

# Information sheet

## Inconsistent with the law:

### NDIA assistance animals guideline

December 2022



*This information sheet outlines PIAC's perspective on the NDIA's policy about funding for assistance animals. It contains general information. It is not intended as legal advice on any particular matter or legal question. It is not a substitute for legal advice from a qualified professional.*

#### ***National Disability Insurance Agency (NDIA) assistance animal operational guideline***

The NDIA has published an [Operational Guideline](#) to clarify how it makes assistance animal funding decisions (**the Guideline**). Operational Guidelines are policy documents that the NDIA uses to shape its decision-making. Generally, Operational Guidelines are applied by the NDIA and the AAT; but if a Guideline conflicts with the law, it may be invalid or inapplicable.

As the Guideline sets out, assistance animals are different from companion animals or pets. Assistance animals are animals that are trained in at least three specific tasks that you can't do because of your disability.

Funding can be obtained for maintenance of the assistance animal when the animal has passed the public access test. Training can only be funded if undertaken by an 'accredited assistance animal provider'. Some information about the public access test can be found on the NDIA [website](#).

The Guideline also sets out which types of assistance animals will be funded. These are:

- dog guides
- hearing assistance animals
- physical assistance animals
- assistance animals for some participants who have been diagnosed by a psychiatrist with long term but stable Post Traumatic Stress Disorder (**PTSD**) who are able to take on the ongoing responsibilities of a primary handler.

The Guideline also states:

*'We can only fund an assistance animal if there's evidence that the animal will be, or is likely to be, effective and beneficial for you, taking into account current good practice.'*

We think it is possible the Guideline could be invalid because it may be inconsistent with the *National Disability Insurance Scheme Act 2013 (NDIS Act)*.

This is because the Guideline excludes funding for a psychiatric assistance animal unless the participant's only psychological diagnosis is PTSD. The NDIS has not explained why funding is limited for participants who *only* have been diagnosed with PTSD.

People with PTSD frequently have comorbid conditions and clinical evidence demonstrates that assistance animals can benefit people with different types of mental health conditions, not just PTSD.

The requirement to *only* have been diagnosed with PTSD arbitrarily excludes some people from receiving funding for a psychiatric assistance animal, even if it would otherwise be a reasonable and necessary support. To deny participants funding for any support that is reasonable and necessary may be inconsistent with the NDIS Act.

PIAC understands the NDIA's approach is not consistent with international best practice. Emerging clinical evidence shows assistance animals can provide effective support, as well as value for money. A [2019 study](#) of 200 people with a variety of mental health conditions who had assistance animals found that nearly half (46%) of participants said their use of psychiatric and other health services had decreased.

### ***Assistance animal appeal guidance***

If you have been denied funding for an assistance animal, you can seek internal review of that decision. You must do this within three months from the day you receive the NDIA's decision in writing.

If you are unsuccessful at the internal review stage, you can appeal to the Administrative Appeals Tribunal (**AAT**). If you wish to lodge an appeal at the AAT, you must lodge an application for review within 28 days of when you are taken to have received the internal review decision.

You will need to demonstrate how an assistance animal is a reasonable and necessary support according to your own individual circumstances. This includes showing how:

- having an assistance animal will assist you to **pursue your goals** in your NDIS plan.
- having an assistance animal will assist you **to undertake activities** (including social outings, recreation, work and study), **to facilitate your social and economic participation**.
- an assistance animal will represent **value for money**, taking into account the benefits of an assistance animal and the cost and/or benefits of alternative supports.
- having an assistance animal will be, or is likely to be, **effective and beneficial for you, having regard to current good practice**.
- funding an assistance animal **takes account of what is reasonable to expect families, carers, informal networks and the community to provide**.
- an assistance animal **is most appropriately funded or provided through the NDIS**.

In addition to meeting these criteria, your application may also need to be supported by clinical evidence.

PIAC is not taking on any more individual matters relating to assistance animals.

If you would like legal advice about your own matter at the AAT, you should seek legal advice from one of the organisations that offer individual case management. Information about those organisations is available on the [Department of Social Services website](#).