Acknowledgements

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The opinions, comments and/or analysis expressed in this document are those of the author or authors and do not necessarily represent the views of the Australian Government and cannot be considered as expressions of government policy.

This document contains legal information, not legal advice. Always consult a lawyer when you engage in legal planning for the future.

While every effort has been made to ensure that the material in this Guide is up to date, it is possible that there have been changes that we could not account for. At the back of the Guide we have compiled an Additional Services Directory that contains details of organisations that may be able to assist you with advice about National Disability Insurance Scheme (NDIS). The NDIS has a website www.ndis.gov.au and a hotline 1800 800 110.

Endeavour Foundation would like to thank the time and advice shared by the members of the Expert Reference Group convened for the first edition: (NT) Patrick McGee; (NSW) Phillip French; (QLD) Alison Semple, Ron Joachim, Prof Ben White; (SA) Lynn Young; (TAS) Jenny Dixon; (VIC) John Chesterman; (WA) Jaquie Mills.

Welcome to the second edition of the Discover. This guide has been developed for individuals, families and people with an intellectual disability who are about to navigate the National Disability Insurance Scheme (NDIS).

In preparing this edition, we met with families and people with intellectual disability, throughout Australia, who are participating in the NDIS. Their experiences, good and bad, have assisted enormously in the development of this guide and I thank them for their valuable contribution. It is hoped that the following pages will provide you with the information that may assist in better understanding how the NDIS will work for you.

You will see that we have divided the information in each chapter into two sections, complex and Easy Read. The complex sections provide detailed information about the subject. The Easy Read section highlights and simply explains key points within each chapter.

The guide is a ‘whole of life’ planning tool that looks beyond the NDIS. You will find information designed to assist people with an intellectual disability and those who are substitute decision-makers or formal guardians with planning their future.

This second edition was developed with a funding grant from the Community Inclusion and Capability Development Fund from the National Disability Insurance Agency. Endeavour Foundation again asked Professor Patrick Keyzer, Head of School and Chair of Law & Social Policy, at La Trobe University, to update the content of the guide.

I hope you have the opportunity to read through this guide and keep it as a valuable resource for you and your family. The guide provides important information about the changes under the NDIS. I am honoured to have played a part in bringing the revised Discover guide to you.

I welcome any feedback you have about this important publication.

Sincerely,
Andrew Donne
Chief Executive Officer,
Endeavour Foundation
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1
Introduction
This Guide includes information that will help you learn more about the National Disability Insurance Scheme (NDIS) and what it will mean for you. We have tried to make this NDIS guide as simple as possible and there is a glossary of meanings of words at the back of this Guide.

The Guide has a ‘Frequently asked questions’ section at the end of each chapter. These questions have been developed from feedback from people with disability and their parents, carers, guardians and experts.

This second edition also includes detail on the process of putting together a plan, and examples of what a plan might look like. For community organisations, we have included details on the Information, Linkages and Communication (ILC) framework. This component of the NDIS aims to support the provision of information, linkages and referrals which efficiently and effectively connect people with disability, families and carer with appropriate disability, community and mainstream supports. There is also a directory of organisations at the back of this Guide that can provide you with more information.

It is important to think about what you want to do in the future. It is also important to think about how your plans for the future will affect other people in your life. To help you plan for the future, this Guide provides more information about guardianship, wills, trusts, powers of attorney and other legal tools that are used when people plan for the future. Planning with these tools can supplement the plans that people with disability make for their future by securing accommodation and financial resources.

We hope you find this Guide useful as you plan for a NDIS future. If you have any suggestions for improvement of this Guide please send them to the Project Team at:

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1 Introduction

Quick Glossary of Terms

Agency / NDIA
The National Disability Insurance Agency

Carer
An individual who:

a. provides personal care, support and assistance to another individual who needs it because that other individual is a person with disability; and

b. does not provide the care, support and assistance:

i. under a contract of service or a contract for the provision of services; or

ii. in the course of doing voluntary work for a charitable, welfare or community organisation; or

iii. as part of the requirements of a course of education or training.

CEO
The Chief Executive Officer of the Agency/NDIA.

NDIS
The National Disability Insurance Scheme funded by the federal, state and territory governments that will replace the State-based model of disability funding and support provision.

NDIS Representative
NDIS Representative may mean an NDIA Planner, Local Area Co-ordinator or other partner of the NDIS.

Parent
The parent of another person if the other person is a child of the person.

Parental responsibility
Where a person is the child’s parent and has not ceased to have parental responsibility under the Family Law Act or is given so under a parenting order.

Participant
A person who is a participant in the National Disability Insurance Scheme launch.

Participant’s statement of goals and aspirations
Specifies the goals, objectives and aspirations of the participant and the environmental and personal context of the participant’s ‘living’, including living arrangements, informal and other community supports, and social and economic participation.

Plan
The participant’s statements of goals and aspirations and their statement of supports.

Plan management request
A participant’s request as to who will manage the funding supports of the plan.

Plan nominee
The person who is appointed as the plan nominee of a participant.

Reviewable decision
A decision of the National Disability Insurance Scheme Launch Transition Agency that may be reviewed.

Statement of participant supports
Specifies the general supports that will be provided and the reasonable and necessary supports that will be funded under the NDIS, as well as the date by which the Agency must review the plan and the management of funding and other aspects.
2
What is the National Disability Insurance Scheme (NDIS)?
2 What is the National Disability Insurance Scheme?

The NDIS is a planning and service system that has been developed by Australian governments to assist Australians with a disability. Just as Medicare provides universal health insurance to all Australians, the NDIS is intended to provide long-term assistance to Australians with a significant and ongoing disability. Participants in the NDIS will be assisted to develop a personal, goal-based plan about how they will be provided with support.

When did the NDIS commence?
The first stage of the NDIS was launched at trial sites in July 2013. Ultimately, the NDIS will depend upon funding commitments from the Commonwealth, State and Territory Governments, so the roll-out will take place over a number of years. At the completion of the NDIS roll-out, it is intended that all current and all new disability clients would be receiving NDIS services.

Where has the NDIS already been implemented?

Summary of the NDIS Trial sites:
- Australian Capital Territory
- Hunter area and Nepean Blue Mountains area, New South Wales
- South Australia
- Tasmania
- Barwon area, Victoria
- Barkly area, Northern Territory
- Perth Hills area, Western Australia

Here is an Australian-wide overview of where the NDIS has been implemented, and the plans in place for it to be implemented:

- The NDIS in New South Wales is limited to specific geographical areas. These include the Hunter area (Newcastle, Maitland and Lake Macquarie) for people aged up to 65, and the Nepean Blue Mountains area (Blue Mountains, Hawkesbury, Lithgow and Penrith) for young people aged 18 years and under.
- Victoria has the NDIS in the Barwon area. This includes the City of Greater Geelong, Colac Otway Shire, the Borough of Queenscliff and the Surf Coast Shire. From 2016, the NDIS will be made available progressively across the state.
- The NDIS in South Australia is limited not by geographical area but by age and is available for children aged 13 and under. The NDIS will progressively roll-out in South Australia in 2016 and by July 2018, all eligible residents will be covered.
- Tasmania also has the NDIS, but it is limited to young people aged between 15 and 24.
- In the Australian Capital Territory, the NDIS has been implemented gradually for all residents with a disability up to the age of 65.
- The Northern Territory rolled-out the NDIS in the Barkly area in 2014 and from 2016 will be rolled-out to all residents aged up to 65.
- The NDIS in Western Australia has been implemented in the Perth Hills for all residents aged under 65 years.
- The Western Australian State Government has also developed the My Way model of the NDIS. This is a unique model to be trialled in separate locations, including the Lower South West Area, Cockburn and Kwinana. Eligibility requirements are in respect of age and residency.
- Early transitions sites in Townsville, Charters Towers and Palm Island from 1 April 2016, with remainder of Queensland to progressively roll-out from 1 July 2016.

The trial locations were determined on their ability to ensure that operational aspects of the NDIS are properly assessed in preparation for a full-scale roll-out across the country.
2 What is the National Disability Insurance Scheme?

How will the NDIS function?

The NDIS will operate under the *National Disability Insurance Scheme Act 2013 (Cth)*. This is a law made by the Commonwealth Parliament that was enacted on 19 March 2013.

The legislation can be accessed via the NDIS website. Go to [www.ndis.gov.au](http://www.ndis.gov.au), click the ‘About Us’ tab, and under the ‘Governance’ heading click ‘Legislation, rules and agreements’.

The aim of the NDIS is to reform the delivery of support to people with disability. The NDIS system may provide funds directly to individuals and families so that they can choose the services they want and need and will do away with existing funding models based on historical budget allocations. The NDIS will:

- Give people the care and support that is objectively assessed as reasonable over the course of their lifetime,
- Offer early interventions where it will improve a person’s functioning or slow the progression of their disability.

The *NDIS Act* contains a number of chapters dealing with the following topics:

- **Chapter 1** outlines the objects and general principles (outlined above);
- **Chapter 2** sets out the broad role of the Agency, which is to provide general supports to people with disability and their families, as well as to provide funding;
- **Chapter 3** outlines the process for becoming a participant in the scheme, and how to receive a plan and support from the NDIA;
- **Chapter 4** includes the structure of the NDIS, sets out the rights to review, rules to protect information, and the right to appoint nominees; and
- **Chapter 5** addresses the interaction between the NDIS and other compensatory schemes and common law actions for people with disability.
2 What is the National Disability Insurance Scheme?

The NDIS Act also establishes an organisation called the National Disability Insurance Agency (“the Agency” or NDIA). The Agency is charged with a duty to provide supports to people with a disability. This includes:

- Assisting people with disability to access mainstream services.
- Providing funding to help people with disability participate in economic and social life.
- Deciding whether people with disability are eligible to be participants in the NDIS.
- Helping people develop their plans for the future.
- Helping people review their plans.
- Building community awareness around matters of disability.
- Collecting, analysing and exchanging relevant data.
- Offering information to the public about NDIS.

The general principles guiding actions under the NDIS Act:

The NDIS is designed to be a fundamentally different system of support for persons with disability, one in which the individual is empowered to meet their own goals. The NDIS Act recognises key principles that should guide action under the Act, including that:

- People with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development.
- People with disability should be supported to participate in and contribute to social and economic life to the extent of their ability.
- People with disability should be supported to exercise choice, including in relation to taking reasonable risks, in the pursuit of their goals and the planning and delivery of their supports.
- People with disability should be supported to receive reasonable and necessary supports, including early intervention supports.
- People with disability have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation.
- People with disability have the same right as other members of Australian society to pursue any grievance.

- People with disability have the same right as other members of Australian society 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 lives, to the full extent of their capacity.
- People with disability should be supported in all their dealings and communications with the Agency so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs.
- People with disability should have their privacy and dignity respected.
- Reasonable and necessary supports for people with disability should:
  - support people with disability to pursue their goals and maximise their independence; and
  - support people with disability to live independently and to be included in the community as fully participating citizens; and
  - develop and support the capacity of people with disability to undertake activities that enable them to participate in the mainstream community and in employment.
- The role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and respected.
- The role of advocacy in representing the interests of people with disability is to be acknowledged and respected, recognising that advocacy supports people with disability by:
  - promoting their independence and social and economic participation; and
  - promoting choice and control in the pursuit of their goals and the planning and delivery of their supports; and
  - maximising independent lifestyles of people with disability and their full inclusion in the mainstream community.
- Innovation, quality, continuous improvement, contemporary best practice and effectiveness in the provision of supports to people with disability are to be promoted.
The NDIS will be a new government disability service. It is different to Centrelink. The NDIS aims to help all Australians with disability for the long term.

The NDIS will provide information and support and encourage people to have their own individual plan for the future.

The NDIS will help people find the right services in their local area. These may be services especially for people with disability or other services they choose.

The NDIS will help carers with their role.

The NDIS will provide support to people with disability if they need it.
2 What is the National Disability Insurance Scheme?

Frequently asked questions

Q. How do I find out about the NDIS?
There is more information about the NDIS in the next few chapters of this Guide.
The NDIS has a website that includes up-to-date information in formats for the visually impaired
www.ndis.gov.au

Q. Does the NDIS have a hotline?
The NDIS has a hotline for anyone seeking more information.
Free Call: 1800 800 110.

Q. I am a parent or carer of a person with disability. Is there any information that explains my role in the NDIS?
Please see the information in the Parents, Carers, Guardians and Nominees section of this Guide. The NDIS website also contains resources for parents and carers.

Q. My home is not in a NDIS trial site. When will the NDIS come to my area?
The NDIS will not be rolled out across Australia until the Commonwealth, States and Territories have made commitments of funding to the Scheme. This may take a number of years.
Information on where and when the NDIS is being rolled out is available on the website: www.ndis.gov.au

Q. Where can I find information about the NDIS in languages other than English?
A brochure titled What is the NDIS? is available in Arabic, Cantonese (traditional Chinese), Greek, Italian, Mandarin (simplified Chinese), Spanish and Vietnamese. Visit the NDIS website for further details: www.ndis.gov.au
The NDIS Planning Workbook provides information and helps start the planning process for people who are able to access the NDIS. In addition to the Indigenous and Easy English versions, the Workbook is available for download in Arabic, Cantonese (traditional Chinese), Greek, Italian, Mandarin (simplified Chinese), Spanish and Vietnamese.
The Workbook can be accessed from the “planning process” section of the NDIS website: www.ndis.gov.au/participants/planning-process

Q. Will the NDIS provide training to people with disability, their carers, parents, guardians and advocates so that they can understand how the NDIS works?
A Practical Design Fund was established to offer practical ways to prepare people with disability for the transition to the NDIS, as well as their families, carers and the community. There were 73 initiatives that received funding from the Practical Design Fund.
The NDIA is developing its Information, Linkages and Capacity Building (ILC) framework, which would fund organisations to provide information, linkages and referrals to efficiently and effectively connect people with disability, their families and carers with appropriate disability, community and mainstream supports. This scheme will be important for those who do not qualify for individually funded packages through the NDIS. The ILC is discussed later in this Guide.
The NDIS website contains a ‘People with disability’ tab that links you through to Fact Sheets, Publications and additional resources for people with disability, carers, parents, guardians and advocates. This is available at: www.ndis.gov.au/people-disability
At the time this publication was prepared, the following Fact Sheets were available for download at: www.ndis.gov.au/people-disability/fact-sheets-and-publications
2 What is the National Disability Insurance Scheme?

For Participants
• Participating in the NDIS (for each trial site)
• Managing your participant plan
• Participant Transport Funding

Easy English Fact Sheets for Participants
• Managing Your Supports and Funding
• Guide to Service Agreements
• Transport Funding
• Planning Workbook
• Mobility Allowance
• Principle of No Disadvantage and the NDIS
• Reasonable and Necessary Supports
• Freedom of Information
• Terms of Use (about using the website)

Connecting with the mainstream
• How the NDIS works with other mainstream systems
• Supports the NDIS will fund (in relation to various services)

The NDIS regularly updates the information on its website, so please check the NDIS website for updates.

Who can help?
We have provided a list of organisations that can help you learn more about the NDIS. This list is available in our Additional Services Directory at the back of this document.

Q. What has the NDIS changed in your life?
A. The NDIS has been our partner in Joe’s care. Government departments are often a faceless governmental entity but not the planners, LACs and multitudes working behind the scenes of NDIA. Our planner regularly rings us enquiring about Joe and asking if there is absolutely anything she can do for him. Prescriptions put in by therapists are usually approved and turned around within two days. Some big ticket items may take longer but nothing has ever taken longer than two weeks for approval and, even then, we’re kept up to date. I’ve even had the LAC chase up tardy suppliers for us without being asked to.

– Anonymous family who have children in the NDIS.
3
Becoming a participant in the NDIS
3 Becoming a participant in the NDIS

To access the National Disability Insurance Scheme, the Agency will need to know some information about you. Everyone will provide this information in different ways. You may be asked to fill in a form or tell someone over the phone.

If you currently receive disability supports, your provider may be able to supply this information on your behalf.

If you are not currently receiving supports you will need to contact the NDIA when it is available in your area.

You can do this by:
- Visiting the local NDIA shopfront office
- Ring the NDIS on 1800 800 110

You may be required to provide further information or complete an Access Request Form. The Access Request Form will require the following details about the participant:
- Date of Birth
- Current residential address
- Citizenship status
- Compensation details (if applicable)
- Centrelink CRN
- Your Doctor can complete the “Evidence of disability form”
- Sign and date.

On receipt of your completed Access Request Form, the NDIA:
- May seek additional information about you and your disability from your current service provider
- Will confirm receiving your form
- Will begin the decision process to determine if the person meets the participant requirements within 21 days
- If a person is not eligible to be a participant in the NDIS they will be referred to a Local Area Coordinator who will provide links with services and broader community support
- If a person is eligible for the NDIS a NDIS Representative will contact you to tell you what the next steps are to create your First Plan, including making a time to meet with you.

The NDIS Access Checklist can be found here: www ndis gov au ndis access checklist.

The NDIS will evaluate your Access Request by applying the relevant access criteria, including any additional access criteria relating specifically to your launch site. These criteria may include age, place of residence, and disability or early intervention requirements. The NDIS may request that the prospective participant undergo assessments or examinations.

The National Disability Insurance Scheme (Becoming a Participant) Rules 2013, are more detailed rules made under the NDIS Act and specify access requirements that must be met for a person to become a participant in the NDIS. These Rules can be found at www comlaw gov au Details F2015C00616. A number of these rules are specific to certain types of disability and provide greater detail on what will and will not be funded. Links to all the legislation, rules and agreements concerning the NDIS are available at: www ndis gov au about us governance legislation.

Residence requirements
- To access the NDIS the person must live in Australia and be an Australian citizen, a permanent resident, or hold a special category visa.
- A person must also reside in one of the following areas where the NDIS has already been implemented:
  - Australian Capital Territory;
  - Hunter area and Peep Blue Mountains area (for children and young people aged under 18), New South Wales;
  - South Australia (for children aged 13 and under);
  - Tasmania (for people aged 15-24);
  - Barwon area, Victoria;
  - Barkly area, Northern Territory;
  - Perth Hills area, Western Australia.

Please see Chapter 2 for more specific locations, or go to the NDIS website to see if the NDIS has been, or is to be, implemented in your area: www ndis gov au.
3  Becoming a participant in the NDIS

Age requirements
To access the NDIS, generally the person must be aged under 65 years at the time the access request in relation to the person was made. Please note that in some locations there are additional age requirements to access the NDIS during the trial period, as indicated previously.

Disability requirements
The person must meet the following disability requirements to access the NDIS:

- The person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or to one or more impairments attributable to a psychiatric condition;
- The person’s impairment or impairments are, or are likely to be, permanent;
- The impairment or impairments result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, one or more of the following activities: communication, social interaction, learning, mobility, self-care, self-management;
- The impairment or impairments affect the person’s capacity for social and economic participation; and
- The person’s support needs in relation to his or her impairment or impairments are likely to continue for the person’s lifetime.

An impairment that varies in intensity (for example because the impairment is of a chronic episodic nature) may be permanent, and the person’s support needs in relation to the impairment may be likely to continue for the person’s lifetime, despite the variation.

Ceasing to be a participant
A person ceases to be a participant in the NDIS when they die, turn 65 years old and have entered an aged residential care service, are being provided with community care on a permanent basis, or their status is revoked. The status is terminated in the event the NDIS is satisfied the person does not meet the residence, disability or early intervention requirements.
3 Becoming a participant in the NDIS

- Do I meet the early intervention requirements?
- What help do I need?
- Do I meet the age criteria?
- Do I meet the disability requirements?
- Do I meet the residence requirements?
The NDIS will help people who are born with disability or who develop disability later in life.

A participant must have a disability.

The disability must be permanent which means it will not go away over time.

A participant will need to be a resident of Australia.

There are Rules which help work out who can become a participant and who can receive services and support.

The NDIS will help with the use of therapy (for example) so that support can improve a person’s life.

The NDIS wants to make sure that people who need disability services will get disability services.
Frequently asked questions

Q. When does a person meet the age requirements?
Generally, the age requirements are satisfied if the person is under 65 years old when the access request in relation to the person was made. Note, there are additional age requirements in some locations.

Q. When does a person meet the residence requirements?
A person satisfies the residence requirements if they reside in Australia and are either an Australian citizen, a permanent resident, or hold a special category visa.

Q. When is an impairment permanent or likely to be permanent?
An impairment is or is likely to be permanent if it is irreversible or likely to be irreversible.

Q. What kind of activities are considered relevant activities for the purposes of impairment?
Communication, social interaction, learning, mobility, self-care and self-management are considered relevant activities by the NDIS Rules.

Q. What happens when I turn 65?
When you turn 65 years of age you can no longer submit an access request to the NDIS. If you are already a participant, you will cease to be a participant if you permanently enter a residential aged care service or are provided with permanent community care and you are 65 years or older.

More information
Information on Becoming a Participant is available on the NDIS website at www.ndis.gov.au or by calling 1800 800 110.

Q. What has the NDIS changed in your life?
A. Seeing my daughter making progress in all areas which wouldn’t have been possible without the NDIS!
– Anonymous family who have children in the NDIS.
4
Early intervention
One of the objectives of the NDIS is to support people through ‘early intervention’ so that their disability is less likely to prevent them from participating in society in the future.

Through early intervention the NDIS is able to:

- Fund supports that help minimise the impacts of a person’s disability
- Help improve their functioning or prevent the deterioration of their functional capacity over their lifetime
- Reduce the need for future support
- Build the sustainability of each individual’s support network, particularly that of their immediate family.

Examples of early intervention strategies may include:

- Investment in community supports that would allow a person to remain in their home rather than be forced to relocate into residential care
- Therapy to slow or delay the impact of a degenerative condition
- Early intervention programs in childhood to address developmental delay.

Early intervention requirements

Under section 25 of the NDIS Act, a person meets the early intervention requirements if that person:

- Has one or more identified intellectual, cognitive, neurological, sensory or physical impairments that are, or are likely to be, permanent. If the disability is identified by the NDIS Rules then NDIS will automatically be satisfied that this requirement is met;
- Has one or more identified impairments that are attributable to a psychiatric condition and are, or are likely to be, permanent; or
- Is a child under 18 years of age who has developmental delay. No evidence is required as to the ‘likely benefit to the person’ for the provision of early intervention supports for a child under the age of 6 if one or more of the child’s impairments results in developmental delay.

For persons above the age of 6 years, early intervention requirements ask the participant to show evidence of the likely benefit of early intervention in reducing the person’s future needs for supports.

The “likely benefits to the person” can be:

- Minimising or alleviating the impact of the person’s impairment upon the functional capacity of the person to undertake communication, social interaction, learning, mobility, self-care or self-management;
- Preventing the deterioration of such functional capacity or improving such functional capacity; or
- Strengthening the sustainability of informal supports available to the person, including building the capacity of the person’s carer, for example referral and information assistance for carers.

In deciding whether the person would benefit from early intervention, the decision-maker must consider:

- How the person’s impairment is likely to develop over time and how this will impact on the person
- The potential benefits of early intervention on the person’s functional capacity and in reducing their future needs for supports
- Evidence from expert research or from the person with the disability, family members or carers.

The person does not meet the early intervention requirements if the NDIS is satisfied that early intervention support for the person is more appropriately funded or provided through other systems of service delivery or supports.
4 Early intervention

The NDIS will help adults or children as early as possible.

This means that help and support may help things improve or stop things getting worse.

Being able to get help and support early is important – the earlier you get help the better things will be.

Children often benefit if they receive help with their disability whilst at school such as how to manage their behaviour so they can continue to go to school.

NDIS will help an older person with equipment or aids in their home so they can stay at home, rather than go into an aged care home.
Frequently asked questions

Q. What types of early intervention could be provided under the NDIS?

The aim of early intervention under the NDIS is to support people when there is good evidence that this will improve an area of functioning, or delay/lessen a decline in functioning.

Early intervention can encompass a range of disability supports and services including: specific therapies such as speech therapy or physiotherapy, aids and equipment, behaviour and specialist interventions, support coordination, and home and transport modifications.

People with disability can receive early intervention support in a range of settings, including a person’s home, depending on the person’s needs.

Q. What could early intervention look like under the NDIS?

Where appropriate, early intervention is a key part of the supports provided to people under the NDIS. It may be considered at different stages, such as those outlined below.

The planning process

People are able to work with the NDIA to plan the things they can do now to reduce the impact of their disability over time and choose the interventions right for them.

When managing support options

People are able to access early intervention supports in addition to any ongoing support they are eligible to receive from the NDIS.

Review and reassessment of a person’s plan

Early intervention will mean different things to different people. The NDIS will work with a person to make sure that their intervention works for them and is tailored to their needs and stage of life.

A Fact Sheet on the supports the NDIA will fund in relation to early childhood can be found here: www.ndis.gov.au/document/factsheet-supports-ndis-will-fund-i
Human rights are fundamental rights and freedoms that are intrinsic to every person by virtue of their status as a human being. Human rights are said to be ‘inalienable’ and this means they cannot be taken away.

Human rights are recognised by the international community as basic to every person irrespective of their national, cultural, political, geographic, social, religious or temporal context and any other personal characteristics, such as disability, gender, race, sexuality or age. They are standards applicable to all persons, at all times, in all societies.

**Convention on the Rights of Persons with Disabilities**

In 2007, an international treaty called the International Convention on the Rights of Persons with Disabilities (CRPD) came into operation, and it was ratified by Australia on 18 July 2008. It ensures the rights of people with disability are realised. To date, there are 159 signatories to the CRPD, including Australia.

