



Making the NDIS stronger

[ndis.gov.au](https://www.ndis.gov.au) | March 2024

Working together

- We need to get the scaffolding legislation in place so we can work with people with disability and the disability community to build on the work of the NDIS Review to deliver changes, informed by them, over time.
- Those directly impacted by key decisions about the Scheme will continue to play a key role in developing the detail and in implementing the reforms.
- The NDIA will work with people with disability and the disability community to design rules and to implement legislation, and to design operational guidance and practice.
- We will do this by building on current work underway, and current engagement with, NDIS participants and the disability community, and we will continue to ensure more voices of people with disability are engaged in and informing the delivery of changes to the NDIS.

Making the NDIS stronger

Prime Minister and Premiers agreed in December 2023 to:

- Introduce an initial tranche of legislation into Parliament in the first half of 2024 to improve the experience of participants and restore the original intent of the Scheme. Rule changes will be phased in as they are developed.
- Design additional Foundational Supports to be jointly commissioned by the Commonwealth and the States and Territories and delivered through existing government service settings where appropriate. This supported their commitment to an 8% target growth rate in the NDIS by July 2026.

Making the NDIS stronger

The legislative changes are designed to improve the participant experience. They have 2 main objectives:

1. Create the scaffolding needed to progress key NDIS Review recommendations, in partnership with people with disability
2. Clarify the intention of existing legislation to improve the delivery of the Scheme, now.

This is the first tranche of legislative reform, with rule changes to be phased in. There will be further legislative reform to support the NDIS Review recommendations.

Review building blocks

Access – separate pathways

Separate pathways into the NDIS – NDIS Review

Intention	<ul style="list-style-type: none">• To clarify that some participants enter the NDIS under the early intervention requirements (s.25).• Identification of participants now will streamline access to the pathway, once established.
What's changing	<ul style="list-style-type: none">• Participants will enter the Scheme under 'disability requirements' (s.24), 'early intervention requirements' (s.25), or both.
What	<ul style="list-style-type: none">• Access decisions will result in entry under s.24 or s.25, or both.• Further work will be done with the disability community to design different pathways for people accessing the Scheme under s.24 or s.25.• After this design work is undertaken, different pathways will be implemented for new participants.• Existing participants will experience a change after pathways are implemented if they undergo eligibility reassessment.

Access – clarify circumstances for access

Clarify circumstances around access – NDIS Review

Intention	<ul style="list-style-type: none">• New rule-making powers to clarify how access criteria should be applied.
What's changing	<ul style="list-style-type: none">• Rules will be developed to guide access decisions, to ensure participants are on the right pathway.• NDIA will work closely with Navigators to ensure participants are connected to foundational and mainstream supports which best meet their needs.• Clear guidance will be provided to people with disability on what to do if their circumstances change.
What	<ul style="list-style-type: none">• Further work will be done with the disability community to develop new rules to inform how access criteria should be applied.• Rules need to be agreed by all states and territories before they take effect (Category A Rules).

Planning – flexible budgets

Flexible budgets – NDIS Review	
Intention	<ul style="list-style-type: none">• To introduce the concept of flexible budgets where participants will have clear choice and confidence on how budgets can be used on NDIS supports.• To create rules and set out the process to determine a budget, and when supports should be stated.
What's changing	<ul style="list-style-type: none">• The legislation will allow for flexible budgets to be set.• The legislation will also allow rules and a Ministerial determination to be created about how budgets are calculated and when supports should be stated.
What	<ul style="list-style-type: none">• No impact until rules and determination are developed in partnership with participants and the disability community.• Once developed, rules and determination will set out how a budget is calculated based on the outcomes of a person's support needs assessment, and when supports are stated.

Planning – support needs assessments

Assessing participants support needs – NDIS Review

Intention	<ul style="list-style-type: none">• To enable assessments of a person's support needs as the basis for calculating a budget in a fair and consistent way.
What's changing	<ul style="list-style-type: none">• The legislation will allow for support needs assessments to be the basis for how a person's budget is calculated.• It will allow a Ministerial determination to be made, to set out the process for assessing a participant's support needs.
What	<ul style="list-style-type: none">• No impact until the determination is developed in partnership with participants and the disability community.• The determination will set out how a person's support needs are assessed.

Original intent of the Scheme

Planning – NDIS supports

Definition of ‘NDIS supports’ – constitutionality

Intention	<ul style="list-style-type: none">• The amendment helps clarify the original intent of the Scheme, including what disability-related supports NDIS funding should be used for.• The legislation will link the definition of ‘NDIS supports’ to rights under the Convention on the Rights of Persons with Disabilities.
What’s changing	<ul style="list-style-type: none">• The legislation will define ‘NDIS support’ (s10) that will set out what you can and cannot spend your NDIS funding on. This will be supported by the development of further rules.
What	<ul style="list-style-type: none">• Until the new rules are created, existing rules and the Applied Principles and Tables of Support govern what should be an NDIS support.• Further work with the disability community will be undertaken to develop rules about what is and is not an NDIS support.

