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National Disability Insurance Scheme Guide for Physicians

(ndp) National Disability Practitioners

NDS National Disability Services

Acknowledgements

The National Disability Insurance Scheme (NDIS) Guide for Physicians was developed in partnership with National Disability Services (NDS) to help medical physicians support their patients who participate in the NDIS.

National Disability Services

Every effort has been made to ensure that all information is correct and up to date at the time of publication, September 2023. However, this information should be used as a guide only. All information should be verified with the National Disability Insurance Agency (NDIA).

We acknowledge the Royal Australasian College of Physicians (RACP) Disability Policy and Advocacy Advisory Group and RACP Policy and Advocacy staff for their assistance with review and development of the information in this Guide.

About The Royal Australasian College of Physicians (RACP)

The RACP trains, educates and advocates on behalf of physicians and trainee physicians, across Australia and Aotearoa New Zealand.

The RACP represents a broad range of medical specialties including general medicine, paediatrics and child health, cardiology, endocrinology, respiratory medicine, neurology, oncology, public health medicine, infectious diseases medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation medicine, geriatric medicine, and addiction medicine.

Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients and the community.

We acknowledge and pay respect to the Traditional Custodians and Elders – past, present and emerging – of the lands and waters on which RACP members and staff live, learn and work. The RACP acknowledges Māori as tangata whenua and Te Tiriti o Waitangi partners in Aotearoa New Zealand.

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Glossary

Administrative Appeals Tribunal (AAT)

The Administrative Appeals Tribunal provides independent merits review of a wide range of administrative decisions made by the Australian Government.

Australia's Disability Strategy (ADS)

Australia's Disability Strategy 2021-2031 sets out a plan to create a more inclusive and accessible Australian society where all people with disability can fulfil their potential as equal members of the community.

Coordinator of Support

A Coordinator of Support assists NDIS participants to build the skills needed to understand and utilise their individualised NDIS plan to pursue goals and connect NDIS participants with NDIS providers, community and government services.

Department of Social Services (DSS)

The Department of Social Services is a department of the Australian Government that focusses on improving the wellbeing of individuals and families in Australian communities.

Early Childhood Approach (ECA)

The Early Childhood Approach is a nationally consistent early childhood approach for children younger than 7 years of age with disability or a developmental delay, and their families/carers. The early childhood approach was developed based on evidence-based research with the help of leading experts in early childhood intervention.

Early Childhood Partner (ECP)

Early Childhood Partners are experienced early childhood intervention service providers, with strong clinical expertise and best practice approaches, who will tailor support to a child's individual needs and circumstances.

Guardians and Trustees

Guardians and Trustees are legally appointed to make decisions on behalf of a person that may include; personal and lifestyle matters, health, finances and property. Legislation about this varies between states and territories in Australia. The orders to appoint a Guardian or Trustee are usually for a period of time, relate to a certain type of decision and are often referred to as 'substitute decision making'. *Note: Definition may differ among States and Territories.

High intensity support skills descriptors (HISSD)

The high intensity support skills descriptors set out the skills and knowledge that NDIS providers should have access to when delivering complex supports, safely, to NDIS participants.

Information, Linkages and Capacity Building (ILC)

Information, Linkages and Capacity Building provides funding to organisations to deliver projects in the community that benefit all Australians with disability, their carers and families.

Local Area Coordinator (LAC)

A Local Area Coordinator can help NDIS participants move through the stages necessary to access the NDIS e.g. understanding the NDIS, access, creating a individualised NDIS plan activation.

Medicare Benefits Schedule (MBS)

The Medicare Benefits Schedule is a list of health professional services that the Australian Government subsidises, providing patient benefits for a wide range of health services including consultations, diagnostic tests and operations.

National Disability Insurance Agency (NDIA)

The National Disability Insurance Agency is an independent statutory agency, whose role is to implement the National Disability Insurance Scheme.

National Disability Insurance Scheme (NDIS)

The National Disability Insurance Scheme supports people with disability to build skills and capability so they can participate socially and economically in the community.

National Disability Insurance Scheme Act 2013 (NDIS Act)

The *National Disability Insurance Scheme Act 2013* is the legislation which establishes the rules and principles under which the NDIS and the NDIA operates.

National Health Reform Agreement (NHRA)

Signed by all Australian governments, the 2020–25 Addendum to National Health Reform Agreement aims to improve health outcomes for all Australians and ensure our health system is sustainable.

NDIS Nominee

A nominee under the NDIS is a person who is appointed to act and make decisions for a NDIS participant over the age of 18 years who is deemed unable to make their own decisions.

NDIS Quality and Safeguards Commission (NDIS Commission)

The NDIS Quality and Safeguards Commission works with NDIS participants and providers to improve the quality and safety of NDIS services and supports.

Plan Management

Plan Management is when a provider supports a NDIS participant to manage funding in their individualised NDIS plan, these providers are known as plan managers.

Plan management is different from having the NDIA manage funding in an individualised NDIS plan or choosing to self-manage a plan.

Pro re nata (PRN)

PRN prescription stands for ‘pro re nata’, which means that the administration of medication is not scheduled. A pro re nata (PRN) is a restrictive practice that is used as needed.

United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

The United Nations Convention on the Rights of Persons with Disabilities is an international human rights convention which sets out the fundamental human rights of people with disability.

World Health Organization (WHO)

The World Health Organization is a United Nations agency working to promote health, keep the world safe and serve the vulnerable.

Federal and State and Territory Legislation and Policy Quick Links

The following Australian federal and state/territory legislation and policies contribute to the realisation of the rights for people with disability, aimed at protecting people from discrimination and breaches of human rights.

Federal legislation and policies:

- *Australian Human Rights Commission Act 1986*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Services Act 1986* (Update in progress)
- *National Disability Insurance Services Act 2013*

The disability policy environment has significantly changed in recent years, especially in relation to service delivery, including:

- Launch of the Australia's Disability Strategy 2021-2031
- Launch of the 2020–25 National Health Reform Agreement (NHRA)
- Launch of the National Roadmap for Improving the Health of People with Intellectual Disability
- Implementation of the National Disability Insurance Scheme
- Establishment of the Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS)

- Establishment of the NDIS Quality and Safeguards Commission
- Establishment of NDIS Practice Standards and Quality Indicators

State and Territory legislation and policies:

Australian Capital Territory

- *Disability Services Act 1991*
- ACT Disability Strategy (Development in progress)

New South Wales

- *Disability Inclusion Act 2014*
- NSW Disability Inclusion Plan 2021-2025

Northern Territory

- *Disability Services Amendment Act 2012*
- Northern Territory (NT) Disability Strategy 2022-2032

Queensland

- *Disability Services Act 2006*
- Queensland Disability Plan

South Australia

- *Disability Services Act 1993*
- State Disability Inclusion Plan 2019–2023

Tasmania

- *Disability Services Act 2011*
- Disability Action Plan

Victoria

- *Disability Services Act 2006*
- Inclusive Victoria: state disability plan (2022–2026)

Western Australia

- *Disability Services Act 1993*
- State Disability Strategy 2020-2030

Useful Reading

- NDIS Quarterly Reports
- NDIS Annual Reports
- NDIS Annual Financial Sustainability Reports
- Aged Care Quality & Safety Commission Code of Conduct for Aged Care

Introduction

What is the purpose of these guides?

The RACP has developed the National Disability Insurance Scheme Guide for Physicians to support RACP members to understand the implications of contemporary disability sector reforms, in particular, the National Disability Insurance Scheme (NDIS).

Why is it important for physicians to understand the National Disability Insurance Scheme (NDIS)?

The NDIS is Australia's first national scheme for people with disability and provides individualised packages of support, directly to people with disability. The NDIS has a broader role in helping people with disability to:

- Access mainstream services, such as health, housing and education.
- Access community services, such as sports clubs and libraries.
- Maintain informal supports, such as family and friends.

The NDIS is not means tested like many other social policy programs, such as Medicare or the Pharmaceutical Benefits Scheme.

There are around 4.4 million people with disability in Australia (July 2022). The NDIS supports more than 550,000 Australians with disability and more than 300,000 of these people are being supported for the first time.[1]

The NDIS commenced as a trial in 2013 and as of 30 September 2022 there were 554, 917 NDIS participants receiving supports through the NDIS.[2] The implementation of the NDIS across Australia has changed the disability interface with existing sectors including health, housing, education and criminal justice and with the wider community.

This NDIS Guide seeks to support RACP members to understand how the NDIS may affect their patients, what roles physicians can take to support their patients to ensure they receive necessary and reasonable supports and services through the NDIS, and the ways in which the NDIS intersects with the health system to ensure the needs of people with disability are met through multiple social systems.

1 Australian Institute of Heath and Welfare (2020). People with disability Australia. [online] Australian Institute of Health and Welfare. Available at: https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/people-with-disability/prevalence-of-disability

2 2021-22 Q4 of Y9 NDIS Quarterly Report to disability ministers (2022). National Disability Insurance Agency [online] Available at: https://www.ndis.gov.au/media/4615/download?attachment?attachment, p.29

Guide 1:

What is the National Disability Insurance Scheme?

What is the National Disability Insurance Scheme?

This section provides information about the National Disability Insurance Scheme (NDIS); how the NDIS is funded; access to the NDIS; the cost of the NDIS and how many NDIS participants receive support from the NDIS.

What is the NDIS?

The NDIS funds the support needs of people with significant and permanent disability which manifests between the ages of 0 to 65 years. The NDIS is a national scheme, available across Australia. The design of the NDIS aims to maintain and enhance people's informal supports, including family and friends, assist people to have greater access to services, and participate in community life. Supporting employment opportunities is also a key goal of the NDIS.

The NDIS is a key part of the ecosystem of supports that Australians with disability rely on. The role of the NDIS is to work with all levels of government, people with disability and the disability sector to build a strong mutual understanding of:

- What is considered a reasonable and necessary support and whether these supports should be provided by the NDIS or other mainstream or community services.
- How the NDIS and other service delivery systems interact and complement one another.
- How to determine the most appropriate funding and service delivery approach.

NDIS Background

The NDIS was established under the *National Disability Insurance Scheme Act 2013 (NDIS Act)*. The NDIS Rules are legislative instruments made under the *NDIS Act* which set out the operational details of the NDIS.

The *NDIS Act* also established the National Disability Insurance Agency (NDIA), the independent statutory agency responsible for administering the NDIS and the NDIS Quality and Safeguards Commission (NDIS Commission) which is an independent agency established to improve the quality and safety of NDIS supports and services.

The *NDIS Act* has had several reviews since being passed in 2013. Most recently it was reviewed (in 2022) to enable the Participant Service Guarantee and clarify information exchange between the NDIA, the NDIS Commission and the States and Territories.

The NDIS is underpinned by an 'insurance-based approach, informed by actuarial analysis, to the provision and funding of supports for people with disability'.[3]

How is the NDIS funded?

The NDIS is funded by Commonwealth and State and Territory governments through a complex set of arrangements established in intergovernmental bilateral agreements. Currently, contributions from States and Territories are capped, with the Australian Federal Government responsible for the remaining costs.

Contributions are outlined in the Bilateral agreements which are due for review in 2023. The scheme has been funded, in part, by increasing the Medicare Levy (in 2014) from 1.5 to 2 per cent.[4]

What is the cost of the NDIS?

The NDIS is a demand driven model. As such, estimating how much it will 'cost' is time sensitive. Recent actuarial estimates suggest that the NDIS will support over 670,400 NDIS participants in 2025 at a cost of $41.4 billion. This is projected to increase to 859,300 people in 2030 with a total funding budget of $59.3 billion.[5] This is further illustrated in Figure 1.

3 Parliament of Australia (2017). The National Disability Insurance Scheme: A Quick Guide. [online] Available at: https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/NDIS

4 Parliament of Australia. Paying for the National Disability Insurance Scheme. [online] https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook45p/NDIS

5 National Disability Insurance Agency (2021). NDIA Board releases Annual Financial Sustainability Report. [online] https://www.ndis.gov.au/news/6931-ndia-board-releases-annual-financial-sustainability-report

Figure 1: Projected NDIS participant costs (cash and accrual basis)

Participant costs ($m)	2021-22	2022-23	2023-24	2024-25	2029-30
Participant Costs (cash basis)					
Participant Costs (0-64)	26,994	30,965	34,345	37,067	51,471
Participant Costs (65+)	1,837	2,464	3,114	3,748	7,012
Total Participant Costs (cash basis)	**28,831**	**33,429**	**37,459**	**40,814**	**58,483**
Total Participant Costs (accrual basis)					
Participant Costs (0-64)	27,359	31,386	34,812	37,569	52,169
Participant Costs (65+)	1,864	2,501	3,161	3,803	7,115
Total Participant Costs (accrual basis)	**29,223**	**33,886**	**37,973**	**41,373**	**59,284**

How many people receive support through the NDIS?

As of March 2023:[6]

592,059 Australians are accessing the NDIS.

13,573 children are receiving support through the NDIS early childhood approach.

297,639 active participants are receiving supports for the first time.

What are the key components of the NDIS ?

The NDIS is made up of two key parts:

1. Individual NDIS plans (sometimes known as individual funded packages) which provide reasonable and necessary supports for eligible people with disability.
2. Information, Linkages and Capacity Building (ILC).

Both parts work together to support people with disability and their families and carers. The intent is that people with disability will use the same services and take part in the same activities as everyone else in the community and rely less on paid support over time.

6 Report to disability ministers for Q3 of Y10 Full Report (2023). National Disability Insurance Agency [online] Available at: https://www.ndis.gov.au/media/6006/download?attachment p.15-16

Guide 2:

What are the roles of the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission?

What are the roles of the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission?

This section outlines the key functions of the National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (NDIS Commission).

What role does the NDIA have in relation to the NDIS?

The NDIA is the government agency responsible for administering the NDIS. The roles and responsibilities of the NDIA are set out in Section 117 of the *National Disability Insurance Scheme Act 2013*. The NDIA has a Board of Directors who are responsible for the governance of the NDIA and the Board holds the following key responsibilities:

- To ensure the proper, efficient and effective performance of the NDIA's functions.
- To determine objectives, strategies and policies to be followed by the NDIA.
- Any other functions conferred on the Board by or under: a) the *NDIS Act 2013*, the regulations or an instrument made under this Act; or b) any other law of the Commonwealth.

What are the key functions of the NDIA?

The NDIA is responsible for the following functions to deliver the NDIS:

- Manage, advise and report on the financial sustainability of the NDIS.
- Develop and enhance the disability sector.
- Build community awareness of disabilities and the social contributors to disability.
- Collect, analyse and exchange data about disabilities and supports for people with disability.
- Undertake research relating to disabilities, supports for people with disability and social contributors to disability.

What role does the NDIS Commission have in relation to the NDIS?

The NDIS Commission is an independent agency established to improve the quality and safety of NDIS supports and services under the *National Disability Insurance Scheme Act 2013*.

The NDIS Commission oversees:

- Registration and regulation of providers.
- Compliance with the NDIS Practice Standards and Code of Conduct.
- Complaints about NDIS services and supports.
- Reportable incidents, including abuse and neglect of a NDIS participant.
- Use of restrictive practices.
- Nationally consistent NDIS worker screening.

What are the key functions of the NDIS Commission?

The NDIS Commission:

- Responds to concerns, complaints and reportable incidents, including abuse and neglect of NDIS participants.
- Promotes the NDIS principles of choice and control and works to empower NDIS participants to exercise their rights to access quality services as informed, protected NDIS participants.
- Requires NDIS providers to uphold NDIS participants' rights to be free from harm.
- Registers and regulates NDIS providers and oversees the new NDIS Code of Conduct and NDIS Practice Standards.
- Provides guidance and best practice information to NDIS providers on how to comply with their registration responsibilities.
- Monitors compliance against the NDIS Code of Conduct and NDIS Practice Standards, including undertaking investigations and taking enforcement action.
- Monitors the use of restrictive practices within the NDIS with the aim of reducing and eliminating such practices.
- Works in collaboration with States and Territories to design and implement nationally consistent NDIS worker screening.
- Focuses on education, capacity building and development for people with disability, NDIS providers and workers.
- Facilitates information sharing with the NDIA, State and Territory authorities and other Commonwealth regulatory bodies.

What is the difference between the NDIS Commission, the NDIS and the NDIA?

In summary, the **NDIS** is a national scheme, governed by the *National Disability Insurance Scheme Act 2013*.

The **NDIA** is the Commonwealth agency responsible for delivering the NDIS. The NDIA's focus is on:

- Providing individualised NDIS plans for people with disability.
- Coordinating service bookings, payments and access to individualised NDIS plans for providers.

The NDIA will also detect and investigate allegations of fraud.

The **NDIS Commission** is an independent agency established to improve the quality and safety of NDIS supports and services. The NDIS Commission does not regulate the NDIA. Complaints about the NDIA or individualised NDIS plans should be made directly to the NDIA.

What are the NDIA's privacy obligations?

The NDIA operates under specific privacy obligations to respect and protect the privacy of NDIS participants of the scheme. These obligations are detailed in the NDIS Privacy policy which adheres to the obligations outlined in the *Commonwealth Privacy Act 1988* ***(Privacy Act)*** and any applicable State or Territory privacy laws.

The *Privacy Act* allows the NDIA to collect and hold personal information to enable people with disability to access the NDIS and for the NDIA to exercise their broad ranging responsibilities. The type of information the NDIA collect and hold includes a person's name, gender, date of birth, contact details, disability, limited medical history, ethnic background and other information where this relates to a person's eligibility to access reasonable and necessary supports and services under the NDIS.

The NDIA collect and hold personal information in relation to NDIS participants after they have gained consent from the individual and/or their guardian or decision-maker. This information can be collected from the individual and their family or carer or from third parties where consent has been provided. Third parties may include specialist disability service providers or health professionals who are involved in the person's care.

Can the NDIA discuss a NDIS participant with third parties?

In relation to the personal information of NDIS participants, the NDIA are ordinarily not able to disclose this information to third parties without the consent of the NDIS participant.

As part of applying to become a NDIS participant, the NDIA will seek consent to share personal information with third parties, such as health professionals, to assess whether access requirements are met.

If a NDIS participant or their nominee would like the NDIA to share information with other parties, they will first have to nominate what information can be shared and to whom this

information can be provided. Otherwise, the NDIA must protect NDIS participants' personal information from misuse, loss, unauthorised access, modification or disclosure.

