Accessing the NDIS

A guide for mental health professionals

Introduction

The National Disability Insurance Scheme (NDIS) is a new way of supporting people with disability to reach their goals in life and be part of their community. The NDIS is designed to give participants choice and control over how they use their funding and who supports them.

Traditionally the disability and mental health sectors have been distinct, involving different systems, principles and terminology. The NDIS is not designed to replace community mental health services or treatment services provided through the health system. The National Disability Insurance Agency (NDIA) is committed to working with mainstream systems to deliver a range of high quality services required by people who experience mental health issues.

The purpose of this guide is to explain the NDIS principles including the NDIS access requirements to mental health professionals. This guide will explain the access process and the information the NDIA needs to make a decision on eligibility which aligns to section 24 of the National Disability Insurance Scheme Act 2013 (NDIS Act). The guide explains how to communicate evidence of disability, impairment and functional impacts attributable to a mental health condition, this includes visual representations and the Life Skills Profile-16. (view the NDIS website psychosocial pages for more information).

The NDIS and recovery-based practice

The NDIA defines recovery as *"achieving an optimal state of personal, social and emotional wellbeing, as defined by each individual, whilst living with or recovering from a mental health condition".*

Recovery is about growth and empowerment and the provision of choice for community participation. It is a pathway to social inclusion and a foundation for the provision of disability supports for people with a psychosocial disability.

- (Adapted from National Mental Health Consumer and Carer Forum, 2011 [1]).

A person may experience impairment across their lifetime, however the NDIA understands this does not stop them from pursuing their best level of personal and emotional wellbeing.

The NDIA also acknowledges the important contribution of families, friends and peer supports in a person's recovery journey.

Accessing the NDIS

Access to the NDIS is described in the My NDIS Pathway guide [4]. This guide is a useful resource for potential participants, their families and friends, carers, and supporters. The guide and additional information supporting families and carers is available on the NDIS website including the Access snapshots

Potential participants can access the NDIS in three ways:

1. Defined participants

Defined participants are people who are existing clients of a state, territory, or Commonwealth disability or mental health programs who meet the age and residency requirements and are eligible to become an NDIS participant. This is because the eligibility requirements for these programs are considered to be the same as the eligibility requirements for the NDIS. People who are part of existing defined programs are not required to provide evidence of their disability. The majority of people with a primary psychosocial disability will enter as a non-defined or new participant.

2. Non-defined

People listed as non-defined are existing clients of a state, territory or Commonwealth disability or mental health program who do not automatically meet the eligibility requirements for the NDIS. People listed as non-defined will be contacted by the NDIA up to six months before the NDIS rolls out in their area and they need to provide evidence to meet the access criteria.

3. New

People whose details have not been provided to the NDIA by their state, territory or Commonwealth government and wish to apply to access the NDIS are considered ‘new’ participants. New participants, or someone who supports them, will have initiated contact with the NDIA and may have been sent out an Access Request Form and/or provided further information over the phone to support their access request.

For non-defined and new participants to access the NDIS, the NDIA will need information about the potential participant’s age, residence, impairment and disability.

Psychosocial disability and eligibility

How does the NDIA determine who will become an NDIS participant?

All access decisions are made in accordance with the *National Disability Insurance Scheme Act 2013* which includes the following requirements:

- **Age** – A person must be under the age of 65 at the time of access request;
- **Residency** – A person is an Australian citizen, permanent resident of Australia, or the holder of a special category visa who is a protected SCV holder, and live in an area where the NDIS is currently available;
- **Disability** – Meets all of the disability requirements under Section 24 (s24) of the NDIA Act as described below.

Section 24 of the NDIS Act

Access delegates must consider each application against the criteria set out in s24. To be eligible for the NDIS a person must meet each of the following criteria:

Section 24(1)(a)

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.

Section 24(1)(b)

The impairment/s are, or are likely to be permanent.

Section 24(1)(c)

The impairment/s 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.

Section 24(1)(d)

The impairment/s affect the person's capacity for social or economic participation.

Section 24(1)(e)

The person is likely to require support under the NDIS for the person's lifetime.

Information required at access

Psychosocial Disability

To be eligible to access the NDIS, a person with a psychosocial disability will have an impairment (loss of or damage to mental function) that has resulted in disability.

The Convention on the Rights of Persons with Disabilities (CRPD) gave a broad definition:

> "People with disabilities include those who have long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

To meet the NDIS access requirements, evidence of disability will demonstrate that the disability is attributable to a mental health condition/s. Details of a clinical history confirming an unspecified mental health condition is sufficient where a specific mental health diagnosis is not available/appropriate.

