



NDIS Plan Reviews:

I don't agree with the NDIA's decision!

Where to from here?



SUPPORTS

If you had an NDIS plan approved, or a plan reassessment done or your application to access the scheme has been denied and you believe that:

- the plan is underfunded or
- therapy reports/professional recommendations were not properly considered or
- the ability of informal supports to continue to provide the current level of support unsustainable

You can request that the NDIA reconsider this decision. This is called a Review. There are 3 types of Reviews.

S100 Review:

Within 3 months of that initial decision, you can request an Internal Review of the decision (to be done by a different delegate at NDIA). This is called an S100 review. You can make a request for an internal review of a decision. To do this you can either:

- complete the [Request for a Review of a Decision form](#) and send it to NDIS
- send an email with supporting evidence to enquiries@ndis.gov.au
- call NDIS on 1800 800 110
- visit an [NDIS or partner office](#).

You can also send a letter with supporting evidence to:

Chief Executive Officer
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601

When you ask for an internal review of a decision, you can let them know:

- what decision you were expecting
- why you think NDIS should make a different decision
- if there is any information you've already given that you'd like NDIS to reconsider
- if you have any new evidence, such as medical or therapy reports, you'd like NDIS to consider.
- Information to support your request may include reports or letters that detail your disability and how it impacts you on a day-to-day basis.
- Any new evidence can be provided to NDIS as part of your request for a review of a decision.



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More information is via this link:

<https://www.ndis.gov.au/applying-access-ndis/how-apply/receiving-your-access-decision/internal-review-decision>

- You don't have to use this form, but it can help you describe why you want an internal review of the decision. [Request for a Review of a Decision form \(DOCX 80KB\)](#).

To assist you to understand the NDIA decision making process, you can request a copy of your Participant Information Access (PIA) form about your plan (this is similar to a Freedom of Information request). This outlines the information that the NDIA planner/delegate relied on to make their decision about your plan. There is not cost for this

<https://www.ndis.gov.au/about-us/policies/access-information/participant-information-access-request>

You will need evidence (usually new or updated) to substantiate to the Internal Reviewer on:

- how you meet the access requirements or
- which reasonable & necessary supports you require and why.

This can include reports or letters of support from:

- Medical specialists
- Psychologists/ Psychiatrists
- Support Workers
- Service providers
- Allied health therapists

A Functional Capacity Assessment from an Occupation Therapist is often a key document of evidence.

A piece of evidence often needed for this review is a [Carer Impact Statement](#). This is a chance for your informal supports to show all the extra support they provide you. This link will explain what should go into this statement & how you can format it: <https://mycarespace.com.au/resources/writing-an-ndis-carer-statement-template>

Another helpful piece of evidence you might need is a Statement of Lived Experience. This is where you tell the Agency about your experience living with your disability and how your impairments impact your functioning. Here is an example

<https://qai.org.au/wp-content/uploads/2024/11/S5-Attachment-Supports-Template-Statement-of-Lived-Experience.docx>

Your Support Coordinator, Service Coordinator, Support Provider Agency, LAC, Allied health therapist or an Advocate with experience in NDIS reviews can advise you on how to get all the documents & evidence together that you will need to support the review.



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S48 review:

If you have a change in circumstance which means your present plan/funding is no longer adequate for the new situation, you can apply at any time for a plan variation or 'change of circumstances review' known internally as a S48 review. This includes for example:

- changes to your disability needs,
- significant changes in your care or support provided by family or friends or
- changes to your living arrangements such as where you live.

You will need evidence of what has changed and why a change of the plan will be necessary. Having spent all the funds at the start of the plan is not 'reason enough'.

It is important to know that if you are not happy with the outcome decision from a S48 review you cannot take this decision straight to appeal to the ART, but rather you will need to lodge an S100 review, then if you are not happy with THAT decision, you then take that to the Administrative Review Tribunal.

The Agency has 21 days to make a decision about whether to conduct a Section 48 plan review. If the NDIA does not make a decision within 21 days, then that failure to make a decision is automatically reviewed internally. If the Agency decides not to conduct a review, then you can apply for this decision to be internally reviewed under Section 100.