A NDIS participant will have an individualised NDIS plan developed which provides details on reasonable and necessary supports the person is eligible for in relation to their needs and goals. The NDIA will also seek consent to share necessary information to implement the individualised NDIS plan, however the plan belongs to the NDIS participant and who they share their plan (or parts of their plan) with is their choice. Specialist disability service providers and other stakeholders, including health professionals cannot access a NDIS participant's individualised NDIS plan unless the person (or their nominee) has provided their consent for this to occur.

Under what circumstances can the NDIA disclose a NDIS participant's personal information?

The NDIA ordinarily will not disclose a NDIS participant's information however this can occur under specified circumstances. The NDIA Privacy Policy outlines the conditions under which disclosures can be made. Under the Bilateral Agreements between State or Territory governments there are provisions for State or Territory government officials to access a NDIS participant's information. These provisions are in place due to the specific role of States and Territories in the implementation of the NDIS.

The NDIA collect, hold, use and disclose personal information for the purpose of providing services, including implementing the NDIS, conducting operations, communicating with NDIS participants and health service providers, conducting research and evaluation on the NDIS, and complying with legal obligations.

Guide 3:

How does the NDIS support all Australians with disability?

How does the NDIS support all Australians with disability?

This section discusses Australia's Disability Strategy 2021-31 and explains the purpose of the Information, Linkages and Capacity Building (ILC) framework which is an integral part of the overall structure of the NDIS.

Australia's Disability Strategy

Australia's Disability Strategy 2021-2031 (ADS) has been developed to guide public policy across governments in Australia and aims to bring about change in all mainstream services and programs, as well as community infrastructure, so that people with disability have the same opportunities as other Australians. The ADS replaced the National Disability Strategy 2010-2020, which represented, for the first time, all levels of government committing to a national approach to supporting inclusion for people with disability.

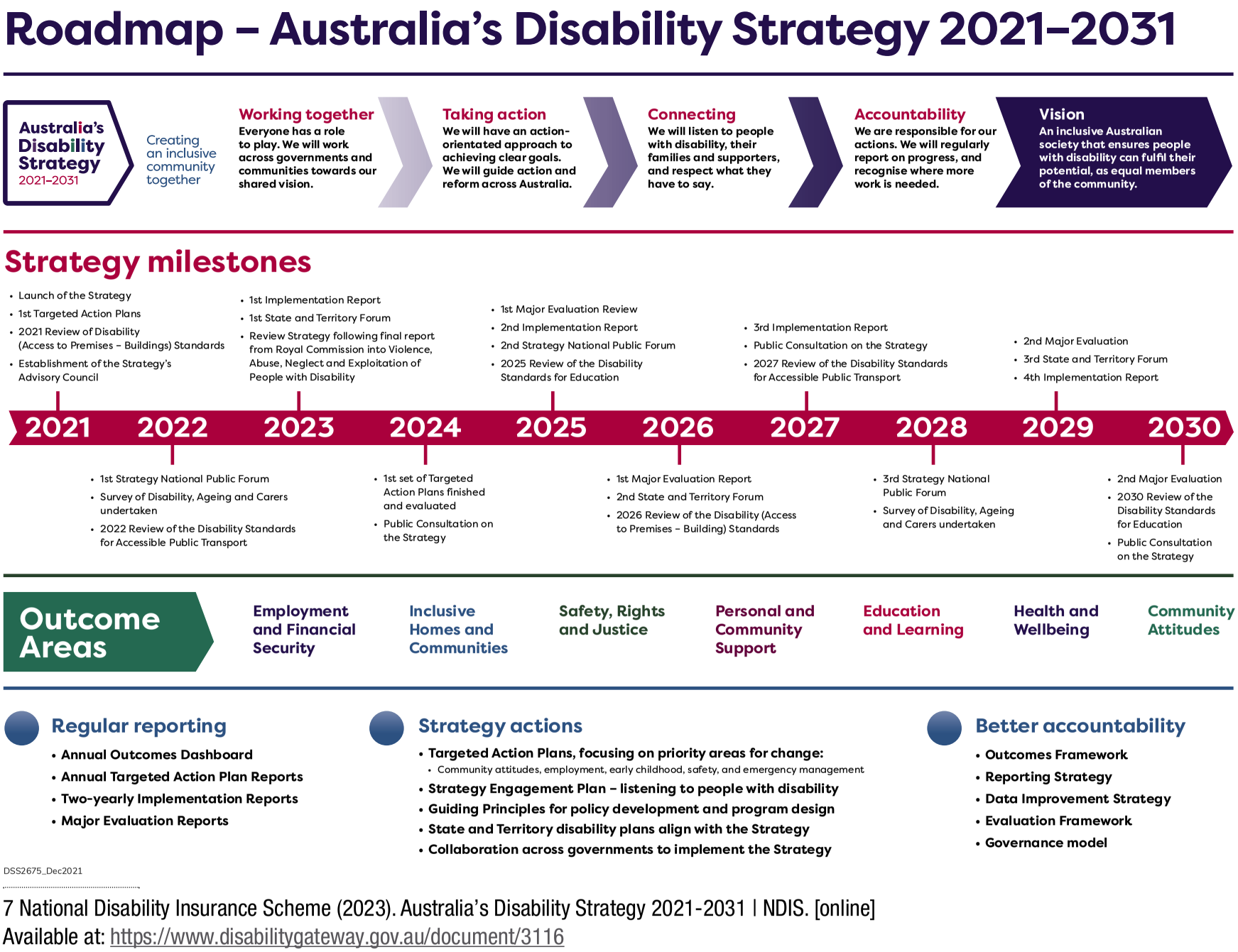
The ADS vision is for an inclusive Australian society that ensures people with disability can fulfil their potential, as equal members of the community, and will play an important role in protecting, promoting and realising the human rights of people with disability. The ADS sets out practical changes Australia can make to improve the lives of people with disability. The ADS aims to:

- Provide national leadership towards greater inclusion of people with disability.
- Guide activity across all areas of public policy to be inclusive and responsive to people with disability.
- Drive mainstream services and systems to improve outcomes for people with disability.
- Engage, inform and involve the whole community in achieving a more inclusive society.

To drive action toward these goals, the ADS has seven outcome areas (refer to Figure 2):

1. Employment and Financial Security.
2. Inclusive Homes and Communities.
3. Safety, Rights and Justice.
4. Personal and Community Support.
5. Education and Learning.
6. Health and Wellbeing.
7. Community Attitudes.

Figure 2: Roadmap – Australia's Disability Strategy 2021-2031 [7]



7 National Disability Insurance Scheme (2023). Australia's Disability Strategy 2021-2031 | NDIS. [online] Available at: https://www.disabilitygateway.gov.au/document/3116

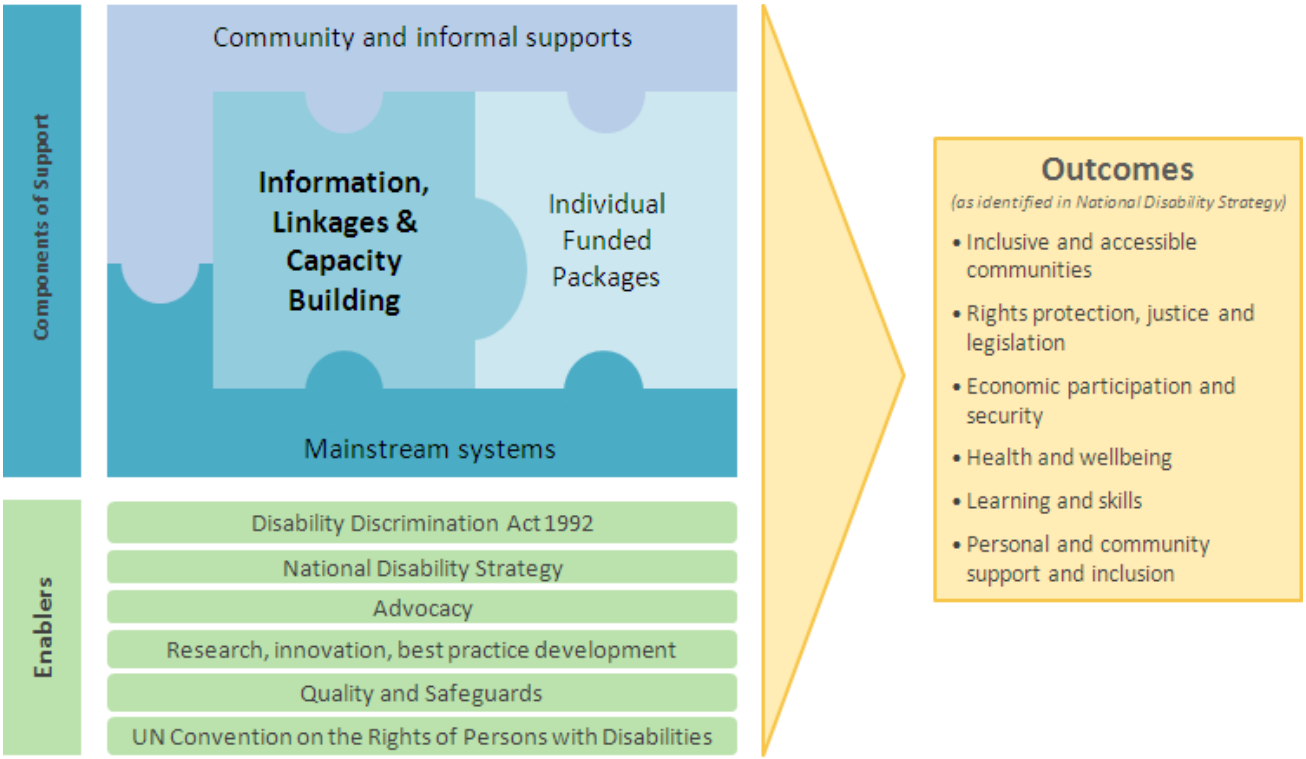
Information, Linkages and Capacity Building (ILC)

The ILC framework's fundamental purpose is to provide a range of non-individualised supports to people with disability.

The ILC framework is designed to connect people with disability, their families and carers, to disability and mainstream supports in their community. The ILC framework recognises that most people with disability do not fit the eligibility criteria to receive an individualised NDIS plan. Most people with disability will be ineligible for NDIS individual funding packages because their disability is considered by the NDIA to not have a substantial impact on their functioning or social and economic participation. If a person is not eligible for an individualised NDIS plan, they can access assistance from the scheme through the ILC framework.

Figure 3 shows how ILC connects and intersects with community based and informal supports, mainstream service systems and individual funded packages to ensure that people with disability are supported and can participate within their communities both economically and socially.[8]

Figure 3: Disability Support System



8 Department of Social Services (2020). A Framework for Information, Linkages and Capacity Building Overview. [online] Available at: https://www.dss.gov.au/sites/default/files/documents/10_2020/ndia-website-ilc-policy-framework.pdf

What is the ILC program?

The ILC Framework includes a program and investment strategy. The scope and purpose of the ILC program is outlined in the ILC Program and the ILC Investment Strategy. The ILC Program groups activities into five streams as follows:

1. **Information, linkages and referrals:** This area is about making sure that people with disability and their families and carers have access to up-to-date, relevant and quality information. It is also about making sure they are linked into services and supports in the community that meet their needs.
2. **Capacity building for mainstream services:** This area is about making sure mainstream services have the knowledge and skills they need to meet the needs of people with disability. Mainstream services are those things usually funded by government such as education, transport and health.
3. **Community awareness and capacity building:** This area is about making sure community activities and programs understand the needs of people with disability and have the skills and knowledge they need to be more inclusive for people with disability.
4. **Individual capacity building:** This area is about making sure people with disability have the knowledge, skills and confidence they need to set and achieve their goals.
5. **Local Area Coordination:** Local Area Coordination (LAC) is delivered by partners in the community. LACs are skilled at working with people with disability who come from diverse backgrounds. The key functions of the LAC role includes:
   - Working directly with people who have a individualised NDIS plan to connect them to mainstream services and community activities who will assist them to put their plan into action.
   - Providing short term assistance to people who do not have an individualised NDIS plan to connect them to mainstream services and community activities.
   - Working with local communities to make activities and programs more accessible and inclusive for people with disability.

LAC alone, however, cannot meet the needs of everyone and supporting the activities in the other four streams will support and strengthen the work of the LACs. LAC is implemented by the NDIA separately to the other four streams or activity areas which are managed by the Department of Social Services. Since 2019, ILC activities have been funded under four key program areas:

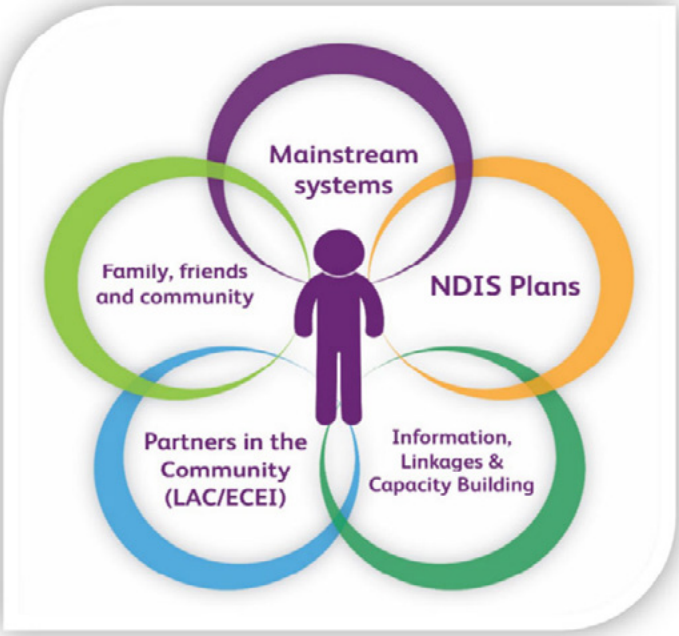
1. **Individual Capacity Building Program:** Designed to enable systematic access to peer support, mentoring and other skills building for people with disability, families and carers, delivered by Disabled Peoples Organisations and Families Organisations (DPOs/FOs). These are organisations run by and for people with disability.
2. **National Information Program:** Aims to ensure people with disability, their families and carers have access to up-to-date, relevant information linking them to supports and services in the community through a national core of high-quality disability information products covering different disability types and disability support options in a variety of formats.

3. **Economic and Community Participation Program:** Aims to connect people with disability to activities, employment and community supports and opportunities; helping communities and employers to be inclusive and responsive to people's needs locally, and nationally.
4. **Mainstream Capacity Building Program:** Designed to build the capacity, knowledge, skills, practices and cultures of mainstream services so they have the skills to meet the needs of people with disability through short term catalyst investments. Targeting access and improving use of mainstream services by people with disability, to improve life outcomes.

How does the ILC fit into the bigger picture?

ILC Partners in the community, LACs, Early Childhood Partners (ECP) and individualised NDIS plans are designed to work together to support people with disability. However, the NDIS in isolation from the contributions of wider community and mainstream services will not be enough to ensure that people with disability receive the same life opportunities as other people. Figure 4[9] illustrates the interrelationships between a person with disability, elements of the NDIS, the wider community and mainstream services.

Figure 4: Services working together to support people with disability



What approach does the NDIA take to early childhood intervention?

The insurance approach of the NDIS provides for a unique response to children aged 0-6 years who have disabilities or developmental delay. The Early Childhood Approach (ECA) (formerly known as Early Childhood Early Intervention (ECEI)) articulated by the NDIA intends to enable

9 Department of Social Services (2020). A Framework for Information, Linkages and Capacity Building Overview. [online] Available at: https://www.dss.gov.au/sites/default/files/documents/10_2020/ndia-website-ilc-policy-framework.pdf, p. 13

timely access to best-practice early intervention options for young children. The scheme recognises that the right intervention at the right time and for the right length of time will ensure the most optimal outcomes for children in the longer term.

The ECA has been designed using evidence-informed research adopting a family-centered approach that aims to build on the strengths and capacities of families and carers. The ECA recognises the importance of family decision-making and the values and needs of the whole family when considering the child's development. Children who do not fully meet the definition of developmental delay and have developmental concerns are also supported through the ECA.

The NDIA's approach to supporting children and their families and carers has undergone significant review since its introduction in 2016. This review has seen several changes implemented including the renaming of the approach. One of the most significant changes has seen the age range expanded from children younger than 7 years of age to children younger than 9 years of age.

ECPs play a central role in delivering the ECA under the NDIS. Early childhood partners also develop early connections with children who are not eligible for the NDIS. Interventions are aimed at providing connections so timely access to supports for children with delays in their development or with disability can occur.

Early connection supports provided by ECPs can include:

- Referrals and supports to access local mainstream and community activities and services such as Community Health Services, playgroups or peer support group.
- Identifying if a child may benefit from short-term intervention and provide those services if needed. For example, if a child has developmental delay with a primary speech delay, speech therapy can be provided by the early childhood partner which, over time, will assist to inform the child's longer-term support needs.
- Identifying that a child requires long-term specialised early childhood intervention supports and assisting the family to request access to the NDIS.

The ECA utilises existing referral pathways into early childhood intervention including through maternal child health, child and family health nurses, paediatricians and General Practitioners. Families and carers are also able to self-refer to ECPs in their local area.

As of March 2023, a total of 13,940 children were accessing early connections.[10]

How does the NDIS intend to respond to demand for services and supports?

The NDIS is the largest social reform in Australia since the introduction of Medicare in the mid-1970s. The NDIS is not a government controlled social welfare scheme, rather it is intended to be a consumer-controlled marketplace and will have enormous growth potential. The history of the disability sector has been built upon a welfare model in which services have been largely

10 Report to disability ministers for Q3 of Y10 Full Report (2023). National Disability Insurance Agency [online] Available at: https://www.ndis.gov.au/media/6006/download?attachment

programmatic and disability service providers have been block funded by governments to deliver these programs.

The landscape has been steadily reshaped into a competitive market with competitive business models underpinned by customer driven service provision. The customisation of services is expected to respond to the individual needs and preferences of NDIS participants of the scheme as they exercise their purchasing power in the marketplace.

How does the NDIA intend to carry out its role as market steward?

The vision for the NDIA in its role as market steward, is that Australians with disability can access support from innovative providers and skilled workers. This will support people with disability to achieve their goals around independence, community involvement, education, employment, and health and wellbeing.[11]

There are four key guiding principles:

1. Participant-centered.
2. Collaborative.
3. Transparent.
4. Innovative.

The NDIA take responsibility as a market steward to support the development of a new disability marketplace.

