

This Fact Sheet is about your rights as a person using the NDIS or as a person who wants to use the NDIS. If you want more information about how the NDIS works, including on issues covered in this Fact Sheet, go to Advokit <http://www.advokit.org.au> 

AAT:

The Administrative Appeals Tribunal. This is a panel of people who can decide whether or not the NDIA should change a decision you are unhappy with.

The Agency:

Another name for the National Disability Insurance Agency. They deliver and administer the NDIS.

Complaints mechanism:

A technical term to describe the steps you can go through when you are not happy with some aspect of the service and support you are getting from the NDIA.

Hearing:

A formal meeting where the Administrative Appeals Tribunal listens to why you want the NDIA to change some of their decisions about your participant plan. The Administrative Appeals Tribunal will then decide whether or not the decision should be changed.

NDIA:

The National Disability Insurance Agency. They deliver and administer the NDIS.

NDIS:

The National Disability Insurance Scheme. This is the name of the overall program set up to organise your support and services.

NDIS Act:

The National Disability Insurance Scheme Act. Sometimes it is just called 'the Act', or 'the legislation'. It is the legislation that outlines how the National Disability Insurance Scheme will work.

Necessary and reasonable supports:

This is the term used in the NDIS Act to describe the extent of support you are entitled to receive. It means that the support you get must not exceed what you require, and it must be support that is reasonable. There can sometimes be a lot of debate about what this will mean for a particular person.

Participant:

This is the word used to refer to a participant who is getting support through the NDIS.

Participant plan:

This sets out the sort of supports a person with a disability will get through the NDIS.

Rules:

The NDIS Rules provide details about how the NDIS is to operate. The NDIS Act outlines what sorts of issues the Rules should address. The Rules are then used alongside the NDIS Act.

Scheme:

A short way of saying 'the National Disability Insurance Scheme'.

Advocacy is about getting support to assert your rights. This Information Sheet is about your right to advocacy as you go through the NDIS process.

The importance of advocacy:

The information on this sheet is only basic information. Working out how to apply it to your circumstances can be complex, because everyone's situation is different.

It is important to obtain further information and advice from an advocate if you find yourself in a position of needing to make a complaint or pursue your rights on anything covered by this Fact Sheet.

1: What the NDIS says about advocacy:

The Principles of the NDIS Act recognise that advocacy is important. The Agency acknowledges that there are different ways in which you can use advocacy.

The importance of advocacy is recognised in the General Principles set out in Section 4 of the NDIS Act. Here, the Act acknowledges and respects the role of advocacy in:

- Promoting independence and social and economic participation;
- Promoting choice and control in the pursuit of goals and the planning and delivery of supports;
- Maximising independent lifestyles and full inclusion in the mainstream community.

The National Disability Insurance Agency is required by law to recognise your right to be supported by an advocate. The Agency appears to acknowledge three main types of advocacy in relation to the NDIS:

- The role of the Agency's own local area coordinators in advocating for your right to be included in the mainstream supports and services of the community;
- The role of independent advocacy organisations to assist you to have Agency decisions reviewed;
- The role of local area coordinators, and the Agency nationally, to advocate for systemic change towards a more inclusive community.

1: Advocacy and your rights:

You are entitled to have an advocate support you in anything related to the NDIS. You have a right to choose your advocate. You don't have to limit your choice to the advocacy organisations that the NDIA tells you about.

While all of the forms of advocacy that the NDIA currently acknowledges are important, they are by no means the only ways in which advocacy can be provided, nor are they the only forms of advocacy you might need in relation to the NDIS.

2: Advocacy and your rights: - continued

Here are some things worth keeping in mind about your entitlement to advocacy:

- An advocate's role is to represent your rights. Different advocates work in different ways, but their job should always include listening to what you have to say, and making sure that you are the focus. An advocate can give you some advice on how best to have your rights respected, they can help you work out what to say at meetings, or can even speak for you at meetings if you want them to. If you are not happy with what your advocate is doing, or if you feel they are not listening to you properly, you can talk about this with your advocate or even go to another advocacy service and ask for someone else to be your advocate.
- While Agency staff members, like all service providers, have a responsibility to advocate for you, there will be limits to how far they are able to do this, especially as their main job is to help organise your plan, rather than to be your advocate. This means you may from time to time want advocacy from someone more independent and whose sole job is to represent your interests.
- While some advocacy organisations have been funded specifically to assist people in getting Agency decisions reviewed, you do not have to get your advocacy from those organisations if there is someone else you would prefer to assist you.
- Independent advocacy is not usually funded as part of your NDIS plan. However, there are many advocacy organisations that receive some funding from other government programs and can therefore provide you with free advocacy. Community Legal Centres and disability advocacy organisations are usually free. If you want help from a private lawyer this may cost a lot of money; however, you may be eligible for Legal Aid. It is always a good idea to first check with a Community Legal Centre or a disability advocacy organisation to find out just what options you have in getting legal advice if you need it.

Remember: If you need more advice or help on the issues covered in this Fact Sheet, talk to an advocate. Some places you can go for advocacy can be found here:

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