For more information on the CRPD, go to the United Nations Enable website at [www.un.org/disabilities](http://www.un.org/disabilities)

The NDIS Act contains a number of principles drawn from the CRPD. These are listed below.

- People with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development.
- People with disability should be supported to participate in and contribute to social and economic life to the extent of their ability.
- 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 should be able to exercise choice and control over the purpose, planning and delivery of their supports or in taking reasonable risks.
- People with disability should be enabled to obtain access to reasonable and necessary supports, including early intervention.
- People with disability have the same right as other members of Australian society to be respected for their worth and dignity and to live free from abuse, neglect or exploitation.
- People with disability have the same right as other members of Australian society to pursue any grievance.
- People with disability should be able to determine their own best interests, exercise choice and control and engage as equal partners in decisions that will affect their lives, to the fullest extent of their capacity.
- People with disability should be supported in all their dealings and communications with the Agency so that their capacity to exercise control and choice is maximised in a way that is appropriate to their circumstances.
- People with disability should have their privacy and dignity respected.
- Reasonable and necessary supports for people with disability should:
  1. Address the effect of an impairment or impairments on their capacity to undertake everyday activities, including enabling them to participate in and contribute to social and economic life to the extent of their ability; and
  2. Allow them to achieve their goals, objectives and aspirations, to the extent possible.

The vital role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and valued.

**Sexual rights**

The UN Convention on the Rights of Persons with Disabilities states that all people have the right to make choices, including relationships. Many people with intellectual disability have boyfriends, girlfriends, partners or spouses. People with intellectual disability have sexual feelings just like other people and have the same choices to make about their sexuality.

People with intellectual disability often need specific information and support to help them make decisions about these issues so that they can identify and recognise consequences of their actions and be aware of the risks of their choices.
Disability Discrimination Act

The NDIS supplements the Disability Discrimination Act 1992 (Cth) (DDA). The DDA provides protection for everyone in Australia against discrimination based on disability. It also aims to promote equal opportunity and access for people with disability. Disability discrimination happens when people with disability are treated less fairly than people without disability.

The DDA makes it against the law to discriminate against someone if they have a disability in the following areas of life:

**Employment**

Discrimination could occur when someone is trying to get a job, receive equal pay or gain a promotion.

**Education**

Discrimination could occur when enrolling in a school, TAFE, university or other college.

**Access to premises used by the public**

Discrimination could occur when using libraries, places of worship, government offices, hospitals, restaurants, shops, or other premises used by the public.

**Provision of goods, services and facilities**

Discrimination could occur when a person wants goods or services from shops, pubs and places of entertainment, cafes, video shops, banks, lawyers, government departments, doctors, hospitals and so on.

**Accommodation**

Discrimination could occur when renting or trying to rent a room in a boarding house, a flat, unit or house.

**Buying land**

Discrimination could occur when buying a house, a place for a group of people, or a drop-in centre.

**Activities of clubs and associations**

Discrimination could occur when wanting to enter or join a registered club (such as a sports club, RSL or fitness centre), or when a person is already a member.

**Sport**

Discrimination could occur when wanting to play, or when playing a sport.

**Administration of Commonwealth Government laws and programs**

Discrimination could occur when seeking information on government entitlements, trying to access government programs, or wanting to use voting facilities.

The Racial Discrimination Act 1975 (Cth) makes it illegal to discriminate on the basis of a person’s race, ethnicity or culture. If you are an Indigenous Australian with a disability the combination of disability and racial discrimination can make it difficult to experience the same opportunities as the rest of the community when it comes to employment, joining sporting clubs, quality of support and care, and entering into contracts.

**Q. What surprised you about the NDIS?**

**A.** Our experience has always been positive. Our planner has always responded to our questions and queries and facilitated our requests. We are very thankful.

– Anonymous family who have children in the NDIS.
Everyone has rights.

There are laws in Australia which require people to treat people with disability the same as everyone else.

Australia has agreed to the United Nations Convention on Persons with Disabilities to make sure people with disability have rights in Australia.

5 NDIS and Human Rights

No-one is allowed to treat me unfairly

Right to learn things and be independent

Equality

I have a right to be treated equally

Rights

Respect for dignity

Respect

Support to achieve what I want to achieve

My Human Rights
5 NDIS and Human Rights

Frequently asked questions

Q. The NDIS implements Australia’s obligations under international law. That sounds good, but what does it mean for me?

The new law (the *NDIS Act*) contains provisions that specifically refer to the human rights of people with disability and imposes an obligation on the Agency to ensure that their decisions are made in accordance with those rights.

Q. If I am dissatisfied with a decision made under NDIS what can I do?

You can ask the NDIA to review your decision. This is known as an “internal” decision. If you are unhappy with the outcome, then an external body, known as a tribunal (the Administrative Appeals Tribunal) can be approached. See Chapter 16 for more details.

Who can help?

For more information about human rights and the rights of people with disability to be free from discrimination, there are a number of organisations who can assist. We have provided a list of organisations that can give you more help in the Additional Services Directory at the back of this document.

Q. What advice do you have to help people through the NDIS process?

A. You can include equipment but need a “prescription”. Try to get these before your first planning meeting so you don’t have to wait for changes later.

– Anonymous family who have children in the NDIS.
6 Advocacy and advocates
People with an intellectual disability, dementia, acquired brain injury or mental health issues may need advocates to help them achieve their needs. Advocacy can mean speaking-up on behalf of people or it can mean standing beside someone and helping them to speak for themselves. Advocacy comes in many forms and some models of advocacy are explained below.

**Models of disability advocacy**

**Citizen advocacy** seeks to support people with disability by matching them with volunteers in the community. Some of the volunteer-matches may last for life.

**Family advocacy** supports parents and family members to act as advocates with, and on behalf of, a family member with disability, either on a short term or issue-specific basis. The principle that the rights and interests of the person with disability are upheld at all times is fundamental to the family advocacy model.

**Individual advocacy** seeks to uphold the rights and interests of persons with disability on a one-to-one basis by addressing specific instances of discrimination, abuse and neglect.

**Legal advocacy** seeks to uphold the rights and interests of persons with disability on a one-to-one basis by addressing the legal aspects of instances of discrimination, abuse and neglect.

**Systemic advocacy** seeks to influence or secure positive long-term changes that remove barriers and address discriminatory practices to ensure the collective rights and interests of people with disability are upheld.

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**Case Study – Max**

Max* is a 42 year old man with a mild intellectual disability and lives at home with both of his elderly parents. Max had always worked with his father until his father’s retirement some years ago and now Max is ‘house-bound’ because he cannot drive or catch a bus. Max wants to go out with his friends and work part-time instead of helping his mother each day in the kitchen. An advocate’s role could be to work with all the family in developing strategies to support Max to help him to be more independent, safe, and enjoy activities.

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**Case Study – Amanda**

Amanda* is a 45 year old lady and has a moderate intellectual disability. She lives in a group home run by a service. Amanda is unhappy that the service workers take care of her money and don’t give her enough to spend. She has brought the matter up with her parents but they do not want to approach the service directly as they are both nearly 80 years of age.

An advocate’s role could be to work at Amanda’s direction, to support her and resolve the issue with the service so that Amanda has the right to make decisions about her money.

*Model in photograph above as Max.

*Model in photograph above as Amanda.
There are people outside your family who can also speak up for you and they are called ‘advocates’.

Advocates listen to what you have to say.

Advocates can go with you to speak on your behalf when you want them to or they can help you speak up for yourself.

Advocates work with you to help fix a problem.
Frequently asked questions

Q. Where would I go to find out more about advocates?

The Department of Social Services (DSS) provides information on the available supports for people with disability and their carers: www.dss.gov.au/our-responsibilities/disability-and-carers/programmes-services

Endeavour Foundation’s Community and Advocacy Support Unit (“CAS Unit”) promotes and protects the human rights of those with disability, by ensuring that those who accept Endeavour Foundation supports and services are treated in accordance with the Convention on the Rights of Persons with Disability: www.endeavour.com.au/Our-Endeavour-Foundation/Advocacy-NDIS

Who can help?

This Guide contains details about advocacy organisations. The Additional Services Directory is located at the back of this document.

Q. What has the NDIS changed in your life?

A. Choosing the therapists we want to work with. Creating our own dream team who fit best with George and us as a family.

– Anonymous family who have children in the NDIS.
7

Communicating with people with disability
The purpose of the NDIS is to place people with a disability in charge of planning and controlling their life by:

- Giving people with disability access to funding and supports so that they can participate fully in Australian society, and
- Helping people with disability to realise their human rights.

To help a person with disability to make decisions, it is necessary to communicate in the most appropriate way possible by providing information to the person in their preferred communication mode and format. This may include the use of written or spoken language, signs, symbols or line drawings, photographs or other objects.

For people with communication needs an Alternative and Augmentative Communication (AAC) system may be required. This may include using various types of equipment such as:

- A letter, word or picture board
- A voice synthesiser or computer and/or
- A hearing loop.

**Communicating about disagreements**

Disagreements may occur between a professional who has assessed a person's capacity and a family member, friend or carer. Some effective approaches include:

- Trying to resolve the issue informally
- Listening to, acknowledging and discussing a person’s issues without criticism
- Inviting someone independent and qualified, such as an advocate, to an informal meeting.

There are also formal ways to resolve issues. Guardianship Tribunals in each State or Territory can consider applications for:

- Guardianship
- Financial management
- Consent to medical and dental treatment.

**Case Study – Helena**

Helena* can use some words and expresses herself in various ways including facial expressions and body language. Helena lives in a group home but she wants to move into another group home. An advocate spent time with Helena to support her, because the staff stated Helena did not have capacity to make a decision to move into the new home by herself.

Through a series of meetings Helena communicated through symbols, pictures, photos and some language, to convey why she wanted to move and her capacity to make decisions about where she wanted to live. This was done in her own way with appropriate communication support.

*Model in photograph above as Helena.*
It is sometimes hard for some people with disability to let people know what they think because of their ability to speak, or to hear, or to read or write.

Everyone has the right to let you know what they are thinking and to use whatever means they can to express their feelings, needs and wants.

We are all individuals and communicate in different ways, for example, people with hearing loss sometimes use their hands and sign language.

People with a disability can always communicate more effectively, if they are given appropriate support, for example, they may use a computer to express themselves rather than speaking.
Frequently asked questions

Q. How should I communicate with people with disability that affects their capacity to communicate? Are there any resources I could use to improve my communication skills?

The Queensland Government has produced information on Better Communication, which includes general tips for communicating with people with disability. The document has a number of postcards to aid communication. These resources are available at: www.qld.gov.au/disability/community/communicating


The Vela Microboards Association provides information on microboards and how they may assist communication: www.velacanada.org

The National Alternative Dispute Resolution Advisory Council (NADRAC) produced a publication titled ‘Issues of Fairness and Justice in Alternative Dispute Resolution’, and Chapter 6 is titled ‘People with Disabilities and Alternative Dispute Resolution’. The publication is available at: www.ag.gov.au/LegalSystem/AlternateDisputeResolution/Pages/NADRACpublications.aspx

Judy Cohen has produced ‘Making Mediation Sessions Accessible to People with Disabilities’ and is available at: www.mediate.com/accessresources/pg3.cfm

The Disability Advocacy Resource Unit has a number of useful publications which are available at: www.daru.org.au

Who can help?

In the Additional Services Directory at the back of this Guide we have set out contact details for advocates, mediators and legal services that may be able to assist you.
8

What is ‘Capacity’ and why does it matter?

Capacity is always assumed for people 18 and over.

People can be supported to make their own decisions.

People have the right to make the decisions and choices they want.

If a decision is made on a person’s behalf, it must be in their best interests.

Best interest decisions must be the least restrictive of the person’s rights and freedoms.
What is ‘Capacity’ and why does it matter?

‘Capacity’ is the legal word for a person’s ability to make decisions.

Under Australian law a person who is 18 years of age is assumed to have capacity. This means that they can make all their own decisions. Australia has signed the Convention on the Rights of Person with Disabilities which states in Article 12 that people with a disability are presumed to have capacity to make decisions that affect their lives.

A person with capacity is able to make decisions affecting their daily life, such as:
- Where to live
- What to buy
- What support or services they need
- When to go to the doctor.

A person with capacity also has the power to make decisions about matters that have legal consequences, including:
- Making a will
- Marriage
- Entering into a contract

Generally, a person who has capacity to make decisions can:
- Understand the facts involved
- Understand the choices involved
- Weigh up the consequences of the choices
- Understand how the consequences affect them and others
- Communicate their decision.

Capacity can vary

Capacity varies from person to person and from situation to situation. Capacity is not something solid that you can hold and measure, as it is affected by a person’s abilities and by what is happening around them.

Capacity may also be influenced by a person’s cultural background and experience. Indigenous Australians living in a remote community may not be able to complete a Centrelink form but have in depth knowledge of their practices, families and communities which must be respected.

Everyone’s abilities vary and everybody reacts in their own way to their environment. For example, some people enjoy being in noisy places or busy places such as shopping centres, but others find this very stressful.

Each person’s capacity can fluctuate, depending on things such as their mental and physical health, personal strengths, the quality of services they are receiving, and the type of support needed.

The level of capacity a person has at a particular time can depend on the following factors:
- Whether the decision is simple or complicated.
- How much information the person has been given, and what their level of understanding is about the information.
- The type of decision being made. Is it a financial decision, a health decision, some other kind of decision like a lifestyle decision?
- The timing of the decision. Is the person tired? Is the person more able to make decisions in the morning, for instance?

Capacity is decision specific

It is very rare for a person not to have capacity for any decisions. However, this can happen when a person is, for example, unconscious or has a severe cognitive disability.

If a person lacks capacity then this often relates to the making of more complex decisions. Some examples of why capacity is decision specific include the following scenarios:

- A person might be able to decide where they want to live (a lifestyle decision), but not be able to decide whether to sell their house (a financial decision); or
- A person may be able do their grocery shopping (a financial decision), but not be able to buy and sell shares (a more complex financial decision).
8 What is ‘Capacity’ and why does it matter?

- Communication-related factors. Sometimes a person with a disability may need assistance to communicate, a language or signing interpreter or advocate, or a particular Alternative and Augmentative Communication (AAC) strategy.
- The physical environment in which the decision is being made. Is the environment noisy or is the situation stressful? Does the person live in the suburbs of a city or in a remote Indigenous community?
- The cultural environment in which the person lives. Is English the person’s first language or their second or third language? Were they born in Australia or did they arrive here from another country?
- The person’s experience. How much knowledge of, or familiarity with, the topic does the person have?
- Health. Does the person have an illness or condition that worsens from time to time and affects their capacity, such as a mental illness or the effects of drugs, alcohol or anaesthetic?
- Personal stress. Is the person dealing with any social issues which may cause them stress at the time of decision-making?
- Duress. Is the person making the decision in a circumstance where they are being bullied or forced?
8 What is ‘Capacity’ and why does it matter?

‘Capacity’ is a legal word for a person’s ability to make decisions and understand the consequences.

The law in Australia says that everyone over the age of 18 years has ‘capacity’ including people with disability.

This means that a person with a disability is supposed to be able to make decisions about their own life, just like everyone else.

Some decisions are harder to make, some decisions are easy to make.

People can be supported to understand that they are making a decision and what the consequences may be.

When making a decision people can be supported to think about all the different choices, what can happen when a choice is made and how they can let people know about their decision.
8 What is ‘Capacity’ and why does it matter?

Frequently asked questions

Q. The person I care for can make some types of decisions without assistance but may find other decisions to be a struggle. How will the NDIS account for this issue?

At the core of the NDIS is a principle to empower people with disability and give them more control in their life. However, there are times when people with disability need the valuable support of their carers, family, friends and community.

This is why the NDIS Act provides for both plan nominees and correspondence nominees to assist people with disability.

Q. What advice do you have to help people through the NDIS process?

A. Spend the month or so before planning watching your child. Every time you see something and think ‘I wish they could do that or wish they didn’t struggle with this’, write it down. It will give you an idea of what they are struggling with and somewhere to start looking for goals you would like.

– Anonymous family who have children in the NDIS.

More information

A ‘Capacity Toolkit’ has been published by NSW Attorney General’s Department and is available at: www.justice.nsw.gov.au/diversityservices


The New South Wales Government Department of Family and Community Services, Ageing, Disability and Home Care have produced ‘Lifestyle Planning Guidelines’ about lifestyle planning for people with disability. It is available at: www.adhc.nsw.gov.au

The New South Wales Government Department of Family and Community Services, Ageing, Disability and Home Care has produced ‘Working in Person Centred Ways: A Resource Book for New South Wales Advocacy and Information Services’ which is available at: www.adhc.nsw.gov.au

Who can help?

At the back of this guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.
Independent, Supported and Substitute decision-making
The NDIS will presume that people with disability have the capacity to exercise choice and control in their lives and will endeavour to support and develop that capacity.

This situation might be different for some people who have impaired capacity, whether this is caused by developmental delay, intellectual disability, mental ill-health, dementia, or acquired brain injury.

In the following pages of this Guide we attempt to define the different types of decision-making and identify issues that can arise in decision-making contexts. This material is intended to help you reflect on your role in the decision-making of a person with disability.

Independent decision-making

Independent decision-making is empowering, allowing the person to assess and manage the risk involved in designing and implementing their plan. Some risks include abuse of power, social isolation or marginalisation, and the challenges of managing any personalised budgets.

Issues to think about

- It is important that a person is able to conceptualise what a risk is in making independent decisions.
- Those unrealistic assumptions about freedom to contract and equality of bargaining power are not made in a person’s freedom of choice.
- Ensuring that safeguards are designed to maximise choice accounting for a person’s vulnerability while keeping the participant safe.

In discussing the appropriate range of safeguards for the participant, the NDIS Representative will obtain consent to include a participant’s family and others where that is appropriate for the participant.

Supported decision-making

- Seeking advice and support when we make decisions is called supported decision-making. Supported decision-making is one form of decision-making for a person who needs help with managing the process of decision-making. This process includes gathering the necessary information, thinking about the options and working out possible consequences of the decision. Most adults make decisions in consultation with other people, particularly when those decisions affect others, or when those decisions are important. Social networks or ‘circles of support’ help to build supports for good decision-making.

Issues to think about

- Does the person with disability have social networks such as friends and family who can support the person in their decision-making? If not, how can these be built?
- Are advocates available to ensure that the decision-making process is about what the person wants instead of what others want for them? Are the people who support the person with disability, be they parents, carers or guardians, accountable to others?
- Have all of the options been explored in making the decision?
- Will supporters become de-facto guardians without the accountability of checks and balances of guardianship?
Substitute decision-making

Substitute decision-making involves one person making a decision on behalf of another. The law presumes that all people over 18 years of age have capacity. If a parent, carer or other interested person wants to make a decision on behalf of someone else they will need to seek legal power to do so.

Informal versus formal decision-makers

The role of an informal decision-maker is different from that of a formal decision-maker or guardian appointed by a tribunal. The law in most states (with the exception of the Northern Territory) recognises that, depending on the issue, decisions can be made informally by a person’s family or support network without the need to appoint a guardian.

When a guardian is appointed by a tribunal, that person (or persons) become formal decision-makers who are legally responsible and accountable for their actions and decisions.

Appointed Guardians

Guardianship orders are made as a ‘last resort’ for people who do not have the capacity to make specific decisions. Guardians are appointed by a state tribunal.

Issues to think about

- Guardianship Boards and Tribunals in each of the States and Territories make guardianship orders. A guardianship order can be ‘plenary’, giving the guardian full decision-making power, or ‘partial’, allowing the guardian to make some decisions and not others.
- Guardians are appointed where it is established that a person with a cognitive impairment, needs to make decisions but the person is unable to make decisions because of their impairment.
- Guardians are required to make decisions that promote the best interests of the person, take into account their wishes and are the least restrictive in the circumstances.
- Guardians can be appointed for specific decisions – for example, those relating to accommodation, health or finance decisions.
- There is important information about guardianship in the “Parents, Carers, Nominees and Guardians” section of this Guide.

Q. What has the NDIS changed in your life?

A. The option of ongoing help yearly with the option of changing any professional if necessary. Far better that the five visits that took on the Medicare Plan; two visits to find out about the child and then three visits to try and help.

– Anonymous family who have children in the NDIS.
‘Independent decision-making’ is when you make the decisions by yourself – you do not need any help.

Sometimes you may need help making everyday decisions such as which bus to catch to get to work or big decisions such as agreeing to medical treatment. Supported Decision Making is asking for help to make a decision.

Most people talk to people such as friends and family when they make decisions, especially big decisions.

Some people who are unable to make major decisions are done so by ‘substitute decision-makers’. Substitute Decision Makers are called Guardians.
9 Independent, Supported and Substitute decision-making

Who can help me with final decisions?

Is it safe?

Can I afford it?

Is there a risk to health?

Who might have better ideas?

My Plans
Frequently asked questions

Q. How does the NDIS support decision-making by people with disability?
The NDIS aims to give people with disability more choice and control in their life and endeavours to support and develop their capacity to make important decisions.

Q. What about people with disability who don’t have the capacity to make decisions alone?
The NDIS recognises that not everyone has the capacity to make important decisions. Existing powers of attorney and guardianship orders are not affected by the NDIS but the new legislation provides for appointment of ‘nominees’ who can also make decisions on behalf of others.

Q. What is involved in the nominee process?
Please see the following chapter for further information on nominees.

More information


The ACT Disability Aged Care and Advocacy Service has developed a website about supported decision making: [www.adacas.org.au](http://www.adacas.org.au)

Who can help?

At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

Q. What surprised you about the NDIS?
A. Yes the process is long and sometimes stressful (and can’t always get everything we want) but looking back over the past 18 months I’m so grateful for the NDIS funding we have been able to get.

– Anonymous family who have children in the NDIS.
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The Role of Parents, Carers, Guardians and Nominees
This section of the Guide explains the role of parents, carers, guardians and ‘nominees’. Before describing these roles it is useful to set out some terminology that is used in the NDIS Act.

**Agency / NDIA**
The National Disability Insurance Agency

**Carer**
An individual who:

- a provides personal care, support and assistance to another individual who needs it because that other individual is a person with disability; and

- b does not provide the care, support and assistance:
  - i under a contract of service or a contract for the provision of services; or
  - ii in the course of doing voluntary work for a charitable, welfare or community organisation; or
  - iii as part of the requirements of a course of education or training.

**CEO**
The Chief Executive Officer of the Agency/NDIA.

**NDIS**
The National Disability Insurance Scheme funded by the federal government that will replace the State-based model of disability funding and support provision.

**NDIS Representative**
A NDIS Representative may mean a NDIA Planner, Local Area Co-ordinator or other partner of the NDIS.

**Parent**
The parent of another person if the other person is a child of the person.

**Parental responsibility**
Where a person is the child’s parent and has not ceased to have parental responsibility under the Family Law Act 1975 (Cth) or is given so under a parenting order.

**Participant**
A person who is a participant in the National Disability Insurance Scheme launch.

**Participant’s statement of goals and aspirations**
Specifies the goals, objectives and aspirations of the participant and the environmental and personal context of the participant’s ‘living’, including living arrangements, informal and other community supports, and social and economic participation.

**Plan**
The participant’s statements of goals and aspirations and their statement of supports.

**Plan management request**
A participant’s request as to who will manage the funding supports of the plan.

**Plan nominee**
The person who is appointed as the plan nominee of a participant.

**Reviewable decision**
A decision of the National Disability Insurance Scheme Launch Transition Agency that may be reviewed.

**Statement of participant supports**
Specifies the general supports that will be provided and the reasonable and necessary supports that will be funded under the NDIS, as well as the date by which the Agency must review the plan and the management of funding and other aspects.

People with disability are presumed to have capacity to make decisions that affect their lives. However, the NDIS Act recognises that there may be circumstances where it is helpful to have another person appointed as a ‘nominee’ to act on behalf of, or be involved in, making decisions.

‘Nominees’ are people who have a duty to ascertain the wishes of a participant and to act in a way that promotes the participant’s personal and social well-being. Parents, carers and guardians can be nominees.
Appointments of nominees will be justified only when it is not possible for participants to be assisted to make decisions for themselves. It is expected that wherever possible, participants will be supported to make decisions.

Under the NDIS, there are two types of nominee: a plan nominee and a correspondence nominee. Both types of nominees can be appointed either indefinitely or for a limited term. These nominees are separate from those appointed for Centrelink purposes.

A plan nominee is able to do any act that may be done by a participant that relates to the preparation, review or replacement of the participant’s plan or the management of funding for supports under the participant’s plan.

A correspondence nominee is able to make requests to the Agency and receive notices from the Agency, on behalf of the participant.