As NDIS experience has grown, the NDIA has identified a variety of mechanisms to support NDIS participants' access to the services that they need. These include: [12]

- Improving plan implementation.
- Improving information signals.
- Market facilitation by undertaking specific actions that improve the connection between providers and NDIS participants.
- Coordinated funding proposals.
- Commissioning and direct commissioning to ensure that services and supports are available for NDIS participants in a given market and other levers are unlikely to achieve a sustainable improvement.

In its market facilitation role, the NDIA is currently setting and regulating prices for services and supports under the NDIS. An "efficient price" is being used as a driver to build a competitive market for services and supports. Service providers cannot, for example, charge a "gap fee"

11 Department of Social Services (2021). NDIS Market Roles and Responsibilities | Department of Social Services, Australian Government. [online] Available at: https://www.dss.gov.au/disability-and-carers-programs-services-government-international-disability-reform-council-reports-and-publications/ndis-market-roles-and-responsibilities

12 National Disability Insurance Scheme (2023). Market monitoring | NDIS. [online] Available at: https://data.ndis.gov.au/reports-and-analyses/market-monitoring

between their cost and what the NDIA is prepared to pay for supports included in a person's individualised NDIS plan. The NDIA has signaled its intent to deregulate pricing with the intention to increase competition and stimulate innovation and evolution in the supply of services, however no timeframe has been announced. To support the understanding of market gaps, create a level of certainty for the existing market, and demonstrate new opportunities for new entrants, the NDIA undertakes market monitoring to compare a range of market indicators across a geographical region or NDIS participant cohort. This information is available through a series of market data dashboards.[13]

Market indicators include:

- Plan utilisation.
- Market concentration.
- NDIS participants per provider.
- Provider growth and shrinkage.

The NDIA seeks to supply NDIS participants with existing providers and potential new entrants.

Does the NDIS Commission have a market stewardship role?

The NDIS Commission has a role in overseeing the market through collecting, analysing and advising on trends and changes to the NDIS market. This includes highlighting emerging benefits and risks, trends in service delivery, and issues with the quality-of-service provision.

It is also likely that the recommendations arising from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Australian Government's NDIS Review, will have an impact on the disability services market.

What are the opportunities and growth potential for the market?

Since the implementation of the NDIS there has been substantial growth in the number of providers offering NDIS supports and services. This growth is likely to continue as demand for and investment in supports and services increases. Substantial investment has and will continue to incentivise new entrants to the disability market and promote competition, efficiency and service options that provide value for money to existing and prospective customers.

13 National Disability Insurance Scheme (2023). Market monitoring | NDIS. [online] Available at: https://data.ndis.gov.au/reports-and-analyses/market-monitoring

Guide 4:

What are the key legislation, policies and principles that underpin the NDIS?

What are the key legislation, policies and principles that underpin the NDIS?

This section summarises the policy instruments that shape the disability landscape and outline the values and philosophical underpinnings of the NDIS.

What policy instruments are influencing the disability context?

The key international policy instrument influencing the disability landscape is The United Nations (UN) 'Convention on the Rights of Persons with Disabilities' (UNCRPD) and its Optional Protocol was adopted by the UN in 2006. Australia's ratification of the UNCRPD in 2008 reflects the Australian Government's commitment to act and support a coordinated plan across all levels of government to improve the lives of people with disability, their families and carers.

The UNCRPD is a human rights instrument and seeks to reaffirm that all people with disability must enjoy all human rights and fundamental freedoms. The UNCRPD challenges historical paradigms that viewed people with disability as 'objects' of charity, medical treatment and social protection and in contrast positions people with disability as 'subjects' with human rights equal to all others. The UNCRPD makes explicit that adaptations must be made where this is necessary to enable people to exercise their rights; where rights have been violated; and where rights must be reinforced.

The UNCRPD Principles include:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.
2. Non-discrimination.
3. Full and effective participation and inclusion in society.
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.
5. Equality of opportunity.
6. Accessibility.
7. Equality between men and women.
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Nationally, Australia's Disability Strategy 2021-2031 is a cornerstone in shaping public policy across governments in Australia, with targeted outcome and policy areas. Additionally, there are also key federal and State and Territory legislation that shape the disability landscape in Australia, all of which aim to protect people from discrimination and breaches of human rights.

More information provided in National and State and Territory Legislation Information Quick Links.

What are the key principles the NDIS is built upon?

The NDIS operates under a set of principles to guide their approach to funding supports and services for NDIS participants.[14]

Rights: People with disability have the same right as other members of the Australian society to realise their potential for physical, social, emotional and intellectual development and should be supported to participate in and contribute to social and economic life. In addition to this, it is important that people with disability and their families and carers should have certainty that people with disability will receive the care and support they need over their lifetime. People with disability have the same right to respect for their worth and dignity and to live free from abuse, neglect and exploitation.

Choice and control: People with disability can choose and control how, where and when their reasonable and necessary supports are provided. People with disability have the same right to be able to determine their own best interests, including the right to exercise choice and control, and to engage as equal partners in decisions that will affect their life.

Suit individual circumstances and individualised funding: People with disability get reasonable and necessary supports they need to pursue their goals, to be more independent and to participate in the community.

Take a lifetime view: Planning looks beyond immediate needs to what is needed across a person's lifetime. This includes goals and aspirations, living arrangements, informal supports and carers' circumstances. It also includes making early investment where this reduces needs and costs over someone's lifetime. Support arrangements can be changed as goals, preferences and needs change over time.

Insurance-based approach: This is sometimes referred to as spreading the cost and sustainable funding, i.e. the costs of disability services and supports are shared across the community. Insurance approaches are also used to estimate the cost of reasonable and necessary supports and manage costs to make sure the NDIS is sustainable.

14 *National Disability Insurance Scheme Act. 2013*. [online] Available at: https://www.legislation.gov.au/Details/C2013A00020

How does the NDIA apply a person-centred approach to NDIS participants?

The NDIA assumes a person-centred approach to the provision of their services to NDIS participants. A person-centred approach is one in which a person with disability has the same right as other members of Australian society to be able to determine their own best interests and to engage as equal partners in decisions that will affect their lives. This approach aims to ensure that the person's needs and preferences are a driving force behind decisions and planning that occurs in relation to them. As articulated in the National Standards for Disability Services:

> "Person-centred approaches ensure that individuals are in the centre of service design, planning, delivery and review. Individuals shape and direct service and support arrangements to suit their strengths, needs and goals with the support of families, friends, carers and advocates". [15]

The NDIA applies the principle of choice and control in relation to NDIS participants' supports and services. In addition, the NDIA provides funding for supports and services that suit individual circumstances through individualised funding. This combination of principles enables the NDIA to take a person-centred approach with NDIS participants. This approach also facilitates empowerment of people with disability as they are positioned to make their own decisions in relation to purchasing their preferred supports and services from their preferred suppliers.

The NDIA also values the principle of least restrictive alternative, which refers to decision-making and practice that favours changing or modifying an environment to enable a person to participate as much as possible with the least restrictions possible. This is a guiding principle to ensure that people with disability have the same opportunities as others to participate in normal community activities such as living, education, employment and recreation.

How does the NDIS incorporate the principle of taking a lifetime view?

Investing in early intervention is a key design principle in the NDIS to ensure people with disability receive the supports they require at the right time to assist a person to lead

15 Department of Social Services (2013). National Standards for Disability Services | Department of Social Services, Australian Government. [online] Available at: https://www.dss.gov.au/sites/default/files/documents/05_2021/nsdsfullversion-may-2021.pdf, p. 9

a more independent life and reduce the amount of support the person may require in the long term. Early intervention is built into several Objects of the *NDIS Act 2013* that are there to:

- Support the independence and social and economic participation of people with disability.
- Provide reasonable and necessary supports, including early intervention supports, for NDIS participants.
- Enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports.
- Facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability.
- Promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the mainstream community.

What are the insurance-based principles on which the NDIS is built?

The NDIS is based on a social insurance or investment approach to the provision of support and as such there are several insurance principles applied to the design and implementation of the NDIS. Joint funding arrangements mean all governments have a role in considering the operation of the NDIS, monitoring outcomes and overseeing financial sustainability.[16] The NDIS is founded on five insurance principles:[17]

1. Evidence-based decision-making.
2. Consistency in decision-making.
3. Regular monitoring of experience to manage emerging risks.
4. Lifetime and person-centric approach.
5. Early investment to drive lifetime NDIS participant outcomes.

Some of the key elements of these principles are described below.

Actuarial estimate of long-term costs

This estimate will be a living reflection of emerging experience of utilisation and cost and will assist the NDIA Board and the NDIA to ensure the NDIS is financially sustainable. The aggregate annual funding requirement will be estimated by the NDIS Actuary's analysis of reasonable and necessary support need, including a buffer for cash flow volatility and uncertainty. The aggregate funding requirement will comprise equitable resource allocation at an individual and sub-group level and will be continually tested against emerging experience. This will require a comprehensive longitudinal database.

16 National Disability Insurance Agency (2022). National Disability Insurance Agency Corporate Plan 2022-26. [online] Available at: https://www.ndis.gov.au/media/4720/download?attachment, p. 8

17 Department of Social Services (2021). NDIS Market Roles and Responsibilities | Department of Social Services, Australian Government. [online] Available at: https://www.dss.gov.au/disability-and-carers-programs-services-government-international-disability-reform-council-reports-and-publications/ndis-market-roles-and-responsibilities

Long-term view of funding requirements and early investment

Unlike historic welfare schemes, the NDIS will focus on lifetime value for NDIS participants, and will seek to maximise opportunities for independence, and social and economic participation, with the most cost-effective allocation of resources.

Investment in research, innovation and outcome analysis to inform evidence base

The NDIA will support insurance-based governance through a long-term approach with the objective of social and economic participation, and independence and self-management, for NDIS participants. One example of this is the development and implementation of the NDIS Outcomes Framework. This measures NDIS participant experiences longitudinally as they enter the NDIS and as individualised NDIS plans are reviewed. It takes a lifespan approach recognising that different outcomes will be important at different stages of a NDIS participant's life. Information is collected across the following domains:

- **Choice and Control:** Includes independence, decision-making and whether the NDIS participant would like to have more choice and control in their life.
- **Relationships:** Relates to whether a NDIS participant has someone to call on for practical advice or emotional support, about contact with family and friends and about relationships with staff.
- **Health and Wellbeing:** Relates to health, lifestyle and access to health services.
- **Work:** Explores NDIS participant's experiences in the workforce and goals for employment.
- **Daily Living Activities:** Explores how independent NDIS participants are in nine areas of daily living, for example shopping and home cleaning.
- **Home:** Relates to NDIS participant's satisfaction in their home now and in five years' time, and whether they feel safe.
- **Lifelong Learning:** Includes education, training and learning experiences.
- **Social, Community and Civic Participation:** Relates to hobbies, volunteering, involvement in community, voting, leisure activities and whether the participant feels they have a voice.

An analysis of participant outcomes is included in NDIS Quarterly reports. Additionally, a Research and Evaluation Strategy has been developed.

Guide 5:

What does the NDIS provide?

What does the NDIS provide?

This section discusses reasonable and necessary supports and the NDIS Outcomes Framework.

The NDIS provides funding to eligible people with disability to gain more time with family and friends; experience greater independence; have access to new skills, jobs, or volunteering in their community, and enjoy an improved quality of life.

The NDIS also connects people with disability to services in their community. This may include connections to community groups, sporting clubs, support groups, libraries and schools, as well as providing information about what support is provided by each State and Territory government.

The NDIS is not responsible for provision of income to NDIS participants. The income needs of Australians with disability will be met through other means, including the Commonwealth's income support system.

What is meant by reasonable and necessary supports?

The NDIS funds a range of supports and services which may include education, employment, social participation, independence, living arrangements, and health and wellbeing.

In order to be considered reasonable and necessary, a support or service:[18]

- Must be related to a NDIS participant's disability.
- Must not include day-to-day living costs not related to the NDIS participant's disability support needs, such as groceries.
- Should represent value for money.
- Must be likely to be effective and beneficial for the NDIS participant.
- Should consider support given by other government services and systems; informal supports such as family, carers, networks, and support from the community.

How does the NDIA know what is reasonable and necessary?

The NDIA makes decisions based on the *National Disability Insurance Scheme Act 2013* and Rules made under the Act. The NDIA operational guidelines also provide practical guidance for decision-makers. When the NDIA makes decisions about which supports would be reasonable and necessary for a NDIS participant, they refer to the operational guideline that relates to each specific support.

18 National Disability Insurance Scheme (2023). Supports funded by the NDIS. [online] Available at: https://ndis.gov.au/understanding/supports-funded-ndis

What types of supports will the NDIS fund for NDIS participants?

The NDIA Price Arrangements and Pricing Limits provide a comprehensive and itemised list of the supports the NDIS will fund. They are a useful resource for practitioners and patients, particularly when patients request assistance with pre-planning activities before they meet with the NDIA to develop their individualised NDIS plan.

Funded supports fall into 15 categories aligned with their purpose:

1. Assistance with Daily Life
2. Transport
3. Consumables
4. Assistance with Social & Community Participation
5. Assistive Technology
6. Home Modifications (including Specialist Disability Accommodation)
7. Coordination of Supports
8. Improved Living Arrangements
9. Increased Social and Community Participation
10. Finding and Keeping a Job
11. Improved Relationships
12. Improved Health and Wellbeing
13. Improved Learning
14. Improved Life Choices
15. Improved Daily Living.

The NDIS would typically not fund a requested support if it:

- Is likely to cause harm to the NDIS participant or others.
- Is not related to the NDIS participant's disability.
- Provides the same benefit as another support already funded by the NDIS in their individualised NDIS plan.
- Relates to a day-to-day living cost (for example, rent, groceries or utility costs) that are not directly related to the NDIS participant's disability support needs (NDIS Supports for Participants Rule 5.1(d)).
- Is being used as income replacement (NDIS Supports for Participants Rules 5.3(b)).

How are supports structured within the NDIA Price Guides?

NDIS participants choose and pay for supports and services out of an individually allocated budget based on their goals. There are different ways in which funding can be managed; whichever way funding is managed it will have an impact on the way providers receive funding for the supports they deliver to NDIS participants.

Supports and services for NDIS participants fall into three categories:

1. **Core:** A support that helps a NDIS participant complete daily living activities.
2. **Capital:** A support for an investment, such as assistive technologies, equipment and home or vehicle modifications, or funding for capital costs (e.g. to pay for Specialist Disability Accommodation).
3. **Capacity building:** A support that helps a NDIS participant build their independence and skills.

More information about the type of supports that the NDIS may fund is available in the NDIS Pricing Arrangements and Price Limits.

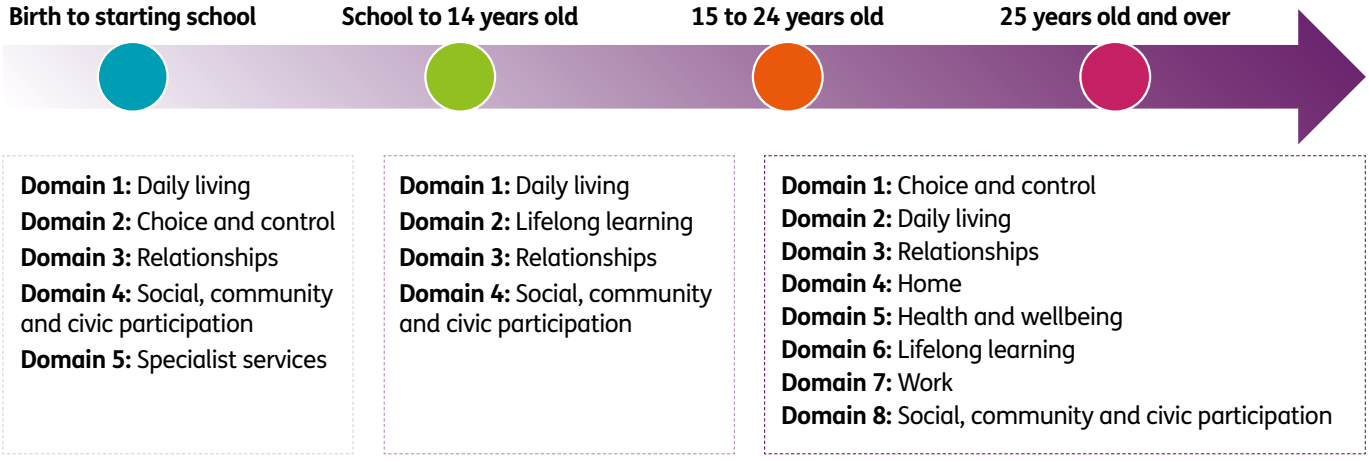
The NDIS Outcomes Framework

The NDIS Outcomes Framework takes a lifespan approach to measuring NDIS participants' outcomes by looking at a range of indicators across each stage of life, see Figure 5.

Figure 5: The NDIS Outcomes Framework[19]

A lifespan approach to measuring participants' goals and outcomes across main life domains has been used.

Lifespan approach: four age-based cohorts



While most domains overlap, goals and outcomes may differ depending on the age group.

This approach facilitates monitoring of participants' progress over time, as well as benchmarking to Australians without disability and to other OECD countries.

How does the NDIS Outcomes Framework relate to NDIS supports?

An annual survey is undertaken to collect information on how NDIS participants, their families and carers are progressing in different areas of their lives. The responses help identify the types of supports that lead to good outcomes for NDIS participants and to improve the NDIS.

19 NDIS Participant Outcomes Summary pg 5 [online] Available at https://data.ndis.gov.au/reports-and-analyses/outcomes-and-goals/previous-participant-outcomes-reports/participant-outcomes-30-june-2021

Guide 6:

What are the NDIS eligibility requirements?

What are the NDIS eligibility requirements?

This section discusses the criteria that people with disability need to fulfill to access an individualised funding package from the NDIS.

