



# New NDIS Legislation: A resource for understanding changing timelines

A Guide by the Summer Foundation

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## Introduction

**On 30 March 2022, the *National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2022* passed through both Houses of Parliament.**

The legislative changes add new rules, fix some existing ones and remove old language that's no longer needed. The NDIA has created a webpage with their own timelines [here](#).

**The Summer Foundation has produced this guide to show some of the changes along with some issues we see for participants, their decision-supporters and their families. A more detailed explanation for participants can be found [here](#).**

The changes are designed to provide participants with greater confidence and clarity around what they can expect from the NDIS for their plan. This includes the process of applying for a plan, getting funding, applying for additional supports, making sure service providers are giving the best services they can and ensuring that the NDIS is doing what it's supposed to be doing.

# Changes in the new legislation

## The Participant Service Guarantee (PSG)

*The Participant Service Guarantee (PSG) has been moved into the legislation, making it the law. The PSG sets out timeframes, such as letting you know how long it will take to get a decision.*

The Process	Timeframes
<b>Access requests</b>	
Timeframes for access to the NDIS request	When you submit an application to become an NDIS participant, you will get a response within <b>21 days</b>
Asking for more information	You will have <b>90 days</b> to provide further information.
<b>Developing a participant's plan</b>	
<b>Assistance</b> to implement a plan	When you ask for assistance with implementing your plan, a meeting will be organised to talk about the assistance you need. The assistance will then start within <b>28 days</b> after the meeting
Period before which a <b>scheduled reassessment</b> must start	When your plan is coming to an end, your planner or the NDIA will start a plan reassessment with you. This will happen at least <b>56 days</b> before your plan ends
Deciding whether to approve <b>statements of supports</b> in a participant's plan (starting a new plan)	Your planner or the NDIA will decide to approve a statement of support in your plan within <b>56 days</b> from the first day you become an NDIS participant If the NDIS participant is a child under the age of 7, this can take up to <b>90 days</b>
Deciding whether to review a plan	The NDIA has <b>21 days</b> to decide whether they wish to review a plan.

Timeframe for <b>varying a plan</b>	Small changes	When you ask your planner or the NDIA to vary your plan, it will take up to <b>28 days</b> .
	Large changes	Where the decision is complex or involves a number of different support types, it can take up to <b>50 days</b> . Complex variation requests address complex needs, raise complex risks, relate to complex assistive technology or complex home modifications
Getting you a copy of your <b>new plan</b> or a copy of your plan after it was changed		The Agency should provide you with a copy of any new plan within <b>7 days</b>
<b>Cancelling appointments of nominees</b>		
Periods for <b>cancelling appointments of nominees</b>		When you have already selected a person to be a nominee on your plan and make decisions for you, you can change this by telling your planner. The NDIA can take up to <b>14 days</b> to remove them from your plan
<b>Information required by the agency</b>		
Timeframes for you to provide <b>information required by the Agency</b>		When the NDIA asks for further information to support your application and to provide evidence that you need the supports you are asking for, you will have <b>28 to 90 days</b> to provide the extra information
<b>Reviewing decisions</b> – period for <u>giving reasons</u> for a reviewable decision		When you ask your planner or the NDIA why a decision has been made, they should give you a reason within <b>28 days</b> of you asking for this information
<b>Reviewing decisions</b> – period for <u>reviewing</u> a reviewable decision, either to <b>vary</b> or to <b>reassess</b>	Period for giving reasons for a reviewable decision	When you ask your planner or the NDIA to give reasons for a reviewable decision it has made, the Agency should respond within <b>28 days</b>
	Period for reviewing a reviewable decision	When you ask your planner or the NDIA to review a decision it has made, it should review the decision within <b>60 days</b>

## Administrative Appeals Tribunal (AAT)

Period for the CEO to **implement changes** after being notified of an AAT decision

Where you have gone to the AAT to appeal a decision made by the NDIA and you receive a decision from the AAT, the NDIA will have **28 days** to put any changes into your plan