Nominees may be appointed at the request of the participant or by the Chief Executive of the NDIA. As explained in the National Disability Insurance Scheme (Nominees) Rules 2013 (Cth), the following matters are to be taken into account by the NDIS in deciding who to appoint as a nominee:

- The presumption that, if the participant has a court-appointed decision-maker or a participant-appointed decision-maker, and the powers and responsibilities of that person are comparable with those of a nominee, that person should be appointed as nominee
- The degree to which the person:
  - knows, and is in a relationship of trust with, the participant
  - is willing and able to act in conjunction with other representatives and supporters of, and carers for, the participant to maximise the participant’s wellbeing
  - is willing and able to undertake the kinds of activities that a nominee is required to undertake in performing their functions under the Act (for example, a plan nominee might be required to enter into contracts on behalf of the participant)
  - is willing and able to involve the participant in decision-making processes
  - is willing and able to assist the participant to make decisions for himself or herself
- is willing and able to ascertain what judgements and decisions the participant would have made for him or herself
- understands and is committed to performing the duties of a nominee
- is sensitive to the cultural and linguistic circumstances of the participant
- is familiar with, and able to work with, any communication system or other technological supports of the participant
- The desirability of preserving family relationships and informal support networks of the participant
- Any existing arrangements that are in place between the person and the participant
- Any answers or information that have been provided by the person
- Any refusal by the person to provide answers or information
- Any relevant views of carers and other persons who assist the participant to manage their day-to-day activities and make decisions, and provide support to the participant
- Any relevant conviction for an offence under Commonwealth, State or Territory law
- Any conflict of interest in relation to the person and the participant

Appointment

The NDIS Act allows for the appointment of a person to be the plan nominee of a participant. The Act provides that the CEO of the NDIA may appoint a plan nominee or a correspondence nominee either at the request of the participant, or on their own initiative. The CEO (or their delegate) may also appoint a correspondence nominee. Like the plan nominee, the correspondence nominee can be appointed either at the request of the participant or on the initiative of the CEO of the NDIA. The same person may be appointed both the plan and correspondence nominee of the same participant. An appointment cannot be made without the written consent of the person appointed and after taking into consideration the wishes of the participant regarding the appointment. The appointment could be for a specified term or without any time restrictions.
Roles of nominees

A plan nominee may do things that can be done by a participant relating to the preparation, review or replacement of their plan or the management of funding for supports under their plan. Anything done by the plan nominee has the effect as if it had been done by the participant. A correspondence nominee may do anything that a participant can under the NDIS other than anything which relates to the preparation, management or review of a plan or the management of funding for supports under a plan. These acts are to be done by the participant and any notice given to a correspondence nominee is taken to be given to the participant.

Rights of nominee

The nominee has a right to attend assessments, medical psychiatric or psychological examinations with the participant. The nominee will only accompany the participant for these assessments if the participant wishes that to be the case and the examiner consents for that to occur.

Duties of nominee

As noted above, nominees have a duty to ascertain the wishes of the participant and to act in a way that promotes their personal and social wellbeing.

A nominee does not breach this duty by an act or decision not to act if at the relevant time they reasonably believed it to be in the interests of the participant's personal and social wellbeing. A nominee is not subject to any criminal liability under the NDIS Act in relation to an act or omission of the participant or anything done in good faith by the nominee in their capacity as nominee. Nominees must notify the Agency of any matters affecting their ability to act as a nominee if an event or change occurs that is likely to affect their ability to act as a nominee, the ability of the NDIS to give notices to the nominee or the ability of the nominee to comply with notices given to the nominee.

There are additional details about the role of nominees in National Disability Insurance Scheme (Nominees) Rules 2013 (Cth) and sections 78 to 85 of the NDIS Act. The Rules and legislation can be accessed at: www.ndis.gov.au/about-us/operational-guidelines
‘Nominees’ are people like your family members or people you trust who are able to help you and act on your behalf – they are different from advocates.

You can ask a person to help you put a plan together. This person is called a ‘plan nominee’.

You can ask a person to receive and explain letters about the NDIS to you. This is called a “correspondence nominee”
Frequently asked questions

Q. What is parental responsibility?
A person who can do things on behalf of a child is someone with parental responsibility. A “child” is under the age of 18 years. Parental responsibility belongs to a person if they are the child’s parent and have not ceased to have this responsibility under a court order, or if the court has made a parenting order that the child is to live with or spend time with the person. Persons with parental responsibility have a duty to ascertain the wishes of the child as a participant in the NDIS and act in a manner that promotes the personal and social wellbeing of the child.

Q. Who should be appointed as a nominee?
The NDIA will appoint a nominee after considering the wishes of the participant, whether a guardianship order exists or any other decision-making order, and whether the prospective nominee is willing and able.

Q. Who cannot be appointed as a nominee?
A person under the age of 18 years, the NDIA or any individual associated with the Agency other than in their personal capacity cannot be appointed as a nominee.

Q. How long does the appointment of the nominee last?
The NDIA is able to appoint a nominee indefinitely or for a limited term.

Q. What advice do you have to help people through the NDIS process?
A. If your child’s needs are complex, write a summary of your day – include a list of everything extra your child needs above an average kid of the same age without disability. Add up those hours. Give a copy of the list to your planner.

– Anonymous family who have children in the NDIS.
11 Planning for the future with NDIS
11 Planning for the future with NDIS

Planning is based upon a person’s dreams and aspirations, their abilities and interests and what a person needs and wants for the future. Some things may be important now, such as always being able to follow preferred routines or being with favourite people. However, in the future it may be meeting new people and moving to a new location or training for a job you want.

Legally, parents have no ‘rights’ over a child when she or he attains the age of majority, which is 18 years in each State and Territory of Australia. More details are set out in the ‘Capacity’ section of this Guide.

If an adult does not have the capacity to make a certain decision, someone called a ‘substitute decision-maker’ or ‘supported decision-maker’ might need to make the decision for them or assist them to come to a decision. More details about this are set out in the ‘Decision-Making’ section of this Guide.

We plan for the future to maximise a person’s quality of life and to support the person to decide what is required to make that happen. Planning can involve a person’s family and other important people in a person’s life.

The person with the disability should be at the centre of the planning. Planning aims to develop the person’s abilities. Planning is:

- Based on positive action
- The process of listening, clarifying and learning
- Family and people important to the person with a disability are all partners in the planning.

Planning involves communication as a person, builds relationships with other people and allows other people to have a ‘say’ in their lives.

Under the NDIS, a person with a disability can appoint a ‘nominee’ to help with planning. A plan nominee may do things on behalf of a participant including the preparation, review or replacement of their plan and the management of funding for supports under their plan.

The First Plan Process

If you are eligible for the NDIS, a NDIS Representative will contact you to organise a time to meet with you and have a conversation about your situation and supports in order to help create your First Plan. Your First Plan is the start of a lifelong relationship with the NDIS.

The First Plan process ensures that you are provided with the support you need now, including providing supports for previous unmet need, while giving you time to explore the opportunities presented by the NDIS. This will enable you to learn more and consider your goals for your next plan.

The NDIS Representative wants to know as much about you and your needs as possible so that you have the right plan.
11 Planning for the future with NDIS

The First Plan Meeting
To create the First Plan you will meet with a NDIS Representative to have a conversation about your life, your current situation and supports. They will work with you to develop your First Plan and you will receive that plan quickly.

Some areas that maybe discussed:
- Introductions
- Preparation work: adult participant statement
- Participant statement: discuss current situation and what the future situation could be
- Managing your personal plan
- Setting review dates
- Next steps

Preparing for your First Plan meeting
Under the NDIS you will tell your story. The new system is designed so that you only need to tell your story once.

To do list:
- Complete the “Adult participant statement”
- Describe how you would like to live your life in the future, talk about
  - What is day-to-day life like?
  - Current living arrangements
  - Current relationships and supports from other people
  - What aids and equipment you currently use

Information to include:
- Gather information from people who assist you in your life, support workers, teachers, medical services
- Copy any information you have on your current assessments that describe your disability or support needs
- List all community and government funded supports that you receive.

Choosing a Service Provider or Support Worker under the NDIS
Planning involves both setting goals and choosing providers that respond to your needs. When choosing a service provider remember to question them about how they will help you realise your plan goals. Ask questions like:
- Will the service provider be able to provide services that will help me to reach my goals and aspirations? How much will I be charged for the services? Are there extras in the price or a minimum number of hours I must purchase?
- How much choice will I have in arranging services and supports? Can I change the way the supports are delivered? Can I choose the person who works with me? What do I do if I have a problem or complaint?
- How much experience does the provider have in giving the support? What are the experiences and qualifications of their staff?

The Carer Statement
The NDIS Representative will also take into consideration the informal supports you receive from your family or friends. Your family can complete the Carer Statement and contribute to the conversation at your planning meeting.

Ideally, the Carer Statement will reflect the type of support that your family provides for you over a time period of at least 40 hours.

In assessing your needs the NDIS Representative will work in partnership with you and your family or support network.

The conversation with the NDIS Representative must take account of your goals to enable greater participation.

The NDIS Representative must take into account the sustainability of informal supports and the opportunity to build capacity in natural supports.

Your Subsequent Plans
For most participants, your First Plan will be in place for 12 months. This will give you time to think about how those supports are working for you and what else you might need in order to achieve your goals before you do your next plan.

It will also give you an opportunity to explore options and how you may increase involvement in your local community through activities such as sporting clubs, local theatres, special interest groups etc.

During your subsequent planning meetings with your NDIS Representative you will be able to further explore your goals and how to achieve them.
The NDIS is a new way to assist you make more choices and have more control over your life.

Your First Plan is the start of a lifelong relationship with the NDIS.

The NDIS Representative will have a meeting with you to help you with your First Plan.

Your First Plan will give you the support you need now. It will make sure you have time to learn more about all of your options with the NDIS and consider your goals for your next plan.

A goal is:

- What is important to you
- What are your dreams? What supports you need to achieve your dreams.

The NDIS Representative will guide you to make a plan.

Your family and friends can help you too, if you choose. A plan nominee can also help you.
11 Planning for the future with NDIS

Each participant in the NDIS will have their own individual plan. This explains the things that people want to do with their lives and what support is needed to help people meet their goals.

The Plan will help you have more choice and more control over your life.

The Plan will help you understand what supports you need to achieve your goals and how much it will cost.

You might need an aid or appliance like a wheelchair to help make your life easier or a hearing aid so you can hear well. You might also need changes made to your home or car so you can be more independent. These are things you can put in your plan.
THE PATHWAY TO THE NDIS

STEP 1
Contact with the NDIA
- Phone 1800 800 110
- Internet www.ndis.gov.au
- Visit a Shop

STEP 2
NDIS will check if you are eligible
✔ Under 65 years old
✔ Disability
✔ Australian Resident

STEP 3
Talk to a NDIS Representative

STEP 4
Make a First Plan with a NDIS Representative

STEP 5
Get started

STEP 6
Register or request plan review
Frequently asked questions

Q. What is the difference between the First Plan and my subsequent plans?
Your First Plan is created to ensure you are provided the support you need now and identify any unmet needs that you may have. Your NDIS Representative will work with you to develop this First Plan. This will then give you some time to further explore other opportunities provided within the NDIS.

When it is time to review your plan will work with your NDIS Representative to explore your goals and the supports and how these may be achieved.

Q. How will the NDIS help me to achieve my goals in the future?
The NDIS will assist people with disability achieve their goals and aspirations through the supports offered in their plan.

Q. If my plan for the future includes education will the NDIS assist?
The NDIS can fund education supports, for example personal supports at schools or educational facilities required by an individual, portable aids and equipment, specialist transports, specialised support, training for staff and non-clinical allied health.

Q. If my plan for the future includes employment how can the NDIS help?
The NDIS will offer assistance to support a person with disability to transition into employment as well as frequent and ongoing supports that assist a person with disability take part in work.

Q. What if I don’t like my NDIS Representative?
You can request another NDIS Representative to complete the planning process with you.

Q. How many people can I take to a planning meeting?
You can take as many people as you like to your planning meeting.

Q. Where will I meet my NDIS Representatives?
The NDIS Representative will arrange to meet you at an NDIS office or in your home, or a place you chose, at a convenient time.

Q. I am a parent of a person with intellectual disability; can I participate in their planning meeting?
The NDIA has provision for a “Carer Statement” to be part of the planning process. The Carer Statement should capture at least 40 hours of informal support that is provided to your son or daughter. The Carer Statement captures informal support, is part of the process but not a formal part of the planning process.

More information

For information on how to choose the best service provider see the NDIS website at: www.ndis.gov.au/sites/default/files/documents/choosing_provider.pdf

For more information about planning for the future, there are a number of community legal centres across Australia which can assist. We have provided a list of these centres in the Additional Services Directory at the back of this Guide.
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How do I develop a participant’s plan with the NDIS?
12 How do I develop a participant’s plan with the NDIS?

The plan will comprise of two parts:
1. The participant’s statement of goals and aspirations; and
2. A statement of the participant’s supports.

Participant’s statement of goals and aspirations
These specify the goals, objectives and aspirations of the participants and their environmental and personal context including living arrangements, informal and other community supports as well as social and economic participation.

What should my Statement of Goals include?

1. Personal Context
   In order to set your goals, participant’s plans usually start by describing how things are for you at moment.
   
   Your Daily Life
   For example, what activities, particularly educational and social are you currently involved in?
   What are the things in your life that you are happy with and work you?
   Are there things you would like to change or improve about your life?
   What are the things you enjoy or do well in?

   Living Arrangements
   What type of accommodation do you live in?
   Is there anything you would change about your living arrangements to make things easier for you?

   Relationships and Support
   Who are the people who play an important role in your life and how do they help and support you in your day-to-day living?

2. The disability supports you currently receive
   The plan should also include supports you receive, regardless of how they are funded. This can include:
   - Disability Services
   - Community and Mainstream supports
   - Support from family and friends
   - Aids, technology and equipment you use.

3. Statement of Goals
   The NDIS aims at enabling you to achieve your life goals, particularly in relation to:
   - education
   - social participation
   - independence
   - health and well-being.
   One way to draft your statement of goals is by asking yourself the following questions:
   - What do you want to achieve in the course of this plan?
   - How can you achieve this?
   - What supports do you currently have, which can help you achieve this goal?
   - Are there any new supports you need to achieve your goal?

Prior to meeting with a NDIS Representative, eligible participants are encouraged to prepare their statement of goals, using a planning workbook designed by the Agency. See the end of this chapter for further resources.

Statement of Participant’s Supports
The second part of your plan is a Statement of Participant’s Supports. This document is about providing you with the supports which are reasonable and necessary to carry out your statement of goals. The Statement of Participant's Supports specifies the general supports provided under the NDIS Act, reasonable and necessary supports that will be funded by NDIS, a date of review, how the funding supports are to be managed and any other management aspects.

What are Reasonable and Necessary Supports?
In considering whether a support can be funded, the NDIA must check whether it meets the requirements set out in the NDIS Act:
12 How do I develop a participant’s plan with the NDIS?

1. Will it assist the participant in pursuing their goals, objectives and aspirations?
2. Will it assist the participant to undertake activities designed to facilitate their participation in social and economic life?
3. Does it represent value for money?
   - The decision maker will consider whether the support will increase the participant’s independence and reduce the participant’s needs for other kind of supports. They will also check to see if there are cheaper or comparable supports available which can help you achieve the same outcomes.
4. Is it likely to be effective and beneficial for the participant in the light of current good practice?
   - The NDIS Representative will consider whether experts (such as health professionals, behavioural specialists, clinicians, etc.) consider the support as effective, your experience of the support and how it has helped you, and what the agency has itself learnt about the support since the NDIS started. The NDIS Rules recognise the importance of funding innovative supports, but there should be some evidence showing positive outcomes are likely to result from such support.
5. Does it take account of what is reasonable to expect families, carers, informal networks in the community to provide?
   - The NDIS Representative will consider the role and impact upon carers and families in considering whether a support should be approved. For those with specific concerns on this issue, the NDIA has developed an operational guideline on how plans can help sustain informal supports such as those provided by carers and families. This is available at: [www.ndis.gov.au/sites/default/files/documents/og_plan_assess_supp_plan_sustaining_informal.pdf](http://www.ndis.gov.au/sites/default/files/documents/og_plan_assess_supp_plan_sustaining_informal.pdf)
6. Is the support is most appropriately funded or provided through the NDIS, and is not more appropriately funded or provided through other service systems?
7. Is the support listed by the NDIS Rules as a support that will not be funded or provided under the NDIS?

A reasonable and necessary support will not be funded under the NDIS if it does any one of the following:

- It is likely to cause harm to the participant or pose a risk to others
- It is not related to the participant’s disability
- It duplicates other supports delivered under alternative funding through the NDIS
- It relates to day-to-day living costs that are of a kind that are incurred by general members of the community (for example, standard rent, groceries and utility fees) and not as a result of the participant’s disability support needs.

### Addressing Risks, Safeguards and Plan Management.

When the NDIA decides to accept a plan, they have regard to the following:

- Whether material harm, including material financial harm, to the participant could result if the participant were to manage the funding for supports to the extent proposed taking into account the nature of the supports identified in the plan.
- The vulnerability of the participant relating to physical, mental or financial harm, exploitation or abuse.
- The ability of the participant to make decisions.
- The capacity of the participant for financial management.

Minimising risk though the participant’s informal support network or any NDIS safeguards including regular review, regular meetings and providing funding supports.

If the participant is a child, or is an adult represented by a plan nominee, the NDIA is to have regard to the following:

- The capacity of the child’s representative or the plan nominee for financial management.
- Whether any risks could be minimised by any NDIS safeguards or strategies

You will have an opportunity to discuss actual and potential risks during the planning conversation. The NDIS Representative and you can work together to identify potential problems and how you can avoid them. For example, by knowing how to make a complaint about your service provider and make use of advocates or nominees.
12 How do I develop a participant’s plan with the NDIS?

The NDIS allows you to have a plan for your future.

You can plan for some new things in your life such as studying, or moving to live with friends, taking a holiday or support with everyday life such as how to make friends.

This means that: a plan has to be safe for you or other people; and must not affect your health or safety.

Support provided should be:

- Reasonable – this means ‘just about right’ or ‘balanced’.
- Necessary – this means what is needed.
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My Plans

- Is it safe?
- Can I afford it?
- Who can help me with final decisions?
- Is there a risk to health?
- Who might have better ideas?
12 How do I develop a participant’s plan with the NDIS?

Frequently asked questions

Q. Why have a plan?
All participants of the NDIS will have a plan – this will help the person with disability identify what they will need in order to assist them to make choices and be in control of their life. The purpose of the plan is to allow people with disability to think about their future and offer them the assistance they need for times ahead. You and the NDIS Representative will agree upon a date for reviewing your plan. Generally plans are in place for twelve months. After this period, you will have the opportunity to review your plan with a NDIS Representative, allowing you to discuss what is or isn’t working, to consider your goals and adjust supports to match your needs. After six months, you can also fill out a form to request a special review.

Q. What is included in a plan?
The plan includes the participant’s statement of goals and aspirations and statement of participant supports. The NDIA prepares the plan on behalf of the participant, but you will be asked to try to prepare your statement of goals prior to meeting the NDIS Representative for the first time. The completed plan will include:
- General supports
- Reasonable and necessary supports
- Review arrangements
- Management of funding for supports and management of other aspects of the plan

Q. Who is involved in developing the plan?
The participant, their families and their carers will work with the a NDIS Representative to explore the participant’s goals and aspirations, how their daily life is affected by their disability and to fully understand the options explored.

Q. What supports and services are included in a plan?
The purpose of the NDIS is to consider a person’s needs over their lifetime. Their plan will be developed to have the supports and services they need now and into the future.

Q. Is there flexibility in developing plans?
A key principle of the NDIS is to develop increased flexibility and innovation. Many participants will be able to access a variety of supports. A participant will not be able to manage the funding for supports under their plan to a particular extent if the NDIS is satisfied that this would present an unreasonable risk to the participant.

Q. I am already accessing services; will my records be transferred over to the NDIS?
The information you provide the NDIA and information collected from service providers, with your consent, is the only information the Agency collects and holds.

More information
Prior to meeting with the NDIS Representative, you may ask you to prepare your statement of goals by using a workbook they have prepared to help you through the process. This is available at: [http://www.ndis.gov.au/document/ndis-planning-workbook](http://www.ndis.gov.au/document/ndis-planning-workbook)

The NDIA has also created a number of detailed template forms for those drafting their own statement of goals, including one for parents of young children. These are available at: [http://www.ndis.gov.au/participants/getting-plan-ready](http://www.ndis.gov.au/participants/getting-plan-ready)

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How will the Plan be managed?
## 13 How will the Plan be managed?

The participant’s plan must specify the management of funding supports under the plan and the participant’s plan must specify that funding is to be managed wholly, or to a specified extent, by:

- The participant
- The plan nominee
- A registered plan management provider
- NDIA (the Agency)

The participant can make a plan management request that he or she manage the funding for supports in whole or in part to the extent specified in the request. The participant can also make a plan management request that a registered plan management provider or a person specified by the Agency manage the funding. This means that the participant can manage all or some of their plan, or ask someone they know and trust (such as a family member or friend) to become their nominee to help manage the plan. The participant could ask an organisation that they know and trust to manage the plan on their behalf.

When a participant’s plan is to be managed in any way by a registered plan management provider specified by the Agency, they must have regard to the wishes of the participant in specifying who is to manage the funding for supports under the plan. This means the organisation must listen to what the participant wants.

However, a ‘statement of participant supports’ in a participant’s plan must not provide that the participant is to manage the funding for supports under his or her plan to any extent if:

- The participant is insolvent under administration.

### What does managing a Plan involve?

Management of the plan involves many tasks, including keeping all records, accessing bank records and administrative duties to comply with the NDIS Rules.

When self-managing, you will need to:

- Locate and organise your supports
- Agree upon service conditions with your selected provider
- Pay your service provider at the time you have agreed
- Manage your costs in the line with the provisions of your plan
- Keep a record of your purchases. The NDIA advises that you keep all your receipts and invoices for five years.

Alternatively, a list of registered plan management providers is available on the NDIS website or the NDIA can manage your plan.

It’s important to remember that you can ask for a combination of these options – some supports can be self-managed, others through the Agency or a registered plan management provider. Think about what you would like to be responsible for, and talk to your NDIS Representative to design a solution that best meets your needs.

### How can I keep track of information relating to my Plan?

You will receive a monthly **Plan Statement** from the Agency. This will let you know the supports which have been claimed against your plan and by which providers. This document will be sent to you by post or email.

You can also use the **Participant Portal**. This is a secure website for participants, nominees and contacts who are approved to view NDIS plans and where applicable, make self-managed claims online. The Agency will provide you with a activation code and user guide and you can decide who should have access to the portal.

### What are flexible supports and how do these allow me greater control and choice?

Flexible supports are included in your plan to help you with daily living. They are ‘flexible’ because you have a choice as to how to use the funding for these supports. You will be given a maximum “total funding” for each flexible
support item which you must follow. You are then given a choice as to how you wish to spend this amount. Your plan will include an “estimated usage” which tells you how much of the particular support the Agency believes you need.

Flexible supports allow you to change how you use some services as circumstances change. For example, you may wish to spend more money on supports over particular weekends rather than on week days, based on family circumstances. You must keep within the total allocated budget and keep track of the costs of such decisions. The NDIS website now contains price lists for most supports. See: www.ndis.gov.au/providers/pricing-and-payment

What are fixed supports?
For supports listed as ‘fixed’ in your plan, you (or your plan manager) will need to obtain a quote or invoice for the item before your NDIS funds for this item are paid to you. You then attach the quote/invoice to the “My Plan Purchases” form, given to you by the Agency (or available in the participants’ portal).

How do I find registered service providers?
Organisations or individuals apply to the Agency to become registered providers. Registered providers have to meet requirements regarding qualifications, experience and capacity for carrying out particular supports. To find registered providers in a particular area, go to the “finding and engaging providers” section of the NDIS website at: www.ndis.gov.au/finding-and-engaging-providers

How should I manage the relationship with my service provider?
It is important that both you and your provider have a clear understanding of how they will deliver your supports. The Agency encourages participants to sign agreements with providers and has put up a model agreement on its website. You can find this at: www.ndis.gov.au/document/service-agreements-providers

Remember, that under the NDIS you have choice and control in the delivery of your supports – both as to who provides them and how they are provided. Service providers will try to meet your requests but remember that you can shop around.

Should I share my NDIS plan with my service provider?
This is something that you can decide. If you are self-managing your plan, you must consent to sharing your NDIS plan with your provider through the participant’s portal. Sharing your plan means that your provider can be on the same page as you – they understand your goals and objectives, the formal and informal supports you have and their role in helping you meet your objectives. Only a small number of people in your service provider’s organisation are allowed access to your information and you have consented to such access.

Note that if you selected the NDIA to manage your plan, your registered providers already see a list of the funded supports through a “Provider Portal” on the NDIA website.

Q. What advice do you have to help people through the NDIS process?
A. Breathe, it doesn’t actually all hinge on the one meeting.
—Anonymous family who have children in the NDIS.
A plan is needed to help you achieve your dreams and your personal ‘goals’. This means what you want to get in the future or what you want to do in the future.

A plan should include what supports you need now and in the future.

You have a choice to manage the plan on your own or get help to manage it.

The NDIS wants you to keep written records.

You can ask for help to keep written records for the NDIS.

You can ask for help to keep track of how much money you have from the NDIS or how much money you are spending on achieving your goals.

People you can ask for help with keeping records. People you ask for help from include:

• A Family Member
• A Friend or Someone You Trust
• A Plan Nominee
• A Guardian.
13 How will the Plan be managed?

Frequently asked questions

Q. Who can manage a plan?
A plan can be managed by the participant, a registered plan management provider, the NDIA or the plan nominee. The participant chooses how their plan is managed.

Q. When can’t the participant manage his or her own plan?
Only in situations where the participant is insolvent, or where it would create an unreasonable risk will the participant not be entitled to manage their plan.

Q. Who is a registered plan management provider?
A registered plan management provider is a registered provider of supports approved to manage funding for supports by the Agency.

