports/mental-health/physical-health-of-people-with-mental-illness (accessed 21/08/2024)

[8] Meltzer, A. and Davy, L. (2019). Opportunities to enhance relational wellbeing through the National Disability Insurance Scheme: Implications from research on relationships and a content analysis of NDIS documentation. *Aust J Publ Admin*, 78, pp. 250–264. https://doi.org/10.1111/1467-8500.12373