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Submission to the National Disability Insurance Scheme Review

Mental Health Coordinating Council (MHCC) is the peak body for mental health community-managed organisations (CMOs) in New South Wales. The Council's principal objective is to support a strong and sustainable community-managed mental health sector that delivers safe and effective mental health, psychosocial and wellbeing programs and services to the people of NSW.

MHCC provides policy leadership, promotes legislative reform and systemic change, and develops resources and training to assist community organisations to deliver quality and effective services underpinned by best practice principles. MHCC's Learning and Development arm is a Registered Training Organisation providing accredited training and professional development to the sector. MHCC is also a founding member of Community Mental Health Australia (CMHA), the alliance of state and territory mental health peak bodies, which together represent more than 800 CMOs delivering mental health and related psychosocial services nationally

MHCC thank the independent NDIS Review panel led by co-chairs Professor Bruce Bonyhady AM and Ms Lisa Paul AO PSM for the opportunity to provide further comment to the panel's deliberations for Part 1 of the Review which will examine the design, operations and sustainability of the NDIS covering issues outlined in the full-Scheme bilateral agreements between the Commonwealth and jurisdictions; and Part 2 of the Review: to examine ways to build a more responsive, supportive and sustainable market and workforce.

In the first instance MHCC would like to highlight its support for the contents of the submission provided to the Review by the **Australian Psychosocial Alliance** (APA) which is a recently formed group of organisations (that are also MHCC members) that deliver specialist mental health and psychosocial support services including as registered NDIS providers. We commend APA's submission to the panel review which clearly represents not only the perspectives of service providers and staff, but the views of people with lived experience and a broad range of sector representatives.

Consequently, in this submission, MHCC's comments aim to focus on some areas that we particularly wish to emphasise.

Provider status

Regulated providers

MHCC's member organisations are regulated NDIS providers, as are the members of our CMHA partners across Australia. Many of these organisations are now utilising MHCC's freely available online interactive 'Embracing Change: NDIS Practice NDIS Practice Standards Self-Assessment Tool and Guidebook' (funded by the NDIS Quality and Safeguards Commission) through which psychosocial disability service providers can measure their compliance against the Practice Standards. The regulatory process for registered providers offers NDIS participants accountability and assurance that services and the workers supporting them are bona fide NFP businesses employing workers who are at the very least Certificate 4 qualified and have the skills and competencies to undertake their designated roles, including working with participants requiring complex care and support.

Unregistered and unregulated providers

In this context, MHCC would like to draw the Panel's attention to the matter of unregistered providers. Whilst we fully support the concept of 'Choice and Control' in terms of participants being able engage providers of their choice, we are concerned about the lack regulation and oversight of unregistered providers, and in some instances the quality and capacity of workers who are sole traders or employed by unregistered businesses.

MHCC have been given to understand that some newly established businesses or individuals are offering services for which they do not have the capacity to ensure quality and safe services. Some unregistered providers employ casuals who are untrained and unsupported and have little knowledge or understanding about people living with psychosocial disability and the challenges they might present on multiple levels. Support workers are often left to work out for themselves what they need to know and do.

Whilst unregistered providers are expected to practice under the NDIS Code of Conduct and conduct worker screening, there is little accountability. Often participants living with psychosocial disability are very vulnerable and unable to advocate for themselves or make complaints and/or effectively make decisions; and may select a service provider based on price alone. Unregistered providers characteristically can charge less than registered providers, as well as pay workers more as their costs are lower. This is adding to the workforce casualisation problem that has been identified in consultations and submissions to the NDIS.

Registered providers ensure that workers are trained and supported, and therefore factor these costs into their pricing. Within the NDIS market there are several companies operating as digital contractor marketplaces that do not provide the legal supports that a traditional employer would provide, such as quality and safety guarantees for either the worker or the NDIS participant. This enables them to operate with lower overheads and may leave both participants and the disability support workers who are offering services as sole traders exposed.

Unlike registered providers, unregistered providers may not get audited because they are unregistered and cannot be investigated by the NDIA. An investigation may occur following a complaint or as part of planned reviews. In both cases, an audit will only commence if the NDIA has sufficient evidence to take action in relation to an unregistered NDIS provider.

Unregistered support workers can be employed as sole contractors (such as via online platforms), through a provider who is unregistered, or through direct employment. This category of supports is arguably the most controversial in discussions about registration given some of these supports involve personal care often delivered in domestic contexts.

Some groups have expressed concern that unregistered support workers might increase risk for participants and workers as they are less closely regulated. The argument has been made this might increase potential for abuse and exploitation of both participants and workers. Nevertheless, MHCC acknowledge that for some participants, using unregistered support workers equates to more flexible shift times, increased choice of workers, greater consistency with workers, and the ability to set worker wages. Participants have reported that it meant they could move away from "agency rule book" limitations, and they felt more empowered within the support interaction. Some participants describe feeling safer and better supported when they chose their own support workers through unregistered pathways, and sometimes in particular locations unregistered providers are the only option. 'Thin markets' also contribute to provider decisions. A lack of providers, long waiting lists, or a lack of registered providers with the required expertise mean people often have no choice but to use unregistered providers.

The supply of support workers has also been affected by COVID and related policy responses, as well as some people are leaving disability care to work in aged care. Using unregistered support workers helps increase the pool of available staff.