Q. Who is a plan nominee?
A plan nominee is a person nominated by a participant to manage a plan on their behalf.

Q. How are payments under a plan made?
Payments for support are made to the participant or a person managing their plan. This payment is made on condition that the money is spent in accordance with the plan and records are retained.

Q. There is a shortage of professionals to assist the person I care for. What will the NDIA do to resolve that issue or deal with other service provision deficits?
The job of the NDIA is to co-ordinate services, including the provision of reasonable and necessary professional services.

Q. I receive different services from different people at different places. How will the NDIA co-ordinate services?
The NDIA will co-ordinate the services or identify a registered service provider to provide co-ordination services.

Q. Will the NDIS ensure that there is sufficient funding in place to support my plan?
Funding for the NDIS is from the Commonwealth Government and the State and Territory Governments that have agreed to participate in the scheme. Funding decisions are made on an individual basis.

More information


The Finding and Engaging Providers section of the NDIS website is at: www.ndis.gov.au/finding-and-engaging-providers

Information to help you make an agreement with your service provider is available at: www.ndis.gov.au/document/service-agreements-providers
What could my Plan look like?

Every plan under the NDIS will be individual. It will include your goals and aspirations followed by a statement of supports. Whilst there is no published format or model plan available, in this chapter we provide two examples of what a finished plan might look like.
14 What could my Plan look like?

Example 1 – Jane’s NDIS Plan
Cerebral palsy, aged 10 years

Name: Jane Doe
NDIS Number: 123 456 789
Plan starts: 04 January 2016
Plan will be reviewed by: 04 January 2017
NDIA will contact me about my plan review before this plan ends.

If I have any questions or my circumstances change, I need to contact:
Regional Support Officer: Name of Planner
The contact details for my local NDIA office are:
Address: ........................................................................................................................................
Phone: 1800 800 110   Email: localoffice@ndis.gov.au
I will tell NDIA when something important changes (or is going to change) like moving house, starting work or school, or when my goals change.

Part 1: About Me
This part of my Participant Statement is about me, my daily life, and the people in my life.

Where I live and the people I live with
I am aged 10 years, live with Mum and Dad and my younger sister Jasmine, aged 5 years, at the family home. My older brother Ethan used to live with us but now he is married to Angela and they have a baby they named Sienna. People in my life who support me.
Mum and Dad look after me each day. Mum helps me with showering and toileting. My grandparents visit me but are no longer able to lift me when I need it, so they take me in my wheelchair around to the park so I can see the pond, flowers and birds.
Amber, my next door neighbour, sometimes helps to look after me and my sister when Mum and Dad go out for the night. Amber will often be at home when I come home from school if Mum is at work. I love to spend time with my brother Ethan and his wife Angela when they visit us.
At my primary school, I have an aide who helps me with the toilet, getting around the school in my wheelchair as sometimes there is no ramp to the class rooms. The aide, Jade, helps me with getting into the van which I have for transport to and from school. The bus driver, Jason, makes sure I am safe when we arrive at our place and helps me to the front door where Mum is waiting or sometimes, Amber.

My daily life
I attend Local Primary School five days per week. I love to have fun, socialise, and play some computer games when I come home from school. I like to read books, especially books on horses and horse riding.
Mum helps me in the morning as she prepares breakfast and has my clothes ready but mornings are really busy at our place. I have to be ready by 8 am because the van arrives at that time to take me to school. Dad always helps me with my shoes and packs my bag.
I have transport to and from school in a van with two other kids who are in Year 1 and Year 3. Mostly I can get into my uniform and do not need help with feeding myself. I am OK at school with lunches and play lunch and I like the teachers.
I am able to move around our house in the wheelchair but there is no ramp at the back of the house so I cannot get outside into the backyard easily.
During the week I do my homework. On the weekends, my grandparents come around sometimes and I go out with them with my sister, we mostly go to the park. Ethan and Angela visit with the baby and I like to talk to them about horses.
14 What could my Plan look like?

Part 2: My Goals
This part of my Participant Statement lists my goals and what I want to work towards during this plan.

My First Goal is:
Go and see horses up close at a horse riding place on the weekends. I love horses! I want to touch them and pat them.
During this plan I want: to learn everything I can about horses and write about them.
I have about five scrap books about horses and videos about them. I want to have at least 10 scrapbooks about horses with photos as well.
Mum suggested I should keep a journal or a diary of my visits to see horses and I think this is a good idea also.
I would like to share this information at my school so that everyone else knows about horses too. I am hoping my teacher will give me an assignment on horses to complete.

My Second Goal is:
Get another wheelchair which is lighter. Also I am growing taller and my current chair seems to be too small. I want to have some ramps at the back door of the house so I could get outside more.
During this plan I want: help Mum choose a new wheelchair by searching on the internet with her, then we can find out the prices.
By getting a ramp at the back door, I will be able to get to our backyard without having to wait on someone to push me the long way around. I want to play with my sister Jasmine in the backyard and not be inside so much all the time.

My Third Goal is:
Join my friends from school at their gymnastics club on Tuesday night. The class lasts for 2 hours from 5 pm until 7 pm. I know that I cannot do gymnastics but I would love to watch my friends as they practise with their uniforms which are bright coloured leotards and a red track suit. I would like a uniform also.
During this plan I want be involved with the gymnastics class. My school friends who go to the gym class tell me the lady instructor might need assistance with writing down the girls’ times and organising the competition ribbons. I told my Mum and she rang the gym lady who said it was OK for me to help. I am very neat and tidy so that could be a good for the instructor who runs the classes.
I want to learn some more arm exercises. I know I can do some of the warm-up exercises with my arms as my friends have shown me some exercises already.
I want to meet up with some other girls. There are other girls from different schools who go to gymnastics and I would like to meet them too and make some new friends.
I will need some help with transport because Mum works on Tuesdays. Dad is at home looking after Jasmine and cooking the dinner.
14 What could my Plan look like?

Part 3: My Supports

These are the supports that will help me to work toward my goals.

Family and friends

This is what the NDIS call ‘informal’ supports.

Who will provide the support? Type of support

Mum and Dad: continue to assist me with my daily care needs such as showering, toileting and getting dressed, ready for school.
Mum: will help to find the right type of wheelchair.
Dad: will help with organising the ramps.
My school friends who attend gymnastics: Introduce other girls at the gymnastics class on Tuesday night.

Services and community groups

These supports might include things like health or mental health services, schools or education services, community groups, sporting or hobby clubs or other government services. This is what the NDIS call ‘community and mainstream’ supports.

Who will provide the support? Type of Support

Riding for the Disabled Association at Local Suburb.

Disability care worker and staff trained by Community Disability Organisation.

Saturday morning Riding for the Disabled Association.

Community Disability Organisation or Maxi-cab Transport (van) on Tuesday nights to and from gymnastics class.

NDIS reasonable and necessary support budgets

I can choose how I spend the amount in each budget listed below by checking the NDIS price list and the matching supports on the NDIS website participant page.

Where a support is listed in my plan as ‘stated’ I must purchase this support as it is described in the plan. I cannot swap ‘stated’ supports for any other supports listed in the price list.

<table>
<thead>
<tr>
<th>Assistance with daily life at home in the community, education and at work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference number: 0001</td>
</tr>
<tr>
<td>How will the supports be paid: NDIS will pay my plan manager directly for these supports</td>
</tr>
<tr>
<td>This support budget can only be used from: 04 January 2016 to 04 January 2017</td>
</tr>
<tr>
<td>Purpose of Support:</td>
</tr>
<tr>
<td>To enable access to a disability specific horse-riding activity center three hours on Saturday mornings with a disability carer and transport. (Cost of 3 hours disability carer and 2 transport trips).</td>
</tr>
<tr>
<td>= $10,514.40</td>
</tr>
<tr>
<td>To enable community participation into mainstream activity of a gymnastic class, three hours a week with a disability carer and transport.</td>
</tr>
<tr>
<td>(Cost of 3 hours disability carer and 2 Transport trips).</td>
</tr>
<tr>
<td>= $7,408.80</td>
</tr>
<tr>
<td>To enable mobility including purchase of new lightweight wheelchair $670.00 and ramps at back door of home.</td>
</tr>
<tr>
<td>= $2,064.00</td>
</tr>
<tr>
<td>Total NDIS plan amount: $19,987.20</td>
</tr>
</tbody>
</table>
14 What could my Plan look like?

Example 2 – John’s NDIS Plan
Intellectual Disability and mental health issues, aged 22 years

Name: John Doe
NDIS Number: 234 456 789
Plan starts: 29 September 2015
Plan will be reviewed by: 29 September 2016
NDIA will contact me about my plan review before this plan ends.

If I have any questions or my circumstances change, I need to contact:
Regional Support Officer: Name of Planner
The contact details for my local NDIA office are:
Address: 
Phone: 1800 800 110  Email: localoffice@ndis.gov.au
I will tell NDIA when something important changes (or is going to change) like moving house, starting work or school, or when my goals change.

Part 1: About Me
This part of my Participant Statement is about me, my daily life, and the people in my life.

Where I live and the people I live with
I live with my mother and I am 22 years old. I have a brother, Patrick who has moved away from home last year. Patrick is a lawyer. My mother and father divorced, so it’s just Mum and me now.

People in my life who support me
My mother is about 55 years old I think, she does most things for me such as my washing, ironing and cooks my meals. Dad visits me every couple of weeks and we go out to football or cricket. Dad talks about his work and he is getting married again. My best friend is Nathan and we went to Local Special School together. I see Nathan each week and we are in contact by phone, so he is really a good mate.

I have lived in the house all my life and I am friendly with my neighbour, Alan who comes over to help with small jobs around the place like fixing dripping taps and stuff. Alan is old and likes to talk. I like to listen to his stories which are funny. Sometimes Alan helps me with fixing things, like once the door handle fell off the fridge. Across the road is Gail who was a teacher and she helps me with reading things like instructions or filling in forms if Mum is at work. Gail gives me magazines to read and crossword puzzles which I like.

My daily life Mum makes my breakfast and makes sure that I take my medication each day which I mark off on a calendar. I have anxiety and need this medication to help me get through the week without getting too stressed out. I remember getting very distressed sometimes when big changes happened or other things would make me really upset so that I could not leave the house as I was so worried. Mum organised a doctor for me and then I saw a person who talked to me a lot about coping with things in my life and trying not to get so worried.

I work two mornings a week at a Supermarket. I know people at work but we are usually very busy and do not have time to stand and talk. At Christmas there is a party and I go.

I like the job but it gets boring because I have been doing the same job for so long, I can’t remember how long. I think it is about 12 years or something. I do the freezer section which means I have to go into a freezer so I have to wear a heavy coat and gloves.

When I come home from work by bus, I watch television and Mum cooks dinner. I do the
washing up and drying of the dishes, then I go to bed. I like vacuuming and tidying up for Mum. When I am not at work I do things on the computer or meet up with Nathan. I can get the bus to his house which is not too far away.

On the weekends, I go out with Nathan and another friend, Boyd. We usually go the Local Sports Club for dinner where we are all members but I do not drink alcohol because of my medication. Some weekends I go to the movies or to bowling.

Part 2: My Goals

This part of my Participant Statement lists my goals and things I want to work towards during this plan.

My First Goal is:

To learn something so I could change jobs in the future. At work, I could leave the freezer work and maybe go into the deli or fruit section.

Nathan works at a Pizza place and he did a Certificate in Food Handling, so I think I could do that as well. Nathan said it was an OK course to do and he needed it to work with pizza making. I think the course has to do with clean hands, keeping things in the fridge, cleaning the benches and things like that so that people do not get sick after they buy food from somewhere.

I have my own computer and I can do the course online so I have chosen to complete that as a goal.

During this plan I want: To just learn something new. I will get Mum to help me enrol in this certificate course as it is paid for by a credit card which I do not have. With the online course I can start and stop it if I get confused because it has been a while since I was at school. I plan to work at it one day a week until I finish.

I can ask Nathan or Mum about some of the words if there are too difficult. Also Gail, the lady across the road, is at home during the day, so I could ask her for help if any of the words or questions are too difficult for me.

When I finish the Food Handling course, then I will have something I have learnt about working with food. I will tell the people at the supermarket and see if they will change my job there. Mum says doing the course would help me with cooking and keeping the kitchen clean at home as well.

My Second Goal is:

To learn karate again. When I was little and Dad lived at home, he took me to the Karate classes and I wore the white uniform. I have forgotten most of the moves but with some help, I think I could learn it again. It is good exercise. I do not like team sports but karate will keep me fit I think.

I feel a bit nervous about it but I might get some help with my anxiety first. Dad said he would come with me to enrol and meet the people there as well as the instructor. I am a bit shy about meeting new people so Dad said he would come for the first few weeks to help me get used to it.

The karate class is Wednesday at 5pm which is OK because I do not work on that day.

During this plan I want: get some help from someone about coping with my anxiety again before I start the karate classes.

If I start up karate, then I want to keep going and not miss the classes because I feel sick or frightened. I would really like to get my yellow belt. So I think I need some professional help, like I had years ago, to assist me. I feel better when I have someone, apart from Mum, to talk to about fears. I also like to talk to Patrick on the phone or Alan next door because they are men.

I have to plan out the travel. I have the bus timetable and can get the bus easily to karate and then home again.

My Third Goal is:

To move away from home a few days every week. When I finish the Food Handling course, then, I am going to move in with Nathan on Thursday, Friday, Saturday and Sunday as he has a two bedroom granny flat at the back of his parents’ house with its own entrance. Nathan wants me to come and I will not be leaving Mum all alone, all week.

During this plan I want: to learn how to do my own washing and ironing and Mum said she will show me this, step by step. Mum said she would write it out on a card for me so it is easy to follow when I am at Nathan’s place.

I will need to work out a money budget so I can put in some money to pay for the food and electricity I use at Nathan’s place for the four days. Nathan has a support worker come in one day during the week to clean the kitchen/bathroom so I can share that cost with him.
Nathan and I have talked about the different things we will do such as sharing the work. We have started writing out a list about who will be doing what. I like vacuuming, Nathan likes making beds.

I think we will need a support worker to help us with the cooking and plan the meals for the next week. Nathan likes to eat pizza, because he works at the pizza place, but I don’t like it that much. Not every day. I would like to learn how to cook lasagne.

I think Nathan and I can work things out well so that we help each other live by ourselves.

**Part 3: My Supports**

**These are the supports that will help me to work toward my goals.**

**Family and friends**

This is what the NDIS call ‘informal’ supports.

**Who will provide support? Type of support**

Mum: learning how to do own washing and ironing.

Dad: will help with going to the karate class to enrol and stay for a few weeks to see if I am OK.

Nathan and Gail (neighbour): will help with questions on the Food Handling course if there is confusion about the questions.

Patrick (my brother): help write out a budget for living with Nathan for the four days. (Patrick already lives away from home so he will know the costs)

**Services and community groups**

These supports might include things like health or mental health services, schools or education services, community groups, sporting or hobby clubs or other government services. This is what the NDIS call ‘community and mainstream’ supports.

**Who will provide support? Type of support**

*Local Sports Club* karate classes: provide opportunity for mainstream sporting activity and community participation

*Local Disability care organisation*: weekly assistance, share cost with Nathan who receives one day a week help with cleaning

2 hours x 5 days week assistance: support worker to help supervise meal preparation and plan grocery shopping for the following week.

**NDIS reasonable and necessary support budgets**

I can choose how I spend the amount in each budget listed below by checking the NDIS price list and the matching supports on the NDIS website participant page.

Where a support is listed in my plan as ‘stated’ I must purchase this support as it is described in the plan. I cannot swap ‘stated’ supports for any other supports listed in the price list.
### Improved daily living skills

**Reference number:** 0002  
**How will the supports be paid:** NDIS will pay my plan manager directly for these supports  
**This support budget can only be used from:** 29 September 2015 to 29 September 2016  
**Purpose of Support:**  
- Counselling and supports to assist John to achieve his goals across a number of areas of his life:  
  - Undertaking a new sporting activity (new challenges in meeting people)  
  - Studying for a certificate (managing fear of failure)  
  - Moving (partly) away from home (coping with separation anxiety)  
  - Possible change job in the future (preparing for change)  
- 5 sessions each fortnight, then 5 sessions monthly  
- $120 x 10 Sessions  
  = $1,200

### Assistance with daily life at home in the community, education and at work

**Reference number:** 0001  
**How will the supports be paid:** NDIS will pay my plan manager directly for these supports  
**This support budget can only be used from:** 29 September 2015 to 29 September 2016  
**Purpose of Support:**  
- To assist with better employment prospects in the future and also to provide foundation skills in handling and preparing food at home.  
- Share cost of Nathan’s paid assistance (providing cleaning at granny flat)  
  = $4,576  
- Support worker 2 hours day x 4 days a week (shared with Nathan)  
  = $16,224

### Increased social and community participation

**Reference number:** 0003  
**How will the supports be paid:** NDIS will pay my plan manager directly for these supports  
**This support budget can only be used from:** 29 September 2015 to 29 September 2016  
**Purpose of Support:**  
- To enable the learning of a new and useful skill of karate  
- To enable community participation and create opportunities for new friendship  
- To enable community participation into mainstream activity of a karate class one hour a week with a disability carer  
  = $1,366  
**Total NDIS plan amount:** $23,366
14 What could my Plan look like?

A plan can include things like:

- Training so you feel confident about doing things like catching the train by yourself
- Training so that you can learn to do new things like getting a new job
- How many support workers you need to do the things you want to do
- What equipment you might need to do the things you want to do like a new wheelchair
- What Communication devices you might need so that people can understand you better
- What support you might need to get a job
- What types of activities you like to do in your free time such as swimming, dancing or painting
- What support you might need to travel in Australia or other parts of the world
- What support you need to keep written records or keep track of how much money you are spending.
15
Reviewing and changing Plans
A participant, or plan nominee, may request a review of a participant’s plan at any time.

A participant may request that the NDIA conduct a review of their plan by completing a Plan Review Form. The NDIA must decide whether or not to conduct a review within 14 days of receiving the request. However, if the NDIA does not make a decision within that period, the NDIA delegate is taken to have decided not to conduct the review. If the NDIA decides to conduct a review of the participant’s plan, it must commence the review within 14 days of deciding, and complete the review as soon as reasonably practicable.

The NDIA has advised participants that requests for a review will generally not be approved within six months, unless you can show that your circumstances have changed or there is new information which would change the supports you need. The Review Request Form gives you an opportunity to state your reasons for seeking a review.

The NDIA can decide to review your plan at any time. This may be due to a change in your circumstances which might mean you need different supports. The NDIA will monitor whether individuals are achieving the most out of their plans. For example, if you have not spent funds allocated for certain supports, the Agency may make contact with you. The Agency may also review if they believe a support is no longer reasonable and necessary due to a change in circumstances.

The review of a plan, for whatever reason, will lead to the NDIA delegate preparing a new plan with the participant, similar to the original process for developing a plan that specifies:

- General supports
- Reasonable and necessary supports
- Review arrangements
- Management of funding for supports and management of other aspects of the plan.

A participant may choose not to change their statement of goals and aspirations. If unchanged, this forms part of the new plan.

The review process is participant driven and may be as complex as the needs of the participant. A review may be as simple as a phone call from the NDIA office where the plan’s effectiveness can be ascertained over the phone and does not require significant change. However, it may be a complex process that requires additional information from a participant or another person and requires the participant to undergo assessments or examinations.

Just as with the original plan, the NDIA decision to approve a plan is reviewable.

Q. What has the NDIS changed in your life?

A. Reduced financial stress and support/respite for me as we have no family. Both are essential for my own wellbeing, so I can support my sons.

— Anonymous family who have children in the NDIS.
15 Reviewing and changing Plans

You can apply to change your plan with the NDIA.

Your life may change and your supports may change as well.

A new plan will have to be in writing.

The NDIA can ask you to provide information on your current situation which may include whether you need more support.
15 Reviewing and changing Plans

Frequently asked questions

Q. When will a plan change?
A participant may change their statement of goals and aspirations at any time. As a result their plan will change to include updating goals and aspirations.

Q. When can a plan be reviewed?
A participant may request the NDIA to review their plan at any time or may review the plan on their own initiative by completing the Plan Review Form. The NDIA must decide whether or not to conduct this review within 14 days.

Q. What is the outcome of a review of plan?
If the NDIA conducts a review of a participant’s plan they must facilitate the preparation of a new plan with the participant.

Q. Does a new plan require a new statement of goals and aspirations?
A participant can maintain their existing statement of goals and aspirations. If they elect to do this it will simply form a part of their new plan.

Q. What does the NDIS require in reviewing a plan?
To have your plan reviewed by the NDIA you are required to complete a Plan Review Form. The NDIA may request the participant or another person to provide information necessary to review the plan or require the participant to undergo an assessment and report back.

Q. What happens if my circumstances change?
A participant or potential participant must notify the NDIA of a change in their circumstances which might affect their access request or status as a participant. This notification must be made in writing by completing the Change of Circumstances form as soon as reasonably practicable.

Q. What information might be required?
The NDIA may require information from a participant where it is relevant to: monitoring the supports funded, spending in accordance with the participant’s plan, determining entitlements, and compliance. Furthermore, the NDIA may request information from another person to determine access criteria and funding needs.

Q. Is privacy protected?
Protected information is information about a person that is (or was) held in the records of the NDIA. This information may only be disclosed for the purposes of the NDIS Act, with the authorisation of the person to whom the information relates or where necessary to prevent a serious threat to health or safety. It is an offence to use protected information without authorisation, to solicit the disclosure of protected information and to supply protected information.

Q. What happens if I go overseas?
If a person is temporarily away from Australia, there is a grace period for which their plan will not be affected. This period is 6 weeks or a longer period determined by the NDIA. Similar periods usually apply to social security payments, but Centrelink must be contacted in advance about this.

Q. What happens if I am overseas longer than the grace period?
If a participant is absent from Australia for longer than the grace period, their plan will be suspended until they return to Australia.

Q. What information is protected by the Agency?
Any information about a person is protected and will only be disclosed with the authorisation of the person it relates or where necessary to prevent a serious threat to health or safety.

Q. Is a participant liable for anything their nominee does?
No.

Q. Is a nominee liable for their acts as a nominee?
There is no criminal liability in relation to an act or omission of a nominee done in good faith in their capacity as a nominee.

More information

16
Review of decisions
The NDIA has a number of significant decision-making powers. There is a list overleaf that sets out all of the 'reviewable decisions'. If you would like a decision to be reviewed, the NDIA does not provide any legal assistance to you. It is important however, to note that there is no fee for making a complaint. The stages of the review are:

**Internal review**

The first stage of review for decisions is a process which is called an 'internal merits review'. This means an internal review undertaken by an authorised person in the NDIA who was not involved in making the original decision.

Before this internal review, the Agency will encourage you to request reconsideration by the original decision-maker about your concerns, particularly when you believe that an important matter was overlooked or new information is now available.

**Notice of review**

The NDIA must provide written notice of a reviewable decision to each person directly affected by the decision. A person directly affected by the decision has three months from the time they received the notice to request a review of the decision.

**Power of reviewer**

A decision reviewer may:

- Confirm
- Vary
- Or set aside the original decision.

A request for review of a decision does not affect the operation of the decision or prevent actions being taken to implement the decision. The original decision still operates until it is changed.

**External review**

A person may apply to the Administrative Appeals Tribunal (AAT) for an external review of the decision to:

- Confirm
- Vary
- Or set aside the original decision arising from the internal review process

This application must be made **within 28 days after** you received the appeal decision from the NDIA. The AAT can extend this time if they believe it is reasonable to do so.

The AAT is not a court and attempts to resolve matters speedily through mutual agreement.

The review process will generally consist of the following steps:

- You will be contacted by a “Contact Officer”, who will discuss your application with you, usually within three days of the Tribunal receiving your application.
- The Tribunal will then tell the NDIA they have received your application. The NDIA will then send both you and the Tribunal a copy of all the documents you have that are relevant to your application.
- In most cases, the Tribunal will then arrange a case conference – an informal meeting which discusses whether the case can be resolved by agreement.
- If there is no agreement at the case conference, the Tribunal will create a case plan. The first step will be a formal conciliation, where the AAT will work with both you and the Agency to reach an agreement to resolve the case.
- Only then will the AAT hold a hearing and make a decision. If you want a decision quickly, you can request it at the case conference, and the Tribunal will not hold a conciliation session.
The following is a list of some of the decisions that the NDIA can make that may be reviewed:

**Decision Concerns:**
- A decision that a person does not meet the access criteria
- A decision not to specify a period longer than 28 days for a prospective participant to comply with a request
- A decision to revoke a person’s status as a participant
- A decision to approve the statement of participant supports in a participant’s plan
- A decision not to extend a grace period
- A decision not to review a participant’s plan
- A decision to approve a person or entity as a registered provider of supports
- A decision to revoke an approval as a registered provider of supports
- A decision to make, or not to make, a determination about who may do things on behalf of a child for the purposes of the Act
- A decision to make, or not to make, a determination that a person has parental responsibility for a child
- A decision to appoint a plan nominee
- A decision to appoint a correspondence nominee
- A decision to cancel or suspend, or not to cancel or suspend, the appointment of a nominee
- A decision to give a notice to require a person to take reasonable action to claim or obtain compensation
- A decision to give a notice that NDIA proposes to recover an amount specified in the notice from an amount of compensation
- A decision not to treat the whole or part of a compensation payment as not having been fixed by a judgement or settlement

The following flow chart details the stages in the review of a decision:

1. **Has a decision been made that you do not like?**
2. **Does the decision affect you directly?**
3. **Can the decision be reviewed?**
4. **Have you requested a review in writing, in person or over the phone?**
   - **The decision is then reviewed and decided upon by somebody new. They can keep the original decision, make some changes or make a completely new decision.**
5. **If you are still not pleased with the decision, you can apply to the Administrative Appeals Tribunal to have this decision reviewed.**
16 Review of decisions

You may be unhappy with your plan. If you are unhappy with your plan you can ask for a ‘review’.

