



National Disability Insurance Scheme

# Consultation paper: Access and Eligibility Policy with independent assessments

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# 1. Introduction

We want to strengthen the National Disability Insurance Scheme (NDIS). Community and sector consultation is important to us.

In our [Participant Service Charter](#), we committed to empowering participants by including people with disability and the community to help us develop and test our processes.

The National Disability Insurance Agency (NDIA) has released a suite of discussion papers. We want your feedback about these papers:

1. **Consultation paper: Access and Eligibility Policy for independent assessments**
2. Consultation paper: planning policy for personalised budgets and plan flexibility
3. Consultation paper: supporting young children and their families early, to reach their full potential

A full project consultation report outlining the research, recommendations and background on the Early Childhood Early Intervention (ECEI) implementation reset is also available for stakeholders interested in understand the detailed project activities.

The Department of Social Services (DSS) has also released an Information Paper to explain the proposed changes to the *National Disability Insurance Scheme Act 2013* (the NDIS Act) and what these changes will mean for participants. This paper is called [‘Improving the National Disability Insurance Scheme – DSS information paper’](#).

We look forward to hearing your views on the future of the NDIS.

We want to hear from participants, their families and carers, and the disability sector on how we can deliver a more consistent and fairer approach to determining access to the NDIS.

This paper explains how accessing the NDIS will work with the introduction of independent assessments.

The new **NDIS Access and Eligibility Policy** will put the focus back on the individual and their function and support needs. Independent assessments will be used for prospective participants to assess the impact of their disability on their day-to-day life (functional capacity).

This policy, and independent assessments, will come into effect in the middle of 2021 for all applicants over 7 years of age.

Separately, we are considering our policy approach to children under 7 years of age, who are supported through the ECEI Approach. We are also considering raising the age of children able to access NDIS ECEI support to 9 years old. You can read more about our approach to early childhood intervention in our paper on [Supporting young children and their families early, to reach their full potential](#)

## 1.1 How you can help

Before we make changes to policies, procedures and operational guidelines, we want to ensure the proposed changes generate the best outcomes and experience for people with disability applying to access the NDIS.

### 1.2.1 Sharing your feedback

This consultation paper outlines how the new Access and Eligibility Policy will work for people with disability who apply to access the NDIS.

We are looking for feedback on this policy and have developed a series of consultation questions that focus on the areas where consultation is most valuable. Feedback is welcomed from individuals, organisations and state and territory governments. You can either respond to these consultation questions, or provide your own feedback based on the content of this paper. Feedback can be submitted via the [NDIS website](#) up until 10.00am ADST Tuesday 23 February 2021.

We hope to hear from all people, including those from culturally and linguistically diverse communities, people who identify as LGBTIQ+, Aboriginal and Torres Strait Islander peoples or people living in remote locations. Your perspective will be valuable feedback to inform our policy.

We will also conduct other engagement and consultation activities over the next six months on the range of improvements we are making to the NDIS.

To help you understand some of the key terms and concepts in this paper, you can find a glossary at the end of this document.

## 2. Improving the NDIS

The NDIS is a single, national approach to provide funding for people with disability, their families and carers. It is designed to provide funded support for people with a significant and permanent disability. The NDIS gives people choice and control over how their disability related services and supports are delivered so that they can pursue their goals.

### 2.1 Current challenges

The current access process requires people with disability to seek information about the impact of their disability from a variety of health professionals, including doctors and specialists. This can often involve long wait times. Appointments to see doctors and specialists can also cost a lot of money. Access to the NDIS should not be determined by a person's ability to gather and pay for enough evidence to demonstrate reduced functional capacity. We estimate Australians with disability are currently spending between \$130 million and \$170 million per annum on assessments associated with accessing the NDIS.

We've heard many examples of inconsistent and inequitable access and planning decisions. The number of participants who review these decisions is high. Currently there isn't one standard way to provide evidence on the impact of a person's disability or disabilities. This includes how the impact of their environment is considered and how the person's functional capacity is assessed.