Likely to be permanent impairment

When considering access to the NDIS for a person with a mental health condition, impairments must be specifically about loss or damage to mental function.

An impairment can be considered likely to be permanent if there are no known, available and appropriate evidence-based treatments that would likely remedy the impairment for the individual.

A clinician, usually a GP or psychiatrist, is required to provide evidence that the potential participant has a mental health condition. A specific diagnosis is not required; access to the NDIS is determined by assessing the functional impact of the impairment on a person's day-to-day life, whereas a diagnosis may change over time.

When interpreting evidence against the likely permanence of impairment requirement, the NDIA considers how long the person has had the impairment, and to what extent treatment options have been explored (noting that the impairment may alleviate with age-appropriate development).

Information about treatment (past, current and future)

There is no requirement that treatment and/or interventions must be completed for an impairment to be considered likely permanent. However, they must be explored to the extent that clinical recovery is no longer likely and ongoing treatment is centered on personal recovery.

The NDIA does not make recommendations for specific treatment/interventions. The treating clinician will decide on appropriate treatment and/or interventions for an individual. The NDIA requires evidence that provides a history of treatment and the rationale relating to any decisions made by the clinician not to pursue a known treatment/intervention option.

Case study: Donna

Donna is 45 years old. In 1989, at the age of 18, she was diagnosed with Schizophrenia and Depression by a doctor at an Adult Mental Health Service after a series of admissions to a psychiatric unit.

Donna is currently seeing a treating psychologist and psychiatrist. Both confirm the diagnosis, the permanence of impairment and compliance with medication. A treatment history of multiple psychological interventions, psychotherapy and medication is provided.

The psychiatrist indicates that although the treatment Donna is receiving is helping, it is unlikely that the impairments she experiences will remedy and treatment is largely focused on Donna's recovery journey.

What if the condition fluctuates?

For mental health conditions which are episodic and fluctuate in severity over time, the severity, duration and frequency of the fluctuations are taken into account when determining eligibility to access the NDIS.

The symptoms of a mental health condition/s and subsequent support needs may fluctuate, while the impairment can remain across a person's lifetime and be considered likely to be permanent. Confirming that a person's impairment is likely to remain across their lifetime has no reflection on whether the person has achieved their best possible version of personal and emotional wellbeing.

What is the functional impact of the impairment?

The NDIS approach is centered on an individuals' strengths, their goals and needs related to the impairment attributable to a mental health condition. For this reason, at access, the NDIA requires information about how the impairment/s impacts on a person's day-to-day life (otherwise known as the functional impact of the impairment).

Information regarding the impact of the functional impairment is usually best provided through a functional assessment completed by an allied health professional. This could be an occupational therapist, psychologist, nurse, social worker or a mental health worker who has completed relevant Australian Mental Health Outcomes and Classification Network (AMHOCN) training.

If there is a available current assessment that addresses functioning (e.g. occupational therapy assessment, neuropsychological assessment) this should be provided to the NDIA as it can provide valuable information, to support the functional assessment and/or impact.

Has the impairment resulted in substantially reduced functional capacity?

A person's functional capacity is highly individualised. Some people experience difficulties with carrying out tasks (reduced functional capacity) but others may be unable to effectively participate in or complete a task (substantially reduced functional capacity).

The NDIS requires that the impairment or impairments has/have resulted in substantially reduced psychosocial functioning to undertake activities in at least one of following areas:

- **Communication:** includes being understood in spoken, written, or sign language, understanding others and the ability to express needs.
- **Social interaction:** includes making and keeping friends, interacting with the community, behaving within limits accepted by others and the ability to cope with feelings and emotions in a social context.
- **Learning:** includes understanding and remembering information, learning new things and practicing and using new skills. Learning does not include educational supports.
- **Mobility:** means the ability of a person to move around the home and community to undertake ordinary activities of daily living requiring the use of limbs.
- **Self-care:** relates to activities related to personal care, hygiene, grooming, feeding oneself, and the ability to care for own health care needs.
- **Self-management:** means the cognitive capacity to organise one's life, to plan and make decisions, and to take responsibility for oneself. This includes completing daily tasks, making decisions, problem solving, and managing finances.

A person is likely to have substantially reduced functional capacity if they are usually not able to function without support for most activities within at least one of the six life skill areas.

The NDIA considers the impact of the impairment on day-to-day functioning between acute episodes not at any given point in time. It is irrelevant whether the person is acutely unwell or having a particularly good day at the time of access request.