This means that the NDIA must listen to you. The NDIA must look at the plan to make sure it is right.

To get the NDIA to review the plan you must contact the NDIA. You can ask for help to do this.

A new person will then look at the plan the NDIA made.

After reviewing the plan they may change the plan or decide to keep it the same.

If you are still not happy with the plan you can ask the Administrative Appeals Tribunal to review the plan. Advocates and lawyers are able to help you with this.
16 Review of decisions

Frequently asked questions

Q. How will I know if a decision is reviewable?

The NDIA must provide written notice of a reviewable decision to each person directly affected by it. Lists of reviewable decisions are set out earlier in this section of the Guide.

Q. How can a request for review be made?

A request may be made by sending or delivering a written request to the NDIA or by making a request in person or by telephone.

Q. Can I withdraw a request for review?

A request for review of a reviewable decision may be withdrawn by sending or delivering a written notice to the NDIA or contacting the NDIA directly.

Q. Can I take someone to the hearing with me?

The Australian Government has funded a number of services to assist people who apply for review of NDIA decisions. These support persons can assist you during the tribunal process. To see a list of organisations who offer these support persons, go to: www.aat.gov.au/applied-for-a-review/national-disability-insurance-scheme-applicants

In the Additional Services Directory at the back of this Guide we have set out contact details for advocates, mediators and legal services that may be able to assist you.

More information

To access the form for internal reviews see: www.ndis.gov.au/document/application-review-reviewable

For further information about AAT reviews see: www.aat.gov.au/applied-for-a-review/national-disability-insurance-scheme-applicants

Administrative Appeals Tribunals national phone number: 1300 366 700

At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

Q. What has the NDIS changed in your life?

A. Having in home supports (cleaning and childcare) giving us quality family time!

– Anonymous family who have children in the NDIS.
# Finding, understanding and improving services: Information, Linkages and Capacity building (ILC)

## Components of Support

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## Enablers

- Disability Discrimination Act 1992
- National Disability Strategy
- Advocacy
- Research, innovation, best practice development
- Quality and Safeguards
- UN Convention on the Rights of Persons with Disabilities

## Outcomes

As identified in National Disability Strategy

- Inclusive and accessible communities
- Rights protection, justice and legislation
- Economic participation and security
- Health and wellbeing
- Learning and skills
- Personal and community support and inclusion

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The diagram left illustrates that Information, Linkages and Capacity Building (ILC) connects to community and informal supports, mainstream service systems and individually funded packages (IFP), to enable an effective integrated response to disability which supports the choice and control of people with disability, their families and carers.

The NDIA will provide information and referral to existing mainstream and community services in your launch area. Even if you do not qualify for an individual plan, the NDIA will refer you to mainstream and community supports where these are more suited to meeting your needs than a NDIS funded supports. All people with a disability, their families and carers and the broader community can benefit from ILC supports.

This will be done through the Information, Linkages and Capacity Building Framework (ILC) Framework. This scheme aims at helping people to understand how the NDIS works, what services and support are available through the NDIS and the mainstream system.

Why is the ILC important?

The ILC is accessible to a wider group of people – not just those who qualify for individual funding packages. It aims to ensure that people with a disability are able to move through the new system and access all available supports, whether NDIS funded or not.

The NDIA has described ILC as being “a glue connecting and linking between formal and informal disability supports and community and mainstream service”. The roll out of the NDIS will see five general “streams” of ILC support being made available:

1. Information, Linkages and Referrals
2. Capacity Building for mainstream services
3. Community awareness and capacity building
4. Individual Capacity Building
5. Local Area Coordination.

How will ILC projects help the community?

1. Information Linkages and Referrals

We all need information if we are to make effective choices and plan our future. The ILC will attempt to ensure people with disability, their families and carers can receive the information which they need in order to access specific supports and services. The NDIA plans to use ILC funding to ensure that people can access:

- information about specific disabilities and the impacts of diagnosis
- information about supports – both individual and community based – for people with disability, their family and carers
- information on how available supports can be used to promote independence and enhance their capacity to self-navigate service systems
- information that addresses the needs of culturally and linguistically diverse communities through the context of location and background
- information that addresses the needs of Indigenous Australians and their respective language, social or nation groups.

The important message of the ILC funding is that you are not on your own in moving through the system. Existing community and government organisations will be supported to provide you with the information you need.

It is a stated objective of the NDIS that people with disability connect with and access mainstream supports. These may be public services (e.g. education, employment or housing services) or private services (such as sports facilities or community centres). The NDIS is not intended as a replacement for these services which must still be inclusive and accessible to people with a disability, as required by the Disability Discrimination Act and the National Disability Strategy 2010-2020.

The NDIA does plan to use ILC funding to educate and partner with mainstream providers to achieve the overall goal of improved social and economic participation.
17 Finding, understanding and improving services: ILC

1 Community awareness and capacity building
The ILC will also support community organisations (such as not for profit organisations, local councils, businesses) and people within communities to support efforts that promote the social inclusion of people with disability.

Examples of potential ILC projects in this sphere may include:
- public campaigns to improve the community’s general disability awareness and understanding
- basic training to individuals (for example, paid employees, business operators or volunteers) to enable them to better relate to, or work with, people with disability
- community activities in which people with disability can participate.

2 Individual capacity building
This planned funding stream can support courses, groups and organisations to build capacity, self-advocacy and decision-making. Further, it can facilitate mentoring, peer support and help provide people with information that may assist them when choosing a service or support program.

These initiatives, likely to be offered by existing disability or advocacy organisations, will be made available to all people with a disability, not just those with individually funded plans under the NDIS.

3 Local Area Co-ordination
Projects under this heading will be aimed at developing the relationships between the NDIA, people with disability, their families and carers and the local community.
The NDIS will provide funding so that the people in the community and community organisations better understand the needs of people with disability – this is called Information, Linkages and Capacity Building. It is also called ILC.

The NDIS will provide information to families and people with disability to access supports and services in their local areas.

The NDIS will provide support for community organisations to include people with disability.

The NDIS will provide support for services that everyone uses to include people with disability.

The NDIS will provide Local Area Coordinators to support all people with disability access local organisations and services.

ILC is set up so that you are not on your own when finding what you need.
Aboriginal and Torres Strait Islander Peoples and the National Disability Insurance Scheme
This section is for Australian Aboriginal and Torres Strait Islander peoples living with disabilities, their families and communities.

The NDIS recognises the unique place of Aboriginal and Torres Strait Islanders as the First Peoples of Australia and acknowledges and respect their lived experiences. The NDIA will listen to you, your family and community to ensure that you participate in the new disability system and receive the benefits offered to people living with disabilities.

It is important that you, your family and community know what the NDIS can offer. Many Aboriginal and Torres Strait Islander peoples living with disabilities have told the NDIA that it is really difficult accessing services. So, the NDIS wants to change the way services and funding are now delivered for Aboriginal and Torres Strait Islander peoples living with disabilities, their families and communities.

The NDIS is a new national disability system and like any new system it is trying to work out how best to deliver the job it has been given. One of the biggest challenges for the NDIS is the inclusion and participation of Aboriginal and Torres Strait Islander peoples living with disabilities and their families. About one third of Aboriginal and Torres Strait Islanders live in Australian cities, one third in regional centres and one third in remote communities. Providing disability services to Aboriginal and Torres Strait Islanders living in these areas and remote communities in particular is important to the NDIS. Another important task for the NDIS is to deliver information to Aboriginal and Torres Strait Islanders in ways that can be understood and are useful.

The NDIS understands that there are many reasons that you or your family may not want to access the benefits of the NDIS. For example, many people may not want to be labelled as having a disability. People may be fearful of discrimination because of their disability or that they may be removed from their families and communities if they ask for help. The NDIS is aware that many Aboriginal people living in remote communities speak local languages and may not speak English. People may also be worried about filling in forms in English or speaking to a person in English over the telephone. The NDIA understands these things can make it difficult for people to want to contact us.

If you are worried about talking with the NDIA please talk to your family and community and ask for help when talking to the Agency. You can always have someone you trust with you when you talk to the NDIA.

The NDIA has partnered with the First Peoples Disability Network to develop a Regional and Remote Servicing Strategy as well as a specific Aboriginal and Torres Strait Islander Engagement Strategy. These strategies will ensure that Aboriginal and Torres Strait Islander peoples will be able to access and participate in the NDIS, just like other Australians with disabilities.

By talking with Aboriginal and Torres Strait Islanders with disabilities and their families the NDIA has learned:

- Different cultural understandings of disability exist in many Indigenous communities and disability is seen as being a part of the person. So, many Indigenous languages do not have a word for disability.
- To involve the family and the community in developing the goals and aspirations of the person with the disability. Many Aboriginal and Torres Strait Islanders with disabilities see their family and community as the primary provider of support. The relationship between the person with the disability, the family and the community means that the involvement of everyone in responding to the goals and aspirations of the person with the disability is critical if the plan is to succeed.
- Some Aboriginal and Torres Strait Islanders are worried about the NDIS giving money directly to them and would prefer to continue to work with local services that they know and trust to help them fund the services they need.
- That the severe personal and systemic disempowerment of Aboriginal and Torres Strait Islanders and their families from the existing disability systems means that there is a limited understanding of the benefits of receiving disability services from the NDIS.
In 2013, the NDIS set up a trial site in the Barkly Region in the Northern Territory and the NDIA opened an office in Tennant Creek in July 2014. The First Peoples Disability Network established local support groups and NDIA workers trained as social connectors to liaise between the NDIS and local Aboriginal communities in the Barkly Region. Access to information is key to ensuring the participation of Aboriginal and Torres Strait Islander peoples living with disabilities in the NDIS and the Barkly Region trial site is helping to shape the way in which information is distributed to remote Aboriginal communities.

Many Aboriginal and Torres Strait Islander peoples living with disabilities and their families may not know about the NDIS which is being offered in a number of trial sites nationally and how it can benefit them. Some benefits include:

- More choice and more control over what support you need and how and when it is provided
- A direct say in what is important for you and your family
- A ‘Whole of Life Approach’ with how you use the funding that is provided to you
- Funding that can be used in a more flexible way.

The NDIS is a new way of funding and providing services to people with disabilities and their families that will be rolled out nationally over the next couple of years. The NDIA wants to make sure that Aboriginal and Torres Strait Islander peoples living with disabilities and their families access the benefits being offered. By participating in the NDIS, Aboriginal and Torres Strait Islander peoples living with disabilities, their families and communities can expect to receive the appropriate services to live a much better and longer life.

You can access the NDIS by:

**Visiting:** ndis.gov.au

**Email:** enquiries@ndis.gov.au

**Call:** 1800 800 110*, 8am to 8pm Monday to Friday

**For people with hearing or speech loss TTY:** 1800 555 677*

**Speak and listen:** 1800 555 727*

**For people who need help with English TIS:** 131 450

**Follow NDIS on Twitter:** @NDIS

Q. What surprised you about the NDIS?

A. Knowing there was a light at the end of the tunnel.

– Anonymous family who have children in the NDIS.
The NDIS recognises Aboriginal and Torres Strait People as the First Peoples of Australia.

The NDIS understands the importance of family and community and culture.

It is important to NDIS that you feel confident to use their services.

You can always have someone you trust with you when talking to the NDIA.

NDIS gives you more choice and control.
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Legal planning for the future
NDIS is all about people with disability making plans for their future. This future will often involve other people who provide resources and support to a person with disability; resources such as money or accommodation. The NDIS will provide resources and support, but many people with disability may have their own resources or receive resources from other people, such as family members or friends.

People who are planning for the future with the NDIS also need to think about the additional things they can and should do, beyond their NDIS planning, to make sure their future meets their expectations. The NDIS is designed to give people with disability (and their supporters) decision-making power, as opposed to decisions being made by service providers or government.

In this section of the Guide, we provide information for people who may have impaired capacity and for the carers, friends and parents who want to help make sure that those people with impaired capacity have resources at hand so that they can be secure in the future.

Parents and carers of children with disability often need to make plans for a future situation when they are no longer able to provide care for their children. Many parents ask “what will happen when I die?”

The best way to deal with this anxiety is to take the steps necessary to secure the future of the people you care for with a thorough plan that is legally valid and which is well understood and accepted by potential family or other support people. This takes time and assistance to develop.

A crisis is the worst possible time to look at alternative options for a person who has always lived in the family home. Time is needed if parents are to be fully engaged in drawing up the plans, so that they gain a sense of security and remove the sense of anxiety about the future.

It is also crucial for the person with disability to be involved in the planning so their hopes and wishes can be realised. What are the options?

There are a number of legal options available to parents or carers who wish to make such provision for the people they care for, including:

- Wills and estate planning
- Powers of attorney
- Trusts, Special Disability Trusts
- Guardianship.

Talk about your future and the future of the person with disability with all family members.

Make a plan that sets out your hopes for the future of the person you care for.

Take steps to make sure that your plan is protected by the law and that people know about your plan.
Frequently asked questions

Q. Where can I go for help developing a valid Will?

It is possible to make a valid Will without the assistance of a solicitor but this is not something that we would advise you to do. Some solicitors are willing to provide this service free-of-charge, but often they will charge a fee for the 'execution' of the Will. The Public Trustee in each State and Territory can prepare Wills. However they also charge fees.

Q. How often should my Will be revised or updated?

Your Will expresses your wishes at a particular point in time. You may wish to review your Will when circumstances change to reflect accurately your current wishes. Those situations may include:

- Divorce
- The executor named in the Will becoming ill or unable to handle the responsibility or has died
- Buying or selling assets, for example, the value of legacies diminishing over time. You may have left a sum of money which seemed significant when you last made your Will, but its worth may have diminished over time.

Who can help?

The Law Society in your State or Territory will assist you to find a solicitor, or the Public Trustee is available to assist as well. At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.

Advocacy services (listed in the directory of this Guide) in your State and Territory will also have a list of solicitors and legal services that have experience in working with people with disability.

State and Territory Office of the Public Guardian and Office of the Public Advocate have advice services that will provide advice on disability issues, including Powers of Attorney and Will and Estate Planning.
This part of the Guide sets out information about Wills. This is legal information, not legal advice. Always consult a lawyer before you develop your legal planning for the future.

Reasons to make a Will

Every person 18 years of age and older should make a valid Will. Properly drafted Wills can be powerful documents that help ensure your plan will continue when you are not there to help your son or daughter or the person you care for.

A Will should make provision for:

• Payment of debts, taxes and other liabilities.
• Funeral expenses.
• Distributing what you own as you wish. This includes property/real estate, cash and bank accounts, investments and insurance policies, household furniture, clothing, and personal items.
• Protecting the financial position of a son or daughter with a disability, perhaps through a trust.
• Ensuring there is a guardian for your children (under the age of 18 years).

Testamentary Capacity

Testamentary capacity is the capacity to understand that you are making a Will and to be able to participate in the process independently. Some people with cognitive impairments may still have testamentary capacity and other people may not. A doctor or a solicitor will be able to assess whether a person has testamentary capacity and therefore can make a will.

Where can I go for help developing a valid Will?

It is possible to make a valid Will without the assistance of a solicitor but this is generally not advisable. To avoid intestacy, partial intestacy or confusion, delays and costs associated with poorly-drafted Wills, it is very important to seek legal advice. Some solicitors are willing to provide this service free-of-charge, but often they will charge a fee for the ‘execution’ of the Will. This fee can sometimes be calculated by reference to a percentage of the value of the estate, so you should check with your solicitor as to how they will charge for this service as it can be very expensive. Execution is a word that describes the process that takes place after you die to divide the property in your Will among beneficiaries. A valid Will appoints an
'executor' who has this task. The executor files documents with the Supreme Court of the State or Territory where a person dies seeking ‘probate’, or an order confirming the death of the person, after which the property may be validly distributed among beneficiaries.

The Public Trustee in each State and Territory can prepare Wills. However they also charge fees.

What if a person with intellectual disability has no provision or inadequate provision made for them in a Will?

Parents should be aware of the risks entailed in making a small provision for a son or daughter with an intellectual disability where there are sufficient resources to do so.

Many parents and carers engage in informal planning with a ‘key person’, such as an adult child that does not have a disability, to plan for the future care of a person with intellectual disability. This has many benefits for ensuring continuity of informal relationships and supports, but this is not a secure approach to planning for the financial future.

Some parents and carers simply assume that their son or daughter, without disability will, care for their sibling with a disability, even though they may never raise this proposal with them. This is an even less secure approach to planning for the future.

To avoid potential problems, a Will could include a trust that ensures that the property left behind is used for the advantage of the person with a disability (the ‘beneficiary’). We provide more information about these arrangements in a section in this Guide called ‘Trusts’.

There is legislation in each State and Territory of Australia which gives courts power to alter a Will where the person making the Will has not made adequate provision for their son or daughter with an intellectual disability.

This may help the situation but there are costs and delays associated with this. It is far better to plan in advance.

What if my son or daughter does not have the capacity to manage money?

Before preparing a Will, parents need to consider the capacity of any beneficiary with intellectual disability to manage money or property, such as real estate, for themselves.

It should not be assumed that a person with intellectual disability is incapable of managing a gift. Many people with disability can manage money and property and some may only require some support or assistance making decisions about their money or property. Many people would consult a solicitor or financial planner if they were thinking about making an important decision about their money or property and people with disability are no different. Some people with disability may not have the capacity to make some types of decisions about money or property. It is important to have arrangements in place that account for this.

All families are different. For example, some families may be Indigenous Australians and other families may come from different cultures with different expectations about making provision for their family members with disability.

In each case parents and carers need to consider the size and complexity of any gift they plan to leave and their son or daughter’s capacity to look after property, to understand its worth and whether or not they are vulnerable. Older people and people with disability can be vulnerable to financial abuse, so people who are given money or property in a Will should have independent advocates available to support their decision-making. Details of organisations that provide independent advocacy services are located at the back of this Guide.

If the person does lack the capacity to manage money you can still leave money or other property to the person in a Will as there are several ways to structure a Will to protect the interests of the beneficiary:

- Parents can leave a share of the estate in a trust. This requires appointing another person or people, which could include trusted family members or friends, as ‘trustees’ to manage and use the fund for the person with intellectual disability in the way specified in the Will.
The trust, for example, may provide for a weekly payment to be made to the person with the intellectual disability in addition to their disability pension or other social security payment, if they receive one.

There are different varieties of trusts. Later in this Guide, there is material on Trusts and Special Disability Trusts.

What assets can be dealt with in a Will?

A Will can only deal with assets that the person making the Will actually owns. It therefore cannot deal with assets owned by a family company or a family trust because the person making the Will does not own them.

Superannuation proceeds are ‘owned’ by the trustee of the superannuation fund, not the person making the Will. While the trustee may follow a non-binding direction as to how to deal with the funds it usually has complete discretion. It is a mistake to think that superannuation proceeds are necessarily part of an estate for the purpose of making a Will. Specific arrangements have to be made to ensure that superannuation proceeds can be applied for the advantage of a person with disability.

Life Insurance Policies on the life of a person making the Will may be owned by somebody else; for example, a spouse or even a former spouse. If so, it is not an asset that will form part of the estate.

Buying or selling assets: people may gift assets which they sold before they died which results in some beneficiaries receiving nothing, while others receiving significantly more than was intended in the original Will.

The value of legacies (gifting of money) diminishing over time: you may have left a sum of money which seemed significant when you last made your Will, but what is it worth in today’s dollar terms?

A beneficiary named in the Will having died: when writing your Will, it is wise to name substitute beneficiaries.

Changes over time in your relationships with family or friends

How often should my Will be revised or updated?

Your Will expresses your wishes at a particular point in time. You may wish to review your Will when circumstances change to reflect accurately your current wishes. Those situations may include:

- Divorce.
- If you are in a de-facto relationship.
- The executor named in the Will becoming ill or unable to handle the responsibility or has died.

What are the ‘nuts and bolts’ of writing a Will?

A valid Will must be:

- In writing – this includes handwritten, typed or printed;
- Signed – ideally your signature should be at the end of the Will;
- Witnessed – a Will must be signed by you and witnessed properly. The rules for this differ slightly in each State. Two independent adults who are not beneficiaries are usually required to witness a Will at the time they see you sign it.

Helpful tips

- You and the witnesses should all use the same pen as evidence that you were all together when the Will was signed.
- Nothing should be attached to the original Will with a pin or paper clip.
- No alterations should be made to the Will after it has been signed.
- The witnesses should print their names and addresses below their signatures.
- Keep a clear, comprehensive list of your assets (bank accounts, investments, insurance policies, title deeds and so on) and update this from time to time. This will make your executor’s task much easier and quicker.
- It will be helpful if you leave a list of people and organisations to be notified of your death. These might include Centrelink, the Department of Veterans’ Affairs, clubs, particular relatives or friends.
• Be specific when you want a particular gift to be given to a person. For example “a diamond ring to my daughter Suzie” as there may be three diamond rings at the time of death which may cause confusion.
• Make sure you have specifically named your beneficiaries (using their full name).
• Ask executors ahead of time if they are happy to be an executor.

Finally, tell your family members where your Will is kept. A Will can be kept with your lawyer or, if you prefer, at home with other personal documents in a place well-known to the family.

Can I specify my funeral arrangements in a Will?
It is advisable to inform your next of kin or your executor of your wishes, as well as including that information in your Will. Often your funeral will have taken place before your Will is read.

Can the person I care for who has a disability write a Will?
Many people with intellectual disability can make a Will and should be encouraged to do so. However, the person must have attained the age of 18 years. Usually a Will is uncomplicated and can be written in plain English. Any person who makes a Will must have ‘testamentary capacity’ which means that:
• The person knows a Will says what happens to his or her property after they die
• The person knows what property he or she owns
• The person knows the people who may have a claim on his or her property
• The person is able to consider or weigh up the claims of these people.

What will happen if a person dies without making a Will?
If a person has property, then the property is divided by a government agency called the Public Trustee according to the various Acts in each State or Territory in Australia. This usually means the property goes to the person’s nearest relatives. If there are no people entitled to the property according to the law that property goes to the Government.

Is evidence of capacity required?
A Will is usually presumed valid unless and until someone challenges it. A formal assessment (by a doctor or similar professional) is not required to make a Will. However, there may be a risk that another person will be unhappy about the distribution of property under the deceased person’s Will. That person may challenge the Will on the grounds that the person making the Will did not have sufficient testamentary capacity. For that reason, people with an intellectual disability should ordinarily be assessed by someone, such as a psychologist, who is familiar with the issues involved in testing for testamentary capacity.

When deciding whether or not evidence of testamentary capacity should be obtained, the following factors should be considered:
• The Will-maker’s own views
• The level of disability of the Will-maker
• The value of the estate
• Any possible challenges to the Will in the future.

Written notes recording the understanding of the Will-maker at the time of making the Will may be sufficient evidence of testamentary capacity. Anyone who has been involved with the Will-maker for a long period of time, for example the family doctor or a support worker, may provide evidence and be present when the Will-maker gives instructions for the drafting of the Will or when the Will is explained and signed. In a situation where more evidence of testamentary capacity is required the Will-maker may be willing to be examined by a psychologist or neurologist. Any written notes or statutory declarations should be kept with the Will.
Can someone else make a Will for a person with intellectual disability?

No. Another person cannot make a Will for any other person. Guardians, trustees, parents and people under a Power of Attorney have no power to make a Will on another’s behalf.

There are limited circumstances in which the Court may authorise that a Will be made, altered or revoked for a person without testamentary capacity. This is sometimes referred to as a Statutory Will or Court Ordered Will. If you are considering an application for a Statutory Will you should seek advice from a lawyer.

Is a solicitor required to prepare a Will?

No. A Will does not need to be prepared by a solicitor but if the person’s property is valuable then a solicitor may be better placed to ascertain some legal issues.

Document checklist

These papers should be organised and kept in a safe place. Ensure a friend or family member knows where this safe place is:

- Birth and marriage certificate
- Your Will
- Property deeds
- Lease agreement
- Taxation records
- Insurance policies
- Life assurance/superannuation policies
- Details of other assets, e.g. shares, debentures etc.
- Details of all bank accounts, other investments.

Legal expressions

Beneficiary
A person who receives something from an estate.

Executor
The person who is responsible for administering a Will.

Guardian
The person that you would like to look after your children. This is only a statement of preference by you; the decision of who cares for your children is made under family law principles.

Testator
The person who makes the Will. This person is the ‘Will-maker’.

Trustee
A person who administers a trust established under a Will; for example, a trust for children.

Think carefully about who you want to have what things; for example, “I want my brother, Stephen, to have all my DVDs”.

Q. What has the NDIS changed in your life?

A. Being able to provide all our therapy needs which we just couldn’t have been able to finance ourselves.

– Anonymous family who have children in the NDIS.
Before a person dies they can write a Will.

A Will tells everyone what you want to happen to your things after you die. A Will helps people understand whether you would like to be buried or cremated.

A Will helps people understand who you would like to leave the things you own to when you die.

