

# Explainer: Understanding the NDIS Review

December 2023



The Independent Review of the National Disability Insurance Scheme, commissioned by the Commonwealth Government, published its [Working together to deliver the NDIS](#) Final Report on 7 December 2023.

The Review makes 26 recommendations and 139 supporting actions, to provide 'a blueprint to renew the promise of the NDIS'. The Commonwealth Government, together with State and Territory Governments must now decide if and how they will implement those recommendations.

This Explainer considers the Review's recommendations regarding:

1. ['foundational supports'](#);
2. [NDIS access, planning and budget setting](#);
3. [housing and living supports available under the NDIS](#);
4. [supports for specific groups of people with disability](#);
5. [transparency and accountability of NDIA decision-making](#); and
6. [collaboration across government](#).

These recommendations reflect the matters PIAC raised in our [submissions](#) to the NDIS Review, prepared in close consultation with disability rights organisations.

The Review also recommended other changes not addressed in this Explainer that will shape the future of the NDIS, including registration and regulation of providers, price setting and elimination of restrictive practices.

We welcome the Review's ambition to put the experience and needs of people with disability at the centre of the NDIS. However, successful NDIS reform will depend on a genuine commitment to co-designing and partnering with people with disability to implement changes, as well as collaboration between all levels of government. It is also essential people do not lose their current NDIS supports without alternative supports being available to them.

## 1. Foundational supports

The Review recommends commonwealth, state and territory governments work together to provide disability-specific 'foundational supports' to people with disability. These would primarily benefit people under the age of 65. 'Foundational supports' would be provided outside individualised NDIS budgets, which would continue to only be for people with significant and permanent disability.

Foundational supports would build on the Review's recommendation for governments to make mainstream services (like health and education) more accessible and inclusive, and are part of the Review's vision for a connected system of support for all people with disability.

## 1.1 The two types of foundational supports

The Review calls on all governments to invest in foundational supports, and proposes two types:

### General foundational supports

These supports would be broadly available to people with disability and include:

- information and advice;
- individual and family capacity building;
- peer support;
- self-advocacy; and
- disability employment supports.

### Targeted foundational supports

These supports are for people with lower-level support needs who are not eligible for the NDIS and include:

- home and community supports;
- aids and equipment;
- early childhood supports;
- psychosocial supports; and
- transition supports for young people.

Since the release of the Review's recommendations, all governments have recognised the need for foundational supports, and have agreed to work together to fund, design and deliver these supports (see this [statement from National Cabinet](#)).

PIAC supports the introduction of foundational supports which would provide essential support for all Australians with disability, especially those not eligible for the NDIS. We are concerned disability supports outside the NDIS (such as previous programs known as Tier 2 and Information, Linkages and Capacity Building), have been inadequately delivered including because of a lack of sustained government commitment. Effectively building and implementing foundational supports requires commitment and coordination from all levels of government, adequate investment and co-design with people with disability.

## 2. NDIS access, planning and budget setting

The Review recommends transformative changes to improve NDIS access and planning processes and make dealing with the NDIS simpler and fairer.

### 2.1 Changes to accessing the NDIS

The Review says decisions about access to the NDIS should focus on a person's 'functional impairment' (how disability affects their daily life), rather than their medical diagnosis. Focusing on a person's functional impairment should enable multiple disabilities to be considered and encourage a whole-of-person approach. This would end the current inappropriate focus by the NDIA on a person's 'primary' and 'secondary' disability.

The Review recommends removing the 'access lists' (ie, Lists A and B). Currently, the 'access lists' give automatic access to the NDIS to people with certain conditions, while making people with other conditions go through a complex process to apply for access. The Review proposes making a single, fairer and simpler process to access the NDIS.

### 2.2 Changes to planning processes

The Review recommends the way participants receive funding should return to the original intention of the NDIS. Participants would receive funding in a budget built at the 'whole-of-person' level, rather than line-by-line for each support.

The Review recommends using a 'needs assessment' to determine an overall 'reasonable and necessary' budget for each participant. If done correctly, budget-setting should focus on a person's support needs, shifting away from the current deficit-based approach towards being more strengths-based. The changes anticipate participants receiving a draft budget before it is set and giving participants more flexibility in spending their funds.