A substantial reduction in capacity is an inability to effectively participate in or complete a task. For a reduction to be considered substantial within at least one of the six areas of functioning described above, there must be an inability to effectively function within the whole or majority of the area, not just a singular activity. It is not enough that a person may take longer to do an activity or may require a bigger effort to do it or have to do it in a different way to be considered a substantial reduction.

When deciding whether capacity is substantially reduced, an NDIA representative will look at what the person can do as well as what they cannot do.

Case study: Gary

Gary has been attending a chess club, however he has been asked to leave the club as he can't comply with the rules and social norms accepted by the group. Gary often has issues with social structure and can be verbally aggressive.

Gary attends a walking group where the environment is less rigid and he can walk with others or walk on his own as he chooses. Gary goes shopping independently (albeit at quieter times of the day) and on occasion he has dinner with a friend.

Gary's capacity within the social interaction domain is not substantially-reduced.

An affect on social and economic participation

Access delegates are required to consider whether a person's permanent impairment/s affect their capacity for social or economic participation e.g. finding and retaining work or going to the movies with a friend. If a person meets the other access criteria it is highly likely their impairment will have some affect on their social and economic participation.

Is the person likely to require support from NDIS across their lifetime?

To access the NDIS a person must likely require lifetime support from the NDIS and that support must be most appropriately provided by the NDIS and no other service systems such as the health system.

If an impairment varies in intensity (e.g. because of the episodic nature of the condition) the person may still be assessed as likely to require support under the NDIS for the person's lifetime, despite the variation.

What if the person experiences co-existing drug or alcohol issues?

Where co-existing drug or alcohol dependency issues are present, the evidence must demonstrate that the substantially reduced functional capacity remains regardless of the status of the co-existing issues.

Identifying that substantially reduced capacity is the result of a mental health condition and not substance/alcohol abuse is a highly specialised task and usually occurs in the following circumstances:

- it is confirmed by a specialist neuropsychiatrist or neuropsychologist; or
- it is confirmed following abstinence from substance/alcohol in a controlled setting, there is no requirement for ongoing abstinence to satisfy NDIS eligibility.

Children and young adults

Many practitioners are reluctant to diagnose mental health conditions or confirm likely permanence of impairment until adulthood. There are very effective early interventions, clinical services and supports available for young people. While the NDIS Act does not exclude children or young adults with a psychosocial impairment, it would be in very rare circumstances access might be met.

Section 25 Early Intervention Criteria

NDIA access delegates must consider each application that does not meet the disability requirements against the early intervention criteria contained within s25 of the *NDIS Act 2013*. To meet the early intervention criteria a person must, amongst other items, meet the likely to be permanent requirement in s24(1)(b) and confirm the s25(3) requirement that early intervention support is most appropriately funded or provided through the NDIS.

The Council of Australian Government (COAG) principles state that early intervention for mental health is usually a health responsibility. In a psychosocial context, it is rare to grant NDIS access via s25 because early intervention for mental health conditions is usually not an NDIS responsibility.

Please see s25 of the NDIS Act for a full description of the Early Intervention Criteria and the COAG principles:

- NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 25 Early intervention requirements (external link)
- Principles to determine the responsibilities of the NDIS and other service systems (external link)

High-prevalence disorders

High-prevalence disorders include depression and anxiety. A complex disease management plan would usually be recommended for a high-prevalence disorder by the treating GP and treatment can be required for an extended duration. It is quite possible for a person to live with a high-prevalence psychiatric condition throughout their adult lifetime without ever meeting the requirements of s24 of the NDIS Act.

Support for those not eligible for NDIS

All Australians who experience disability can be assisted by the NDIS to link to other government services, and local or community-based supports.

This assistance is provided by an NDIS Partner in the local community known as a Local Area Coordinator (LAC). If LACs are not yet available in your area, you can contact your regions NDIA office.

The NDIA also provides support within the community through Information, linkages and Capacity Building. ILC is all about inclusion – it's about creating connections between people with disability and the communities they live in. Unlike the rest of the National Disability Insurance Scheme (NDIS), ILC doesn't provide funding to individuals. ILC provides grants to organisations to carry out activities in the community.

Visit the NDIS website for further information about how people will be supported to access these community supports including the role of LACs and Information, linkages and Capacity Building (ILC).