The outcome of this internal review is known as an **internal review of a decision**. If the outcome of the internal review of a decision is still not to conduct a S48 review, then this decision can be appealed to the ART. However, the only decision before the ART will be whether or not a plan review should occur. The ART will usually not conduct the review of the funding in the plan itself. You can argue that the ART should also consider the Statement of Participant Supports and make a decision about this, but this will often require you to go to a preliminary hearing to determine this issue.

Administrative Review Tribunal review:

ART is the Administrative Review Tribunal (similar to a court setting). If you have already had an internal review and are still unsatisfied with the result, then the next step for appeal is the ART. This is an External Review, done by someone outside the NDIA.

Here is a link to an informative video about the process

<https://www.youtube.com/watch?v=EOEaT71ZKhg>



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Applications to request a review by the ART can be made online. To appeal to the Tribunal, you must complete the online application and include a copy of the internal review decision letter with your application. This request must be lodged within 28 days of the internal review decision.

There is a way to apply for an extension of this 28 day period, however this out of time application must be approved by the Tribunal. Information on this is found via this link: <https://www.art.gov.au/applying-review/national-disability-insurance-scheme> (requesting an extension)

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After your application you should get from the Tribunal:

- an email confirming your case number (it will look like 2024/1234)
- a date for a case conference

You will also receive an email from the NDIA providing you with a bundle of documents called the T-Documents. These are all the documents that have been filed with the Tribunal as part of your external review. You can file more documents and evidence as the matter goes on.

Demand for ART reviews means that you may find it is months before the first Tribunal event is scheduled. You may want to have a Disability Advocate to assist you with the ART process and to attend Tribunal events with you. A list of Disability Advocates can be found at the end of this information sheet.

Before the first Case Conference, you will receive a Statement of Issues from the NDIA's lawyer. This is a document that outlines a brief chronology of the matter, the NDIA's position about the issues and ideas about how the matter could be progressed. You need to read the Statement of Issues before you go to the Case Conference.

During ART Appeals, the NDIA is usually represented by external lawyers. You may also want legal advice or support to help you navigate your appeal. You may want to contact Legal Aid WA to discuss how they can assist you. Assistance from Legal Aid WA is not income tested. See the contact details for the Legal Aid NDIS Appeals Team below:

Email: ndis@legalaid.wa.gov.au

Telephone: (08) 9261 6807



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The ART process starts with a case conference (usually by phone) which is run by a Registrar from the Tribunal. At the Case Conference you will talk through the NDIA's Statement of Issues and will have discussions about how the matter can progress. At the end of the Case Conference, Directions will be made about the next steps.

The ART process can be long and there will often be several case conferences (the average is 3-6 sessions of about an hour each) before a resolution may be reached. The ART process may also involve a Conciliation Conference (often done by Video) which can go for 2-3 hours. If no resolution is reached during the Case Conference and Conciliation phase, then the matter will be listed for a Hearing which when the Tribunal will make a decision. Be aware the Tribunal is trying to resolve matters within 12 months, but some matters will go on longer than this.

The ART process often requires new evidence or reports about your impairments and their impact on your functioning. If you are already a participant of the scheme and your matter is about supports, you can use your Capacity Building budget to fund some of these reports. You can also ask for the NDIA to fund independent reports and assessments, especially if they have requested this evidence.

If using your funds for reports and evidence for the Tribunal you can request the Agency top up your funds but this is not guaranteed. You can also request a remittal under Section 85 of the ART Act which means the supports that are agreed will be remitted back to the Tribunal to be implemented while the rest of the issues are resolved.

Your matter can be resolved at any time throughout the proceedings. If the NDIA makes you an offer to resolve the matter and you feel that it meets your needs, you can agree. If you agree, the Tribunal will draft a Terms of Agreement for both parties to sign and then lodge with the Tribunal.

Once the Terms of Agreement is processed by the Tribunal, your matter will be finished. It is important you get legal advice before signing any Terms of Agreement as it is important you understand exactly what the offer is and what it will mean after the Tribunal process is finished.

There are Advocates who specialise in this area and may be able to assist with NDIS Advocacy services. There is often a waitlist for this help.

Their contact details are here:

People with Disabilities WA	9420 7279
MIDLAS	9250 2123
KIN Advocacy (EDAC)	9388 7455
Sussex St IDAS	6253 9500
Uniting	9355 9052



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