

Guide to 'reasonable and necessary' supports



What is this guide?

Australian Federation of Disability Organisations (AFDO) is the national peak body representing people with disability and family organisations. Our members represent over 200,000 people with disability all over Australia. The majority of staff at AFDO are people with disability or family members.

Disability Loop is a project of AFDO. It is designed to make good quality information about the National Disability Insurance Scheme (NDIS) easily accessible for a wide variety of people.

This *Guide to 'reasonable and necessary' supports* is a plain language resource created by the AFDO Disability Loop project. It is designed to explain what 'reasonable and necessary supports' in the NDIS means in a way that is easy to understand.

Most of the information in this guide originally came from the *NDIS Operational Guidelines* (a set of documents about the rules of the NDIS), and the AFDO Disability Loop NDIS Understanding Workshop called *Reasonable and Necessary*.

AFDO wanted this guide to be really helpful for people with disability who aren't sure what they can think about including in their NDIS Plan. People are always asking for examples to help them understand what the NDIS thinks is reasonable and necessary. We asked organisations who represent people with disability to tell us what kinds of services and supports they think are likely to be reasonable and necessary, and we've shared them here for you.

WHAT IS AN 'NDIS PARTICIPANT'?

An NDIS Participant is a person with disability who has been approved to get support from the National Disability Insurance Scheme (NDIS). The NDIS provides funding to Participants to pay for services and supports which can help people feel independent, included, as well as participate more socially in the community and the economy (by buying products and services, such as going to the movies).

All NDIS Participants go through a planning process, where they talk about what they want their life to look like, and what disability related supports they need to achieve their goals. The NDIS and the Participant come up with an NDIS Plan together, and this Plan includes money from the NDIS for people with disability to buy services and supports. The services and supports that go into the Plan have to be 'reasonable and necessary'. We will talk about this more in this guide.



The NDIS is designed to make sure people with disability have the same opportunities that other people take for granted. Having the same opportunities does not mean people with disability are given any advantages over other people in the community. Instead, the NDIS provides supports to help remove the barriers people with disability face, so they can have a 'level playing field' when it comes to achieving their goals in life.

WHAT IS AN 'ORDINARY LIFE'?

The NDIS thinks an ordinary life is a life without barriers that are the result of having a disability. Having an ordinary life just means having the same opportunities other people have. An ordinary life is a good thing! This means that the NDIS will not pay for activities everyone else in the community has to pay for themselves (like buying groceries or movie tickets, for example). Instead, the NDIS will pay for approved supports a Participant has in their NDIS Plan (like paying a support worker to help you with shopping). The NDIS will only approve services and supports in your Plan that they think are 'reasonable and necessary'.

Reasonable and necessary supports can be hard to understand, especially because the same support can be reasonable and necessary for one person, but not for another. Because of this, many people are not sure what supports could be included in their NDIS Plan.

We created this guide to help you understand what reasonable and necessary support means. This guide will tell you about the rules the NDIS needs to follow when they decide if something is reasonable and necessary for you. This guide will also provide some fact-checked examples to help you understand what supports are likely to be reasonable and necessary for different people with specific disabilities and support needs.



Glossary

Because the NDIS is a new system of disability support, there is lots of new language and words to understand. In this section we will explain some of the important words that get used when this guide, and the NDIS talks about reasonable and necessary.

REASONABLE

Supports and services must be reasonable. This means they have to be fair. They shouldn't give you more (or less) than what anyone else in the community would need. Reasonable supports give people with disability the same opportunities to live life as everyone else. This is part of living an ordinary life. Supports funded by the NDIS should not give people with disability an advantage that other people don't have.

NECESSARY

Necessary means that a support is needed or essential for that individual person with disability. It is needed because of your disability - someone who doesn't have your disability wouldn't need those supports at all. Necessary supports are extremely important for an NDIS Participant to be able to participate in society. Without them, the NDIS Participant wouldn't be able to participate in society equally.

NDIS ACT

The National Disability Insurance Scheme Act 2013 is an Australian law. It is usually called 'the NDIS Act'. The NDIS Act allows the NDIS to be possible. The entire NDIS is based on this national law. The NDIS Act contains the high level legal framework which explains what is lawful and what is unlawful. This means the NDIS Act explains what the NDIS is allowed to fund (pay for), and what it is not allowed to fund.

NDIS RULES

The NDIS Act is supported by the NDIS Rules. The NDIS Rules is a document based on the law in the NDIS Act. It includes more detailed information about how the NDIS should operate. It contains more specific explanations of the ideas in the NDIS Act. Like the NDIS Act, the NDIS Rules help explain what the NDIS can and cannot do to support people with disability.



NDIS OPERATIONAL GUIDELINES

The NDIS Operational Guidelines is another group of documents that is separate from both the NDIS Act, and the NDIS Rules. The NDIS Operational Guidelines are used to help the people who work for the NDIS make fair decisions about what supports are reasonable and necessary. The NDIS Operational Guidelines were developed based on the NDIS Act and NDIS Rules by the people working for the NDIS. The NDIS Operational Guidelines give even more detail than the NDIS Act and NDIS Rules about how the NDIS should run.