Eligibility criteria requirements to access the NDIS as a NDIS participant

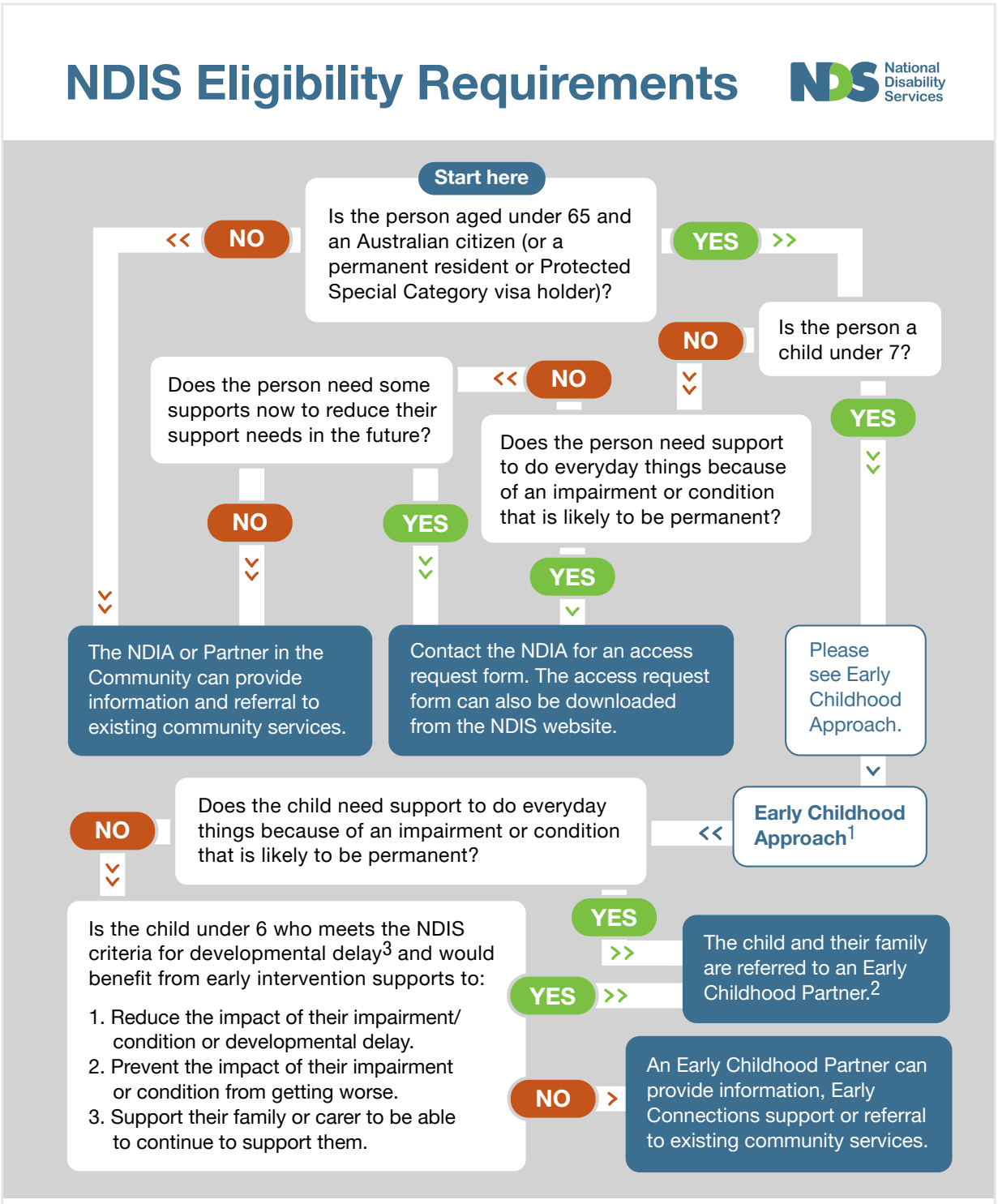
Eligibility for the NDIS depends on three access criteria that are legislated in the *National Disability Insurance Scheme Act 2013* and supplementary National Disability Insurance Scheme (Becoming a Participant) Rules 2016. The criteria are designed to determine whether people with disability have one or more permanent impairments that have consequences for their daily living and social and economic participation. The three access criteria a person must satisfy include:

1. Age requirement - are aged under 65 when the access request is made.
2. Residence requirement - are an Australian citizen, permanent resident or special category visa holder who is residing in Australia.
3. Disability requirement – satisfy either the permanent and significant disability or early intervention requirements.

The NDIA's Operational Guideline – Applying to the NDIS contains detailed policy information about the criteria that must be established to determine if a person is eligible to access the NDIS as a NDIS participant. Once a person has been deemed eligible and becomes a NDIS participant, the person will generally be a NDIS participant for life, however they will need to continue to meet the eligibility criteria. However, where the NDIS participant is over the age of 65 and permanently enters residential aged care, they will no longer be an NDIS participant. Figure 6 provides an overview of NDIS eligibility requirements.[20]

20 Source - graphic created by National Disability Services based on information from the NDIA Operational Guideline – Access to the NDIS

Figure 6: NDIS Eligibility Requirements



1. More information about the Early Childhood Approach including the role of Early Childhood Partners and Early Connections can be located at https://ourguidelines.ndis.gov.au/early-childhood/early-childhood-approach
2. Physicians, GP's or maternal health professional can refer through existing referral pathways into early childhood intervention or families can self refer to their early childhood partner or make contact with the NDIS to be directed to their Early Childhood Partner.
3. More information about the NDIS criteria for developmental delay is located at https://ourguidelines.ndis.gov.au/home/becoming-participant/applying-ndis/what-about-children-younger-6-developmental-delay

How can a physician assist patients to check their eligibility for the NDIS?

Health professionals may encounter opportunities to support people with disability by assisting them with NDIS eligibility and access matters. Physicians can assist patients to understand the three access criteria and/or can refer a patient and/or their family or carer to the NDIS Eligibility checklist to enquire about eligibility. Physicians are also able to assist patients to understand whether they meet the disability requirement access criteria. Detailed information is provided below to understand this requirement.

What are the disability requirements that make a person eligible for the NDIS?

To meet the disability requirements, the NDIA must have evidence of all the following:[21]

1. The person's disability is caused by an impairment.
2. The impairment is likely to be permanent.
3. The impairment means that the person has a substantially reduced functional capacity to do one or more daily life activities, including; mobilising, communicating, socialising, learning, self-care and self-management tasks.
4. The impairment affects the person's ability to work, study or take part in social life.
5. The need for NDIS supports is likely to be lifelong.

21 This information has been adapted from Queenslanders with Disability Network. General Practice Toolkit. [online] Available at: https://www.ourphn.org.au/wp-content/uploads/181029_NDIS-toolkit.pdf

What does impairment mean in a NDIS context?

The term "impairment" means a loss of, or damage to, sensory, physical or mental function.[22] The NDIS takes a functional definition of disability that is slightly narrower than that provided in Article 1 of the United Nations Convention on the Rights of Persons with Disabilities.

The NDIA request key pieces of information regarding impairment, relating to:

- **Permanent disability** – evidence that the person has, or is likely to have, a permanent disability or impairment for life.
- **Functional impact** – evidence of the substantial impact the disability or impairment has on the person's day-to-day functioning across one or more of six predetermined areas.
- **Support needs** – what support the person needs related to their functional impact, how much support they need and how often they need the support.

When is an impairment considered permanent?

For the purposes of the NDIS, an impairment is "permanent" if it has not been, and is unlikely to be, substantially alleviated by conventional treatments. Therefore, it is important to summarise a patient's treatment journey to date, i.e. list past and current treatment, along with duration/frequency and treatment response/outcomes. Future treatment options and a patient's likely response to them should also be explained, including the extent to which these treatments are likely to "approach or approaching removal or cure of the impairment".[23] Not having tried all conventional treatments does not automatically preclude a patient from joining the NDIS. If any available treatments have been deemed unsuitable, a clinical rationale from a health professional will need to be presented. Similarly, if there are issues that would prevent a patient from accessing available treatments such as affordability or accessibility these should be highlighted.[24]

Health professionals are required to provide the following information:

- Name of medical condition and resulting impairment.
- Date of diagnosis and how long a patient's functional capacity has been affected by the impairment.
- An indication of whether the condition is terminal or degenerative in nature.

Any existing evidence from a patient's file that confirms the diagnosis (a letter of diagnosis is often the best way to provide evidence of an impairment) should also be provided. If a patient has more than one disability, information is provided for the 'primary disability' only, i.e. the disability with the greatest functional impact day-to-day. However, any other (secondary)

22 Administrative Appeals Tribunal of Australia (2014). Mulligan and National Disability Insurance Agency AATA 374. [online] Available at: http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2014/374.html

23 Administrative Appeals Tribunal of Australia (2022). National Disability Insurance Agency v Davis FCA 1002. [online] Available at: http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2022/1002.html, p. 136

24 Administrative Appeals Tribunal of Australia (2022). National Disability Insurance Agency v Davis FCA 1002. [online] Available at: http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2022/1002.html, p. 139-140

disabilities that also impact day-to-day function needs to be provided as well.

The NDIA must be satisfied that a NDIS participant's impairment/s are, or are likely to be, permanent. In general, impairment is accepted as permanent if:

- There are no appropriate evidence-based treatments that could cure or substantially improve it.
- It does not require further medical treatment or review before it can be demonstrated to be permanent (notwithstanding that it may continue to be treated after its permanency has been medically demonstrated).
- It is of a degenerative nature and medical or other treatment would not, or would be unlikely to, improve the condition.

Please note that impairments may be permanent notwithstanding:

- A variation in intensity (e.g. of a chronic episodic nature); or
- Fluctuating severity of the impact of the impairment on a person's functional capacity; or
- There are prospects that the severity of the impact of the impairment on a person's functional capacity, including their psychosocial functioning, may improve.

If a prospective NDIS participant has multiple impairments the NDIA will assess those impairments separately, however, to satisfy this access criteria the NDIA only needs to be satisfied that at least one of a prospective NDIS participant's impairments are, or are likely to be, permanent.

A focus on functional impact

The NDIS focuses on the level of functional capacity/impact as it relates to disability, specifically in the following activities:

- Mobility;
- Communication;
- Social interaction;
- Learning;
- Self-care; or
- Self-management.

Substantially reduced functional capacity to undertake any one of these activities is considered to affect a person's capacity to participate fully in the social and economic life of the community.

The six NDIS functional domains aim to capture how disability impacts upon all aspects of a person's life. They provide a practical and holistic framework within which to contextualise a person's disability and to understand the type and level of support an individual requires to live well. Physicians only need to complete the domains which are significantly impacted by a patient's impairment. For example, a patient may have substantially reduced function when completing mobility and self-care activities, while other domains may be unaffected or only minimally affected.

It is important in completing the NDIS documentation, to provide evidence that the primary diagnosis substantially reduces the functional capacity in one or more of the following activities.

1. **Mobility:** means the ability of a person to move around the home to undertake ordinary activities of daily living, getting in and out of bed or a chair, leaving the home, moving about in the community and performing other tasks requiring the use of limbs.
2. **Communication:** includes being understood in spoken, written or sign language, understanding others and expressing needs and wants by gesture, speech or context appropriate to age.
3. **Social interaction:** includes making and keeping friends (or playing with other children), interacting with the community, behaving within limits accepted by others, coping with feelings and emotions in a social context.
4. **Learning:** includes understanding and remembering information, discovering new things, practicing and using new skills.
5. **Self-care:** means activities related to personal care, hygiene, grooming and feeding oneself, including showering, bathing, dressing, eating, toileting, grooming, caring for own health care needs.
6. **Self-management:** means the cognitive capacity to organise one's life, to plan and make decisions, and to take responsibility for oneself, including completing daily tasks, making decisions, problem solving and managing finances.

Note: The functional impact needs only to identify significant impairment or capacity in one of the impact areas. A person may satisfy the access requirements regardless of whether the impairment came about through birth, disease, injury or accident.[25] Therefore, the cause of disability or impairment is not a factor in access requirements.

Examples of support include:

- **Mobility:** using public transport, leaving the house, moving around the house, going to the shops, modifications to housing.
- **Communication:** letting other people know needs and wants, assistance to talk with others, following instructions or directions, assistive technology.
- **Social interaction:** initiating conversations, making friends, understanding feelings and interactions, talking to strangers or particular people.
- **Learning:** understanding new things, organising information, memory and planning, studying and attending courses.
- **Self-care:** looking after self, personal hygiene, showering, dressing, toileting, dental/oral hygiene, medication.
- **Self-management:** doing household jobs, budgeting money, problem solving things that arise, making decisions, keeping safe, taking responsibility, looking after nutrition and diet.

25 Administrative Appeals Tribunal of Australia (2015). Mulligan v National Disability Insurance Agency FCA 544. [online] Available at: http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2015/544.html

Early intervention requirements

Some people can become NDIS participants by meeting early intervention requirements which include evidence that:

- The person has an impairment that is likely to be permanent or is a child younger than 6 years old with a developmental delay.
- Early intervention is likely to reduce the need for supports in the future.
- Early intervention is likely to either reduce the impact of the impairment on the person's functional capacity, or support informal supports, such as their family, to build their skills to help the person.
- The early intervention support is most appropriately funded by the NDIS.

Which medical conditions are likely to meet access requirements?

The access process may be streamlined if a person has been diagnosed with certain conditions. These circumstances are not a requirement of eligibility, however, the access request and decision process may be simplified as these conditions are considered likely to meet the disability requirements.

Children under 7 years of age diagnosed with any medical condition on List D of the NDIA's Operational Guideline – Access to the NDIS will satisfy the early intervention requirements, without further assessment required.

People diagnosed with medical conditions in List A of the NDIA's Operational Guideline – Access to the NDIS are likely to meet the disability requirements without being required to provide additional evidence. The conditions listed are considered to cause disability and permanent impairment resulting in substantially reduced functional capacity.

People diagnosed with medical conditions in List B of the NDIA's Operational Guideline – Access to the NDIS are likely to meet the disability requirements however, as the severity of the impairment is variable, they may need to demonstrate as a result of the impairment:

- They have substantially reduced functional capacity or psychosocial functioning,
- Their capacity for social or economic participation is affected, and
- They are likely to require support under the NDIS for the duration of their lifetime.

Guide 7:

How do people apply to the NDIS?

How do people apply to the NDIS?

This section provides information on applying to the NDIS and providing evidence of disability to the NDIA. This section also discusses the NDIS early childhood approach and the Psychosocial Recovery-Oriented Framework.

Applying to the NDIS

People can apply to the NDIS in several ways:

- Contacting a local area coordinator or a local NDIS office who can assist with the application process.
- Contact the NDIS by phone on 1800 800 110.
- Completing a NDIS application form.

How does a person provide evidence of their disability to the NDIA?

To enable the NDIA to determine whether a person with disability satisfies access requirements to the NDIS, the person needs to provide evidence of their disability. The NDIA will seek information in relation to the person's disability that answers the following questions:

- What is the person's disability?
- Is the disability permanent?
- What is the impact of the condition?
- What treatments is the person receiving?

The formal NDIA access process refers to a person with disability and/or their family or carer completing an Access Request Form. The Access Request Form contains a section relating to the provision of evidence of the person's disability. The person can approach their treating doctor or specialist to complete the Professional's Report in Part F of the Access Request Form, the NDIS Supporting Evidence Form or the same evidence via alternative formats. Alternative formats can include copies of assessments, medical reports, medical diagnosis and similar documents. The NDIA provides a range of resources for health professionals to assist patients in completing the Access Request Form.

How can a physician assist patients to apply for the NDIS?

The NDIA advises patients to approach health professionals who:

- Have worked with them for a long time, usually for at least 6 months.
- Are the most appropriate type of professional to give evidence about their impairment.
- Are qualified and registered in their area of practice with the Australian Health Practitioner Regulation Agency (AHPRA) or relevant professional authority.

Tip: The role of a physician in the support of a patient to apply for the NDIS is likely to differ depending on the patient's circumstances, including whether the patient is in a community or inpatient setting. Some patients may benefit from being referred to an independent advocate to assist with gaining access to the NDIS. A list of advocacy organisations funded by the Department of Social Services (DSS) can be found on the DSS website. Further information is also available via the Disability Gateway on 1800 643 787 (Monday to Friday 8.00am to 8.00pm).

What type of information best helps to describe a patient's functional capacity?

A NDIS assessor requires relevant and objective evidence that the patient's impairment has resulted in substantially reduced functional capacity in one or more of the following areas: mobility, communication, social interaction, learning, self-care and self-management.

It is suggested that for each affected life area ('functional domain'), the following is described in simple terms:

- What the patient cannot do without support due to their impairment (provide clear examples).
- How this impacts their day-to-day function, employment and/or interaction with peers and the wider community.
- What supports are already being received (from family/carers, services and community) and how the patient has or has not benefitted.
- The type and intensity/frequency of supports needed and how they will build functional capacity and/or halt the progression of the impairment.
- How these supports will improve social and economic participation.

When completing a response, it is important to remain focused on describing the impairment and its impact, not just the medical condition which led to the impairment. For example, simply stating that the patient had a below-knee amputation due to vascular complications from Type 2 diabetes does not provide sufficient detail for the assessor. In this instance, it is important to state that this physical impairment has led to unstable mobility, so they need help showering, shopping, etc.

When completing the 'Treating Professional' section of the Access Request Form health professionals should keep the following in mind:

- Ensure there is sufficient evidence to validate the diagnosis e.g. attach a letter of diagnosis.
- Ensure sufficient evidence that the impairment is permanent has been provided. For the purposes of the NDIS, an impairment is permanent if it has not been, and is unlikely to be, substantially alleviated by conventional treatments. Therefore, it's important to adequately detail the patient's treatment history.
- Ensure that the functional impact of the impairment has been adequately described. For

each affected functional domain (mobility, communication, social interaction, learning, self-care and self-management), consider what activity limitations the person experiences every day as a result of their disability.

- Ensure evidence of how the impairment has affected the patient's ability to participate in school/study, work or the wider community has been provided (to clearly demonstrate its social or economic impact).
- Consider who is the most relevant healthcare professional to provide this information. This may require referring the patient to the extra support they need to complete the access request.

If the patient has a List A condition, it is not necessary to provide information about functional status unless specifically requested. However, evidence related to diagnosis and treatment is still required.

Tip: The NDIS Website provides guidance on the most appropriate treating health professional and standardised assessments which are considered best practice in providing evidence for a range of primary disabilities.

Example of an Access Request

The patient has a physical disability that means they use a wheelchair and are unable to weight bear without assistance to transfer from their wheelchair into the shower or the toilet. Their disability also means that they have limited movement in their upper limbs, which impacts upon the patient's ability to eat food and means that they cannot dress themselves without assistance. The patient needs support every day to be able to shower, dress, eat and go to the toilet.

How do the access requirements vary for early childhood early intervention?