This has impacted on participants across the NDIS, and in particular, those with psychosocial disability, due largely to the wide variability in assessment tools used to capture information on mental health conditions. Some assessment tools do not provide enough of the information that is needed, which makes it difficult to achieve consistency and equity in decision making.

How a person's disability or disabilities impacts their ability to carry out everyday tasks is one of the key factors in determining eligibility for the NDIS under the NDIS Act. We refer to this as functional capacity. This means the ability to be involved in different areas of life like home, school, work and the community and to carry out tasks. It also considers other factors in a person's environment that may impact their day to day life.

To be eligible for the NDIS a person's disability must be permanent and have a substantial impact on their functional capacity in one or more of these activity domains:

- communication
- social interaction
- learning
- mobility
- self-care
- self-management.

Many people with disability entered the NDIS differently during the transition from state and territory disability support and early childhood intervention systems. This was because we set up ways to ensure that people who were in existing systems that had similar access requirements to the NDIS (called defined programs), did not need to apply again to access the NDIS.

In addition, with over 400,000 people joining the NDIS in just over seven years, we needed to ensure we were making timely access decisions. We established streamlined processes for access, some of which were based on medical diagnosis or previous eligibility to programs or services. This resulted in different processes and experiences for different people with disability seeking to access the NDIS. It also led to variability in the information we sought and received about people applying, and inconsistent decision-making processes about who was eligible to access the NDIS.

This can be seen in the proportion of the population (0-64) receiving NDIS support with results that differ significantly by state and territory. NDIS data from our latest [Quarterly Report](#), highlights inequity around accessing the NDIS depending on where a person lives. Population surveys on disability undertaken by the Australian Bureau of Statistics do not support these levels of difference.

As required under the NDIS Act, we need high quality and consistent information on a person's functional capacity so that we can make accurate and timely decisions. This includes environmental factors which affect an individual's support needs. The quality of the information needs to be consistent to enable fairer decision making processes. Independent assessments will provide this consistency.

## 2.2 Summary of planned improvements

We are working towards a future NDIS that is simpler and fairer. That will empower participants to exercise greater choice and control over their lives and ensure the NDIS remains sustainable.

We are working to:

1. Replace processes developed during transition with more consistent and fairer approaches to determining NDIS eligibility.
2. Introduce independent assessments to better understand an individual's functional capacity and environment, to support objective and fair access and funding decisions.
3. Change the way we do planning to deliver personalised plan budgets and support participants to have greater flexibility in using their funding in ways that best suit them.
4. Ensure we're spending time with participants when it matters the most and supporting them to use their approved budget effectively.

### 2.2.1 Independent assessments

An independent assessment is an assessment of functional capacity including environmental and individual circumstances undertaken by qualified health care professionals for the purposes of NDIS decision making.

Independent assessments will be free for participants and people with disability applying to access the NDIS. We will pay for all independent assessments.

Independent assessments will use recognised and standardised tools in accordance with our [Independent Assessment Framework](#).

Under this framework, the independent assessment will build an overall picture of how a person functions in different areas of their life. This is in line with the World Health Organisation's International Classification of Functioning, Disability and Health, and the activity domains described in the NDIS Act. These are communication, social interaction, learning, mobility, self-care and self-management. The framework has provided the foundation for the [selection of assessment tools](#) to be used in independent assessments. These tools are used to assess functional capacity in the activity domains.

Independent assessments will be done by trained experts, for example occupational therapists, physiotherapists, psychologists and other health and allied health professionals.

You can [read more about independent assessments](#) on the NDIS website.

## 2.2.2 Independent assessments and access

We will be replacing existing processes that are used to decide if someone is eligible for the NDIS with a more transparent and consistent approach. This paper outlines how this new approach to access and eligibility will work.

A person who applies for the NDIS will provide information on their age, residency and evidence of their disability, including if their impairment is, or is likely to be, permanent. If these criteria are met, we will then request an independent assessment. An independent assessment will not be requested if age, residency, disability and permanency criteria are not met. In some circumstances other information may be needed to determine if a person is eligible for the NDIS.