Putting people first

GOALS

The NDIS takes a 'person centred approach' to disability supports. This means all supports in your NDIS Plan will be based on your goals. You'll need to work out what you want to achieve (your goals) before you think about what specific supports (physiotherapy, for example) you need. The NDIS will then help you work out what services and supports you need to achieve your goals. The NDIS needs to check if the supports meet the reasonable and necessary guidelines before your Plan can be approved.

The NDIS encourages people with disability to talk about the goals in their life before talking about equipment and services. For example, it is much more important to talk about your goal to access the community independently to get to work and keep in touch with old and new friends, than to simply say you want a new electric wheelchair. Supports and services, including new or updated equipment will only be seen as reasonable and necessary when it helps the NDIS Participant achieve the goals they talk about with the NDIS.

CHOICE AND CONTROL

Before the NDIS existed, the money that paid for disability supports normally went straight to service providers. A lot of people with disability didn't get to choose which service provider got the money. Many people felt like they were 'locked in' to using that service provider. They didn't have any choice, and they didn't have any control.

People with disability can't be the best they can be if they don't have a say in who supports them, or how they are supported. This is different with the NDIS. NDIS Participants can choose when, where and how they get the support they need. NDIS funding for disability support is controlled by the person with disability themselves. Being able to choose gives people with disability the ability to be the main decision maker in their own life - just like everybody else.

While NDIS Participants have total choice and control over their goals, this does not mean the NDIS could, or should, pay for anything and everything a person with disability wants to do in their life.



The NDIS is designed to make sure people with disability have the same opportunities as everyone else in the community. The same opportunities means NDIS Participants can have a level playing field when it comes to deciding what they want from their life. This is part of living an ordinary life. A level playing field does not mean people with disability are given any unfair advantages. Instead, the NDIS will help to remove the barriers people with disability face.

This is why the NDIS will not pay for things that the rest of the community has to pay for - like sporting club memberships or dance classes. Even though the person with disability may choose to do these activities, a person with disability is expected to pay for themselves, and the NDIS could pay for the additional supports a person needs to access these activities because of the impact of having a disability.

This means that when people go through NDIS Planning, the principle of reasonable and necessary is talked about before the principle of choice and control. Supports or services must first be approved by the NDIS as reasonable and necessary before you can have full choice and control over how you use that support or service.



Making the decision about reasonable and necessary

Each NDIS Plan should include enough funding to cover all the reasonable and necessary supports you need to live an ordinary life. NDIS staff are responsible for deciding if supports to help you reach your goals can be included in your Plan. NDIS have to check the NDIS Act, NDIS Rules, and NDIS Operational Guidelines to work out what supports are reasonable and necessary in helping you achieve your goals.

When the NDIS makes the decision to approve the supports in your Plan, they must think about a lot of different things. These include whether a support:

- Provides value for money
- Is effective and beneficial
- Is current good practice
- Is not reasonable for a family, carer or other support to provide
- We will talk about these now.

1. VALUE FOR MONEY

For supports and services to be reasonable and necessary, they must bring value for money to the NDIS and the NDIS Participant. Value for money doesn't mean a service or supports has to be the lowest price possible, it means it must bring the best benefit to the person in relation to its cost. Value for money is a saying that means the thing that is paid for is well worth the money spent on it.

In the NDIS Act, NDIS Rules, and NDIS Operational Guidelines, the NDIS considers value for money in the following ways:

- Whether there are other supports or services available that do the same thing and provide the same results, but are much cheaper
- If providing the support or service will greatly improve the wellbeing or goals of the person with disability, or provide a long term benefit
- Whether providing funding for the support or service will reduce costs and save money in the long run. For example, early intervention supports may cost quite a bit of money now, but they might mean you need less expensive supports in the future, because they help you to become more independent sooner

2. EFFECTIVE AND BENEFICIAL

The NDIS thinks about all the current evidence of whether or not a support or service is effective and beneficial. This means making sure that the support or service works, and is good for the person with disability. The NDIS checks whether a service or support does what it claims to do, and helps the NDIS Participant in an obvious and logical way.

For example, physiotherapy may meet the criteria of reasonable and necessary, because this type of therapy is based on good quality evidence. However, some therapies, including a number of 'natural' therapies, do not have much evidence to show that they make a difference. This means the NDIS cannot be confident that the therapies will help people with disability enough, because research does not back this up. As a result, these therapies are less likely to meet the criteria of reasonable and necessary.

3. CURRENT GOOD PRACTICE

While evidence and the expert opinion of professionals is the most important part in working out whether a support is reasonable and necessary, the NDIS recognises that people with disability and their families are experts in their own lives. This means the NDIS also needs to think about the experience people with disability and their families have had with a certain support, such as whether or not it has worked for them in the past.

However, before deciding whether or not the requested support meets the criteria of reasonable and necessary, the NDIS may still require evidence from independent professionals to show that it is effective, beneficial, and current good practice.