Access – information gathering

Information gathering for eligibility reassessment – original intent

Intention	<ul style="list-style-type: none">• To strengthen information gathering requirements for eligibility reassessments to make sure decisions are based on the most up to date information.
What's changing	<ul style="list-style-type: none">• NDIA will be able to request further information or assessments for the purposes of deciding whether a person continues to meet the access criteria.• Where a participant chooses not to comply with a request, the NDIA will be able to revoke a participant's status.• This will only happen if a participant repeatedly refuses to engage with the NDIA without a reasonable excuse and following repeated attempts by the Agency to help the participant provide the requested information.
What	<ul style="list-style-type: none">• The use of these new information gathering powers are discretionary, as is the decision to revoke access and will only be used as needed.• Rules will also be created to make it clear when a participant's eligibility should be reassessed where they entered under the early intervention requirements.

Planning – supports for impairments

Funding supports for impairments that meet access criteria – original intent

Intention	<ul style="list-style-type: none">• To ensure equitable access to NDIS supports related to the impairment(s) which meet the access requirements.• Ensures participants receive the right services from the right service system.
What's changing	<ul style="list-style-type: none">• Clarity about which support needs are met with individual supports through the NDIS (disability-related supports).• The NDIA will no longer use the concept of primary and secondary disability, which have caused the scheme to be adversarial and unsustainable over the past 10 years.
What	<ul style="list-style-type: none">• The NDIA will continue to work under current operational guidance, where the NDIS funds support needs for disabilities that meet access requirements.• Further work will be done with the disability community to co-design how this amendment operates in the context of new processes to assess support needs.

Planning – supports for impairments

Current operational guidance

National Disability Insurance Scheme - [Reasonable and Necessary Supports](#)

We'll apply the NDIS funding criteria based on the impairments which meet our eligibility criteria. We fund the right disability supports for your permanent impairments which meet our eligibility criteria. By doing this we make sure the system is fair for everyone, and the NDIS remains financially sustainable.

Safeguarding and financial sustainability

Planning – a total funding amount

Total funding amounts in the current planning framework

Intention	<ul style="list-style-type: none">• Provide clarity that participants must spend within the funding amount in their plan
What's changing	<ul style="list-style-type: none">• Introduces the concept of a 'total funding amount' for all the reasonable and necessary supports approved in the participant's plan.• Introduces the concept of 'funding component amounts' for specific supports or classes of supports.• There is discretion in use of this power. Ministerial determination will outline how it will be used.• Allows for the option of funding component amounts to be released in intervals of 12 months or shorter, as appropriate.
What	<ul style="list-style-type: none">• NDIA will work with people with disability and the disability community on the legislative instrument and how this is implemented.

Planning – delivery of flexible funding

How flexible funding will be released in the new pathway

Intention	<ul style="list-style-type: none">• Flexible funding to be provided to participants with payment intervals determined by risk.• Meet community expectations around NDIS budgets being for a fixed period, by providing a clear signal to plan managers, support coordinators and participants.
What's changing	<ul style="list-style-type: none">• Interval funding option will commence with the new budget framework, once developed.
What	<ul style="list-style-type: none">• Further work will be done with the disability community on the risk model, to inform when it is appropriate to manage risk with the periodic release (in 'intervals') of flexible funding (12 months or less).

Planning - Plan management decision

How a plan is managed

Intention	<ul style="list-style-type: none">To introduce a new power, as a safeguarding measure, for how a participant manages funding, based on assessment of risk.
What's changing	<ul style="list-style-type: none">Ability to choose the plan management type, where there is financial risk to the participant, or the plan nominee, child representative or plan manager has not complied with the requirement to spend NDIS amounts on 'NDIS supports', in accordance with the participant's plan.
What	<ul style="list-style-type: none">The NDIA will be able to consider additional financial risk factors in making a decision about plan management type, including if a person has spent the funding in their plan on things which are not 'NDIS supports' or if they are spending more funding than is in their plan.

Quality and Safeguards Commission

Measures to strengthen the Commission's compliance powers

Intention	<ul style="list-style-type: none">• Improve Commission's ability to administer its compliance and enforcement powers and ensure it has the capacity to respond to all appropriate complaints.• Enable a more nuanced response to matters that require one.• Introduce conditions governing the approval of Approved Quality Auditors.
What's changing	<ul style="list-style-type: none">• Delegation of regulatory powers to qualified senior officers.• New rules for conditions and criteria applying to the approval of quality auditors.
What	<ul style="list-style-type: none">• New rules will only take effect once they are developed.• Rules require consultation with all states and territories before they take effect.• Creation of rules will take time and be developed in consultation with people with disability and the disability community.

Transition

Transition

Transition to the new planning pathway

Intention	<ul style="list-style-type: none">• A smooth and fair transition to the new planning pathway.
What's changing	<ul style="list-style-type: none">• Participants will transition to the new arrangements over time.• The intention is to slowly move participants over in groups.• We will issue a notice to participants to let them know how and when their transition will happen.
When	<ul style="list-style-type: none">• Transition will take time and can only start after the new planning pathway is designed.
What	<ul style="list-style-type: none">• How this will happen will need to be worked through in partnership with people with disability and the disability community.

Change takes time

- There is an enormous amount of work to do to implement the reforms, together, and this is just the start.
- We're in this together for the long term – it's about getting the changes right to ensure the Scheme is the best it can be.
- The goal is to humanise the NDIS for participants, and to stop the exploitation of the NDIS – to make sure the Scheme is lasting.