There will also be clearer guidance for all applicants on what defines a permanent disability requiring support under the NDIS. This guidance will:

- outline what we need from medical professionals to understand the permanence of a person's disability
- provide detail on the most appropriate treatment system for health conditions
- clearly deal with the issues arising from the functional capacity impacts of chronic, acute and terminal health conditions.

Whether a prospective participant's impairment or impairments result in substantially reduced functional capacity will be determined by an independent assessment.

A person may have a disability without meeting the NDIS access requirements. For example, a person may have a temporary disability, or a permanent disability that does not impact sufficiently on their function to meet the access requirements.

The NDIA will record information about a participant's full range of disabilities and health conditions. This is for privacy-compliant research and analytical purposes. The recording of additional disabilities will not impact access and plan funding decisions, because the independent assessment process is designed to capture the full impact of disabilities on functional capacity.

The NDIS Access and Eligibility Policy will replace the processes we adopted during transition to the NDIS. Under the new policy, we will no longer need to rely on the access lists. These lists were used during the trial and transition period to manage the large volume of people transitioning from state and territory service systems to the NDIS.

From mid-2021 we will no longer use lists to determine if someone meets access requirements, with the exception of List C in Western Australia (WA).

### Purpose and detail of the access lists:

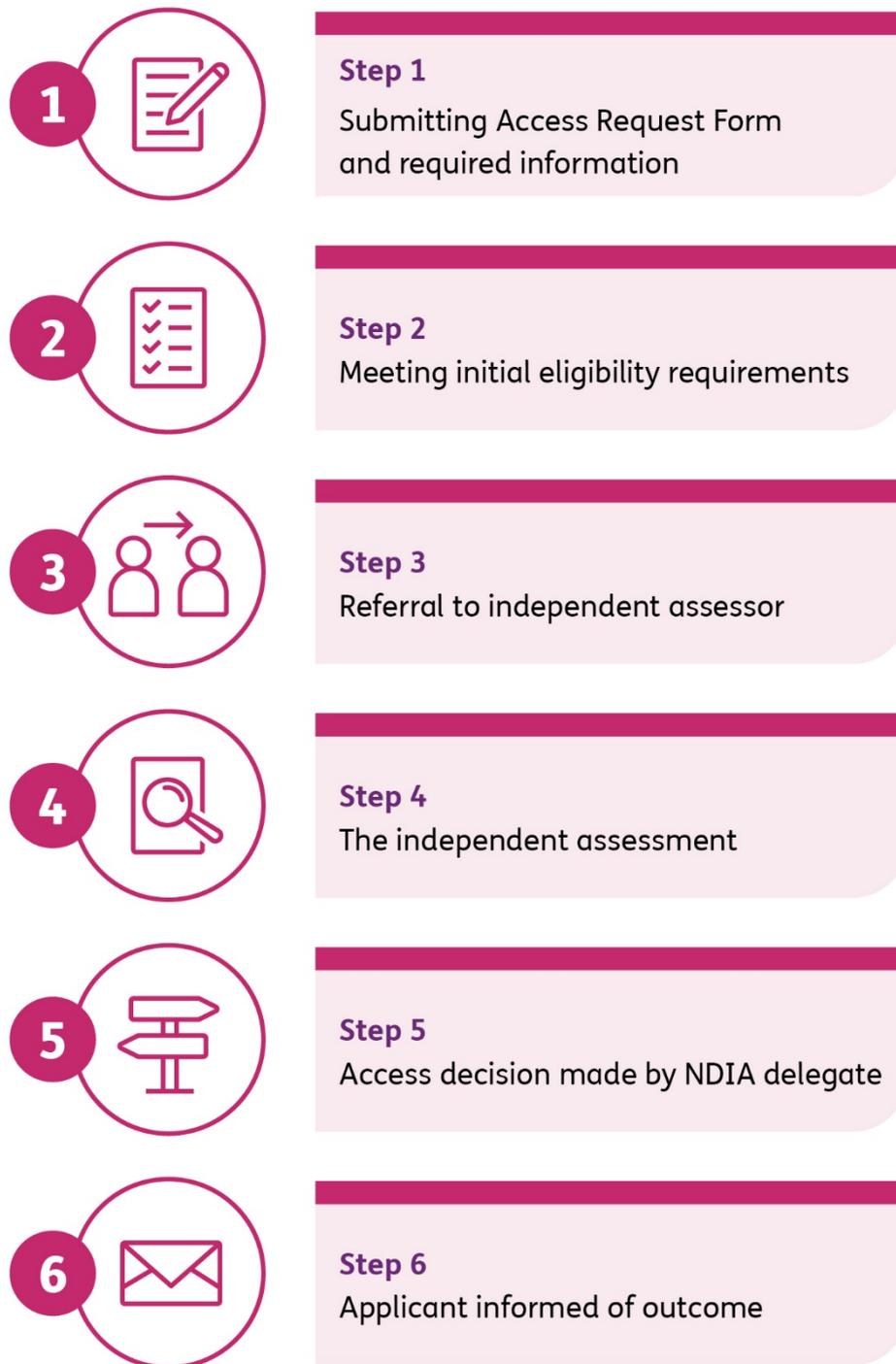
- [List A](#) and [List B](#) were used to assist in determining whether someone's condition met the disability requirements.
- [List D](#) was used to assist in determining whether someone's condition met the early intervention requirements.
- [List C](#) details state and territory programs that met the disability requirements to access the NDIS, and will be removed for all jurisdictions except WA. WA defined programs on List C will be removed after the end of the WA transition to the NDIS from 1 July 2023.