When this list is written down and you sign the paper it is called a Will.
Frequently asked questions

Q. Is a solicitor required to prepare a Will?
No. A Will does not need to be prepared by a solicitor but if the person’s property is valuable then a solicitor may be better placed to ascertain some legal issues, such as ‘undue influence’ by a carer for example.

Q. What are the ‘nuts and bolts’ of writing a Will?
A valid Will must be:
• **In writing** – this includes handwritten, typed or printed
• **Signed** – ideally your signature should be at the end of the Will
• **Witnessed** – a Will must be signed by you and witnesses properly. The rules for this differ slightly in each State. Two independent adults who are not beneficiaries are usually required to witness a Will at the time they see you sign it.

Q. Can someone else make a Will for a person with intellectual disability?
No. Another person cannot make a Will for any other person. Guardians, trustees, parents and people under a Power of Attorney have no power to make a Will on another’s behalf.
There are limited circumstances, however, where a Court may authorise that a Will be made, altered or revoked for a person without testamentary capacity.

Who can help?
The Law Society in your State or Territory will assist you to find a solicitor, or the Public Trustee is available to assist as well. At the back of this Guide there is an Additional Services Directory which provides contact details for services that may be able to assist you.
21 Guardianship
21 Guardianship

Guardianship is a word that is used to describe a relationship between people in which a person, a ‘guardian’, exercises legal decision-making power over an adult who lacks capacity to make decisions. Guardianship may involve one or more persons.

A ‘guardianship order’ is a legal decision made by a court or a tribunal that decides if a guardian is needed and who that guardian will be. In most jurisdictions the court or tribunal will determine what areas of a person’s life the guardian can make decisions. The most common areas of a person’s life that a guardian is appointed to make decisions include accommodation, access to services, and medical, dental and other healthcare. Guardianship orders are time specific and most orders last between twelve months and three years. However, the court or the tribunal has the power to make guardianship orders for less than twelve months.

The courts and tribunals who have responsibility to appoint guardians also have the authority to make what is called ‘plenary guardianship orders’. Plenary guardianship orders are guardianship orders where the person appointed as guardian has full decision-making authority across all areas of an adult’s life.

Guardians are required to make decisions that are in the best interests of the person, to take into account the person’s wishes, and to make decisions that are the least restrictive in the circumstances.

Guardianship orders are generally reviewed on an annual basis but a review can be made of a guardianship order at any time during the operation of the order.

Courts and tribunals prefer to appoint family members as guardians. However, if no family members are available or appropriate then the court or tribunal will consider other people in the person’s life as potential guardians, such as good friends. If no family or friends are available to become a person’s guardian, or if there is conflict regarding who should be appointed as a guardian, then the court or tribunal will appoint an independent guardian from the State-based Office of the Public Advocate or Office of the Public Guardian.

What is capacity?

Earlier in this Guide, we explained that once people turn 18 years of age, they are legally autonomous and are presumed to have the capacity to make decisions for themselves. However, some people with a disability, that affects their decision-making ability, may need help and support to make some decisions about their lives; for example, where they will live or money-related matters.

The ability to make decisions is fluid and may vary from time to time and from decision to decision. It is rare for a person not to have capacity for any decisions. However, this can happen when a person is unconscious or has a severe or profound intellectual disability, acquired brain injury, mental illness or dementia, for instance. The types of decision-making disabilities for which formal guardianship orders are sought and made can include:

- Intellectual disabilities
- Psychiatric disabilities – for example, schizophrenia and depression
- Neurological disabilities – for example, dementia and Alzheimer’s
- Development disabilities
- Brain injuries
- Physical disabilities which render a person unable to communicate their intentions or wishes.

A person is said to have capacity to make decisions when they can:

- Understand the information and choices presented to them.
- Weigh up the information to determine what the decision will mean for them, without undue influence.
- Communicate their decision.
What factors need to be taken into account regarding guardianship?

Substitute decision-making is an absolute last resort, as all adults over the age of 18 years, regardless of disability, are generally entitled to make their own decisions.

It may be the case that a person with disability can have in place informal supported decision-making arrangements with trusted, supportive and diligent family and/or friends, rather than resorting to formal arrangements.

For Centrelink payments, it is possible to apply for someone to be appointed by Centrelink either to receive a copy of all correspondence (a ‘correspondence nominee’ who checks that things are done: see below) or to receive the person’s payment (a ‘payment nominee’ who looks after the funds).

Where there is a proven and current need for a person’s decision-making to be supported (or as an absolute last resort, to be substituted) and it is in their best interests, the following principles should guide and instruct the decision-making process:

- The wishes, opinions and choices of the person must always be sought and considered first
- The privacy, cultural diversity and integrity of the person must always be respected
- The least restrictive and intrusive intervention into the person’s life should be the starting point
- Records must always be kept about supported and substitute decision-making arrangements (informal and formal), as well as any decisions, as this will ensure processes are transparent and may be subject to independent review if necessary
- Informal arrangements and support from family members, carers or friends who have close and continuing relationships with the person and may be able to act as advocates are preferable to formal orders of guardianship
- Support provided to the person to make decisions must always be in the best interests and welfare of the person
- A substituted decision should be the least restrictive alternative
- Diminished decision-making ability should not be confused with difficulties or impairment in communication – people should be provided adjustments and alternative modes of communication to express themselves.

Social security, banks and other institutions

If an adult child does not have legal capacity to execute a Power of Attorney, his or her parents can be confronted by some institutions that refuse to provide personal information, or refuse the parents the power to look after their adult child’s affairs without the authority of the child.

These institutions have privacy law obligations, which include the obligation to ensure their clients are not being defrauded or exploited.

What can parents do in this situation?

- Some institutions have ‘nominated person’ or ‘nominee’ forms that a parent can fill in – for example, Centrelink can appoint and then recognise a ‘nominee’.
- The family can meet with the institution, taking with them relevant medical and school reports about the child and points of identification, and request alternative informal arrangements.

More often, people lack capacity only in making one type of decision. A person might be able to decide where they want to live (a personal decision), but not be able to decide whether to sell their house (a financial decision). They can do their grocery shopping (making a simple decision about money), but are not be able to buy and sell shares (more complex decision about money).

Who can be a guardian?

State or Territory legislation gives courts and tribunals the power to make guardianship orders. This means they can appoint a person as guardian. A guardian’s decision has the same legal force as if the person had made the decision themselves.

A guardian should be someone who is familiar with the represented person’s values and beliefs, likes and dislikes. When deciding who
to appoint, the tribunal must take into account the wishes of the represented person so far as they can be ascertained, as well as family members and interested parties. If there is no one available, or there is a need for an independent person because of disagreement between family and friends about what is best for the represented person, a formal Guardian from the relevant State or Territory (i.e., Public or Adult Guardian) can be appointed.

**What functions can a guardian exercise?**

Guardianship orders specify what functions or powers the guardian can exercise. Some of the most common include:

- **Accommodation** where the person lives currently and will live in the future, and with whom they live and will live
- **Services** what services the person will access and engage in (for example, day programs)
- **Education and training** what education and training the person can receive
- **Work** whether a person can work, the nature of the work and with whom they can work
- **Medical**, dental and other healthcare-related matters.

**Are there any decisions that guardians can never make for a person?**

Only a tribunal can make certain decisions, such as those about:

- Sterilisation
- Termination of pregnancy
- Experimental treatments or medical research
- Electro-convulsive therapy or psychotherapy
- Making or revoking a Will
- Making or revoking a power of attorney, enduring power of attorney or advanced health directive
- Exercising the right to vote in an election or referendum.

The list of decisions a tribunal can make varies between the States and Territories.

**What is the process for guardianship?**

In each State and Territory the process for formal guardianship is outlined below.

**Application**

There are some differences across the States and Territories as to who has, what is legally termed, ‘standing’ to bring a guardianship application, although it covers a very wide range
of people. This generally includes the tribunal, board, panel or court on its own initiative, the person applying to be the guardian, the Public Guardian, Adult Guardian or Public Advocate, a relative or a member of the public who can demonstrate a sufficient interest in the issues.

Investigation
The bulk of the investigations carried out by tribunals, panels, boards and courts are conducted prior to or during the hearing. Most do not have the funding or resources to undertake substantive inquiries or investigations, though there are some exceptions.

Hearing
Those entitled to receive notice of an upcoming hearing and to be parties to the proceedings include: the applicant; the person to whom the application relates; relatives of that person; a person (if any) who has care of that person; the Public Guardian, Adult Guardian or Public Advocate; and any other person who has a proper interest in the proceedings.

The hearing is not meant to be a fight or an adversarial context; rather it is an inquisitorial exercise for the members. At the end of the hearing depending upon the complexity of the matter before them, the members (or sometimes the member sitting alone) can deliver their decisions – all parties will receive written copies of the order and reasons for that order.

Review
All guardianship orders (whether temporary, continuing, limited or plenary) are subject to automatic periodic reviews. Reviews are mandatory where the guardian dies or wishes to be discharged or appears incapable of carrying out their duties by reason of mental or physical incapacity. In addition, there is a provision for a review to be conducted where an eligible person makes an application (so long as the application is not frivolous, vexatious or lacking in substance).

Generally those eligible to apply for a review are: the tribunal, panel, board or court on its own initiative; the person under guardianship; the Public Guardian, Adult Guardian or Public Advocate; and any other person with a ‘genuine concern for the welfare of the person under guardianship’.

A review considers whether the guardianship order needs to be amended, varied, continued or replaced, subject to any conditions or restrictions, or revoked altogether.

Below is a flow chart from the Office of the Public Advocate in the ACT that might help to explain the process:

Right is a flow chart from Office of the Public Advocate ACT that might help to explain the process www.publicadvocate.act.gov.au/guardianship

Q. What has the NDIS changed in your life?
A. Access to the supports we couldn’t afford.
– Anonymous family who have children in the NDIS.
Is Guardianship Required?

Is there a decision that needs to be made?

YES

Does the person have CAPACITY to make the particular decision?

NO

Does the person have an Enduring Power of Attorney or Guardianship Order appointing an appropriate substitute decision-maker?

NO

Is there an appropriate person, that you are satisfied will act in the best interests of the person, who could make substitute decisions?

NO

Are you satisfied the substitute decision maker will act in the best interests of the person?

NO

Decision made by substitute decision-maker

YES

Is the substitute decision consent to medical or dental treatment?

YES

Appoint a Health Attorney to make the substitute decision

NO

Apply to the ACT Civil & Administrative Tribunal for a Guardian and/or Financial Manager to be appointed

YES

Contact the Public Advocate of the ACT to enquire about an Emergency Guardianship Order

A guardian is a person who may make some important decisions about your life. A guardian may make decisions such as where you live, what medical treatment you might need and what support you should have.

If you have made some decisions and they have not worked out or you have made really big mistakes, then having a guardian might be the best way of helping you.

The law says a guardian should make decisions which are in your ‘best interests’. This means the guardian must think very carefully before making any decisions about you.

You can tell your guardian how you feel about things and your guardian must think about your wishes. People who know you well may help with what decisions need to be made and why.

A ‘Guardianship Order’ is a piece of paper that says how long the guardian will be in your life to make decisions and what kinds of decisions your guardian can make.
Frequently asked questions

Q. What functions can a guardian exercise?

Guardianship orders specify what functions or powers the guardian can exercise. Some of the most common include:

- **Accommodation** where the person lives and will live in the future and with whom they live and will live
- **Services** what services the person will access and engage in (for example, day programs)
- **Education and training** what education and training the person can receive
- **Work** whether a person can work, the nature of the work and with whom they can work

Who can help?

The Office of the Public Advocate or Adult Guardian in your State or Territory may be able to assist you. At the back of this Guide there is an Additional Services Directory which provides their contact details.
Powers of Attorney

Power of Attorney

Attorney-in-Fact (Agent) with the power of delegation and substitution.

ent is unable or unwilling to serve for any reason, I designate
What is an ordinary or ‘General’ Power of Attorney?

An ordinary (or ‘General’) Power of Attorney is a legal document appointing a person or trustee organisation of your choice to manage your money and financial affairs while you are alive. This person or organisation is then known as your ‘attorney’. There are two important points:

1. To make a valid Power of Attorney you must be 18 years or over, and
2. You must have the capacity to understand the nature and effect of the appointment.

At the time of making your Power of Attorney it is important to understand the following points:

1. You can use a Power of Attorney for almost any financial purpose. For example, you can authorise your attorney to collect debts, vote at meetings, operate your bank account, manage your investments or carry out any other function which can be lawfully delegated.
2. A Power of Attorney ceases when you die. The executor named in your Will then takes over the responsibility of administering your estate.
3. A General Power of Attorney is made so that someone can make financial decisions on behalf of a person when they are absent or unavailable. For example, if a person is overseas and needs someone else to sell their house for them while they are away, banks and other authorities would follow their instructions. A General Power of Attorney becomes invalid immediately once/should you become unable to make your own decisions.

What is an Enduring Power of Attorney?

The Western Australian Office of the Public Advocate defines an Enduring Power of Attorney as:

“A legal agreement that enables a person to appoint a trusted person – or people – to make financial and property decisions on their behalf. An Enduring Power of Attorney is an agreement made by choice that can be executed by anyone over the age of 18, who has full legal capacity.”

‘Full legal capacity’ means that the person must be able to understand the nature and effect of the document they are completing and the nature and extent of their estate. An Enduring Power of Attorney cannot be made by another person on behalf of a donor whose capacity might be in doubt due to mental illness, acquired brain injury, cognitive impairment or dementia.

An Enduring Power of Attorney can be operational while the person still has capacity but may be physically unable to attend to financial matters. An example of this type of situation is when a person travels overseas and appoints a General Power of Attorney to make sure that their bills can continue to be paid. The Power of Attorney would cease when the person returns from overseas.

The benefit of an Enduring Power of Attorney is that, unlike an ordinary or General Power of Attorney, it will continue to operate even if the donor loses full legal capacity. An Enduring Power of Attorney does not permit an attorney to make personal and lifestyle decisions, including decisions about treatment. The authority of the attorney is limited to decisions about the donor’s property and financial affairs.

An Enduring Power of Attorney is legally binding. To be made ‘null and void’ it must be revoked, generally by a ‘Guardianship Tribunal’.

Who can make a Power of Attorney?

Generally, if you are over 18 years of age and have capacity to understand the nature and the effect of the power you are giving an Attorney, you can execute an enduring document (e.g., Power of Attorney, Enduring Power of Attorney).
An Attorney is the adult you nominate to manage your affairs. It is possible to have more than one Attorney. In most States and Territories Attorney/s can be appointed to manage your financial matters and/or your personal and health matters.

How long does a Power of Attorney last?
A General Power of Attorney is often used for a fixed period. You can appoint a General Power of Attorney as your ‘delegate’ for a limited time if you are going overseas, for example, or you want someone to deal with a specific situation. It applies until you revoke it or die, but it immediately ceases to be valid once you become legally incapable of deciding things for yourself.

You can appoint an Enduring Power of Attorney as someone to ‘take over’ decision-making when you become legally incapable of doing so for yourself. It applies until you die or it is ended or modified by an application to the Guardianship Tribunal, but you cannot alter it unless you regain your lost capacity.

What are the duties and responsibilities of an attorney?
Your attorney is in an important position of trust and has a responsibility to always act only in your best interests. They therefore must:

- Avoid doing anything as an attorney which would mean that their interests conflict with your interests
- Obey your instructions while you are mentally capable and any directions you make in the Enduring Power of Attorney
- Act according to any limits or conditions placed on their authority
- Not give gifts to themselves or others, benefit using your finances, unless you specifically authorise this – the gift must be seen as reasonable given the circumstance
- Keep their finances and money separate from yours
- Keep accurate and proper records of their dealings with your finances or property.

Your attorney must recognise your right to confidentiality and respect your views and wishes, taking into account your existing relationships, values and culture.

Q. What advice do you have to help people through the NDIS process?
A. Prepare: Know your child’s goals and needs before you go to your meeting.

– Anonymous family who have children in the NDIS.

*Note: In some jurisdictions decision-making for financial matters, under an Enduring Power of Attorney, may commence immediately. In these circumstances the adult does not need to have lost capacity for the attorney to make financial decisions. However, if the adult has capacity and disagrees with their attorney’s decision they can override the decision.
22 Powers of Attorney

How many attorneys can I appoint?
You can appoint more than one attorney. When appointing more than one attorney you should choose people who can co-operate with each other and who you trust to work together in your best interests.

You can appoint your attorneys to act:
- Severally (this means that any one of the attorneys can make decisions independently of the other attorneys), or
- Jointly (the attorneys must agree on all decisions), or
- Jointly and severally (this means that the attorneys can make decisions together or separately).

When does a Power of Attorney commence?
Your General Power of Attorney can start whenever you want. You can nominate a date in the future. Alternatively, if no date is stated, a General Power of Attorney commences once it is signed by you.

Does a Power of Attorney have to be in writing?
Yes. It is an important and powerful document giving an authority to another person to look after things you have nominated. To ensure that your Attorney knows precisely what they are empowered to do and to ensure the safety of this power, the form of the Power of Attorney must be in writing.

Signing any document is sometimes very hard to do. You must understand what the document means. For example, if you sign a document with a telephone company or an energy company that you did not understand you may be committing yourself to financial obligations that you cannot afford. Always ask the person with the document to explain it to you before signing.

It is helpful to ask a family member or friend to have a look at what you are being asked to sign in order to make sure that you understand the information and the consequences of signing the document.
A Power of Attorney is legal authority that gives another person, called the attorney, the power to deal with your assets and financial affairs while you are still alive. This means another person will be able to spend money you have in the bank to pay your bills.

You need to know and trust the person you ask to be your Power of Attorney – they can be a family member or a friend.

Your Power of Attorney has to tell you what they are doing.

Any person over 18 can be given ‘Power of Attorney’.
You might need a Power of Attorney if you become ill for a long time, or you go away on a holiday and there are bills to be paid while you are away.

Another reason you may want a Power of Attorney is if you have difficulty handling money.

You can give the Public Trustee (which is part of the Government), a lawyer or an accountant Power of Attorney if you wish. If you give one of these people Power of Attorney they may charge fees. You can end a Power of Attorney at any time.
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Trusts
A trust is a legal obligation placed on one person, called the trustee, to look after the assets of the trust for the benefit of another person or perhaps a number of people who are called a ‘beneficiary’ or ‘beneficiaries’.

A trust can continue to look after some of the interests of a person with disability after your death. If you decide to use a trust for a family member with disability, the main decisions that you will need to make are:

- Who will be the trustees?
- What accommodation and care options should I provide for?
- How much direction and discretion can I give the trustee(s)?
- In what way can I divide my assets fairly for the person with the disability and other sons and daughters?

### Setting up a Trust

Firstly, you will need legal advice as a Trust Deed has to be prepared. This Deed is a legal document which:

- Identifies who is the founder of the trust, who is the trustee and who benefits from the trust
- Sets out the powers of the trustees
- Provides details of how the assets and/or money are to be used for beneficiaries.

### Who owns the assets in a Trust?

The idea of a trust is to separate the power to control assets from the right to benefit from those assets.

The person with disability can therefore benefit from the assets without the risks involved in having direct control over the assets.

### Example

If a person with an intellectual disability has ‘title’ or ownership to a house or unit for example, the situation could occur that the person could be at risk of exploitation or abuse because they may not have the full capacity of understanding the concept of the financial value of the property. However:

- If a trust is created, the Trustee has the right to control and administer the assets but only for the benefit of the beneficiary; and
- The beneficiary has the right to benefit from the assets (such as living in the house or unit) but not the power to control or sell the asset.

### Choosing Trustees

Choosing the right people can be a difficult decision because although a legal structure is in place, people do not always act in ways which are legal or moral.

The trustee will make decisions in your place and should, as far as possible, make those decisions in keeping with your wishes. It is possible to have a number of trustees for a trust with a mix of skills or abilities; however it is important that they are compatible. You may want to consider some of the following factors in choosing trustees:

- A person who has some business skills or financial knowledge would be able to look after the financial side of the trust.
- A person who is around the age of the person with the disability may be able to be involved over the longer lifespan of the trust.
- A person who is independent will ensure, as far as possible, a safeguard so that the person with disability will have their best interests met by that trustee.
- A person who is a brother or sister will probably have a significant interest to ensure that the person with disability is well looked after in the trust.
A person who has a friendship or interest in disability issues will be well placed to act as trustee as they are aware of the person’s needs and interests. There is no limit to the number of trustees who can be chosen for a trust, but the practicalities mean that having more than three trustees may not be desirable.

What is a Testamentary Trust?
This is a trust created in a Will. A parent is able to set up a trust in the Will and appoint a trustee (or trustees) to administer the trust for their benefit. If a person is over 18 years of age and they will not be able to manage their financial affairs when they have the legal right to do so, the Testamentary Trust in the Will lasts throughout their lifetime.

What are the different types of Trusts?
There are different types of trusts including fixed trusts, discretionary trusts, and special disability trusts.

A fixed trust states clearly what the trustee must do, for example, to give a son or daughter $10,000 per year. A discretionary trust gives the trustee wide discretion. It might direct the trustee to invest the funds and pay only the income to the son or daughter with disability at the trustee’s discretion, or it may allow the trustee to use both the capital and the income for their benefit at their discretion.

The benefit of a fixed trust is that a parent can direct and limit the trustee’s powers. The limitation of a fixed trust is that it is inflexible and does not give the trustee the flexibility needed to address unforeseen circumstances in the lives of the son or daughter or changes in law and government policy that might affect them.

A discretionary trust, on the other hand, allows flexibility to adjust the level of payments or financial support according to the needs of the beneficiary with disability, rather than being forced to pay them a certain amount every year, regardless of their needs.
Special Disability Trusts
What is a Special Disability Trust?
Special Disability Trusts can be established by parents and immediate family members to plan for the future care and accommodation needs of a person with severe disability. ‘Special’ refers to the Social Security and Tax treatment of the trust and is not a reference to the beneficiary’s disability.

In the right circumstances, a Special Disability Trust allows parents or other family members to provide assets for a person with severe disability without affecting either the disabled person’s entitlement to the Disability Support Pension, or prejudicing any social security payments of the person setting it up (see the ‘gifting’ exemption below). Special Disability Trusts can therefore provide generous social security concessions for both the beneficiary and family members who gift to the trust. In a situation where assets are limited or where a reduction of Social Security entitlements is not a significant risk, a Special Disability Trust may not be relevant.

What is Severe Disability?
A person who has reached 16 years of age who is or would qualify to receive the Disability Support Pension AND
Who has disability that would, if the person had a sole carer, qualify the carer for Carer Payment or Carer Allowance OR
A person who is living in an institution, hostel or group home in which care is provided for people with disability and for which government funding is provided AND
Who has disability as a result of which he or she is not working and/or who has no likelihood of working for more than seven hours per week at or above the relevant minimum wage (this captures the Supported Wage situation). From 1 January 2011 a beneficiary can work up to seven hours a week at or above the minimum relevant wage in open employment and still qualify (However the 2012 change enabling continued receipt of DSP on obtaining paid work of at least 15 and less than 30 hours a week does not apply here).

What are the social security benefits of a Special Disability Trust?
The Special Disability Trust attracts concessional treatment under the Social Security means test to both the person with the severe disability and the eligible contributing immediate family members who are parents (including adoptive and step parents), legal guardians, grandparents and brothers and sisters.

If you receive any Centrelink payments, the ‘gifting’ rules state that you or your partner can give away money or other assets to any value you choose at any time, but the rate of income support payment you receive may be affected. This is because there is a limit to the amount of money you can gift within a financial year without the gift being brought back into account under your means test. These gifting rules mean that you can ordinarily only give away $10,000 per year without affecting your payment.

However, with each Special Disability Trust the following applies:
• The gifting concession limit is $500,000 combined (total amount in trust that has received gifting concession) by one or more eligible family members of the person with the severe disability. This amount is not subject to indexation.
• To be eligible for the gifting concession, immediate family members must be of (or over) age, or service pension age, and receiving a Social Security pension when the contribution is made to the trust.

An Assets Test assessment exemption of up to $636,750 (as at 14 August 2015, indexed annually) is available for the person with the severe disability, termed the beneficiary.
This means that the Special Disability Trust could have any assets plus the home in which the person with severe disability lives before the excess assets are included in the person’s assessable assets. All trust income is excluded from the income test assessment for the beneficiary.

Can anyone gift to the Special Disability Trust?
Yes, anyone can gift or donate to the trust but the concessions only apply to those mentioned above.

What are the main characteristics of a Special Disability Trust?
A Special Disability Trust must:
- Have only one beneficiary (that is the person for whom the trust is established) – if there are two people in a family who have disability, then two trusts must be created
- Provide for the accommodation and care needs of the beneficiary
- Have a trust deed that contains the clauses as set out in the Model Trust Deed (see information on Model Trust Deeds below)
- Have an independent trustee or alternatively have more than one trustee
- Comply with the investment restrictions, provide annual financial statements, and conduct independent audits when required.

The Department of Social Services (DSS) has developed a booklet, titled *Special Disability Trusts: Getting Things Sorted*, to help families who have decided to set up a Special Disability Trust.

The Getting Things Sorted publication includes information on:
- Planning for the future, taking account of disability issues generally,
- How families can use trusts to provide for family members with disability, and
- Availability of concessions from social security and veterans’ entitlement means tests for eligible family members establishing a Special Disability Trust.

24 Special Disability Trusts

What is a Model Trust Deed?
Special Disability Trusts must be in the form of the ‘Model Trust Deed’ which sets out:
- Who is to be a trustee (a person who looks after or administers the trust)
- The person who is to be the beneficiary (the person who benefits from the trust)
- What things the trustee is to take into account
- What other powers and duties the trustee has.