The Early Childhood Approach provides for a different approach to accessing supports and services specifically for children aged 0 to 7 years. The involvement of an Early Childhood Partner as a family's first point of contact facilitates provision of immediate support and advice to the child's family, links them to mainstream services, and supplies short term intervention services (where these are determined to be required).

If the Early Childhood Partner determines that the child needs long-term specialised early childhood intervention supports, they will assist the family to request access to the NDIS for an NDIS individualised plan. The Early Childhood Partner will also develop an individualised NDIS plan with the child and family and submit the plan to NDIA for approval.

The NDIA and the Early Childhood Partner will work together to ensure that the plan meets NDIS requirements and meets the child and family's needs. The Early Childhood Partner is considered to have expertise about early intervention, is knowledgeable regarding the child's needs, and knows the NDIS requirements. This different access process reduces the likelihood of the NDIS individualised plan not meeting the child's needs therefore decreasing the risk of the need to access review and appeals processes.[26]

26 National Disability Insurance Scheme (2022). The early childhood approach | NDIS. [online] Available at: https://ourguidelines.ndis.gov.au/early-childhood/early-childhood-approach

How does the NDIA respond to mental health recovery and permanent disability?

Psychosocial disability is a term used to describe a disability that may arise from a mental health issue.

Not everyone who has a mental health condition will have a psychosocial disability, but for people who do, it can be severe, longstanding and impact on their recovery. People with disability because of their mental health condition may qualify for the NDIS.

Psychosocial Disability Recovery-Oriented Framework

The Psychosocial Disability Recovery-Oriented Framework (Recovery Framework) has been developed to ensure that the NDIS is more responsive to NDIS participants living with psychosocial disability, and their families and carers.

The Recovery Framework sets out six guiding principles that aim to:

- Reflect key elements of good recovery-oriented practice.
- Reflect the Australian Government's intention for a future mental health policy to have a strong focus on consumers' lived experience.
- Facilitate the development of recovery policy and practice in the NDIA. This will help deliver better NDIS participant outcomes and contribute to the sustainability of the NDIS.

The six guiding principles are:

1. Supporting personal recovery.
2. Valuing lived experience.
3. Encouraging NDIS and mental health services to work together.
4. Supporting informed decision making.
5. Being responsive to the episodic and fluctuating nature of psychosocial disability.
6. Strengthening the NDIS recovery-oriented and trauma informed workforce.

In relation to the NDIS, mental health recovery does not necessarily mean there is a permanent absence of symptoms, impairments and/or disabilities that people can experience. Rather it is understood that psychosocial disabilities can be "…episodic or persistent, debilitating and long lasting". The NDIA states, "recovery is about achieving an optimal state of personal, social and emotional wellbeing, as defined by each individual, whilst living with or recovering from mental health issues".[27]

The nature of psychosocial disability requires that there is flexibility built into the design of the scheme. The NDIA therefore can reflect accommodations in a NDIS participant's individualised plan regarding the episodic nature of psychosocial disability in numerous ways. A flexible budget can allow for supports and services to decrease when a person is well and increase

27 National Disability Insurance Scheme (2019). Psychosocial disability, recovery and the NDIS | NDIS. [online] Available at: https://www.ndis.gov.au/media/226/download?attachment

when a person requires more support, including, for example, when an individual experiences a crisis.

The NDIS is designed to work in partnership with existing government service systems including health and mental health specific treatment services and private mental health services. It is not intended that the NDIS will replace existing mainstream services.

Myth busters: mental health and NDIS access[28]

If a person has been diagnosed with schizophrenia, which they have lived with for several years, they will automatically meet the NDIS access criteria.

False. No specific mental health diagnosis will automatically meet, or not meet, the NDIS access criteria. Access decisions are made on individual circumstances and not specifically centered on the diagnosis, rather the impact that the mental health condition has on a person's daily life.

If a person has co-existing drug/alcohol dependency, they will not be eligible for the NDIS.

False. If an individual is seeking to access the NDIS with a psychosocial disability, the NDIA needs to know that the impairment is because of a mental health condition. If that is the case, a person can meet the NDIS access requirements, regardless of any co-existing dependency issue(s). A potential NDIS participant may be accessing, or planning to access treatment, for co-existing substance dependency at the time of access and throughout any ongoing relationship with the NDIS.

The NDIA does not recognise psychosis as a mental health condition.

False. Psychotic disorders include a range of diagnostic categories, some of which may be brief in nature. People who experience psychosis may be eligible for individualised NDIS support if they meet the access requirements.

There has been significant focus on supporting access to the NDIS for people with psychosocial disabilities. The NDIS website Mental health and the NDIS includes a range of fact sheets, case studies and examples and resources to support treating professionals identify and support patients to access the NDIS.

28 National Disability Insurance Scheme (2020). Mental Health Access Snapshot Series | NDIS. [online] Available at: https://www.ndis.gov.au/media/1473/download?attachment

Guide 8:

Disability prevalence and classifications used by the NDIA to understand disability, functioning and impairment

Disability prevalence and classifications used by the NDIA to understand disability, functioning and impairment

This section provides an overview of disability demographics and trends in Australia and outlines the key policy instrument used by the NDIA to understand functioning and impairment as it relates to a person's disability.

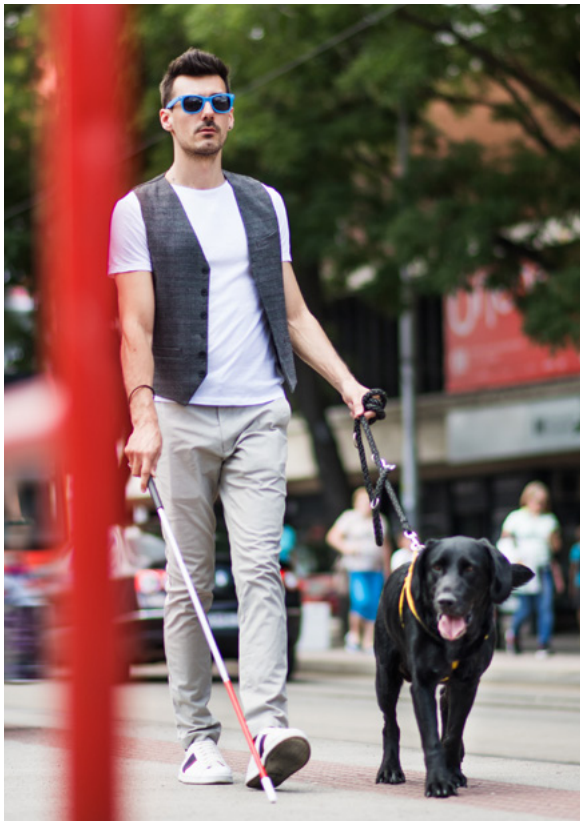
What data is collected about disability prevalence in Australia?

The Australian Bureau of Statistics (ABS) has developed the Survey of Disability, Ageing and Carers (SDAC) to align with the International Classification of Functioning, Disability and Health (ICF). The survey defines disability as any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months. The survey differentiates between those who have long-term health conditions that limit their activities (that is, those with disability) and those who have long-term conditions without restrictions and limitations.

What are the disability demographics and trends in Australia?

In 2018, almost one in five Australians reported living with disability (17.7% or 4.4 million people). A further 22% of Australians had a long-term health condition but no disability, while the remaining 60% had neither disability nor a long-term health condition. Of those with disability, 32% (1.4 million) have profound and severe disability.[29]

The NDIS has been designed to support those people with significant disability as opposed to all people with disability. Figure 7 provides information on the estimated number of people with severe or profound disability, which is the focus of the NDIS, by age groupings.



29 Australian Bureau of Statistics (2018). Disability, Ageing and Carers, Australia: Summary of Findings | ABS. [online] Available at: https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release

Figure 7: Disability prevalence rates by age and sex[30]

Age group (years)	Males with disability (%)	Females with disability (%)	Males with profound or severe limitation (%)	Females with profound or severe limitation (%)
0-4	4.8	2.7	3.3	1.5
5-14	12	7.1	7.5	3.7
15-24	9.2	9.5	3.6	3.3
25-34	7.1	7.2	2.0	1.6
35-44	9.0	10.6	2.2	1.9
45-54	15.6	16.0	3.1	3.9
55-59	23.4	20.5	4.7	5.7
60-64	27.2	27.1	6.3	6.7
65-69	37.3	35.5	7.6	8.4
70-74	43.7	40.4	10.8	9.9
75-79	55.5	52.6	15.8	17.7
80-84	63.1	63.5	19.6	28.6
85-89	71.9	75.2	35.6	48.6
90 and over	85.1	84.3	48.9	66.4

What is the relevance of the World Health Organization (WHO) ICF to the NDIS?

A person's eligibility for the NDIS is predicated on functioning and impairment as it relates to a person's disability, as opposed to disability per se. For this reason, it is essential to understand what instruments the NDIA use to inform their understanding of functioning and impairment.

The WHO ICF provides a standard international framework for health and health-related domains. This framework has directly influenced the design of the NDIS and the supporting NDIS legislative and policy framework were developed with reference to, or in alignment with, the ICF.

What historical models have influenced current understanding of disability, functioning and impairment?

The ICF health framework has two broad areas: 1) Body Functions and Structures and 2) Activities and Participation. In the ICF the term 'functioning' encompasses all body functions, activities and participation, and 'disability' describes impairments, activity limitations and restrictions on participation. Two major conceptual models of disability have been proposed under the ICF:

30 Australian Bureau of Statistics (2018). Disability, Ageing and Carers, Australia: Summary of Findings | ABS. [online] Available at: https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release

1. The **medical model** of disability views disability as a feature of the person, directly caused by disease, trauma or other health condition, which requires medical care provided in the form of individual treatment by professionals. Disability, on this model, calls for medical or other treatment or intervention, to 'correct' the problem with the individual.

2. The **social model** of disability sees disability as a socially created problem and less attributable to an individual. Advocates of the social model suggest the experience of disability requires political and societal responses, since the 'problem' of disability is created by a combination of unaccommodating physical environment and/or prevailing societal attitudes about people living with disability, and other features of the social environment.

On their own, neither model is considered adequate, although both are partially valid. A more comprehensive model of disability is one that integrates the positive aspects of both the medical and social models, without reducing the whole, complex notion of disability to one of its aspects.

How is the current model shaping understanding of disability, functioning and impairment?

The current model of disability, as described in the ICF as the biopsychosocial model, seeks to address the shortcomings of the medical and social models of disability.

The biopsychosocial model of disability considers disability as emerging from a combination of factors including biological, psychological and social factors. The elements of body, mind, and environment are considered to affect each other, and it is the inextricable relationship between these parts that results in any particular outcome i.e. disability, health or illness.[31]

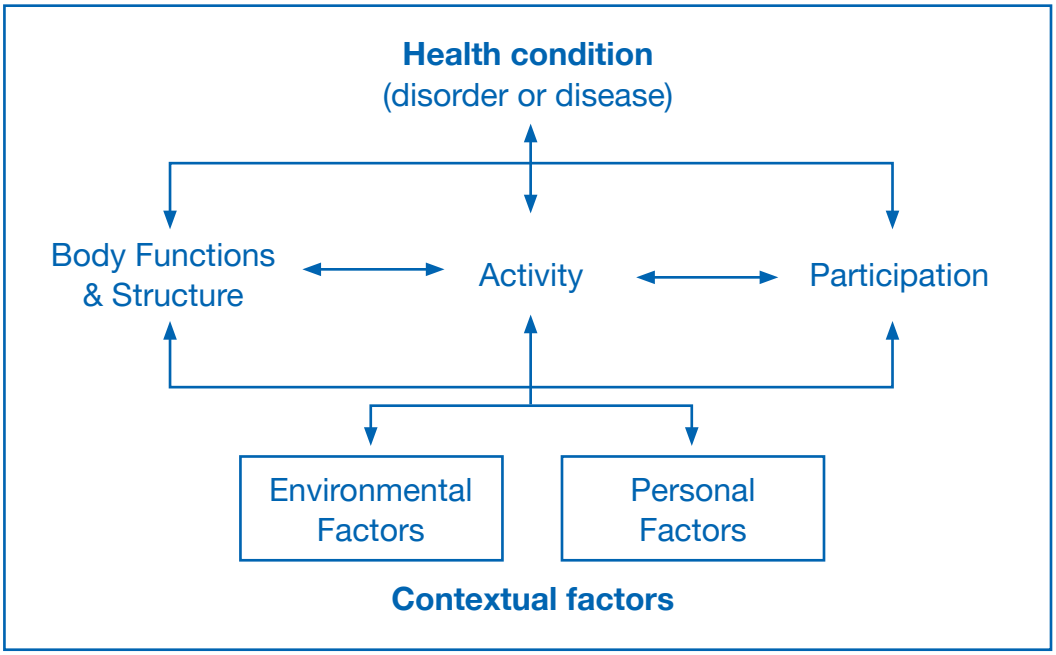
The **biopsychosocial model** is an integrated approach to understanding functioning and disability and the interrelationship between the following:

- The body functions and structures of people, and impairments thereof (functioning at the level of the body).
- The activities of people (functioning at the level of the individual) and the activity limitations they experience.
- The participation or involvement of people in all areas of life, and the participation restrictions they experience (functioning of a person as a member of society).
- The environmental factors which affect these experiences (and whether these factors are facilitators or barriers).

Figure 8 represents the biopsychosocial model demonstrating the multidimensional and interactive nature of the various components of functioning and disability.

31 Boundless. "The Biopsychosocial Model of Health and Illness." Boundless Psychology Boundless, 20 Sep. 2016. Retrieved 23 Mar. 2017

Figure 8: Interactions between the components of the ICF[32]



Disability is considered to involve dysfunction at one or more of these levels and the interaction between these factors: impairments, activity limitations and participation restrictions.

What is the relationship between the biopsychosocial approach, and the NDIS?

The biopsychosocial model is not used by the NDIS to define and diagnose disability alone, it is used to consider how an individual can function with their disability in a social world. The NDIS acknowledges the impact of others who have different and contrasting opinions about disability, and the challenges that face a person living with disability on a social and global scale. People with disability do not live in isolation, the NDIS through focused goal setting in partnership with those living with disability, aims to optimise an individual's ability to participate within society by considering societal attitudes, as well as addressing health conditions that can be medically or psychologically supported.[33]

32 National Center for Health Statistics (2012). The ICF: An Overview. [online] Available at: https://www.cdc.gov/nchs/data/icd/icfoverview_finalforwho10sept.pdf

33 Berghs, M., Atkin, K., Graham, H., Hatton, C. and Thomas, C. (2016). Scoping models and theories of disability. [online] Nih.gov. Available at: https://www.ncbi.nlm.nih.gov/books/NBK378951/

Guide 9:

What does a NDIS participant's planning process involve?

What does a NDIS participant's planning process involve?

This section discusses individualised NDIS planning processes, including self-managed plans and nominees. The role of a physician is also discussed.

Individualised NDIS planning process

After a person has been deemed eligible for the NDIS by the NDIA they become a "NDIS participant" and they will commence the process of creating their individualised NDIS plan. The planning process is based on developing an understanding of the person's goals and what supports are needed to help the person achieve their goals.

The NDIA Planner (LAC or Early Childhood Partner) will:

- Set up a planning conversation and discuss the NDIS participant's situation.
- Consider what community and other government services can provide help to support the NDIS participant to pursue goals and live as independently as possible.
- Consider if the NDIS participant needs any NDIS funded supports, and if they meet the NDIS funding criteria.
- Ask for further information about support needs as required.
- Develop and approve the plan.
- Send the plan to the NDIS participant.

Refer to Booklet 2 – Creating your NDIS plan for more information.

The NDIS Planner will discuss with the NDIS participant how they achieve everyday activities such as getting to work, personal hygiene, shopping, cooking, linking to community activities, etc. This conversation forms the basis of understanding what supports a person needs in relation to their disability to achieve the goals of an ordinary life.

An individualised NDIS plan may also document other supports including informal supports, health services, education, social housing and community activities. Plans include an individualised budget that is directly associated with the NDIS funded supports.

Given that people have different goals and have different informal, mainstream and community supports available to them, this means that the supports the NDIS will fund in a plan will be different from one NDIS participant to the next. The NDIS will only fund 'reasonable and necessary' supports for NDIS participants to achieve their goals. Once a NDIS participant's reasonable and necessary supports have been identified they will be built into their individualised NDIS plan. For more information on reasonable and necessary supports see Guide 5: What does the NDIS provide.

Generally, the NDIS participant's first individualised plan will remain in place for 12 months. However, it is possible for a review of an individualised NDIS plan to be requested at any time if the NDIS participant's circumstances change. From 1st July 2022 this process is called a "plan variation". Leading up to a plan variation it is important that the NDIS participant think about what supports and services have worked and not worked in relation to assisting them to achieve their goals. A review is an opportunity to reconsider what would be most helpful in achieving goals or establishing new or different goals.

Who can be involved in a NDIA planning conversation?

A NDIS participant can choose to include anyone they would like in their planning conversation. The NDIS participant has the primary relationship with the NDIA and is in control of their own planning; therefore, it is their choice who they include in this process.

Typical stakeholders might include family members, a close friend, an advocate, a substitute decision maker, or a service provider. A NDIS participant can invite their health professional (e.g. physician) into a planning meeting if they choose to. While it is a NDIS participant's choice about who they involve in a planning meeting, there are pragmatic issues that may limit the involvement of some stakeholders. The NDIA provide short notice for planning meetings and many meetings also take place by phone or online. A physician or health professional may not be available at short notice to attend a meeting.

How can a physician contribute to a planning meeting?

There are ways that physicians can support patients outside of a planning meeting. A physician can:

- Provide information in writing for the NDIA to consider for eligibility and planning purposes. The medical information the NDIA will be seeking from NDIS participants will include information that provides evidence of the person's disability, functional impairment and the impact on the NDIS participant's day-to-day life.
- Provide information about the nature of functional impairment as it relates to a patient's disability, the type of assistance (e.g. a person, assistive technology, special equipment) and a description of the assistance that the NDIS participant will require to support them.
- Offer advice on optimal disability supports to improve and maintain function, which may include services or products directly related to maintaining health. Rehabilitation physicians can provide advice to patients leaving hospital on supports or programs that may help improve or manage their functional disability. Occupational and environmental physicians can provide advice to patients on employment opportunities and modifications that can assist them in an employment setting.
- Provide specific advice to patients around the requirements for disability supports that allow for their functional impairments when accessing health care, e.g., when visiting specialists as an outpatient, attending hospital as an inpatient, in general healthy living practices and when providing education for carers around the use of specific health needs, such as percutaneous endoscopic gastrostomy (PEG) tubes.