The NDIS is designed to provide funding for people with a significant and permanent disability. Roles and responsibilities between the NDIS and other mainstream services, such as health and education, have been agreed by all Governments and are set out in the [Applied Principles and Tables of Supports](#). There is no change to these roles and responsibilities as a result of this policy. For example, the health system will continue to be responsible for the diagnosis and clinical treatment of health conditions, ongoing and chronic health conditions not related to a participant's disability, time-limited (non-ongoing) palliative conditions and acute/post-acute care such as hospital and Hospital in the Home.

### 2.2.3 Proposed access process

While this paper focuses on key changes in policy, these changes will impact people's experience of the access process for the NDIS. **Figure 1** outlines the proposed process for gaining access to the NDIS.

**Figure 1: Proposed Access and eligibility process for people aged 7 to 65 (from mid-2021)**



## 2.2.4 Independent assessments, personalised budgets and plan flexibility

We have released a separate paper on our new approach to [planning and plan flexibility](#).

Once a person is found eligible for the NDIS, information from their independent assessment will be used to develop a personalised budget. Using information that is consistently gathered will ensure each participant's personalised budget reflects their functional capacity, including the impact of their environment. The Planning Policy for Personalised Budgets and Plan Flexibility outlines how this new approach will work.

We understand participants' lives and situations change, and there are significant things that happen in life that can impact their environment and capacity. Information about participants, their functional capacity, including environmental factors, will need to be kept up to date. Participants will need to complete an independent assessment at different stages of their lives and at least every five years, to make sure they continue to get the right funding in their NDIS plan.

We are also introducing greater flexibility in how a participant chooses to use their NDIS funding. Participants will be able to exercise increased choice and control over their plan funding and use their funding in ways that best suit them. For most people the majority of their funds will be flexible. Some supports like Specialist Disability Accommodation or other high cost capital supports will continue to be fixed in plans. We will clearly explain situations where funds can't be used flexibly.

Funds will still need to be spent only to purchase supports to assist with a participant's disability. NDIS funds are not intended to be an alternative source of general income.

## 3. NDIS Access and Eligibility Policy

The Access and Eligibility Policy will guide a fairer approach to making eligibility decisions that are better aligned with the NDIS Act and proposed changes resulting from the [2019 Review of the NDIS Act](#) completed by Mr. David Tune AO PSM (known as the Tune Review).