State, territory and the Commonwealth Governments have committed to ensuring people with disability who are currently receiving services are not disadvantaged in the transition to the NDIS. This means that if a person is currently receiving a disability/mental health service, but does not become a participant in the NDIS, they can continue to have access to their current support consistent with current arrangements. For more information visit Continuity of Support for clients of Commonwealth disability programs

The Council of Australian Government (COAG) principles outline the responsibilities of the NDIS and what is the responsibility of other service systems.

Communicating evidence of disability, impairment and functional impact

When providing evidence to the NDIA on a potential participant's disability and impairment/s, there are a range of stakeholders that can provide valuable information. Below is a list of people that can provide this information.

Who can provide evidence?

Primary treating clinician

Primary treating clinicians are generally a psychiatrist or general practitioner. This is because clinicians are appropriately qualified to provide evidence of a mental health condition/s and evidence relating to the likely permanence of the impairment. They can also provide evidence of the functional impact of the disability.

In extremely rare circumstances, i.e. in rural and remote areas, a psychologist may be considered as a primary treating clinician. For example, in some regions, treatment from a psychologist is all that is available and has been provided over a significant period of time.

Allied health professionals

Appropriately qualified allied health professionals can provide information on functional capacity of the potential participant relevant to the professional's specialty.

Mental health professionals

Appropriately qualified mental health professionals and potentially support/peer workers can provide primary evidence of functional capacity. They should hold a relevant professional qualification or are Partners in Recovery (PIR) or Day to Day Living (D2DL) support facilitators who have completed Australian Mental Health Outcomes and Classifications Network (AMHOCN) (training in completing functional assessment tools).

If a support worker is not appropriately qualified/trained, they may still be able to provide valuable information. Such information can be considered alongside evidence provided by an appropriately qualified professional.

Family, carers and friends

Family, carers, and friends can provide very helpful information on functional capacity and how the impairment impacts day-to-day life. Such evidence can be considered alongside evidence provided by an appropriately qualified professional.

The potential participant

The potential participant may be able/prepared to provide evidence of how their impairment affects their day-to-day living. This provides valuable evidence which must be considered alongside evidence provided by an appropriately qualified professional.

What evidence should be provided?

The NDIA accepts evidence of disability in the chosen format of the prospective participant or their representative and does not require the provision of specific documentation. The following assessments are recognised by the NDIA of providing appropriate evidence of functional capacity:

- Life Skills Profile 16 (LSP16);
- World Health Organisation Disability Assessment Schedule (WHODAS [3]); and
- Health of the Nation Outcome Scale (HONOS).

Further information can be found on the NDIS website.

The NDIA also considers the following information helpful in contributing to the evidence of disability requirements:

- assessment information provided by the participant and/or the participant's carer to Australian Government agencies such as Centrelink (e.g. for the purposes of Carer Allowance, Carer Payment or Disability Support Pension);
- assessment information provided to state/territory government agencies when applying for support and specialist services;
- assessment information provided to or prepared by participants' existing service providers, e.g. PIR assessment or recent (within 6 months) Personal Helpers and Mentors (PHaMS) Eligibility Screening Tool; and
- other assessment-related information the participant considers is relevant and useful in describing their support needs.

The prospective participant does not need to provide personal details relating to trauma or abuse.

Demonstrating levels of support

Further information on the types of support the potential participant currently has is helpful in determining access to the NDIS as it provides valuable insight into day-to-day functioning.

It also enables the NDIA to differentiate between functioning with and without support. It is reasonable for a person to provide an indication of the frequency of support required (e.g. daily, weekly etc.).

Questions that may be helpful to build a picture of the impact of a person's impairment to support a request to access NDIS include:

- What roles, responsibilities, activities and tasks does the person need support with? For example:
    - Does the person work?
    - Does the person access the community?
    - Can the person complete their activities of daily living?
    - Does the person require prompting to complete tasks?

- How often is the person assisted with tasks performed? How many times does the person need support per day, per week, per month or per year? For example:
    - Does the person require substantial verbal prompting to complete tasks?
    - Does the person need to have someone with them to access the community?
    - How often does the person need to be reminded to undertake a task?

- What support is currently provided? Are services already involved which can provide details about areas that need more support/time? For example:
    - Does the person see a psychologist or other counselling service? How often?
    - Does the person receive support from community services? How often?

- Is this enough or the right sort of support?
    - Does the person have good relationships with informal/community supports? Can they be maintained and sustained within current arrangements?
    - Are the people in their life supportive of building the person's capacity?

- Will the level of support change due to fluctuating needs? What might be the average over a month, six months or year?