More information on eligibility and functional impairment is provided in Guide 6: What are the NDIS eligibility requirements?

Tip: The NDIS may provide funding for assessments or reports where these are required for a NDIS planner to make a decision about including a support in a NDIS participant's individualised plan; however NDIS participant's may also be required to source this evidence themselves. Even when a support has been recommended by a health professional this does not mean that it will be included in a NDIS participant's individualised NDIS plan as supports must meet the reasonable and necessary funding criteria. More detailed information can be found in the NDIS Reasonable and Necessary Supports Operational Guideline.

What happens once a NDIS participant's individualised NDIS plan is approved?

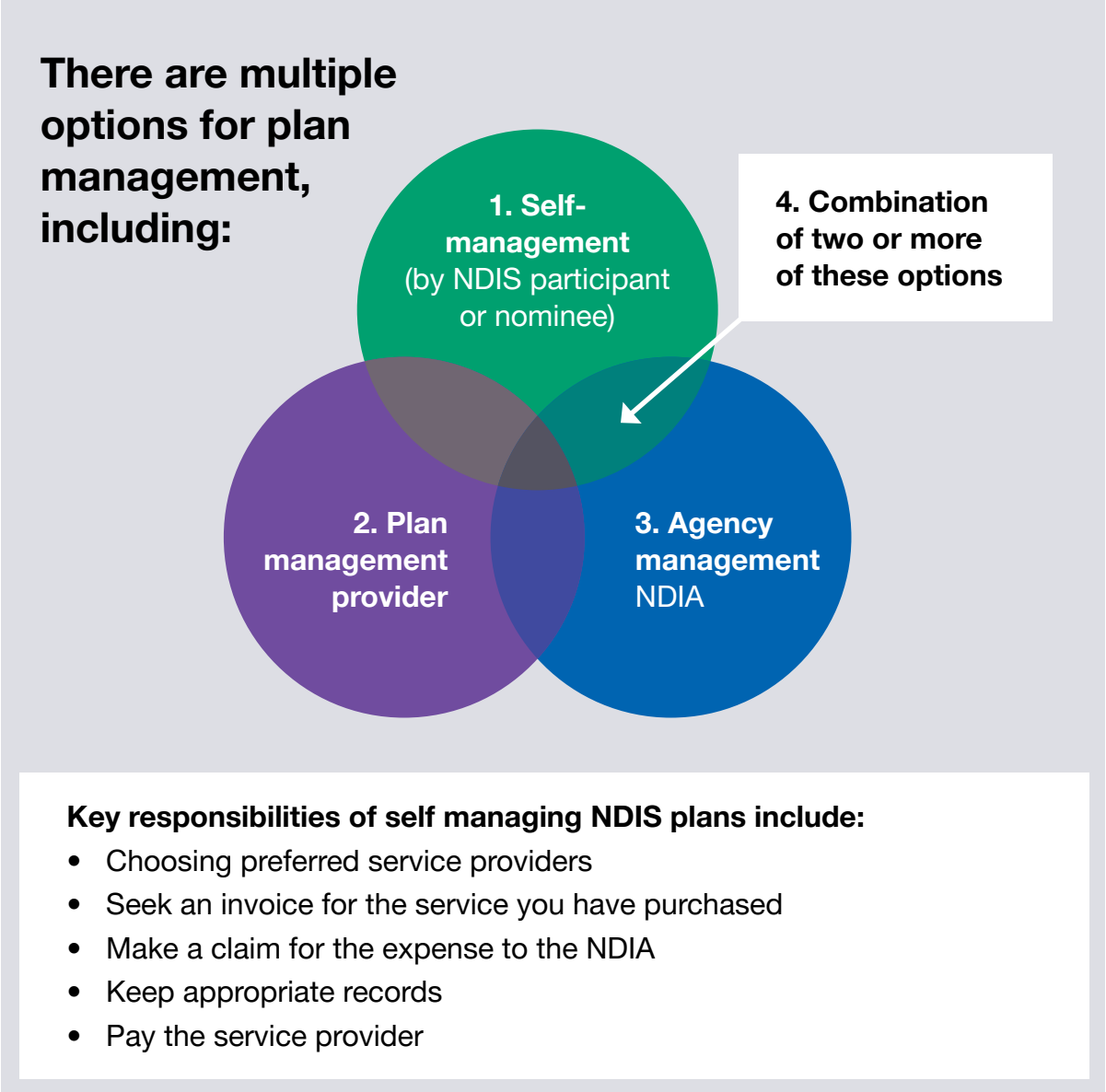
An approved individualised NDIS plan triggers the option for support from a Local Area Coordinator or funded Support Coordinator or Recovery Coach to work with the NDIS participant to identify the best options for implementing their plan. This might involve identifying suitable specialist disability service providers to deliver the funded supports or mainstream services in the wider community to support the person to achieve the goals in their plan. There are various pathways for implementing a NDIS participant's individualised NDIS plan which are, in part, dependent on what plan management option a NDIS participant chooses.

Information on the types of supports and services that the NDIS will fund is included in the Guide 5: What does the NDIS provide?

What are the options for managing individualised NDIS plans?

Individualised NDIS plans contain several elements that need to be managed by someone. There are multiple options available to NDIS participants regarding how they would like to have their individualised NDIS plan managed. Figure 9 illustrates the four options for plan management.

Figure 9: NDIS Plan Management Options



What does self-managing an individualised NDIS plan involve?

Self-management is when the NDIS participant or nominee (or family, in the case of children) manage their own NDIS funding. It gives NDIS participants flexibility and choice to decide what supports they would like to use their funding on to meet their individualised NDIS plan goals. All NDIS participants are encouraged and assisted to direct their own plan but there are several options available for management of the funds allocated to the NDIS participant's plan.

If a NDIS participant chooses to self-manage any part of their NDIS budget, their key responsibilities include: [34]

34 National Disability Insurance Scheme (2023). Self Management | NDIS. [online] Available at: https://www.ndis.gov.au/participants/using-your-plan/self-management

- **Purchasing supports** that link to the goals in their individualised NDIS plan.
- **Making clear agreements** with providers about the supports they will receive, including how they will be provided and paid for.
- **Managing funding** so the costs of the support give value-for-money and can be met from within the budget.
- **Claiming and paying for supports** by making payment requests and paying for supports on time.
- **Keeping invoices and receipts** to show that supports have been paid for using NDIS funding.
- **Meeting any obligations as an employer** if NDIS participants choose to employ staff directly.
- **Showing that self-managed funding** has been used towards pursuing goals at plan reassessment.
- **Advising the NDIA** of any significant changes in circumstances that may result in issues with meeting responsibilities as a self-manager.
- **Participating in any payment auditing**, including providing invoices, receipts or other evidence that illustrates that funds have been spent in-line with the NDIS participant's individualised NDIS plan.

Can a person access assistance to self-manage their individualised NDIS plan?

The NDIA recognises that NDIS participants or their nominees may want to consider self-management of their individualised NDIS plan funding but may not have the necessary knowledge and skills to undertake the responsibilities associated with self-management. The NDIA provides opportunity for NDIS participants to choose to transition to self-management through funding the support item, 'self-management capacity building', available under Core Supports.

Under self-management, NDIS participants can opt to employ their own staff or pay another party to do this on their behalf. A NDIS participant can select a combination of approaches, i.e. hire self-employed contractors for some services and a service provider, who is registered with the NDIA, to deliver other supports or services. When a NDIS participant is self-managing, they can purchase services and supports from suppliers who are not NDIA registered providers. There are a range of employment responsibilities NDIS participants need to undertake if they are engaging staff directly. NDIS participants can access information about their responsibilities in the NDIA's 'Directly engaging my own staff' booklet.

What are the responsibilities for a Plan Management Provider?

A registered Plan Management Provider is an individual or organisation that undertakes the management of the funding of supports in a NDIS participant's individualised NDIS plan. This can include some, or all, of the supports in a plan. The primary responsibilities for plan management providers involve the financial management of the individualised NDIS plan, including payments to providers, expense claims processing, monthly statements for NDIS

participants, making claims from the NDIA on behalf of NDIS participants and supporting NDIS participants to monitor their plan budget.

Since the commencement of the NDIS, the number of NDIS participants choosing plan management providers to manage some or all of their NDIS funding has increased. As of March 2023, 59% of NDIS participants were using a plan management provider compared to 47% in March 2021.[35]

NDIS participants using plan management providers can purchase services from registered and unregistered providers.

What if a NDIS participant chooses the NDIA to manage their individualised NDIS plan?

A NDIS participant can choose the NDIA to manage the funding of supports in their individualised NDIS plan. If the NDIA manages a NDIS participant's individualised NDIS plan, the NDIA will be responsible to pay the suppliers of services on behalf of the NDIS participant. The NDIS participant, or their nominee, will still choose their preferred suppliers of services and establish a service agreement with the service providers detailing how and when supports are to be delivered. However, the NDIA require that NDIS participants choose NDIS registered providers for the supply of supports and services.

What options are there for people who require support with decision-making?

A key pillar of the NDIS is to enable people with disability to exercise their agency about matters that affect them. The NDIA acknowledge that people with disability have capacity to make decisions that affect their own lives. However, there is also recognition that there are NDIS participants who want support to make decisions. Supported decision-making is a person-centered approach and refers to making decisions **with** the person, not for (or on behalf of) the person. Supported decision-making is also relevant for people with cognitive or

35 Report to disability ministers for Q3 of Y10 Full Report (2023). National Disability Insurance Agency [online] Available at: https://www.ndis.gov.au/media/6006/download?attachment p.87

intellectual disability, where it has been determined that the person does not have capacity to make decisions regarding certain areas of their life.

The NDIA can provide support for decision-making by acknowledging and facilitating the role of families and carers in supporting NDIS participants to make decisions including through the provision of information and resources.[36]

What are the responsibilities of nominees in the NDIS?

The United Nations Convention on the Rights of Persons with Disabilities promotes the rights of people with disability to make their own decisions wherever possible and to access support to make decisions where necessary. The NDIA can appoint nominees under section 86 or 87 of the *NDIS Act 2013* to support and develop the capacity of the NDIS participant to make their own decisions. Where a person has a formal guardian appointed the guardian will act as the person's nominee.

There are two types of nominees:

1. A **correspondence nominee** can undertake all activities that a NDIS participant would ordinarily undertake, except for the preparation and review of the NDIS participant's individualised NDIS plan and the management of the funding for supports in the NDIS participant's plan.
2. A **plan nominee** can undertake all activities that a NDIS participant would ordinarily undertake including informing the preparation and review of the NDIS participant's individualised NDIS plan and/or management of the funding for supports in the NDIS participant's plan. It is possible for the same person to undertake both nominee roles.

What rules apply to nominees to safeguard people with disability?

The National Disability Insurance Scheme (Nominees) Rules 2013 provides detailed information on the responsibilities of plan nominees and information to the NDIA on the considerations and rules of appointing nominees.

In summary, appointments of nominees will be justified only when it is not possible for NDIS participants to be assisted to make decisions for themselves. Nominees also have a duty to involve the NDIS participant in decision-making that affects them.

Tip: The appointment of a nominee is a NDIA decision. The NDIA's Supported Decision Making Policy aims to better support people with disability to make decisions in the NDIS

36 National Disability Insurance Scheme (2023). Support for Decision Making Consultation| NDIS. [online] Available at: https://www.ndis.gov.au/about-us/policies/supported-decision-making-policy

Who can become a nominee?

Section 88(4) of the *NDIS Act 2013*, rs.4.4 and 4.8 of the NDIS Nominees Rules provides specific information about who can and cannot be appointed as a NDIS participant's nominee. A person who has parental responsibility for a child is a preferred nominee. If a NDIS participant has a court-appointed decision-maker or substitute decision-maker, such as a guardian or trustee, and the powers and responsibilities of this role are similar to those of a nominee, it is likely that this person would be appointed as the nominee.

The NDIA cannot appoint the following persons as nominees:

- A person under 18 years of age.
- The NDIA.
- Any person formally associated with the NDIA.

Can a physician be appointed as a NDIS participant's nominee?

Section 88(5) of the *NDIS Act 2013*, and rs. 5.12 and 5.13 of the NDIS Nominees Rules specifies that a nominee has a duty to avoid or manage conflicts of interest. Specifically, 5.12 of the NDIS Nominee Rules obliges a nominee to avoid or manage any conflict of interest in relation to the nominee and the NDIS participant and inform the NDIA Chief Executive of any conflict of interest as it arises. Section 88(5) rs. 5.13 of the NDIS Nominees Rules indicates that it would be a conflict of interest for a person's treating physician to be appointed as their nominee, stating that "[w]ithout limiting paragraph 5.12, a conflict arises if the nominee is, in a professional or administrative capacity, directly or indirectly responsible for, or involved in, the provision of any services for fee or reward to the participant".

Guide 10:

What is the interface between the NDIS, disability and health?

What is the interface between the NDIS, disability and health?

This section explores the ways that the NDIS, disability and health systems interact and their respective funding and service responsibilities. It describes the disability related health supports funded in the NDIS and outlines other initiatives aimed at recognising the intersection between an individual's disability and their health outcomes.

How does the NDIS and health system work together?

The NDIS can provide a significant source of support for people with disability; however, it is not intended to replace healthcare services or other public services. These remain the responsibility of State and Territory governments and the Commonwealth government in the case of primary health care. NDIS supports are focused on those that relate directly to a person's disability.

In the design of the NDIS, Governments agreed on a set of principles "to determine the funding and delivery responsibilities of the NDIS".[37] These are outlined in the Applied Principles and Tables of Support.

What are the applied principles that relate to the health system?

There are five applied principles that relate to the responsibilities of the health system and the NDIS:

1. Commonwealth and State and Territory health systems have a commitment to improve health outcomes for all Australians by providing access to quality healthcare services based on their needs consistent with the requirements of the National Healthcare Reform Agreement and other national agreements and in line with reasonable adjustment requirements (as required under the Commonwealth *Disability Discrimination Act 1992* or similar legislation in jurisdictions).
2. The above health systems will remain responsible for the diagnosis, early intervention and treatment of health conditions, including ongoing or chronic health conditions. This may involve general practitioner services, medical specialist services, dental care, nursing, allied health services, preventive health care, care in public and private hospitals, and pharmaceuticals (available through the Pharmaceutical Benefits Scheme (PBS)).
3. Health systems are responsible for funding time limited, recovery-oriented services and therapies (rehabilitation) aimed primarily at restoring the person's health and improving the

37 Department of Social Services (2021). The Applied Principles and Tables of Support to Determine Responsibilities NDIS and other services. [online] Available at: https://www.dss.gov.au/the-applied-principles-and-tables-of-support-to-determine-responsibilities-ndis-and-other-service

person's functioning after a recent medical or surgical intervention. This includes where treatment and rehabilitation are required episodically.

4. The NDIS will be responsible for supports required due to the impact of a person's impairment/s on their functional capacity and their ability to undertake activities of daily living. This includes "maintenance" supports delivered or supervised by clinically trained or qualified health professionals (where the person has reached a point of stability regarding functional capacity), prior to hospital discharge (or equivalent for other healthcare settings) and integrally linked to the care and support a person requires to live in the community and participate in education and employment.
5. The NDIS and the health systems will work together at the local level to plan and coordinate streamlined care for individuals requiring both health and disability services, recognising that both inputs may be required at the same time or that there is a need to ensure a smooth transition from one to the other.

How do the principles relate to the mental health system and supports that sit outside of the NDIS?

The Applied Principles and Tables of Support also identifies several responsibilities of the mental health system and the NDIS:

1. The health system will be responsible for:
   - Treatment of mental illness, including acute inpatient, ambulatory, rehabilitation/recovery and early intervention, including clinical support for child and adolescent developmental needs.
   - Residential care where the primary purpose is for time limited follow-up linked to treatment or diversion from acute hospital treatment.
   - The operation of mental health facilities.

2. Where a person has a co-morbidity with a psychiatric condition:
    - The health or mental health system will be responsible for supports relating to a co-morbidity with a psychiatric condition where such supports, in their own right, are the responsibility of that system (e.g. treatment for a drug or alcohol issue).
    - The NDIS will be responsible for additional ongoing functional supports associated with the co-morbidity.
3. The NDIS will be responsible for ongoing psychosocial recovery supports that focus on a person's functional ability, including those that enable people with mental illness or a psychiatric condition to undertake activities of daily living and participate in the community and in social and economic life. This may also include provision of family and carer supports to support them in their carer role, and family therapy.
4. The NDIS and the mental health system will work closely together at the local level to plan and coordinate streamlined care for individuals requiring both mental health and disability services, recognising that both inputs may be required at the same time or that there is a need to ensure a smooth transition from one to the other.

The Operational Guideline: Mental health and psychosocial disability developed by the NDIA provides greater detail on the intersection between mental health and psychosocial disability and include some useful case studies that illustrate the complexity of this area.

More information on how people with psychosocial disability can access the NDIS and the ways in which physicians can support this is provided in Guide 6: What are the NDIS eligibility requirements.

Funding responsibilities of the NDIS and the health system[38]

Figure 10 provides an overview of indicative funding responsibilities of the NDIS and the health system.

Broadly, the NDIS will fund supports that assist a NDIS participant to undertake activities of daily living where the impairment relates to the person's disability, see table below for examples.

Individuals, families and carers sometimes also have a role in funding medical and health services, such as out-of-pocket expenses, gap payments and private health insurance fees. The NDIS will not cover these costs.

38 The table has been reformatted and the information is sourced directly from the document NDIS Principles to Determine Responsibilities of the NDIS and Other Service Systems

Figure 10: Funded Supports

Funded Supports	
NDIS **IS** responsible for funding these supports*	Aids and equipment, such as wheelchairs, hearing aids and adjustable beds.
	Items such as prosthetics and artificial limbs (surgery remains the responsibility of the health system).
	Home modifications, personal care and domestic assistance. This will assist NDIS participants exiting the health system to live independently in the community or move back into their own home.
NDIS **IS NOT** responsible for funding these supports	Diagnosis and clinical treatment of health conditions, including ongoing or chronic health conditions.
	Services that aim to improve the health status of Australians, including general practitioner services, medical specialist services, dental care, nursing, allied health services (including acute and post-acute services), preventive health, care in public and private hospitals and pharmaceuticals or other universal entitlements.
	Funding time-limited, goal-oriented services and therapies: • Where the predominant purpose is treatment directly related to the person's health status. • Are provided after a recent medical or surgical event, with the aim of improving the person's functional status, including rehabilitation or post-acute care; or palliative care.
The health system is responsibile for assisting NDIS participants with clinical and medical treatment.	Diagnosis and assessment of health conditions.
	Health services and treatment of health conditions, including all medical services such as general practitioners, care while admitted in hospital, surgery, the cost of medical specialists etc.
	Medications and pharmaceuticals.
	Sub-acute care, such as palliative care, geriatric and psychogeriatric care.
	Post-acute care, including nursing care for treating health conditions and wound management.
	Dental care and all dental treatments.
	Supports related to maintenance of life, e.g. oxygen therapy.

