

Supporting Sally and her psychiatric assistance dog Toby

December 2022

Sally* is 42. As a child and young adult, she was subjected to severe and prolonged physical, emotional and sexual abuse. As a result, Sally has been diagnosed with Dissociative Identity Disorder, post-traumatic stress disorder (PTSD), major depression and anxiety.

As a survival mechanism, Sally's identity splintered into parts. Each part is Sally, but with a distinct identity. She switches between these identities over 100 times a day. Sally is not always aware she is switching, which can feel very embarrassing when it happens in public. She can lose her bearings, lose track of conversations and feel overwhelmed and exhausted.

Sally also experiences dissociation every day. She freezes, remains in place and completely loses track of time – like she is in a stupor. This can last for seconds, a few hours or even an entire day. Because of the effects of her disabilities, Sally is socially isolated. She finds it difficult to meet new people, make new friends and sometimes finds it difficult to pick up on social cues.

The clinical benefits of an assistance animal for Sally

Sally regularly sees a psychologist and psychiatrist and has been admitted to hospital for treatment several times. After her most recent admission in 2018, Sally's clinical team suggested an assistance animal as a helpful therapeutic aid.

'My medical team explained how an assistance dog could help me regulate my emotions, cope with crowds and new environments, and actively help in periods of dissociation,' said Sally. 'My other option was a revolving door of 24/7 human carers, which is much more expensive and would mean I would have to regularly let strangers into my home. This invasion of privacy is the exact opposite of what I need to feel safe and to function.'

Sally's funding application to the NDIA and internal review process

Sally adopted Toby, a kelpie-cross puppy, on advice from her medical team in 2019 and accessed professional training through mindDog Australia to have him accredited as a psychiatric assistance dog. Her request for NDIS funding to pay for his training was initially refused and refused again when she requested an internal review.

Sally's AAT experience

Sally applied to have the decision reviewed by the Administrative Appeals Tribunal (AAT). Sally said, 'Going to the AAT was stressful and overwhelming. Although the AAT says its processes are accessible to people with disability, that was certainly not my experience.'

Initially, Sally was unrepresented, however it quickly became clear to her that it would help to have a lawyer. With support from PIAC and a pro bono barrister, Sally argued that Toby was a reasonable and necessary support that would allow her to pursue her goals, maximise her independence, live independently and fully participate in the community – all stated goals of NDIS supports under s 4(11) of the Act.

NDIA Assistance Animals Guideline

The NDIA relied on the 2021 NDIA Assistance Animals Guideline to refuse Sally's funding request for Toby. Under the Guideline, funding is excluded unless a person's only psychological diagnosis is 'long term but stable PTSD'. Most people with PTSD are like Sally and have additional mental health conditions, such as anxiety and depression, making them ineligible. The narrow criteria are inconsistent with the NDIS Act which says people must be funded for supports that are reasonable and necessary according to their individual circumstances.

The Guideline also requires assistance animals to be trained by an accredited provider. This is inconsistent with the Disability Discrimination Act (DDA), which does not have any such requirement in relation to assistance animals.

Sally's settlement outcome

With PIAC's support, Sally successfully settled with the NDIA – but only after a stressful eighteen-month battle. The settlement agreement includes funding for Toby's training and maintenance, as well as back payment of costs. Importantly, there was no confidentiality clause, so Sally can freely speak about her positive outcome. She plans to do this so others can benefit from her experience.

Public interest benefit of Sally's case

In September 2022, Sally was asked to share her experience at the NDIA Strategy and Service Improvement Planning Day which was chaired by Sarah Johnson, Deputy Chief Executive Officer and the Scheme Actuary.

Sally's case shows people can appeal when the NDIA refuses to fund an assistance animal and get a better outcome. However, it highlights the problems with the NDIA Assistance Animal Guideline. The NDIA's policy of limiting funding to people with a very specific diagnosis is inconsistent with international best practice, clinical evidence and the NDIS Act. Unless the Guideline is changed, people will be forced to appeal the NDIA's decisions to the AAT – a process which is lengthy, stressful and difficult to navigate without legal assistance.

After Sally's case was settled, PIAC raised concerns directly with the NDIA and asked for the Guideline to be changed, to reflect that funding for a psychiatric assistance dog must be provided if there is evidence it is reasonable and necessary in the individual circumstances. The NDIS has not agreed to this change and PIAC will continue to advocate for this change, including through representations to the Minister and through parliamentary inquiries. Sally said, 'I only got this outcome because I was fortunate to have legal representation. People shouldn't have to battle the NDIA like this to get the reasonable and necessary supports they need.'

Sally's case also highlights the need for reform to the AAT process. While the AAT claims their processes are accessible to people with disability, and possible to successfully navigate when unrepresented, Sally believes this is their aspiration but not the current reality. PIAC is working closely with the NDIA and Minister Shorten, advising on a fairer and more efficient process to resolve matters on legal appeal at the AAT. This process is currently being implemented in pilot form by the NDIA and an independent Oversight Committee.

Personal impact

Assistance animals can be life changing for people with varying complex psychiatric disabilities. In Sally's case, Toby has changed her life. 'Having Toby in my life helps me feel safe and in control,' said Sally. 'I no longer have nightmares or lose hours from dissociating. I'm confident to catch public transport and do my own shopping. I've also been able to get and maintain a part-time job, which lets me live independently in a safe home' said Sally. These developments mean Sally has started to feel like she belongs in her community and is much happier.

