



ARC Centre of
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**Automated
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UNSW
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ADM+S submission to the NDIS Review



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Introduction

The NDIS has been a beacon of hope for people with disability and their families, promising a future where support and resources are tailored to the unique needs of each person. However, recent developments involving algorithmic technologies have raised concerns over the scheme and its ability to uphold its promise of personalised support. This submission highlights these concerns, outlines the challenges posed by algorithmic decision-making, and proposes steps towards a more inclusive and equitable NDIS.

This submission primarily addresses question 2 of the review, which pertains to the definition of "reasonable and necessary." However, it also comments on the broader issues faced by NDIS participants, particularly in relation to the planning process. The NDIS review has so far identified significant challenges in the form of inconsistent and inequitable funding decisions, and this concern resonates with the experiences shared by many people with disability and disability organisations we've engaged with through our ongoing research on the NDIS and NDIA decision-making processes.

Our interest and expertise on this subject largely concerns the role of technology and data analysis in shaping NDIA decision-making processes and their outcomes. We have authored various media pieces and academic articles exploring this subject, and the findings consistently highlight significant issues (van Toorn and Scully 2023; van Toorn et al 2022; van Toorn 2022). These issues include NDIS participants having limited influence over decision-making processes and problematic interpretations of "reasonable and necessary" rooted in simplistic and mechanistic assessment procedures.

The Role of Algorithmic Technologies

Algorithmic decision-making processes within the NDIS primarily concern assessing and adjusting support plans for participants. These processes rely on actuarial and predictive tools, creating a "typical support package" (TSP) based on statistical profiles of people with similar demographic and disability characteristics. While automation can streamline certain tasks, it raises significant challenges:

1. *Stereotyping and depersonalisation*

The current system tends to stereotype NDIS participants by grouping them into categories based on their disability or diagnosis and levels of functioning. It is crucial to recognise that people with disability have diverse needs and preferences for support. The experience of disability is also affected by many social, environmental, and other factors, and moreover can be dynamic and fluctuating.

The now-defunct "robo-planning" approach faced severe criticism for its discriminatory and demeaning nature, which eroded the right to self-determination. However, the current support planning process likewise operates under the assumption that individuals with similar disabilities or levels of functioning share the same support needs and preferences. This approach essentially stereotypes people by fitting them into predefined categories of allowable supports. This one-size-fits-all, data-driven approach, coupled with organisational and resource limitations that restrict planners from appropriately customising plans to individual needs and circumstances, is discriminatory and undermines individuals' rights to participate in decision-making.

2. Neglecting Diversity

Algorithmic processes fail to account for the diversity within the disability community, including that of Indigenous Australians and culturally and linguistically diverse individuals. Disability experiences and support needs can be influenced by complex social and cultural factors, making a rigid algorithmic approach inappropriate and potentially harmful.

During the 2021 inquiry into independent assessments, a witness reiterated this viewpoint, stating:

it's about Aboriginal people fitting into a very Western way of looking at disability, and it will fail our families. ... we are concerned that the tools proposed do not adequately take into account the person's familial and community context. ... we also are really concerned about systemic racism and systemic disadvantage that this will embed further in our communities (Emily Carter, CEO, Marninwarntikura Women's Resource Centre, speaking at the Tuesday 27, 2021 Hearing held in Canberra by the Joint Standing Committee on the NDIS 2021).

3. Opacity in Resource Allocation

Automated systems can obscure political decisions regarding the allocation of public funds. The plans generated by these systems are seen as benchmarks that can be adjusted to meet budgetary constraints. These adjustments occur behind the scenes, lacking transparency and public scrutiny.

4. Epistemic in/justice

Epistemic injustice occurs when automated systems assign meaning to data without the direct involvement, knowledge, or consent of the individuals it pertains to. Such systems often marginalise or exclude the perspectives of those they classify, denying them the right to be considered as equal epistemic agents in making sense of their own experiences. This form of injustice is particularly apparent in algorithmic assessments of disability, where classification instruments themselves often reflect dominant, medicalised understandings of disability, disregarding the rich and diverse lived experiences of disabled people. Consequently, this

process not only fails to recognise the nuanced social, cultural, and contextual aspects of disability but also perpetuates a narrow, inadequate conception of disability that falls short of capturing the complexities and barriers disabled people encounter in their lives.

The Need for Change

The NDIS is at a critical juncture, requiring a thorough review of its algorithmic processes and their impact on participants. Our submission calls for immediate action in the following areas:

1. Personalisation and Inclusivity

The NDIS must transition away from algorithmic processes (automated or not) that oversimplify disability support needs. Instead, a more personalised approach should be adopted, recognising the unique experiences, backgrounds, and needs of participants. This will require a shift from stereotypes to individualised support plans.

2. Cultural sensitivity

Culturally diverse and Indigenous communities must be engaged in the design and implementation of NDIS processes. A culturally sensitive approach should be adopted to ensure that assessments and support plans are inclusive and respectful of diverse perspectives on disability.

3. Transparency and accountability

The allocation of funds and the decision-making processes behind NDIS support plans must be transparent and subject to public scrutiny. This transparency is essential to rebuild trust and confidence in the scheme.

4. End the overreliance on algorithms

While automation can aid certain aspects of the NDIS, it should not be relied upon for critical funding decisions. Currently, the NDIA and community planners are under considerable strain, which in some cases has resulted in an excessive dependence on plans generated through algorithms.

Conclusion

The NDIS holds immense potential to transform the lives of people with disability by providing them with individualised, inclusive, and equitable support. However, the recent issues stemming from the incorporation of algorithmic technologies into the NDIS processes have cast doubt over the scheme's ability to fulfill its promises. In order to establish confidence and trust in the NDIS, it is imperative that the government and the NDIA take prompt action to address these concerns.

This involves re-evaluating the role of technology in the decision-making process, prioritising the meaningful involvement of NDIS participants in co-designing their support plans, and upholding the principles of inclusivity and transparency and commitment to disabled people’s human rights. By doing so, the NDIS can reaffirm its commitment to empowering people with disability to lead fulfilling and flourishing lives.

References

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The ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S) is a cross-disciplinary, national research centre which aims to create the knowledge and strategies necessary for responsible, ethical, and inclusive automated decision-making. Funded by the Australian Research Council from 2020 to 2026, ADM+S is hosted at RMIT in Melbourne, Australia, with nodes in eight other Australian universities, and partnerships with international universities and industry organisations. The Centre brings together leading researchers in the humanities, social and technological sciences in an international industry, research and civil society network. Its priority domains for public engagement are news and media, transport, social services and health.