* The health system is responsible for these supports if they are required as part of rehabilitation from an accident or injury or as part of treatment for medical conditions.

Disability-related health supports

In late 2019 the NDIS commenced funding a specific range of disability-related health supports "where the supports are a regular part of the participant's daily life, and result from the participant's disability". To be included in a NDIS participant's individualised NDIS plan these supports must be:

- Directly related to a NDIS participant's functional impairment.
- Needed on an ongoing basis.
- Appropriately funded or provided by the NDIS.

The NDIA have included information about disability related health supports for NDIS participants, disability service providers and the health sector. This is available on the NDIA website.

What disability-related health supports are funded?

Disability-related health supports are grouped into the following 8 areas:

1. Dysphagia supports.
2. Respiratory supports.
3. Nutrition supports.
4. Diabetes management supports.
5. Continence supports.
6. Wound and pressure care supports.
7. Podiatry supports.
8. Epilepsy supports.

The NDIA has developed operational guidelines that outlines the nature of each of these areas (with the exception of respiratory supports) and how it will make decisions about when these supports will be funded.

Not all supports related to a NDIS participant's health and wellbeing are included under disability-related health supports.

How can a physician support NDIS participants to identify which disability-related health supports they need?

NDIS participants will generally need to provide evidence that they require one of the disability-related health supports outlined above. This will routinely consist of information from a healthcare professional related to:[39]

- The type and amount of support required by the NDIS participant.
- How the support relates to the NDIS participant's disability.
- That the support is needed on a regular and ongoing basis.
- Who is the most appropriate person to provide the support.
- Where the support will be provided.

Can support workers provide disability-related health supports?

While many disability-related health supports must be provided by a qualified health professional, some disability-related health supports may be able to be provided by a support worker who has received appropriate training. In some cases, this will need to be delivered by a registered training organisation and may be included as part of accredited training such as the Certificates III and IV in Disability or Individual support.

Registered nurses may also be able to train and delegate tasks to a support worker or enrolled nurse. For example, a support worker may be trained by a nurse to prevent pressure sores and manage wounds.

Information from the NDIS participant's treating health professional or as part of a discharge plan is required to support this decision.

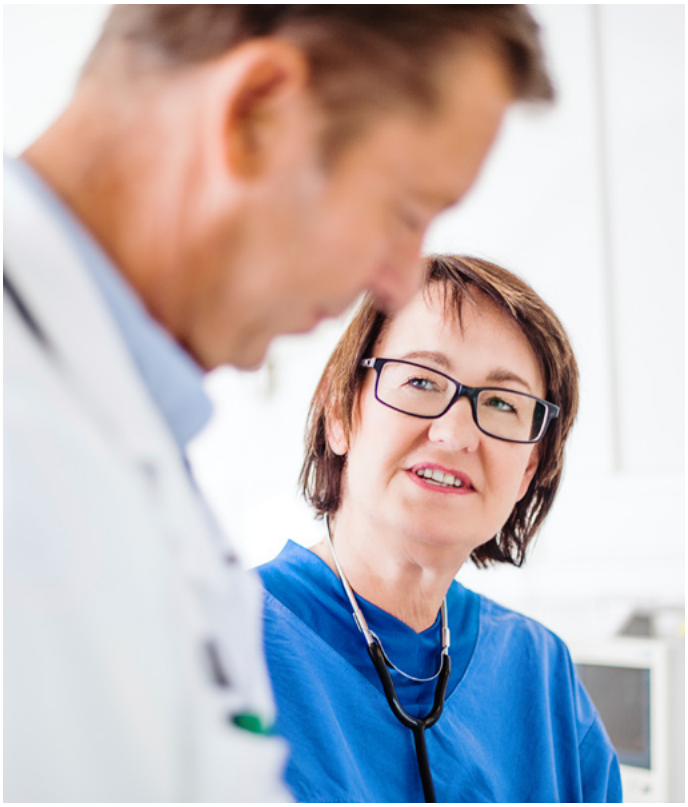
What skills, training and supervision do support workers need if they are delivering health related supports to NDIS participants?

The NDIS Code of Conduct require NDIS providers to have appropriate skills and capabilities required to deliver health supports. The NDIS Commission has developed a set of high intensity support skills descriptors (HISSD) that apply to providers who have registered to deliver high

39 National Disability Insurance Scheme (2023). How do you get disability-related health supports in your plan? | NDIS. [online] Available at: https://ourguidelines.ndis.gov.au/supports-you-can-access-menu/disability-related-health-supports/how-do-you-get-disability-related-health-supports-your-plan#do-you-need-to-provide-us-with-evidence

intensity daily personal activities. The HISSD outline the skills and knowledge that NDIS providers should have access to when delivering complex supports. These include requirements relating to:

- Complex Bowel Care
- Enteral Feeding
- Dysphagia
- Tracheostomy
- Urinary Catheter
- Ventilator
- Subcutaneous Injections
- Complex Wound Care



Additional activities that require training but can be undertaken as part of a general support role, and are related to high risk of seizure, pressure care and wound management, mealtime preparation and delivery, and stoma care are also described. Furthermore, the NDIS Practice Standards outline requirements for registered providers related to medication management.[40]

How does the health/disability interface work in practice?

The interface between health and disability in terms of who is responsible to fund services is complex and may require engagement with the NDIA to reach definitive answers in relation to particular cases. In recognition of this complexity, the interface between health and the NDIS has received significant attention since the NDIS commenced and is likely to continue to evolve over time.

NDIS participants may require a range of disability supports funded by their individualised NDIS plan to facilitate access to and participation in healthcare services provided to maintain their health and wellbeing. This includes targeted health promotion and disease prevention programs and support; support to engage with health professionals such as general practitioners, specialists, and dentists, and assistance to fully participate in treatments including managing medications and chronic disease. In practice a partnership approach at the system and individual practitioner/worker level that places the individual and their health and disability support needs at the center of any decision making process will produce the best health and wellbeing outcomes.

40 NDIS Quality and Safeguards Commission (2022). NDIS Practice Standards: High intensity support skills descriptors [online] Available at: https://www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/ndis-practice-standards

What supports will the NDIS fund when a NDIS participant is in hospital?

In addition to funding surgery and the cost of medical treatment when a NDIS participant is in hospital, the health system is also responsible for funding and providing care when a NDIS participant is admitted to hospital. The health system is considered a universal system and reasonable adjustments to support people with disabilities are expected.

As a rule, NDIS participants are not able to use their NDIS funding for supports that are provided in a hospital setting. This includes funding support workers, even where this is requested by the NDIS participant or their families/carers or physician.

In some cases, the NDIS may fund reasonable and necessary supports to give:

- Guidance and training for hospital staff where a NDIS participant has challenging behaviours.
- Specific training to help hospital staff communicate with NDIS participants with complex communication or behaviour support needs.

Tip: Determining the best way to support a person with complex disability support needs in hospital can be complex. Developing and documenting a plan for how the NDIS participant's disability support needs will be met should they require inpatient care in advance is a useful way of identifying where there are likely to be gaps in the support that the hospital is able to provide and how the NDIS participant and their informal supports, the disability service provider and the hospital can work together to address these gaps. This may include rearranging how supports are provided, seeking a review of the NDIS participant's plan by the NDIA or identifying other funding mechanisms that support the best outcome for the NDIS participant.

The NDIS Commission has developed a Practice Alert that outlines the obligations of providers in transitions of care from disability services to and from hospitals. This outlines the role of NDIS providers where hospital admission is both planned and unplanned and includes the information that should be provided to hospital staff, support required during an emergency admission, discharge planning and support and recommendations on ways to support NDIS participants admitted to hospital.

Which system assists with rehabilitation?

The NDIS and the health system work closely together to ensure rehabilitation is provided to a person following an accident or injury. Provision of rehabilitation in the initial period following an accident or injury is the responsibility of the health system and is not funded by the NDIS. The aim of the health system is to provide supports to help a person regain as much functioning as possible. Supports could include care in a rehabilitation unit or home-based rehabilitation services.

The NDIS assists the NDIS participant once the health system has provided these rehabilitation services. The supports offered by the NDIS may include:

- Home modifications, aids and equipment.
- Domestic assistance to enable the NDIS participant to live independently in the community.
- Ongoing allied health or other therapies to enable the NDIS participant to maintain their level of functioning.

Tip: To facilitate more timely hospital discharge for NDIS participants, State and Territory governments work closely with the Federal government. This has resulted in targeted roles such as disability health liaison officers to be established in certain hospitals or health regions to help NDIS participants coordinate the support they need to be safely discharged from hospital. States and Territories have also developed systems and mechanisms to streamline hospital discharge for NDIS participants that will be available to support physicians.

How do disability service providers support NDIS participants with positive health and wellbeing outcomes?

Disability service providers provide a range of supports to NDIS participants aimed at supporting their health and wellbeing. This includes supporting NDIS participants with activities of daily living including personal care, assistance to manage medications, attend and engage with medical and health related appointments, manage nutrition and exercise, develop and maintain positive relationships and community engagement.

Supports, such as support coordination and psychosocial recovery coaching, can also assist NDIS participants to effectively engage with mainstream supports. These roles can be good points of contact for physicians and pediatricians and can assist NDIS participants to understand and participate in their care.

The NDIS Practice Standards specify standards to be met by providers related to supporting NDIS participants with health and wellbeing. These include monitoring NDIS participants' health, safety and wellbeing and providing proactive support for preventative health measures such as vaccinations, dental and oral health and comprehensive health assessments. Additional standards exist that relate to medication and mealtime management.

In response to the Scoping review of causes and contributors to deaths of people with disability in Australia, the NDIS Commission has developed a range of Practice Alerts and accompanying resources to provide guidance on best practice for providers and support workers relating to a number of health areas.

The Practice Alerts can be provided to consumers and workers in a range of accessible formats. They include Comprehensive Health Assessments, Medicines associated with swallowing problems, Polypharmacy, Lifestyle Health Factors, Cardiovascular Disease and Pain Management.

These are available from the NDIS Commission website and include information in easy read formats.

What assistance is available for physicians?

The NDIA provide Fact Sheets for health professionals: Information about the NDIS for GPs and health professionals

Other initiatives outside of the NDIS

Australia's Disability Strategy

In 2021 the Australian government launched a 10-year disability strategy: Australia's Disability Strategy aimed at creating a more inclusive Australian society that ensures people with disability can fulfil their potential, as equal members of the community. The Strategy commits all governments to specific outcomes related to the health and wellbeing of people with disability.

More information about Australia's Disability Strategy is available in Guide 1: What is the National Disability Insurance Scheme?

National Roadmap for Improving the Health of People with Intellectual Disability

The Federal government's National Roadmap for Improving the Health of People with Intellectual Disability recognises that people with intellectual disability experience poorer health outcomes compared with the general population. The Roadmap also focusses on the health and wellbeing of NDIS participants and the intersection between health and the NDIS. Figure 11 summarises strategies the NDIS could employ to better coordinate its services with other sectors.

Figure 11 Better coordination with other sectors[41]

Short term (1-3 years)	Medium term (4-6 years)	Desired outcomes
B4. Better coordination with other sectors		
Develop resources and pathways to connect health and disability services. **Develop** resources and training to improve health literacy of disability support providers. **Develop** best practice quality standards for prescribing psychotropic medication. **Review** NDIS Practice Standards and Quality Indicators for updates to support healthy lifestyles and optimal access to health service.	**Consider** funding models and options for better supporting NDIS participants' access to health services. **Identify** opportunities to embed reforms that enable better coordination between the health and disability sectors in the next National Health Reform Agreement with states and territories.	**The health** and disability systems have better linkages, supporting more effective communication and coordination between health care professionals, disability support providers and people with intellectual disability, their families and carers.

41 Australian Government (2021). National Roadmap for Improving the Health of People with Intellectual Disability July 2021 | Department of Health and Aged Care. [online] Available at: https://www.health.gov.au/sites/default/files/documents/2021/08/national-roadmap-for-improving-the-health-of-people-with-intellectual-disability.pdf, p.11

The Roadmap identifies the following short and longer term actions:

- Implement measures to better promote annual health assessments and other relevant Medicare Benefits Schedule (MBS) items through health and disability networks, primary health networks, professional colleges and associations, the NDIA and the NDIS Commission.
- The Department of Social Services, the NDIA, the NDIS Commission, State and Territory governments, disability service providers and advocacy organisations, professional associations and people with intellectual disability, their families and carers develop best practice guidelines and training for day-to-day preventive health supports for people with intellectual disability.
- The NDIS Commission to:
  - Review and update NDIS Practice Standards and Quality Indicators where appropriate, to support healthy lifestyles and optimal access to health services for people with intellectual disability.
  - Include in its Workforce Capability Framework, a strong focus on the role of disability workforce in supporting healthy lifestyles and access to health services.
- The Commonwealth Government to consider funding models and options for better supporting NDIS participants' access to health services.
- The NDIA to explore options for engaging NDIS Health Liaison Officers to support hospital admissions and for vulnerable people with intellectual disability.
- Commonwealth agencies Australian Institute of Health and Welfare (AIHW), the Australian Bureau of Statistics (ABS), the NDIS Commission, the NDIA, and the Department of Health and Aged Care) to work with States and Territories, advocacy organisations, NDIS and non-NDIS registered providers, to enable nationally consistent mortality reviews for people with intellectual disability. Reviews should identify any failings in health care, disability support and by other people with a view to recommendations to improve health and avoid unnecessary deaths.

Guide 11:

What safeguarding arrangements are in place in relation to the NDIS?

What safeguarding arrangements are in place in relation to the NDIS?

This section outlines the legislation and mechanisms that are in place to safeguard NDIS participants and improve the quality of the supports and services they receive from NDIS providers.

With the introduction of the NDIS, all governments agreed to implement a national approach to improving and overseeing the quality and safety of NDIS supports and services. Detailed in the NDIS Quality and Safeguarding Framework this approach aims to maximise the opportunities for people with disability to make decisions about their supports while also enabling them to live free from abuse, neglect and exploitation.

To support the implementation of the NDIS Quality and Safeguarding Framework, a new independent quality and safeguarding body, the NDIS Quality and Safeguards Commission (the NDIS Commission) was established to bring together a range of quality and safeguarding functions under a single agency.

The NDIS Commission

Commencing in NSW and South Australia in 2018 and now operational in all States and Territories the NDIS Commission is the national regulator of NDIS supports. The NDIS Commission does not have the role of regulating the NDIA. All complaints about the NDIA including access and planning decisions need to follow the NDIA complaints process.

The following provides some of the key aspects of the quality and safeguarding functions the NDIS Commission is responsible for.

Registration of service providers

Not all providers of disability supports to NDIS participants need to be registered with the NDIS Commission.

Registered service providers undergo either verification or certification against a set of NDIS Practice Standards. Audits are conducted by auditing bodies that have been approved by the NDIS Commission.

Unregistered providers of supports are subject to oversight by the NDIS Commission and must abide by the NDIS Code of Conduct developed by the NDIS Commission. However, they are not audited against the NDIS Practice Standards and have less obligations in relation to reporting incidents to the NDIS Commission.

The following providers must be registered with the NDIS Commission:

- Organisations or individuals that provide specialist disability accommodation (SDA). SDA is the 'bricks and mortar' capital component of disability accommodation supports funded by the NDIS.
- Specialist behaviour support providers who undertake behaviour support assessments and develop behaviour support plans. They are also assessed as being suitable against the Positive Behaviour Support Competency Framework.
- Any provider that uses a regulated restrictive practice while delivering supports must be registered with the NDIS Commission.
- Plan managers who assist NDIS participants and build their capacity to manage the financial aspects of their individualised NDIS plan.

Registered providers are also required to have internal complaints mechanisms that include capacity to undertake internal investigations, serious incident recording and reporting arrangements, and capacity for corrective action to prevent recurrence.

How do NDIS participants know if a service provider is a registered provider?

The NDIS Commission maintains a register of registered providers. This information is accessible to NDIS participants and others at the following link.

The register includes identifying information about the provider such as their legal name, location and ABN, the groups of support that the provider is registered to deliver, and any conditions of registration that apply.

The register also includes a list of any providers (registered and unregistered) who are or have been subject to any compliance or enforcement action by the NDIS Commission.

What is the NDIS Code of Conduct?

The Code of Conduct applies to all NDIS providers and specifically covers:

- Registered NDIS providers and their employees.
- Unregistered NDIS providers and their employees.
- Providers delivering information, linkages, and capacity building (ILC) activities.
- Providers delivering Commonwealth Disability Support for Older Australians services for people over the age of 65.

The Code of Conduct requires all workers and providers who deliver NDIS supports to:

- Act with respect for individual rights to freedom of expression, self-determination, and decision-making in accordance with relevant laws and conventions.
- Respect the privacy of people with disability.
- Provide supports and services in a safe and competent manner with care and skill.
- Act with integrity, honesty, and transparency.

- Promptly take steps to raise and act on concerns about matters that might have an impact on the quality and safety of supports provided to people with disability.
- Take all reasonable steps to prevent and respond to all forms of violence, exploitation, neglect, and abuse of people with disability.
- Take all reasonable steps to prevent and respond to sexual misconduct.

The NDIS Commission has an e-learning orientation module to support workers understand the Code of Conduct, called Quality, Safety and You. This is mandatory for registered providers and sole traders and all employees of registered providers.

What are the NDIS Practice Standards?

The NDIS Practice Standards and Quality Indicators outline the service standards required to be met by registered NDIS service providers.

The Practice Standards consist of a core module, five supplementary modules and a verification only module that apply depending on the business structure of the provider and the types of support that a provider is registering to provide.

The core module includes standards relating to:

- NDIS participant rights and provider responsibilities.
- Service governance and operations.
- Support delivery.
- The support delivery environment.