The Review recognises the need for the concept of ‘reasonable and necessary supports’ to be kept broad enough to respond to each participant’s needs, and so has not defined this phrase. It does recommend assessing whether a participant’s total budget is reasonable and necessary, rather than each support individually. It also proposes establishing an NDIS Evidence Committee to provide guidance on what disability supports should be considered reasonable and necessary.

While people will have to provide individualised assessments and reports for NDIS access and budget planning, the Review recommends the NDIA only ask for additional reports where necessary, and pay for those reports. This will enable people to get the professional reports they need on a fair basis.

If implemented well, the proposed changes should make access and planning processes less stressful and more empowering. However, the Review emphasises it is essential these changes are designed transparently with people with disability.

### **3. Housing and living supports available under the NDIS**

The Review recognises NDIS funding decisions about housing and living supports have been inconsistent, inequitable and opaque – with participants denied choice in where, how or with whom they live. Consistent with PIAC’s [recommendations](#), the Review recommends improvements to the NDIA’s decision-making practices, including to ensure people with similar circumstances and needs get similar funding. We hope these changes lead to fairer and more consistent decisions about housing and living supports.

The Review also suggests significant and sensible changes to housing and living supports, including:

- introducing specialist ‘housing and living navigators’ to better support people to explore their housing options and exercise more choice and control;
- allowing participants who need 24/7 living supports to trial new potential living arrangements, so they can check they work before committing to them; and
- commissioning Specialist Disability Accommodation (‘SDA’) homes in remote locations and for participants with specialist or complex needs, to address ‘thin markets’ for SDA.

The Review proposes a major change for participants requiring 24/7 living supports. The Review recommends funding on the basis that supports be shared on an average ratio of one support worker to three participants (with some exceptions, including where this would pose a risk, and for those with more complex needs). The Review says this approach does not necessarily mean people would be forced to share housing, but should encourage innovative and efficient housing solutions. However, it is not clear from the Review’s Final Report how this would work in practice.

PIAC emphasises that everybody should be able to choose where they live and who they live with; this approach must not push people to accept shared or inappropriate housing arrangements against their will.

### **4. Supports for specific groups of people with disability**

#### **4.1 Children with disability**

The Review recommends more support be available to children and families through mainstream services and foundational supports, rather than individualised NDIS budgets. This shift would particularly apply to children with developmental concerns.

The Review proposes increasing supports available outside the NDIS for two main reasons:

1. to enable supports to be delivered in natural settings (where children live, play and learn), reflecting best practice and leading to better outcomes for children; and
2. to better maintain the sustainability of the NDIS.

## **4.2 People with psychosocial disability**

The Review proposes a new approach to NDIS supports for people with psychosocial disability, focused on personal recovery and increasing independence. As this relies on increasing psychosocial supports outside the NDIS, the Review recommends governments prioritise investing in foundational supports and improving access to mental health services for people with severe mental illness.

## **4.3 First Nations people with disability**

The Review found First Nations people with disability are unable to access adequate and/or culturally safe services through the NDIS. To improve outcomes for First Nations communities, the Review recommends alternative commissioning approaches to give those communities more choice and control over the disability services available to them. The Review also emphasises the importance of involving First Nations communities in decision-making, including about implementing these reforms.

## **5. Transparency and accountability of NDIA decision-making**

PIAC has consistently raised concerns about the lack of transparency in the NDIA's decision-making, particularly in its approach to planning decisions. For example, we have recommended the NDIA provide detailed reasons for its decisions, and ensure its operational guidelines are updated to be consistent with court and tribunal outcomes.

The Review has heard the complaints from the disability community about these issues. The Review recommends codifying NDIA operational guidelines and policies in legislation and the NDIS Rules. The Review adds that where operational guidelines continue to be used, they must be consistent with the law. PIAC welcomes this recommendation to support transparency and consistency in decision-making, and improve the accountability of the NDIA.

## **6. Collaboration across government**

The proper delivery of the NDIS relies on all levels of government to collaborate and be accountable. To date, this collaboration has been lacking. Notably, the Review found the agreement between government agencies to share responsibilities under the *Applied Principles and Tables of Support to Determine Responsibilities of the NDIS and other service services* ('APTOS') is deficient. The recommendation to replace APTOS, and many of the other reforms proposed by the Review, rely on all levels of government committing and collaborating to implement the recommendations.