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A subpoena is a legal document issued by a court or tribunal at the request of a party to proceedings to compel a person to produce documents or give evidence at a hearing or trial.

What information can the NDIA provide

Section 67G of the NDIS Act provides, in summary, that the NDIA cannot, except for the purposes of the National Disability Insurance Scheme Act 2013 (NDIS Act) or the Royal Commissions Act 1902 (Royal Commissions Act), be required to produce any document to a court, tribunal, authority or person that has power to require the production of documents or the answering of questions.

This means that the NDIA will not generally be able to comply with a subpoena unless:

- the disclosure would be for the purposes of the NDIS Act;
- the disclosure would be for the purposes of the Royal Commissions Act; or
- the information is compelled under an order issued pursuant to some limited legislative provisions (for example Location Orders and Commonwealth Information Orders issued pursuant to sections 67M and 67N of the Family Law Act 1975 (Cth)).

The NDIA will only be able to comply with a subpoena if one of these exceptions apply.

If the NDIA is served with a court document such as a subpoena or summons and we do not consider that the NDIA can lawfully comply with the court order, the NDIA will contact the lawyer or organisation who filed the subpoena or summons to request that it be withdrawn and discuss alternative ways the information may be able to be disclosed.

How to serve court orders

If you are considering issuing a subpoena or summons, we would encourage you to contact information.requests@ndis.gov.au before issuing it.

This will allow the NDIA to work with your organisation to consider whether there is another way permitted by the NDIS Act for the protected Agency information to be disclosed or to discuss if the information can lawfully be disclosed under the subpoena or summons.

If you consider that one of the above exceptions to section 67G of the NDIS Act applies, such that the NDIA would be able to comply with the subpoena or summons, the correct address for service is:

The Proper Officer
Legal Services Branch
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601

However, a subpoena to give evidence should be addressed to the individual officer who will be required to give evidence.

We prefer that court orders are served by email to information.requests@ndis.gov.au.

We request that you do not provide cash when providing conduct money to the NDIA. Our preferred method of accepting conduct money is by cheque.

The NDIA requests \$25.00 in conduct money in order to process a court order. This covers our costs to access, collate and produce the requested documents to the court or tribunal.

There may be extra charges depending on how complex the court order is.

Alternative means of disclosure

If the NDIA is unable to comply with the subpoena or court order, the NDIA might be able to disclose the requested information in another way.

In particular, you should consider whether you could get the participant's express consent to access the information.

You can refer to the [Access to Information](#) page for other ways the NDIA can share information.

State and territory agencies can also refer to the [Information Sharing Protocol](#) for further information.

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