Supplementary modules include:

- High intensity daily personal activities.
- Specialist behaviour support and implementing behaviour support plans.
- Early childhood supports.
- Specialist support coordination.
- Specialist disability accommodation.

More information on the NDIS Practice Standards that are directly related to disability related health supports is provided in Guide 10: The Interface between the NDIS, disability and health.

Tip: While the NDIS Code of Conduct and NDIS Practice Standards apply only to NDIS funded supports and services, there are similarities between the Code of Conduct and Practice Standards and those that may apply in healthcare settings, such as the Health Care Standards and Aged Care Standards. However, it is important to note that one does not replace the other and both health professionals and disability service providers may be required to meet a range of different standards.

How do NDIS participants and others make complaints?

The NDIS Commission can take complaints from anyone about NDIS supports or a service provider, relating to:

- NDIS services or supports that were not provided in a safe and respectful way.
- NDIS services and supports that were not delivered to an appropriate standard.
- How a NDIS provider has managed a complaint about services or supports provided to a NDIS participant.

A range of resources has been developed to support NDIS participants make complaints to the NDIS Commission. These include resources in easy to read format and community languages.

Complaints can be made via the following avenues:

- Phoning: 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged.
- National Relay Service and ask for 1800 035 544.
- Completing a complaint contact form.

All providers must effectively manage complaints about the quality and safety of supports and services they provide. The NDIS Commission can support NDIS participants to make a complaint if needed and can act if it raises a compliance issue.[42]

Tip: Physicians can make a complaint to the NDIS Commission if they have concerns about how services are being provided to a NDIS participant, including those who are delivering health related disability supports. Complaints can be made to the NDIS Commission about unregistered providers where there are concerns that an unregistered provider may have breached the Code of Conduct.

Any complaints regarding the NDIA need to follow the NDIA complaints process, this generally includes complaints related to eligibility and access to the NDIS and NDIS planning. More information is provided in Guide 12: What processes are available for complaints and to appeal decisions made by the NDIA regarding a NDIS participant?

42 NDIS Commission (2023) Unregistered provider obligations | NDIS Quality and Safeguards Commission. [online] available at: https://www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/unregistered-provider#paragraph-id-2275

What incidents must be reported to the NDIS Commission?

Registered providers are required to report certain types of incidents to the NDIS Commission. These include:

- Death of a person with disability.
- Serious injury of a person with disability.
- Abuse or neglect of a person with disability.
- Unlawful sexual or physical contact with, or assault of, a person with disability.
- Sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity.
- The use of a restrictive practice in relation to a person with disability if the use is not in accordance with a required State or Territory authorisation and/or not in accordance with a behaviour support plan.

How are restrictive practices regulated?

The NDIS Commission defines a restrictive practice as "any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability".[43] There are five restrictive practices that are subject to regulation:

1. Seclusion.
2. Chemical restraint.
3. Mechanical restraint.
4. Physical restraint.
5. Environmental restraint.

Evidence shows that restrictive practices do not change the underlying causes of behaviour and can inadvertently lead to other behaviours of concern.[44]

Where a restrictive practice is likely to be used in an ongoing way a functional behavioural analysis (FBA) is conducted to understand the person, their environment and the function of their behaviour. Consultation with health professionals to share behavioural data and observations, and to explore potential underlying physical and mental health issues the person may have, may precede or be a part of this step.

The safeguarding arrangements require that a restrictive practice can only be used when it is:

- Included in a behaviour support plan developed by a behaviour support practitioner in consultation with the person and their supporters.

43 *National Disability Insurance Scheme Act 2013*.9 [online] Available at: https://www.ndiscommission.gov.au/sites/default/files/2022-02/regulated-restrictive-practice-guide-rrp-20200.pdf

44 LeBel, J., Nunno, M. A., Mohr, W. K., & O'Halloran, R. (2012). Restraint and seclusion use in U.S. school settings: Recommendations from allied treatment disciplines. American Journal of Orthopsychiatry, 82(1), 75–86. And Deshais, M. A., Fisher, A. B., Hausman, N. L., & Kahng, S. (2015). Further investigation of a rapid restraint analysis. Journal of Applied Behavior Analysis, 48(4), 845–859

- Contained within the behaviour support plan, is authorised, if required by the State or Territory where the person lives.
- Only used as the last resort in response to the risk of harm to the person and where evidenced based, person-centered proactive strategies have been explored and applied.
- The least restrictive response and is in proportion to the risk of harm.
- Used for the shortest possible time to ensure the safety of the person with disability or others.

The NDIS Commission has the role of monitoring the use of restrictive practices. Disability service providers must report all uses of restrictive practices to the NDIS Commission on a regular basis.

The NDIS Commission has published Practice Guides, including the Regulated Restrictive Practice Guide and Regulated restrictive practices with children and young people with disability, to promote the rights and inherent dignity of people with disability and provide good practice advice considerations.

The National Framework for Reducing and Eliminating the Use of Restrictive Practices was endorsed on the 21 March 2014. Health professionals contributed to the consultation process in 2013 to develop the key principles to reduce the use of restrictive practices in the disability sector. The Framework is consistent with the United Nations Convention on the Rights of Persons with Disabilities.

How is medication used as a restrictive practice regulated?

Medication for the primary purpose of influencing a person's behaviour is known within the disability sector, and by the NDIS Commission, as chemical restraint. The NDIS Restrictive practices and Behaviour Support Rules provides the following definition:

> "Chemical restraint is the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition."[45]

The NDIS Commission joined with Aged Care Quality and Safety Commission, and the Australian Commission on Safety and Quality in Health Care to issue a Joint Statement on the Inappropriate Use of Psychotropic Medicines to Manage the Behaviours of People with Disability and Older People in March 2022. The Commissions have agreed to collaborate on a range of issues including overprescription and overuse of psychotropics and the risk these entail for people with disability and older people in the context of limited evidence that psychotropic medication is effective for managing behaviours of concern.

In the Regulated Restrictive Practice Guide the NDIS Commission points to the National

45 National Disability Insurance Scheme (2018) Restrictive Practices and Behaviour Support Rules.F2020C01087. [online] Available at: https://www.legislation.gov.au/Details/F2020C01087

Institute for Health Care Excellence guidelines and recommendations for prevention and interventions for people with learning disabilities and behaviour that challenges. The recommendations include specific information in relation to antipsychotic medication to manage behaviour.

Where medication is prescribed for the primary purpose of managing behaviour:

- A behaviour support plan that includes the medication (chemical restraint) must be developed.
- A 'clarification of purpose of medication' form, completed by the prescribing physician, is required by State and Territory jurisdictions to inform authorisation of the positive behaviour support plan that includes the medication. The NDIS Commission provides guidance and a template to meet this requirement of authorisation.
- Behaviour support practitioners, providers and/or the NDIS participant are required to consult with the prescribing physician or paediatrician to develop medication protocols to include in the behaviour support plan. This may include a PRN protocol that lists least restrictive interventions to attempt prior to administering the PRN medication and reduction protocols once positive strategies have been implemented.

Having a behaviour support plan developed, and well implemented, is an evidence-based pathway to reduce behaviours of concern. Positive strategies, for example communication strategies and routines, can be introduced and consistently used to support the person's needs being met. This then allows for restrictive practices to be reduced and eliminated.

NDIS worker screening

All registered providers are required to comply with the NDIS Commission worker screening requirements. These require key personnel (which include Board members and others in decision making roles) and workers in certain roles to undergo a NDIS Worker Screening Check. States and Territories are responsible for carrying out the NDIS Worker Screening

Check and identifying that an individual is either cleared or excluded from working with NDIS participants. Transitional arrangements are in place that recognise prior States and Territories screening mechanisms (such as national criminal records checks) that were in place before the implementation of the National NDIS Worker Screening Check in 2021.

NDIS Worker Screening Checks are voluntary for unregistered providers, however unregistered providers and self-managed NDIS participants can request workers to undergo a NDIS Worker Screening Check.

To determine which roles require screening, the NDIS Commission has taken a risk-based approach. Under the NDIS Worker Screening rules, risk assessed roles include:

- A key person or entity as defined in 11A of the *National Disability Insurance Scheme Act 2013* (for example, a CEO or a Board Member).
- Those involved in the direct delivery of specified supports or services to a person with disability.
- Those that are likely to require 'more than incidental contact' with people with disability, which includes:
  - Physically touching a person with disability.
  - Building a rapport with a person with disability as an integral and ordinary part of the performance of normal duties.
  - Having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting.

Incidental contact with a person with disability includes physical contact, face-to-face contact, oral, written and electronic communication.

The NDIS Commission maintains the NDIS Worker Screening Database which contains a register of cleared and excluded workers from all States and Territories.

Tip: Some physicians may require a NDIS Worker Screening Check, depending on whether they are working in a risk assessed role. This may be additional to any other employment checks required, such as a working with children check or national criminal record check.

What other protections are in place for NDIS participants?

The Code of Conduct and the NDIS Practice Standards require all providers to operate within relevant national, State and Territory legislation. This includes laws and obligations under consumer law.

In 2019, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established. The Disability Royal Commission will hand down its final report in late 2023.

Guide 12:

How can complaints and appeals associated with NDIA decisions be made?

How can complaints and appeals associated with NDIA decisions be made?

This section provides an overview of the complaints and appeals processes associated with decisions of the NDIA.

What steps can a NDIS participant take if they have feedback or complaints?

The NDIA accepts feedback and complaints. Formal feedback can be provided by emailing the NDIA directly at feedback@ndis.gov.au or by phoning the NDIA on 1800 800 110. Alternatively, feedback, including complaints, can be lodged with the NDIA by completing an online complaint form and emailing the completed form to the NDIA on the feedback email noted above, posting the form to the NDIA or dropping the form off at a NDIA office.

The NDIS Participant Service Charter outlines the actions and timeframes for processes and decisions, including how the NDIA will respond to complaints. Under the Participant Service Charter, the NDIA will take the following actions when it receives a complaint:[46]

- Take immediate action where there appears to be a high risk of harm, neglect or abuse.
- Aim to acknowledge complaints within the next business day from receipt.
- Call within two business days of acknowledgement.
- Aim to resolve complaints within 21 business days of receipt.
- Publish information on NDIA performance.

The NDIA will contact the complainant to collect further information if required. The NDIA will also contact the person or organisation the complaint is being made against to advise about the complaint and request a response. The NDIA will advise the complainant of the response that has been provided and seek to address the concerns.

In the case where a NDIS participant is not satisfied with the outcomes, they can request that it is reviewed by a senior person within the NDIA. If the NDIS participant is still not satisfied, they can take their complaint to the Commonwealth Ombudsman.

What steps can a physician take if they have concerns or complaints?

If a physician would like to raise concerns or has a complaint in relation to a NDIS participant, they can utilise the same NDIA Complaints Procedure as detailed above. If the concern relates directly to the NDIA, it can initially be addressed by the NDIA and should it not be satisfactorily resolved, it can be taken to the Commonwealth Ombudsman.

46 National Disability Insurance Scheme (2023). Feedback and Complaints | NDIS. [online] Available at: https://www.ndis.gov.au/contact/feedback-and-complaints

If the concerns relate to a service provider, this can be addressed to the National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission). Complaints to the NDIS Commission can be made by:

- Phone 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged.
- Call the National Relay Service and ask for 1800 035 544.
- Complete a complaint contact form.

More information about making a complaint can be found on the NDIS Commission website.

What steps can a NDIS participant take if they are not happy with a decision made by the NDIA?

The NDIS Appeals process has been established to ensure that all people with disability, and others affected by reviewable decisions of the NDIA, have access to support to have decisions reviewed. The first step for a decision to be reviewed is to apply to the NDIA to have the decision reviewed internally. A NDIA staff member will be assigned to undertake the internal review. The appointed person will be independent and will not have been involved in the earlier decision.

How and when can a person lodge a request for an internal review?

When advised about a NDIA decision, advice will be provided on how to request an internal review.

An application for internal review of a decision must be made within three months of receiving notice of the decision from the NDIA by completing a formal application. Any person directly affected by a decision of the NDIA can request such a review.

The NDIA aim to complete all internal reviews within 60 days from the day after they receive the request. The NDIA will also provide reasons for the decisions in writing.[47]

What options are there if a person is not satisfied with the internal review?

If a person is not satisfied with the outcome of the internal review, then an application may be lodged with the Administrative Appeals Tribunal (AAT) for an external review. An application for an AAT review must be made within 28 days after a person receives the decision from the NDIA, but extensions can be granted by the Tribunal.

47 National Disability Insurance Scheme (2023). How do you ask for an internal review of a decision | NDIS. [online] Available at: https://www.ndis.gov.au/applying-access-ndis/how-apply/receiving-your-access-decision/internal-review-decision

What types of decision may be reviewed?

There is a list of reviewable decisions in the NDIS legislation under Chapter 4 Part 6 of the *NDIS Act*. Many decisions made by the NDIA are reviewable, including things like being accepted as a NDIS participant, the provision of reasonable and necessary supports, and becoming a registered provider of supports.

How does the Administrative Appeals Tribunal (AAT) process work?

The AAT has developed a Review of National Disability Insurance Scheme Decisions Practice Direction that outlines the processes that it will take to review NDIS Decisions.

As part of the review process the AAT will seek access to all relevant papers from the NDIA and the NDIA is required to ensure that copies are provided to the applicant.

The AAT will run case conferences in person or by telephone in a casual setting and focus on open conversation and participation. The AAT has a broad range of alternative dispute resolution possibilities. All applications are considered in one or more early case conferences where the matters under review are discussed along with the best way of dealing with the application. Many applications are settled at case conferences.

An application that does not settle in a case conference may be referred for conciliation. In an appropriate case the application is referred to be listed for an AAT hearing.

What does an AAT hearing involve?

An AAT hearing is an opportunity for the NDIS participant, and the representative of the NDIA to present information and arguments to the AAT about the decision under review.

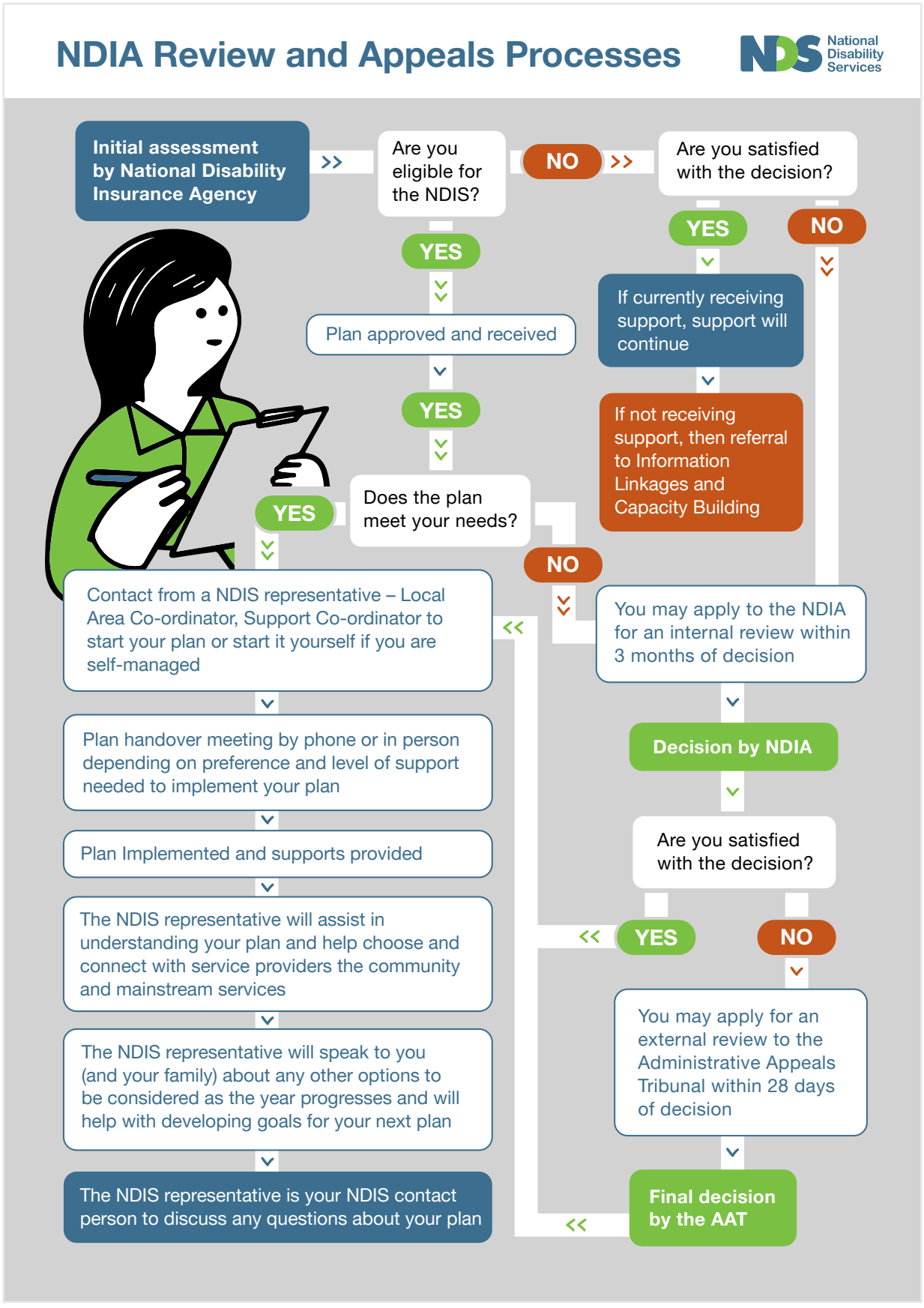
In an AAT hearing the expectation is that the applicant will not require legal representation, however the applicant can be assisted by one or more support persons. Other people, including physicians, paediatricians and other health professionals or experts may give evidence to the AAT in support of the applicant's case. The AAT usually hands down a decision with full reasons within four (4) weeks of the hearing. The AAT may affirm, vary, or set aside the decision under review.

How do I find more information and contacts on the NDIS external appeals processes?

Additional information on external reviews of decisions and the AAT process is available on the NDIA website. Further, the Department of Social Services lists the supports that are available for NDIS participants including access to advocacy and funding for legal services. Figure 12 provides an overview of the access, internal review and appeals processes.[48]

48 Source – graphic created by National Disability Services based on the NDIA Internal Review of a Decision and the Administrative Appeals Tribunal Review of National Disability Insurance Scheme decisions information

Figure 12: NDIA Review and Appeals Process



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NDS National Disability Services