How are the funds used?
The trustee is able to:
- Use funds to meet the reasonable care and accommodation needs of the principal beneficiary, and
- Pay the maintenance expenses of the trust-property assets.

The main benefit is that the income from the assets of a Special Disability Trust will not be counted for the application of the income test to the beneficiary of the trust. A trust can spend up to $11,250 in a financial year (as at 28 August 2015, indexed annually) on discretionary items not related to the care and accommodation needs of the beneficiary. This can include:
- Household cleaning services
- Recreation and leisure activities
- Life skills and social inclusion workshops
- Toiletries
- Payment of utilities charges for the principal beneficiary’s place of residence
- Building and contents insurance
- Food other than food specified by a medical practitioner

How does this work in a practical context?
Eligible beneficiaries, in receipt of an income support pension from Centrelink, escape means testing assessment of trust monies where they are as beneficiary of a Special Disability Trust. This includes:
- All income from the trust, and
- Up to $636,750 in trust assets (as at 14 August 2015, indexed annually), plus any exempt assets such as the beneficiary’s principal residence.

Under the Special Disability Trust rules:
- The trust’s house is assessed as the beneficiary’s principal residence and therefore, for the beneficiary, this is an exempt asset.

Example
A single adult, receiving a Disability Support Pension is assessed by Centrelink as an eligible beneficiary under the Special Disability Trust requirements. The parents of the Disability Support Pension recipient, who set up a trust which is also assessed by Centrelink as meeting the Special Disability Trust Requirements, contribute a house and $400,000 for their child’s care and accommodation costs. The beneficiary of the trust lives in the trust’s house.

Therefore, as a trust house is not treated as an asset there is no impact on the Disability Support Pension recipient’s payments.
Glossary of terms for Special Disability Trusts

**Asset**
Resources or investments you own, which has an economic value. Examples include shares, property and cash.

**Beneficiary**
The beneficiary is the person with the severe disability who benefits under the trust. They have no right or claim to any of the trust property.

**Life Tenant**
A person entitled to enjoy the use and occupancy of the place where they reside.

**Settlor**
Person who creates the trust by deed.

**Trustee**
The trustee manages the day-to-day activities of the trust, and conducts business on behalf of the trust, including making investment decisions. Trustees must be fully acquainted with the terms of the trust and their responsibilities, know what the assets and liabilities of the trust are, keep proper accounts and prepare tax returns.

**Trust Property**
Assets of the trust.

**Trust Income**
The income generated by the trust which may differ in law from tax income as defined by Commonwealth Tax law.
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Income support – Centrelink
Person with disability – Disability Support Pension

The Government may change eligibility for the Disability Support Pension from time to time.

You may receive Disability Support Pension if you:

- are aged between 16 years and age pension age
- meet the residency requirements
- meet the income and assets tests for your situation

and either:

- are permanently blind

or all of the following:

- are assessed as having a physical, intellectual or psychiatric impairment,
- are unable to work, or be retrained for work, for 15 hours or more per week at or above the relevant minimum wage within the next 2 years because of your impairment, and
- have actively participated in, or completed, a Program of Support if required.

To assess your eligibility for Disability Support Pension, Centrelink will need medical evidence to help them understand your disability, injury or illness. You may need to attend an assessment with a Job Capacity Assessor and government-contracted doctor. This helps Centrelink determine whether you can work, how much work you can do and how much help you need to find and keep a job.

If you believe a decision about your Centrelink entitlements is incorrect, you have the right to review the decision. The process for reviewing a decision is generally to:

- First ask Centrelink to provide a full explanation of the decision.
- If you still think the decision is incorrect, you can then request an internal review of the decision.
- If you think the decision made by the independent review officer is incorrect, you can lodge an appeal with the Administrative Appeals Tribunal (AAT).
- An appeal against an AAT decision can be made through the Federal Court of Australia.

Free legal advice and assistance about the review and appeals system is available from:

The National Welfare Rights Network
www.welfarerights.org.au, and

National Legal Aid Services
www.nationallegalaid.org

Mobility Allowance

You may be eligible for Mobility Allowance if you:

- Are aged 16 or more,
- Cannot use public transport without substantial assistance because of a disability, illness, or injury, and
- Need to travel to and from your home to look for work, do paid or voluntary work, or participate in study or training.

Note: You can still qualify for Mobility Allowance if there is no public transport where you live. If you become a participant in the NDIS your planner will include any reasonable and necessary transport related funded supports. As such you cannot receive Mobility Allowance once you have a plan with the NDIS. When your plan is approved, the NDIA will notify Centrelink and they will contact you about cancelling your Mobility Allowance.

Standard rate

To be eligible for the standard rate of Mobility Allowance you must be:

- Undertaking paid work, self-employment, voluntary work, vocational training, independent living or life skills training or any combination of these for at least 32 hours every 4 weeks on a continuing basis.
- Looking for work under an agreement with an Employment Services Provider (e.g. Job Services Australia or Disability Employment Services).
- Participating in a Disability Management Service program with a Disability Employment Service provider, or
- Receiving a Centrelink payment, such as Newstart Allowance, Youth Allowance, or Austudy.
Mobility Allowance payments are not taxed. The standard rate of the Mobility Allowance is a payment of $91.80 per fortnight (as at 28 August 2015, reviewed annually and updated on 1 January each year).

Higher rate
To be eligible for the higher rate of Mobility Allowance you must be:
- Receiving the Disability Support Pension or other payment; and
- Working for at least 15 hours a week on wages that are at or above the relevant minimum wage; or
- Working for at least 15 hours a week on productivity based wages under the Supported Wage System; or
- Looking for at least 15 hours of work a week under an agreement with an Employment Services Provider (e.g. Job Services Australia or Disability Employment Services).

The higher rate of the Mobility Allowance is a payment of $128.40 per fortnight (as at 28 August 2015, reviewed annually and updated on 1 January each year).

Carer Allowance (caring for a person 16 years or over)
You may receive a Carer Allowance (caring for a person 16 years or over) if you:
- Look after a person aged 16 or more with severe disability or medical condition or is frail aged; or
- Care for two children with disability and the children do not individually qualify you for Carer Allowance (child) but together create a substantial caring responsibility; and
- Live with the child (or children) you are caring for.

Carer Payment (caring for a person 16 years or over)
You may be eligible for a Carer Payment (caring for a person 16 years or over) if you provide constant daily care in the home of the person you care for and he or she:
- Is aged 16 or more with severe disability or medical condition or is frail aged; or
- Is aged 16 or more with moderate care needs and has a dependent child who either is under six or is aged 6–16 and eligible for a Carer Allowance.

If the person you care for goes into respite care or hospital you can still receive Carer Payment for up to 63 days in a calendar year when the person you care for is temporarily out of your care.

Tips regarding contact with Centrelink
The following suggestions for communicating with Centrelink could be helpful in dealing with any agency, including financial institutions, other government departments and service providers. Keep records of everything This will be helpful for tax requirements and if you ever have to appeal against a Centrelink decision.
Request a receipt number for any phone call you have with Centrelink.

Be polite but firm and persistent Ask for the answer in writing if you are still unclear.

Ask to be transferred to another department or to someone with more authority to handle your request if you do not get the information you need from the first person you speak to.

Read letters carefully Computer generated letters may contain information that is not specific to you. Be clear whether or not an answer is necessary and, if so, by what date.

Keep your contact details updated When Centrelink send correspondence that you are required to respond to, you may have less than a fortnight to respond and you are unlikely to get a second notice.

Centrelink has a dedicated hotline for people with disability: 132 717 and also a call back facility to save you waiting on hold for long periods of time.

There is also a complaints and feedback line for anyone who has an issue with how their dealings with Centrelink took place: 1800 132 468 or a complaints online form at: DSSfeedback@dss.gov.au

Help in dealing with Centrelink – Nominees and Advocates

You do not have to go it alone when dealing with Centrelink and neither do any of your family members. When you attend an interview, you can be accompanied by a friend or advocate to help you understand Centrelink jargon and requirements or even just for moral support. However, that person cannot act on your behalf or give instructions to Centrelink unless they are your nominee. This is a safeguard by the Government to protect your privacy.

To address this problem, Centrelink offers two formal arrangements:

Correspondence Nominee A Correspondence nominee can complete most actions on behalf of a Centrelink customer, including making enquiries, receiving copies of the customer’s mail, notifying Centrelink of changes in circumstances or completing forms and statements.

Payment Nominee A payment nominee can receive payments into an account that they manage. They must ensure that the payments are used exclusively for the customer’s benefit, and may be asked to provide financial records. Payment nominees can only be given minimal information regarding issues affecting the customer’s payment.

Centrelink needs to have this nomination in writing, and provides a form that is available from any Centrelink office or on the website, at: www. humanservices.gov.au/customer/enablers/ someone-to-deal-with-us-on-your-behalf

It is important to note that Centrelink is not obliged to accept any nominee arrangement and these arrangements are subject to review. For more information, call Centrelink on 132 300.

If the person with the disability is unable to complete the forms, the nominee can attach a doctor’s report to confirm this. If an administrator has been appointed by a relevant State or Territory tribunal, attach a copy of the order.

Q. What has the NDIS changed in your life?
A. Having in home supports (cleaning and childcare) giving us quality family time!
– Anonymous family who have children in the NDIS.
Frequently asked questions

Q. Does a parent’s income affect a son or daughter’s application for the Disability Support Pension?
No.

Parents’ income or assets has no impact. However, Worker’s Compensation or Third Party damages may affect a son’s or daughter’s payment. If a person is granted a Disability Support Pension, they may be able to claim for Rent Assistance even if they live at home with their family.

Q. How can I find out if I am eligible for the Disability Support Pension?
An application pack can be obtained from any Centrelink office or ringing phone on 132 717. There is a requirement for medical reports and other relevant documentation to assess eligibility.

More information

Who can help?
Centrelink is the primary source for information on income support: www.humanservices.gov.au/customer/dhs/centrelink
There is a list of organisations under “Welfare” at the back of this Directory.
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What to do in a crisis
Have a back-up plan to cover situations in an emergency is important if you are a parent or carer for a person with disability.

A personal support network is a group of people who may help you, including family, friends and other people who know you, to assist in caring for a person with disability when you are not able to do so. A support network can help you to identify and collect resources to assist during and after an emergency if, for example, you have to go to hospital and the person with disability still needs ongoing care. This network is made up of individuals who will check in and assist when needed. They should know you well – they may be housemates, friends, family members, work colleagues, or people from a particular disability association.

When developing a plan with the NDIS it may be useful to write in the names of various friends or family who are able to help as alternate nominees if needed.

Do not depend on only one person. The person you care for may also be emotionally affected by the event; for example, if you have to go into hospital. It is best to include at least three people in your support network and consider speaking with and training as many people as possible. These people should be, trustworthy, able to determine when assistance is needed (understand your capabilities and needs) and be able to provide help within minutes.

The Importance of Having a Plan B or a Crisis Plan

If you are a person with disability or are a family member/carer of a person with disability, it is important to have a crisis plan or a Plan B that covers what would happen if there were an emergency.

The crisis plan, sometimes called “Plan B”, could include:

- Having a second key to the house or the car with a close friend.
- Having a second set of important documents with a close friend.
- Knowing who to call that will be able to help you in an emergency.
- Knowing a couple of different family or friend’s houses that you could go to in case you were frightened or in trouble.
- Having a second set of medications close by.
- Having a second list of key contacts, such as relatives, doctors, key support workers etc.

Give the network members copies of the person with disability’s medical information list, disability-related supplies and special equipment list and all relevant contacts.

Write down the details of disability type (for example, intellectual, learning, speech-related, sensory, physical, neurological, psychiatric) so that the person knows exactly how to communicate.

Getting to know your neighbours is an important part of preparing your household. People who know each other in their community are more likely to turn to each other for help and in the long term will cope better with a crisis or emergency.
The NDIS uses words and phrases that might be new to you:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access request</td>
<td>A request to become a participant in the National Disability Insurance Scheme</td>
</tr>
<tr>
<td>Agency/NDIA</td>
<td>National Disability Insurance Agency</td>
</tr>
<tr>
<td>Carer</td>
<td>An individual who:</td>
</tr>
<tr>
<td></td>
<td>a provides personal care, support and assistance to another individual who needs it because that other individual is a person with disability; and</td>
</tr>
<tr>
<td></td>
<td>b does not provide the care, support and assistance:</td>
</tr>
<tr>
<td></td>
<td>i. under a contract of service or a contract for the provision of services; or</td>
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<tr>
<td></td>
<td>ii. in the course of doing voluntary work for a charitable, welfare or community organisation; or</td>
</tr>
<tr>
<td></td>
<td>iii. as part of the requirements of a course of education or training.</td>
</tr>
<tr>
<td>CEO</td>
<td>Chief Executive Officer of the NDIA</td>
</tr>
<tr>
<td>Child</td>
<td>A person who is under 18 years of age</td>
</tr>
<tr>
<td>Community care</td>
<td>Care consisting of a package of personal care services and other personal assistance provided to a person who is not being provided with residential care</td>
</tr>
<tr>
<td>Compensation</td>
<td>A payment in respect of compensation or damages related to personal injury that is wholly or partly in respect of the cost of supports that may be provided to a participant</td>
</tr>
<tr>
<td>Developmental Delay</td>
<td>A delay in the development of a child under 6 years of age that:</td>
</tr>
<tr>
<td></td>
<td>a Is attributable to a mental or physical impairment or a combination of mental and physical impairments; and</td>
</tr>
<tr>
<td></td>
<td>b results in substantial reduction in functional capacity in one or more of the following areas of major life activity:</td>
</tr>
<tr>
<td></td>
<td>i self-care;</td>
</tr>
<tr>
<td></td>
<td>ii receptive and expressive language;</td>
</tr>
<tr>
<td></td>
<td>iii cognitive development;</td>
</tr>
<tr>
<td></td>
<td>iv motor development; and</td>
</tr>
<tr>
<td></td>
<td>c results in the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services that are of extended duration and are individually planned and coordinated</td>
</tr>
<tr>
<td>NDIS Amount</td>
<td>An amount paid under NDIS in respect of reasonable and necessary supports funded under a participant’s plan</td>
</tr>
<tr>
<td>Early Intervention</td>
<td>Supports that are identified in the National Disability Insurance Scheme rules as early intervention supports</td>
</tr>
<tr>
<td>Entity</td>
<td>Means partnership or unincorporated association</td>
</tr>
<tr>
<td>Entry</td>
<td>The commencement of the provision of care to a person through aged care services</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>General supports</td>
<td>A service provided by NDIA to a person or an activity engaged in by NDIA in relation to a person that is in the nature of a coordination, strategic or referral service or activity, including a locally provided coordination, strategic or referral service or activity.</td>
</tr>
<tr>
<td>Grace period</td>
<td>Six weeks beginning when the participant leaves Australia (or a longer time decided by NDIA).</td>
</tr>
<tr>
<td>Managing the funding for supports</td>
<td>Purchasing the supports identified in the plan and receiving and managing any funding provided by the Agency and acquitting any funding provided by the Agency.</td>
</tr>
<tr>
<td>NDIS Rules</td>
<td>A legislative instrument made by the Minister required to be prescribed for or necessary to give effect the NDIS Act.</td>
</tr>
<tr>
<td>Nominee</td>
<td>The correspondence nominee of a participant or the plan nominee of a participant.</td>
</tr>
<tr>
<td>Officer</td>
<td>A member of the staff of NDIA or a person assisting NDIA.</td>
</tr>
<tr>
<td>Parent</td>
<td>An individual with parental responsibility.</td>
</tr>
<tr>
<td>Parental Responsibility</td>
<td>Where a person is the child’s parent and has not ceased to have parental responsibility under the Family Law Act or is given so under a parenting order.</td>
</tr>
<tr>
<td>Participant</td>
<td>A person who is a participant in the NDIS.</td>
</tr>
<tr>
<td>Participant’s impairment</td>
<td>An impairment in relation to which the participant meets the disability requirements or the early intervention requirements to any extent.</td>
</tr>
<tr>
<td>Participant’s statement of goals and aspirations</td>
<td>Specifies the goal, objectives and aspirations of the participant and the environmental and personal context of the participant’s living.</td>
</tr>
<tr>
<td>Plan</td>
<td>The participant’s statements of goals and aspirations and their statement of supports.</td>
</tr>
<tr>
<td>Plan management request</td>
<td>A participant’s request as to who will manage the funding supports under the plan.</td>
</tr>
<tr>
<td>Plan nominee</td>
<td>A person who is appointed as the plan nominee of a participant.</td>
</tr>
<tr>
<td>Prospective participant</td>
<td>A person in relation to whom an access request has been made but not yet decided.</td>
</tr>
<tr>
<td>Protected information</td>
<td>Information about a person that is or was held in the records of the NDIA or information to the effect that there is no information about a person held in the records of the NDIA.</td>
</tr>
<tr>
<td>Registered plan management provider</td>
<td>A registered provider of supports who is approved in relation to managing the funding of supports under plans section 70(1)(a).</td>
</tr>
<tr>
<td>Registered provider of supports</td>
<td>A person approved as a registered provider of supports under section 70.</td>
</tr>
<tr>
<td>Residential care service</td>
<td>An undertaking through which residential care is provided.</td>
</tr>
<tr>
<td>Reviewable decision</td>
<td>A decision of NDIA that may be reviewed.</td>
</tr>
<tr>
<td>Statement of participant supports</td>
<td>Specifies the general supports that will be provided and the reasonable and necessary supports that will be funded as well as the date by which the Agency must review the plan and the management of funding and other aspects.</td>
</tr>
</tbody>
</table>
Administrative Appeals Tribunals (AAT)

Administrative Appeals Tribunals can independently review administrative decisions made by the Australian Government. You can contact your local Tribunal if NDIS review a decision and you are still not satisfied with the new decision.

Australian Capital Territory

Administrative Appeals Tribunal
Level 8, 14 Moore Street
Canberra ACT 2601
Phone: 1300 366 700

New South Wales

Administrative Appeals Tribunal
Level 7, City Centre Tower
55 Market Street
Sydney NSW 2000
Phone: 1300 366 700

Northern Territory and Queensland

Administrative Appeals Tribunal
Level 4, Harry Gibbs Building
Commonwealth Law Courts
119 North Quay Brisbane QLD 4000
Phone: 1300 366 700

South Australia

Administrative Appeals Tribunal
11th Floor, Chesser House
91 Grenfell Street
Adelaide SA 5000
Phone: 1300 366 700

Tasmania

Administrative Appeals Tribunal
Ground Floor, Edward Braddon Building
Commonwealth Law Courts
39 – 41 Davey Street
Hobart TAS 7000
Phone: 1300 366 700

Victoria

Administrative Appeals Tribunal
Level 16, HWT Tower, Southgate
40 City Road
Southbank VIC 3006
Phone: 1300 366 700

Western Australia

Administrative Appeals Tribunal
Level 5
111 St Georges Terrace
Perth WA 6000
Phone: 1300 366 700

Advocacy organisations

Advocacy organisations can assist you in resolving issues and representing your interests in disputes. Below are some advocacy organisations funded by the Commonwealth Government. Your local Community Legal Centre may also offer advocacy services. There may be advocacy services funded by your State government that are not included in this list.

Australian Capital Territory

ACT Disability, Aged and Carer Advocacy Service Inc.
Phone: (02) 6242 5060
Website: www.adacas.org.au

New South Wales

Ability Incorporated
Phone: (02) 6628 8188
Website: www.abilityincorporated.org.au

Synapse (Previously Brain Injury Association of NSW Inc.)
Phone: (02) 9868 5261
Website: www.biasnsw.org.au

Disability Advocacy Network Inc.
Phone: (02) 6921 9225
Website: www.dan-inc.net.au

Disability Advocacy NSW Inc.
Phone: (02) 4927 0111 or 1300 365 085
Website: da.org.au

Disability Advocacy and Information Service Inc.
Phone: (02) 6056 2420
Website: www.dias.net.au

Illawarra Advocacy Inc.
Phone: (02) 4229 4064 or (02) 4229 4999
Website: www.illawarradvocacy.org.au

Intellectual Disability Rights Service
Phone: (02) 9318 0144
Website: www.idrs.org.au
### Multicultural Disability Advocacy Association of NSW Incorporated
Phone: (02) 9891 6400 or 1800 629 072
Website: www.mdaa.org.au

### Newell Advocacy Inc.
Phone: (02) 6792 3195
Website: www.nican.com.au/service/newell-advocacy-inc-nsw

### People with Disability Australia Inc.
Phone: (02) 9370 3100
Website: www.pwd.org.au

### Self Advocacy (Sydney) Inc.
Phone: (02) 9622 3005
Website: www.sasinc.com.au

### Side by Side Advocacy Inc.
Phone: (02) 9808 5500
Website: www.sidebyside.org.au

### Spinal Cord Injuries Australia
Phone: (02) 9661 8855
Website: www.scia.org.au

### The Institute for Family Advocacy and Leadership Development Association Inc.
Phone: (02) 9869 0866 or 1800 620 588
Website: www.family-advocacy.com

### Northern Territory
Darwin Community Legal Service Inc.
Phone: (08) 8982 1111
Website: www.dcls.org.au

### Disability Advocacy Service
Phone: (08) 8953 1422
Website: www.das.org.au

### Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council Aboriginal Corporation
Phone: (08) 8958 2345
Website: www.npywc.org.au

### Queensland
Independent Advocacy Townsville
Phone: (07) 4725 2505
Website: www.independentadvocacy.org.au

People with Disability Australia Inc.
Phone: (02) 9370 3100
Website: www.pwd.org.au

Queensland Advocacy Incorporated
Phone: (07) 3844 4200 or 1300 130 582
Website: www.qai.org.au

Rights In Action
Phone: (07) 4031 7377
Website: www.rightsinaction.org

### Speaking Up For You Inc.
Phone: (07) 3255 1244
Website: www.sufy.org.au

### Sunshine Coast Citizen Advocacy Programme Inc.
Phone: (07) 5442 2524
Website: www.citizenadvocacy.com

### The Advocacy and Support Centre
Phone: (07) 4616 9700
Website: www.tascinc.org.au

### South Australia
Brain Injury Network of South Australia Inc.
Phone: (08) 8217 7600
Website: www.binsa.org

Citizen Advocacy South Australia Incorporated
Phone: (08) 8410 6644
Website: www.citizenadvocacysa.com.au

Disability Advocacy and Complaints Service of South Australia Inc.
Phone: (08) 7122 6030
SA Country Phone: 1800 555 630
Website: www.dacssa.org.au

Advocacy for Disability Access and Inclusion Inc.
Phone: (08) 8340 4450
Website: www.advocacyfordisability.org.au

Independent Advocacy SA Inc.
Phone (08) 8232 6200
Website: www.independentadvocacysa.org.au

Disability Rights Advocacy Service Inc.
Phone: (08) 8351 9500
Website: www.dras.com.au

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council Aboriginal Corporation
Phone: (08) 8958 2345
Website: www.npywc.org.au

### Tasmania
Advocacy Tasmania Inc.
Phone: (03) 6224 2240
Website: www.advocacytasmania.org.au

Citizen Advocacy Launceston Region Inc.
Phone: (03) 6331 2177
Website: www.citizenadvocacylton.org.au

Speak Out Advocacy
Phone: (03) 6231 2344
Website: www.speakoutadvocacy.org
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Victoria

Leadership Plus Inc.
Phone: (03) 9489 2999
Website: www.leadershipplus.com

Action for More Independence and Dignity in Accommodation Inc.
Phone: (03) 9650 2722
Website: www.amida.org.au

Action on Disability within Ethnic Communities Inc.
Phone: (03) 9480 1666
Website: www.adec.org.au

AED Legal Centre
Phone: (03) 9639 4333
Website: www.aed.org.au

Melbourne East Disability Advocacy
Phone: (03) 9877 7990
Website: www.meda.org.au

Citizen Advocacy Sunbury and Districts Inc.
Phone: (03) 9744 7378
Website: casunbury.net

Colac Otway Region Advocacy Service
Phone: (03) 5232 1009
Website: www.coras.com.au

Disability Justice Advocacy Inc.
Phone: (03) 9474 0077
Website: www.justadvocacy.com

Gippsland Disability Advocacy Inc.
Phone: (03) 5133 9440
Website: www.gdai.org.au

Grampians Disability Advocacy Association Inc.
Phone: (03) 5352 2722
Website: Nil

North East Citizen Advocacy Inc.
Phone: (03) 8407 3684
Website: www.citizenadvocacy.com.au

Rights Information and Advocacy Centre Inc.
Phone: (03) 5822 1944
Website: www.riac.org.au

Southern Disability Advocacy
Phone: (03) 9533 5977
Website: www.southernda.org.au

Southwest Advocacy Association Inc.
Phone: (03) 5561 4584
Website: www.southwestadvocacy.org.au

Victorian Mental Illness Awareness Council
Phone: (03) 9380 3900
Website: www.vmiac.org.au

Villamanta Disability Rights Legal Service Inc.
Phone: (03) 5227 3338
Website: www.villamanta.org.au

Western Australia

Advocacy South West Inc.
Phone: (08) 9721 6444
Website: www.advocacysouthwest.org.au

Catholic Archdiocese of Perth Personal Advocacy Service
Phone: (08) 9275 5388
Website: www.perthcatholic.org.au/Organisations_and_Services-Disability_Services.htm

Citizen Advocacy Perth West Inc
Phone: (08) 9445 9991
Website: www.capw.org.au

Ethnic Disability Advocacy Centre
Phone: (08) 9388 7455
Website: www.edac.org.au

Midland Information, Debt and Legal Advocacy Service Inc.
Phone: (08) 9250 2123
Website: www.midas.org.au

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation
Phone: (08) 8958 2345
Website: www.npywc.org.au

People With Disabilities (WA) Inc.
Phone: (08) 9485 8900
Website: www.pwdwa.org

Sussex Street Community Law Service
Phone: (08) 6253 9500
Website: www.sscls.asn.au

Uniting Care West
Phone: 1300 663 298
Website: www.unitingcarewest.org.au

Carers

Carer organisations advocate and lobby for a wide range of issues that specifically affect carers. They also produce a number of publications that may assist you.