## Internal reviews

Timeframes for **internal reviews**

If you ask your planner or anyone else in the NDIA to review a decision, it will be done within **60 days**. Sometimes the NDIA may give you a shorter or longer timeframe, if the issue is very complex

## Other timeframes

**Resolving a complaint** if they can

21 days

## Engagement Principles

These talk about how people can engage with the NDIA and what the NDIS has to do for participants

The principles are:

**Transparency** – Clear, accurate, consistent and up-to-date information about:

- a) The NDIS
- b) Participants' plans
- c) The funding allocated for the purposes of their plans and supports

**Responsiveness** – Participants' independence is maximised by addressing their individual circumstances and needs

**Respect** – Participants are valued, listened to and respected

**Empowerment** – Participants are empowered to make access requests, navigate the NDIS system, participate in the planning process and purchase supports under their plans

**Connectedness** – Barriers are removed so participants are connected to the services and supports they need. Information is provided in participants' preferred formats

There should be clear and responsive communication between participants and the NDIA on experiences

### Approaches to planning

The NDIS has principles to be more clear, accurate, responsive, and respectful. Participants are to be empowered and barriers are to be identified and removed

You'll be able to request reasons for decisions and discuss draft plans before they're approved

### Approaches to planning

The NDIA will send a report by the Commonwealth Ombudsman every year. It will have to prove that the NDIS is upholding the standards set out in the PSG

Participants should have improved and more consistent services and engagement from the NDIA

## Plan Administration Rules and Plan management

### **Plan Administration Rules (The Admin Rules)**

*Under the new legislation, the Admin Rules clarify what plan ‘**variations**’ and plan ‘**reassessments**’ are.*

#### **New Changes**

#### **What this means for you**

**Variations:** These allow participants to change or add supports and services to their existing plan **without** needing a review or **creating a new plan**

The NDIA can decide to vary your plan if you need better supports and services

When you need something changed in your plan, but you do not need a totally new plan, you can ask for a plan variation. Your plan can have variations made if your goals change, you have a significant change in circumstances, or need emergency funding.

The NDIA can decide to vary your plan for you. If it does this, it must talk to you about any changes and you must be better off after the plan variation.

Before you meet with your planner, think about all the things you need and what professionals you need to talk with to provide the evidence you need to get all the supports that you need.

**Reassessments:** These involve the NDIA collecting evidence to inform decisions around funding on a new plan

Reassessments happen when a participant experiences significant changes in circumstance, their level of required support changes, or they require additional funding to achieve a new goal.

**Market intervention:** The NDIA may intervene in the market on behalf of a participant to help them access their NDIS supports

Where there are no options for you to access the support you need and have funding in your plan, the NDIS has the power to act quickly to fill service gaps.

### **Plan management**

*The changes clarify the different plan management options available to participants*

Participants who request to select a plan manager for their NDIS funding will have the same considerations as participants who “self-manage”. These conditions are “whether there

If you wish to manage your plan, the NDIA will consider what you need to do this. If you want to be in charge of your plan and to make decisions about how you use your funding, you should talk to your planner about this. Let them know why you want to self-manage your plan, what support you might need and who you need to help you.

<p>are any unreasonable risks” such as the plan manager causing undue influence, having a conflict of interest, or causing abuse or neglect to the participant.</p>	<p>You also have the option to have a plan manager paid for by the NDIS or to have the NDIA manage your plan for you. This means you will still be able to make decisions about how you use your funding and will need to meet some requirements such as providing invoices and regularly talking with your plan manager.</p>
<p><b>Funding:</b> The NDIS will be able to pay providers directly, after approval by the participant or plan manager</p>	<p>Sometimes, the NDIA will pay a provider directly for providing a support or service to you. This could include SDA or Home Modifications.</p>
<p><b>Conflict of interest:</b> The NDIA can specify providers to use or not to use</p>	<p>If you think your provider isn’t doing their job properly, you can switch to a different provider. This isn’t always easy. Sometimes you will need to report the provider to the NDIS Quality and Safeguarding Commission so they know what the provider is doing.</p>