4. REASONABLE FAMILY, CARER AND OTHER SUPPORT

The laws around reasonable and necessary require the NDIS to work out what is reasonable to expect families and other informal support networks (like friends, neighbours, extended family) to provide without getting paid for it. If a type or amount of a support is more than what can be reasonably expected of families and informal support networks to give, then that support is more likely to be reasonable and necessary.

What is reasonable for families and informal support networks to provide is different depending on the individual person with disability and their family. For example, it is normal for parents to provide most of the care and support for their children under the age of 18. However, when the impact of disability means that more support needs to be provided to the child with disability than what a child of a similar age without a disability would usually need, then some paid supports could meet the criteria of being reasonable and necessary. However, the NDIS does not pay family members to provide support for a person with disability except in very rare and specific circumstances.

People aged over 18 years old are adults, and so are expected to be fully responsible for themselves. However, adults with disability who are NDIS Participants will have extra support needs than those who are not impacted by disability. For example, people with disability often stay at home until they are older because they are supported by family, or find it hard to move out of home.

When deciding whether or not a support meets the criteria of reasonable and necessary, the NDIS checks whether there is any negative impact on the person with disability when they rely on family or other informal support networks to provide them with most of their support.



What happens if the NDIS says a support is not reasonable and necessary?

NDIS Participants can disagree with a decision made by the NDIS about whether particular supports and services are included in an NDIS Plan. Disagreements usually involve a situation where an NDIS Participant thinks a type (or an amount) of support or service is reasonable and necessary, but the NDIS believes it is not.

INTERNAL REVIEW OF A DECISION

If the NDIS Participant is not happy with their NDIS Plan, they can fill in a form called the 'Application for a review of a reviewable decision'. The NDIS Participant must fill in this form within three months of the NDIS Plan being written. You can have someone help you fill in this form, including help from the NDIS. People with disability do not need to use this form if they do not want to. Other options for making a complaint are calling, emailing, or writing a letter to the NDIS.

Afterwards, the NDIS starts an internal review. During this process, different people in the NDIS look at the NDIS Plan, to see if they agree with the first NDIS decision. The NDIS might then change the original decision. If the NDIS believes the NDIS Plan should not be changed after the doing the internal review, the NDIS Participant still has the choice to take their complaint further.

NDIS APPEALS

If you're not happy after the NDIS internal review, you can take your complaint to the Administrative Appeals Tribunal (AAT). The NDIS Participant works with the AAT to talk about the complaint, and then the NDIS responds to this. During this process, the NDIS Participant can get help from an NDIS Appeals Support Officer for free. Sometimes this discussion fixes the complaint and the process ends. If it doesn't, the complaint goes to a legal hearing at the AAT. This hearing makes the final decision about the complaint.



Different types of supports and services in the NDIS

The NDIS provides funding to Participants to purchase a range of supports and services to increase independence, inclusion, and social and economic participation. The NDIS system groups the hundreds of different types of supports and services into three Support Purpose categories.

We'll talk about each of the three Support Purposes now:

1. CORE SUPPORTS

A core support is something that allows an NDIS Participant to live their daily life, work towards their goals and meet their objectives. There are four sub-categories of core supports: assistance with daily living, transport, consumables, and assistance with social and community participation. This Support Purpose covers things like taxis, personal care, continence aids, and support in the community.

2. CAPITAL SUPPORTS

Capital supports are usually products, not services, that you pay for once, or irregularly. NDIS money for capital supports must only be spent on the things you talked about during the NDIS Planning conversation. These capital supports could include assistive technology or home modifications, as well as specialist disability accommodation. Most capital support items are 'quotable', which means that providers must tell the NDIS how much the individual product will cost, before the NDIS will pay for it. The NDIS can pay for the assessment, delivery, set-up, adjustment and maintenance costs of these capital supports.

3. CAPACITY BUILDING SUPPORTS

A capacity building support allows an NDIS Participant to build their independence and skills. Capacity building supports include coordination of supports, improved living arrangements, increased social and community participation, finding and keeping a job, improved relationships, improved health and wellbeing, improved learning, improved life choices and improved daily living skills. Capacity building supports could include services like Occupational Therapy, Physiotherapy, as well as education to learn new skills.



People may have similar needs, but everyone is different

The NDIS provides individual funding to people with disability for reasonable and necessary supports and services. This means that two people with the same disability will not, and should not automatically get the same amount, or type of support. This is because what is reasonable and necessary for one person may be different for someone else - even if they have the same disability.

However, many people with similar disabilities have similar support needs as well. This can be useful when thinking about what support and services would help a person with disability live an ordinary life, as people can get ideas from others in similar circumstances. For example, it is reasonable to expect that two people with a similar mobility impairment would both be more likely to live an ordinary life if they had an appropriate wheelchair. However the type and model of wheelchair, and the provider of this would likely be different for both of these people.

The next section of this *Guide to 'reasonable and necessary' supports* features examples of reasonable and necessary supports and services that could be funded by the NDIS. These examples are specific to particular disabilities, and have been suggested by people with disability and family organisations with years of experience and knowledge.



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