Tips for preparing evidence of disability

It is important to keep in mind when supporting an access request:

- A general statement of substantial impairment in a letter or as a ‘tick box’ is not sufficient evidence of a substantial reduction in functional capacity.
- Financial Administration and guardianship orders are very helpful.
- The functional domain of learning is not about educational supports, it relates to capacity to learn or ‘re-learn’ everyday tasks.
- Information describing an applicant’s functioning, without supports in place, is helpful.

reimagine today website

The reimagine today website (external link) produced by the Mental Health Coordinating Council and co-designed by people living with mental health conditions and their support networks, assists people to understand and prepare for the NDIS.

The reimagine My Life Workbook can be downloaded to assist people to prepare for both access and planning.

New evidence and internal reviews

A prospective participant may be asked to present further evidence before an NDIS access decision is made. If an access not met decision is made on the current information and further evidence is made available that will likely alter this decision, this information can be provided to nat@ndis.gov.au and a new decision considered. If the Access Request Form (ARF) was submitted within 12 months of the new evidence being submitted it is still valid, if not a new ARF will need to be completed.

NDIA access delegates will attempt contact with all prospective participants who receive an ‘access not met decision’ to explain the reasons for the decision. The person will also receive a letter detailing the decision against the access criteria.

If a prospective participant would like further information they can contact 1800 800 110 to discuss. If the person is not satisfied after speaking to an NDIA representative, they may choose to challenge their access decision by requesting an internal review. Details on how to request an internal review are provided on the letter posted to the person.

Administrative Appeals Tribunal (AAT)

If a prospective participant would like to challenge the decision made after internal review, they may wish to make a request with the AAT. For further information on the AAT, its function and examples of AAT decisions about NDIS access, visit the Administrative Appeals Tribunal website (external link).

There have been several tribunal outcomes relevant to NDIS access. Some examples include:

Kilgallin and the NDIA (2017)

A significant finding was that if a person can still complete a task, then it is unlikely that their capacity to complete the task will be considered substantially reduced. It is not enough that a person may take longer to do an activity or may require a bigger effort to do it or have to do it in a different way to be considered a substantial reduction.

BBMC and the NDIA (2018)

This decision affirmed the result also found by the AAT in *Young and the NDIA (2018),* that where adequate funding may not be available through other general systems, it is not appropriate for the NDIS to pick up and offer its own support.

More information

National Disability Insurance Agency

Visit the NDIS Website

Telephone 1800 800 110

Find us on Facebook/NDISAus

Follow us on Twitter @NDIS

For people who need help with English

TIS: 131 450

For people with hearing or speech loss

TTY: 1800 555 677

Speak and Listen: 1800 555 727

Internet relay: National Relay Service visit the Relay Service Website

Additional Resources

1. Please visit the psychosocial disability page on the NDIS website.

   For information specific to access to the NDIS please visit: NDIS - Access Requirements

   Mental Health Access Snapshot Series: NDIS - Psychosocial Snapshot Series

   Evidence of Disability: NDIS - Providing evidence of your disability

   NDIS Operational Guidelines [2]: NDIS - Operational Guidelines . Of particular relevance to this stage of the process, are guidelines related to: Gateway, Access, Planning and Assessment.

2. A free online resource to help people living with a mental health condition navigate the NDIS: reimagine today website

3. The Transition Support Project supports Partners In Recovery (PIR) and Day to Day Living (D2DL) organisations during the national rollout of the NDIS. For further information on the key features of the Project visit: Transition Support Project

4. AMHOCN provides online training opportunities for Australian public sector mental health staff on the Life Skills Profile (LSP-16) and in the HoNOS. More information on these courses can be found at: Life Skills Profile - LSP16

5. Accessing the NDIS - Assisting people with psychosocial disability to access the NDIS: a guide for Commonwealth-funded community mental health providers: Accessing the NDIS

6. If the prospective participant is linked to a multidisciplinary team, talk through the referral with relevant expertise in your team. There may be a dedicated staff member with specific NDIS knowledge.

7. Consult with an occupational therapist for ideas to understand and support specific functional issues that people may face.

References

1. National Mental Health Consumer & Carer Forum (2011). Unravelling Psychosocial Disability, A Position Statement by the National Mental Health Consumer & Carer Forum on Psychosocial Disability Associated with Mental Health Conditions. Canberra.
2. National Disability Insurance Scheme (2014), Operational Guidelines - Assessment of Participant's Needs (v2.0).
3. World Health Organisation, WHO Disability Assessment Scale 2.0.
4. My NDIS Pathway, Your guide to being an NDIS participant