National

Carers Australia
Phone: 1800 242 636
Website: www.carersaustralia.com.au
Australian Capital Territory

Carers ACT
Phone: 1800 242 636 or (02) 6296 9900
Website: www.carersact.org.au

Northern Territory

Carers NT
Phone: 1800 242 636 or (08) 8944 4888
Website: www.carersnt.asn.au

New South Wales

Carers NSW
Phone: 1800 242 636 or (02) 9280 4744
Website: www.carersnsw.org.au

Queensland

Carers QLD
Phone: 1800 242 636 or (07) 3900 8100
Website: www.carersqld.asn.au

South Australia

Carers SA
Phone: 1800 242 636 or (02) 8291 5600
Website: www.carers-SA.asn.au

Tasmania

Carers TAS
Phone: 1800 242 636 or (03) 6231 5507
Website: www.carerstas.org

Victoria

Carers VIC
Phone: 1800 242 636 or (03) 9396 9555
Website: www.carersvictoria.org.au

Western Australia

Carers WA
Phone: 1800 242 636 or 1300 227 377
Website: www.carerswa.asn.au

Community legal centres

Community Legal Centres can offer a wide variety of services. These include assistance with Wills, legal planning and advocacy. To receive assistance, it is essential that you meet their requirements and fall within their catchment area. You can contact your State or Territory Law Association for assistance.

Australian Capital Territory

Tenants’ Union ACT Inc.
Phone: (02) 6247 2011
Website: www.tenantsact.org.au

Canberra Community Law
Phone: (02) 6218 7918
Website: www.canberracomunitylaw.org.au

Women’s Legal Centre
Phone: (02) 6257 4499
Website: www.womenslegalact.org

New South Wales

Aboriginal Legal Service (NSW/ACT) Limited
Phone: (02) 9687 7688
Website: www.alsnswact.org.au

Community Legal Centres NSW Inc. (CLCNSW)
Phone: (02) 9212 7333
Website: www.nswclc.org.au

Australian Centre for Disability Law
Phone: 1800 800 708 or (02) 9370 3135
Website: www.disabilitylaw.org.au

Central Coast Community Legal Centre
Phone: (02) 4353 4988
Website: www.centralcoastclc.org.au

Elizabeth Evatt Community Legal Centre
Phone: (02) 4782 4155
Website: www.eeclc.org.au

Far West Community Legal Centre Inc.
Phone: (08) 8088 2020
Website: www.farwestclc.org.au

Hawkesbury Nepean Community Legal Centre
Phone: (02) 4587 8877
Website: www.hnclc.net.au

Hunter Community Legal Centre
Phone: (02) 4040 9120
Website: www.hunterclc.org.au

Illawarra Legal Centre
Phone: (02) 4276 1939
Website: www.illawarralegalcentre.org.au
Inner City Legal Centre  
Phone: (02) 9332 1966  
Website: www.iclc.org.au

Intellectual Disability Rights Service Inc.  
Phone: (02) 9318 0144  
Website: www.idrs.org.au

Kingsford Legal Centre  
Phone: (02) 9385 9566  
Website: www.kingsfordlegalcentre.org

Macarthur Legal Centre  
Phone: (02) 4628 2042  
Website: www.macarthurlegal.org.au

Macquarie Legal Centre  
Phone: (02) 8833 0911  
Website: www.macquarielegal.org.au

Marrickville Legal Centre  
Phone: (02) 9559 2899  
Website: www.mlc.org.au

Mid North Coast Community Legal Centre  
Phone: (02) 6580 2111  
Website: www.mncclc.org.au

Mt Druitt and Area Community Legal Centre  
Phone: (02) 9675 2009  
Website: www.mdclc.org.au

North and North West Community Legal Service  
Phone: 1800 687 687  
Website: www.nnwcls.org.au

Northern Rivers Community Legal Centre  
Phone: (02) 6621 1000  
Website: www.nrclc.org.au

Public Interest Advocacy Centre  
Phone: (02) 8898 6500  
Website: www.piac.asn.au

Redfern Legal Centre  
Phone: (02) 9698 7277  
Website: www.rlc.org.au

Shoalcoast Community Legal Centre  
Phone: (02) 4422 9529  
Website: www.shoalcoast.org.au

South West Sydney Legal Centre  
Phone: (02) 9601 7777  
Website: www.swslc.org.au

Seniors Rights Service  
Phone: (02) 9281 3600 or 1800 424 079  
Website: www.seniorsrightsservice.org.au

University of Newcastle Legal Centre  
Phone: (02) 4921 8666  
Website: www.newcastle.edu.au/school/law/uncl.html

Welfare Rights Centre (NSW)  
Phone: (02) 9211 5300  
Website: www.welfarerights.org.au

Western NSW Community Legal Centre Inc.  
Phone: (02) 6884 9422  
Website: www.wnswclc.org.au

Wirringa Baiya Aboriginal Women’s Legal Centre  
Phone: (02) 9569 3847  
Website: www.wirringabaiya.org.au

Women’s Legal Services Limited (NSW)  
Phone: (02) 8745 6988  
Website: www.womenslegalnsw.nsw.asn.au

Northern Territory

Central Australian Women’s Legal Services Inc.  
Phone: (08) 8952 4055 or 1800 684 055  
Website: www.cawls.org.au

Darwin Community Legal Service  
Phone: (08) 8982 1111 or 1800 812 953  
Website: www.dcls.org.au

Katharine Women’s Information and Legal Service  
Phone: (08) 8972 1712 or 1800 620 108  
Website: www.kwils.com.au

Top End Women’s Legal Service Inc.  
Phone: (08) 8982 3000 or 1800 234 441  
Website: www.tewls.org.au

Queensland

Queensland Association of Independent Legal Services Inc. (QAILS)  
Phone: (07) 3392 0092  
Website: www.qails.org.au

Bayside Community Legal Service Inc.  
Phone: (07) 3134 0843  
Website: NIL

Cairns Community Legal Centre Inc.  
Phone: (07) 4031 7688  
Website: www.cclc.org.au

Care Goondiwindi Association Inc.  
Phone: (07) 4670 0700  
Website: www.caregoondiwindi.org.au

Caxton Legal Centre Inc.  
Phone: (07) 3214 6333  
Website: www.caxton.org.au
Central Queensland Community Legal Centre Inc.
Phone: (07) 4922 1200
Website: www.cqclc.org.au

Gold Coast Community Legal Centre & Advice Bureau Inc.
Phone: (07) 55 329 611
Website: www.advicebureau.org.au

Mackay Regional Community Legal Centre
Phone: (07) 4953 1211
Website: www.mrclc.com.au

Moreton Bay Regional Community Legal Service
Phone: (07) 5495 5916
Website: www.mbrcls.org.au

North Queensland Women's Legal Service Inc. (Cairns Office)
Phone: (07) 4033 5825
Website: www.nqws.com.au

North Queensland Women's Legal Service Inc. (Townsville office)
Phone: (07) 4772 5400
Website: www.nqws.com.au

Nundah Neighbourhood Centre & Community Legal Service
Phone: (07) 3260 6820
Website: www.nundahcc.org.au

Southwest Brisbane Community Legal Centre
Phone: (07) 3372 7677
Website: www.communitylegal.org.au

Stanthorpe Community Legal Centre
Phone: (07) 4681 3777
Website: Nil

Suncoast Community Legal Service Inc.
Phone: (07) 5443 7827
Website: www.suncoastcommuntylegal.org

Taylor Street Community Legal Centre
Phone: (07) 4194 2663
Website: www.hbncc.net.au/hbncc/hbncc-programs/taylor-street-legal.html

Townsville Community Legal Service Inc.
Phone: (07) 4721 5511
Website: www.tcls.org.au

Women's Legal Services QLD
Phone: (07) 3392 0670
Website: www.wlsq.org.au

Youth and Family Services (Logan City) Inc.
Phone: (07) 3826 1500
Website: www.yfs.org.au/legal

South Australia
Note that no Community Legal Centre in South Australia will draft wills.

Central Community Legal Service
Phone: (08) 8342 1800
Website: www.saccls.org.au

Northern Community Legal Service Inc.
Phone: (08) 8281 6911
Website: www.saccls.org.au

Riverland Community Legal Service Inc.
Phone: (08) 8582 2255
Website: www.riverlandlegalservice.org.au

Roma Mitchell Community Legal Centre
Phone: (08) 8362 1199
Website: Nil

South East Community Legal Service Inc.
Phone: (08) 8723 6236
Website: www.secls.org

Southern Community Justice Centre
Incorporating Community Mediation Services
Phone: (08) 8384 5222
Website: www.scjc.com.au

Welfare Rights Centre
Phone: (08) 8223 1338
Website www.wrcsa.org.au

WestSide Laywers
Phone: (08) 8340 9009
Website: www.westsidelawyers.net

Women's Legal Service
Phone: (08) 8221 5553
Website: www.wlssa.org.au

South Australian Council of Community Legal Services Inc. (SACCLS)
Phone: (08) 8342 1800
Website: www.saccls.org.au

Tasmania

Hobart Community Legal Service
Phone: (03) 6223 2500
Website: www.hobartlegal.org.au

Launceston Community Legal Centre
Phone: (03) 6334 1577
Website: www.lclc.net.au

North West Community Legal Centre Inc.
Phone: (03) 6424 8720
Website: www.nwclc.org.au

Women's Legal Service (Tas)
Phone: 1800 682 468
Website: www.womenslegaltas.org.au
Victoria

Federation of Community Legal Centres (Victoria) Inc.
Phone: (03) 9652 1500
Website: www.communitylaw.org.au

AED Legal Centre
Phone: (03) 9639 4333
Website: www.aed.org.au

Barwon Community Legal Service Inc.
Phone: 1300 430 599
Website: www.barwoncls.org.au

Brimbank Melton Community Legal Centre
Phone: (03) 8312 2000
Website: www.communitywest.org.au

Casey Cardinia Community Legal Service
Phone: (03) 9793 1993
Website: www.caseycardinialegal.org.au

Central Highlands Community Legal Centre
Phone: (03) 5331 5999
Website: www.chclc.org.au

Darebin Community Legal Centre
Phone: (03) 9484 7753
Website: www.communitylaw.org.au/darebin

Eastern Community Legal Centre
Inner East Branch
Phone: (03) 9285 4822
Website: www.eclc.org.au

Eastern Community Legal Centre
Outer Branch
Phone: (03) 9762 6235
Website: www.eclc.org.au

Fitzroy Legal Services
Phone: (03) 9419 3744
Website: www.fitzroy-legal.org.au

Flemington and Kensington Community Legal Centre
Phone: (03) 9376 4355
Website: www.communitylaw.org.au/flemingtonkensington

Footscray Community Legal Centre
Phone: (03) 9689 8444
Website: www.footscrayclc.org.au

Gippsland Community Legal Service
Phone: 1800 004 402
Website: www.gcls.org.au

Hume Riverina Community Legal Service
Phone: 1800 918 377
Website: www.hrclsls.org.au

Loddon Campaspe Community Legal Centre
Phone: (03) 5444 4364
Website: www.lcclc.org.au

Mental Health Legal Centre
Phone: (03) 9629 4422
Website: www.communitylaw.org.au/mhlc

Monash Oakleigh Legal Service
Phone: (03) 9905 4336
Website: www.monash.edu/law/about-us/legal/mols

Moonee Valley Legal Service
Phone: (03) 9376 7929
Website: www.mvls.org.au

Moreland Community Legal Centre
Phone: (03) 9383 2588
Website: www.morelandclc.org.au

Mallee Community Family Care
Phone: (03) 5023 5966
Website: www.malleefamilycare.com.au

Inner Melbourne Community Legal
Phone: (03) 9328 1885
Website: www.imcl.org.au

Peninsula Community Legal Centre (Vic)
Phone: (03) 9783 3600
Website: www.pclc.org.au

Peninsula Community Legal Centre Cranbourne Branch Office
Phone: (03) 5995 3722
Website: www.pclc.org.au

Peninsula Community Legal Centre Rosebud Branch
Phone: (03) 5981 2422
Website: www.pclc.org.au

Seniors Rights Victoria
Phone: 1300 368 821
Website: www.seniorsrights.org.au

Springvale Monash Legal Service Inc.
Phone: (03) 9545 7400
Website: www.smls.org.au

St Kilda Legal Service
Phone: (03) 9534 0777
Website: Nil

Victorian Aboriginal Legal Service Cooperative Ltd
Phone: 1800 064 865
Website: www.vals.org.au

Villamanta Disability Rights Legal Service Inc.
Phone: 1800 014 111
Website: www.villamanta.org.au
West Heidelberg Community Legal Service
Phone: (03) 9450 2002
Website: www.whcls.org.au

Western Suburbs Legal Service Inc.
Phone: (03) 9391 2244
Website: www.wsls.org.au

Whittlesea Community Legal Service
(Whittlesea Community Connections)
Phone: (03) 9401 6666
Website: www.whittleseacommunityconnections.org.au

Women’s Legal Service Victoria
Phone: (03) 8622 0600
Website: www.womenslegal.org.au

Western Australia
Aboriginal Family Law Services
Phone: 1800 469 246
Website: www.afls.org.au

Albany Community Legal Centre Inc.
Phone: (08) 9842 8566
Website: www.albanyclc.com.au

Albany Family Violence Prevention
Legal Service
Phone: (08) 9842 7777
Website: www.sacorp.com.au

Bunbury Community Legal &
Mediation Centre
Phone: (08) 9791 3206
Website: Nil

Citizens Advice Bureau
Phone: (08) 9221 5711
Website: www.cabwa.com.au

Community Legal Centres Association
(WA) Inc.
Phone: (08) 9221 9322
Website: www.communitylaw.net

Employment Law Centre of
Western Australia Inc.
Phone: 1300 130 956
Website: www.elcwa.org.au

Fremantle Community Legal Centre
Phone: (08) 9021 1888
Website: www.fremanвлекатель.org.au/fclc

Goldfields Community Legal Centre
Phone: (08) 9021 1888
Website: Nil

Gosnells Community Legal Centre
Phone: (08) 9398 1455
Website: www.gosclcl.com.au

Kimberly Community Legal Services Inc.
Phone: (08) 9169 3100
Website: Nil

Marninwarntikura Fitzroy Women’s
Resource Centre
Phone: (08) 9191 5284
Website: Nil

Mental Health Law Centre (WA) Inc.
Phone: (08) 9328 8266
Website: www.mhlcwa.org.au

Midland Information, Debt and Legal
Advocacy Service Inc.
Phone: (08) 9250 2123
Website: www.midlas.org.au

Northern Suburbs Community Legal Centre –
Joondalup Office
Phone: (08) 9301 4413
Website: www.nsclegal.org.au

Northern Suburbs Community Legal Centre –
Mirrabooka Office
Phone: (08) 9440 1663
Website: www.nsclegal.org.au

Peel Community Legal Service Inc.
Phone: (08) 9581 4511
Website: www.peelclsl.com.au

Pilbara Community Legal Service –
Karratha Office
Phone: (08) 9185 5899
Website: www.pcls.net.au

Pilbara Community Legal Service –
Roebourne Branch Office
Phone: (08) 9182 1169
Website: www.pcls.net.au

Pilbara Community Legal Service –
South Headland Office
Phone: (08) 9140 1613
Website: www.pcls.net.au

SCALES Community Legal Centre Inc.
Phone: (08) 9550 0400
Website: www.murdoch.edu.au/School-of-Law/SCALES

Street Law (WA) Inc.
Phone: (08) 9221 7661
Website: www.streetlawcentre.org.au

Sussex Street Community Law Service Inc.
Phone: (08) 6253 9500
Website: www.ssclsl.org.au

Welfare Rights and Advocacy Service
Phone: (08) 9328 1751
Website: www.wraswa.org.au
Disability discrimination services

These are specific organisations that can assist you with advice or advocacy if you feel you have been subjected to discrimination. Your local Community Legal Centre may also be able to assist you.

Australian Capital Territory

Canberra Community Law – Disability Discrimination Law
Phone: (02) 6218 7918
Website: www.canberracommunitylaw.org.au/disability-discrimination-law

New South Wales

Australian Centre for Disability Law
Phone: (02) 9370 3135
Website: www.disabilitylaw.org.au

The Intellectual Disability Rights Service
Phone: (02) 9318 0144
Website: www.idrs.org.au

Northern Territory

Darwin Community Legal Service
Phone: 1800 812 953
Website: www.dcls.org.au/disability-discrimination

Queensland

Disability Discrimination Legal Service
Phone: 1800 062 608
Website: www.cclc.org.au

South Australia

Central Community Legal Service
Phone: (08) 8342 1800
Website: www.saccls.org.au/centre_details.php?centre_id=1

Tasmania

Launceston Community Legal Centre
Phone: (03) 6334 1577
Website: www.lclc.net.au

Victoria

Disability Discrimination Legal Service Inc.
Phone: (03) 9654 8644
Website: www.ddls.org.au

Western Australia

Sussex Street Community Law Services Inc.
Phone: (08) 6253 9500
Website: www.sscls.asn.au/Programs-Services/Disability-Discrimination

Government departments

Australian Capital Territory

Department of Disability, Housing and Community Services
Phone: (02) 6207 1086
Website: www.dhcs.act.gov.au/disability_act

New South Wales

Department of Family and Community Services (Ageing, Disability and Home Care)
Phone: (02) 9377 6000
Website: www.adhc.nsw.gov.au

Northern Territory

Department of Health (Disability)
Phone: (08) 8999 2400

Queensland

Department of Communities, Child Safety and Disability Services
Phone: 13 74 68
Website: www.communities.qld.gov.au/disability

South Australia

Department for Communities and Social Inclusion
Phone: (08) 8415 4250
Website: www.sa.gov.au/topics/community-support/disability
Tasmania
Service Tasmania
Phone: 1300 13 55 13
Website: www.dhhs.tas.gov.au/service_information/disability/disability_services

Victoria
Department of Human Services
Phone: 1800 783 783
Website: www.dhs.vic.gov.au/for-individuals/disability/start-here

Western Australia
Disability Services Commission
Phone: 1800 998 214
Website: www.disability.wa.gov.au/contact-us

Law societies
Each State Law Society can provide you with names of solicitors in your area that can assist you with your specific concern. This is called a referral.

Australian Capital Territory
ACT Law Society
Phone: (02) 6274 0300
Website: www.actlawsociety.asn.au

New South Wales
Law Society of NSW
Phone: 02 9926 0333
Website: www.lawsoociety.com.au

Northern Territory
Law Society of the Northern Territory
Phone: (08) 8981 5104
Website: www.lawsoicynt.asn.au

Queensland
Queensland Law Society
Phone: 1300 367 757
Website: www.qls.com.au

South Australia
Law Society of South Australia
Phone: (08) 8229 0222
Website: www.lawsoicysa.asn.au

Tasmania
Law Society of Tasmania
Phone: (03) 6234 4133
Website: www.lst.org.au

Victoria
Law Institute of Victoria
Phone: 03 9607 9311
Website: www.liv.asn.au

Western Australia
Law Society of Western Australia
Phone: (08) 9324 8600
Website: www.lawsocietywa.asn.au

Legal aid
Legal Aid provides free access to legal information, advice and representation for disadvantaged members of the community. To receive this service, you will need to apply.

Legal Aid Queensland
Telephone 1300 65 11 88
Website: www.legalaid.qld.gov.au

Legal Aid New South Wales
Telephone: 1300 888 529
Website: www.legalaid.nsw.gov.au

Legal Aid Victoria
Telephone: 1300 792 387
Website: www.legalaid.vic.gov.au

Legal Aid South Australia
Telephone: 1300 366 424
Website: www.lsc.sa.gov.au

Legal Aid Western Australia
Telephone: 1300 650 579
Website: www.legalaid.wa.gov.au

Legal Aid Northern Territory
Telephone: 1800 019 343
Website: www.ntlac.nt.gov.au
Mediation sources
Mediators can assist in resolving disputes. There is a national directory of mediators listed below that you can access to find a mediator. Alternatively, your Local Community Legal Centre may be able to assist.

National
Family Mediation Centre
Phone: 1800 639 523
Website: www.mediation.com.au
Mediator Locator: A National Directory of Mediators
Phone: (02) 9211 1881

South Australia
Southern Community Justice Centre
Incorporating Community Mediation Services
Phone: 1300 850 650
Website: www.scjc.com.au

Public Trustees
The Public Trustees provide Wills, Enduring Powers of Attorney as well as investment, executor and financial administration services.

Australian Capital Territory
Public Trustee
Phone: (02) 6207 9800
Website: www.publictrustee.act.gov.au

Victoria
State Trustees Limited
Phone: (03) 9667 6444
Website: www.statetrustees.com.au

Queensland
QLD Public Trustee
Phone: (07) 1300 360 044
Website: www.pt.qld.gov.au

New South Wales
NSW Trustee and Guardian
Phone: 1300 364 103
Website: www.tag.nsw.gov.au

South Australia
Public Trustee
Phone: (08) 8226 9200
Website: www.publictrustee.sa.gov.au

Western Australia
Public Trust Office
Phone: 1300 746 116
Website: www.publictrustee.wa.gov.au

Tasmania
Public Trustee
Phone: 1800 068 784
Website: www.publictrustee.tas.gov.au

Northern Territory
Public Trustee
Phone: (08) 8999 7271
Website: www.nt.gov.au/justice/pubtrust

Welfare
Centrelink is your primary source for welfare enquiries. If you require assistance you can also contact the organisations listed below. Your local Community Legal Centre may also be able to assist you.

Federal
Department of Human Services – Centrelink Disability and Carers Line
Phone 13 27 17
Website: www.humanservices.gov.au/customer/subjects/payments-for-people-living-with-illness-or-disability

Australian Capital Territory
Canberra Community Law
Phone: (02) 6218 7977
Website: www.canberracomunitylaw.org.au

Victoria
Social Security Rights Victoria Inc.
Phone: (03) 9481 0355
Website: www.ssrv.org.au
Queensland

**Basic Rights Queensland**  
(formerly the Welfare Rights Centre)  
Phone: (07) 3847 5532  
Website: www.brq.org.au

New South Wales

**Welfare Rights Centre (NSW)**  
Phone: (02) 9211 5300  
Website: www.welfarerights.org.au

South Australia

**Welfare Rights Centre**  
Phone: (08) 8223 1338  
Website www.wrcsa.org.au

Western Australia

**Welfare Rights and Advocacy Service**  
Phone: (08) 9328 1751  
Website: www.wraswa.org.au
This guide is an initiative of The Community Advocacy and Support (CAS) Unit, Endeavour Foundation.

The CAS Unit advocates promotes, protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disability. The CAS Unit is an initiative of the Board of Endeavour Foundation and its role is to ensure that the rights of people with disability within the organisation and the broader community are upheld and promoted through systemic advocacy.

This guide, funded by the Community Inclusion and Capability Development Fund from the National Disability Insurance Agency, is part of the CAS Unit’s systemic advocacy role. It comes from listening to people who access our services and their family members or substitute decision makers.

Endeavour Foundation has 215 services across Queensland, New South Wales, Victoria and South Australia offering services and supports for more than 4,000 people with disability. Our person-centred approach is designed to meet individual needs in supported accommodation, lifestyle activities, employment, training, education, in-home support and respite. We employ more than 3,300 staff and supported employees and enjoy the generous support of more than 1,250 volunteers.

Project Manager

Melinda Ewin

Melinda is a former Senior Advisor, Community Advocacy and Support Unit. She has been a Systemic Advocate for over 17 years and is responsible for systemic initiatives that improve the lives of people with disability and their family members. Melinda is a parent of a young adult with disability.

CAS Unit Manager

Simon Brown

Simon has a background in education, social work and law. He has worked as a legal practitioner in government, private practice as well as in the non-government sector. Prior to his current position he was part of the Senior Management Team of the Office of the Public Guardian in Queensland. Simon sits on a number of reference committees and is the current Deputy Chair of the Queensland Law Society’s Health and Disability Law Committee.

Written by

Patrick Keyzer

Head of School, Chair of Law, and Public Policy, La Trobe Law School. A practising barrister, Patrick has appeared as counsel in test cases in the High Court of Australia and the United Nations Human Rights Committee. Patrick was lead investigator and co-author of I Hope He Dies before Me: Legal Service Options for Ageing Carers of People with Intellectual Disability (with Terry Carney and David Tait). Patrick has consulted to Federal and State government agencies in the disability law field.

Gail Casey

Gail is a qualified lawyer and teacher as well as the mother of twin daughters with an intellectual disability. Her community engagement experience includes membership of the Gold Coast Regional Disability Council of Qld and co-authoring a successful submission to Qld Government for a respite service on the Gold Coast.

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