The view generally is that the ability to use unregistered providers is about exercising choice and control through the NDIS. The preservation of two kinds of providers in the disability service market is thought to afford NDIS participants the 'dignity of risk' in choosing freely between registered and unregistered providers. However, research indicates that both participants and providers may need support to navigate the unregistered provider space.

Supported decision-making

MHCC strongly endorse the proposition that supported decision-making (SDM) is a critical workforce competency necessary to support NDIS participants that would also assist providers to better understand a person's options, legal rights and obligations.

For NDIS participants working with staff who possess SDM skills would mean they get a clear sense of what they should expect in terms of quality and safe services and how to speak out if they feel something is wrong. This would be of benefit not just when using unregistered providers, but also registered providers. For providers and their workers, building capacity would give them a better sense of their responsibilities and the processes for delivering effective services, and help safeguard against exploitation.

The NDIS pricing model does not adequately cover the costs of training staff, or enable service providers to build worker capacity and skills, and does not appropriately recognise existing qualifications and experience. This has contributed to workers leaving the sector. This issue is exacerbated in regional, rural, and remote areas, where people already experience considerable difficulty in getting the support they need.

Developing the capacity of NDIS participants is likely to have positive implications far beyond the unregistered provider space. It would work towards continuous improvements and benefits across the entire scheme. MHCC were funded under the Embracing Change Project Stage 1 to develop online self-paced SDM training. Two training modules are freely available to anyone interested in an Introduction to Supported Decision-Making. The training is suitable for recovery coaches, support workers and carers.

The NDIS Psychosocial Disability Recovery-Oriented Framework Principle 4 supports 'Informed Decision-making' and actions to achieve this principle are in the development of the NDIA's Support for Decision Making Policy, as well as in developing guides and resources on decision-making and evidence-based supports for participants living with psychosocial disability, as well as carers and families. MHCC strongly supports these actions in conjunction with the recent release of the new NDIS Supported Decision-Making policy.

Workforce issues

The NDIS Review has recently published its 'building a responsive and supportive workforce' report however it does not adequately address the workforce capability issues critical to the delivery of quality and safe services in a psychosocial disability context. As the APA submission clearly states: 'the Recovery Framework prioritises the development of a more capable NDIS workforce that is recovery-oriented and trauma-informed'. However, many workers supporting participants with psychosocial disabilities, including Local Area Coordinators and NDIS planners, lack the necessary training and skills.

Indeed, this lack of knowledge concerning the interface between mental health and psychosocial support needs may lead to poor planning and costs expended on packages intended to support a participant's recovery, may be less than optimally effective. MHCC draw the Review Panel's attention to the broad opportunities to explore solutions to these issues identified on page 29 of the APA submission.

A Tier 2 Psychosocial Support Program (T2-PSP)

MHCC are deeply concerned about the gap in supports available to people ineligible or unable to engage in the NDIS. This gap is in the process of identification under the National Mental Health and Suicide Prevention Agreement, with an expected report in early 2024. The Commonwealth has made a commitment to fund psychosocial supports for two years allocating $260 million to services to support people outside of the NDIS. These funds are clearly insufficient to address the needs of the 154,000 people identified in the Productivity Commission's Inquiry Report as missing out on support necessary to keep people well in the community.

Essential features of Tier 2 services are services that:

- coordinate care across human services sectors delivered in alignment with the social determinants of health and wellbeing
- demonstrate a best practice approach underpinned by trauma-informed recovery-oriented, strengths-based and person-led principals
- provides a diverse and multidisciplinary workforce including peer workers who are trained, skilled, supported and paid appropriately
- are not time limited but available when and where needed including an appropriate level of outreach access
- meets the needs of specific communities and local area contexts and variations in existing services
- can be accessed without clinical referral processes
- can meet the aspirations and goals of people living with psychosocial disability
- are accountable and evaluated by people using the services as well measuring outcomes from a service delivery perspective
- include services to support carers and families.

Access to appropriate psychiatric and allied health support

It is vital that people living with psychosocial disability who experience complex mental health and coexisting conditions are supported by a diversity of community-based services that ensure access to both clinical care and psychosocial supports that are informed by a trauma-informed recovery-oriented best practice approach. All services accessed by a participant should work as a team in a model of integrated care, which should also include health, allied health, housing employment, education and social inclusion. The collaboration between mental health services and the NDIS is often close in NSW when a participant is under an involuntary order in the community. However, when a participant is not 'case managed' by a community mental health team the relationship may be more tenuous. Often participants are reluctant to engage with mental health services, but more willing to work with NDIS providers, so there may be reluctance to collaborate because of privacy and confidentiality issues. Nevertheless, it seems evident that when all parts of the human services system and mainstream services collaborate, people experience better outcomes and have fewer admissions and readmissions to mental health facilities and stay well in the community.

The NDIS Psychosocial Disability Recovery-Oriented Framework has identified specific actions to address issues at the interface between NDIS and mental health services, and MHCC support those initiatives including the need to foster a community-based mental health service system, which can provide wrap-around supports and clinical care that are affordable to people living with psychosocial disability, irrespective of whether they are NDIS participants or not.

The NDIS Review represents an important milestone in the growth and maturity of the NDIS in meeting the needs of people living with psychosocial disability, their families, carers and supporters. MHCC are hopeful that this review will bring about the changes necessary to refine the scheme and better tailor it to meet the needs of participants inside and outside of the scheme.

MHCC express their willingness to be further consulted for the purposes of the Review. For further information please contact Corinne Henderson, Principal Policy Advisor for any further information at corinne@mhcc.org.au

14 June 2023

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