For participants over 7 years of age, access decisions will be informed by the results of independent assessments conducted by an NDIA appointed assessor from the middle of 2021. Following this consultation process, an access Operational Guideline will be developed and published that explains the new access process.

### 3.1 Principles

The principles of this policy are that people with disability experience an access process which upholds the intent of the NDIS Act and associated international conventions. This includes that the process will:

- a) be accessible, holistic and strength-based, recognising each individual's life circumstances and environmental factors
- b) involve the individual in decision making processes that affect them to the fullest extent possible, and supports them to make decisions for themselves
- c) be based on nationally consistent tools and allows for approaches to be tailored to individual needs
- d) acknowledge and respect the role of families, carers and other significant persons in the individual's life where applicable
- e) be inclusive and have safeguards that ensure the individual's respect and dignity are upheld.

### 3.2 Pre-access

The [National Disability Strategy](#) outlines a vision for an inclusive Australian society. People with disability are supported by mainstream service systems including health, mental health, early childhood, education, transport, justice, housing and employment. A range of organisations such as disability support organisations and peer support networks are active in the community. Some of these organisations have been funded by Government to support people with disability in the community, including through the Information Linkages and Capacity Building (ILC) program. The aim is to build the knowledge, skills and confidence of people with disability, and improve their access to community and mainstream services.

Local Area Coordinators and Early Childhood Partners connect people with disability and their families and carers to mainstream and community supports. They also support people to make an access request to the NDIS where necessary.

To make it easier for people with disability, their families and carers to engage with the NDIS we will ensure Local Area Coordinators, Early Childhood Partners, the NDIS Contact Centre and our website have up-to-date, accessible and easy to navigate information about the new access process and independent assessments.

We will improve how people can apply to access the NDIS including using an online Access Request Form.

We will also help people connect to other mainstream and community supports and services, even if they are not eligible to access the NDIS.

### **3.3 Information provided before an independent assessment**

Under this policy, all applicants will be required to provide information on their age, residence and evidence of disability. This includes advice from their treating health professional as to whether their impairment or impairments are, or are likely to be, permanent.

For applicants other than children accessing NDIS early intervention services, a health professional will still be required to provide information that an impairment is permanent or likely to be permanent (including for the early intervention requirements) and evidence of disability (for the disability requirements). That is, information and clinical judgement that a disability or disabilities are:

- attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or
- attributable to one or more psychiatric conditions (or as proposed through legislative amendments, to a psychosocial condition).

The applicant's treating health professional may also be asked to provide evidence that early intervention supports would be beneficial and likely to reduce their future support needs.

Health professionals will be required to provide information about what interventions or supports have been considered and, where applicable, all reasonable supports and treatments have been identified and/or administered.

Before we introduce this policy, we will work to make it simpler and easier for health professionals and prospective participants to provide this information by clarifying what we need, including the evidence of professional qualifications and registration required. This information may be the subject of external expert review if necessary.

Where an access request is received, an independent assessment will be requested when it is clear from this information that:

- age requirements have been met;
- residence requirements have been met;
- the applicant has a disability that is attributable to one or more functional impairments; and
- the applicant's impairment is, or is likely to be, permanent.

No referral to an independent assessment will be made if these requirements are not met. In these circumstances, the access delegate, will determine that the access criteria under the NDIS Act are not met. This decision will continue to be reviewable.

#### **Access case study: Clare, 40 years old, Western Australia**

*Clare is 40 and lives alone in Perth. She recently acquired a disability and is applying to the NDIS for support for the first time.*

*Clare is using a wheelchair on loan from the hospital but she will need a customised power wheelchair to maintain her independence. Clare will also need paid disability support for personal care and some changes to her home so she can keep living there. Clare has also been talking to her work about going back to the office soon.*

*Clare contacts the NDIS and is put in touch with her Local Area Coordinator. The Local Area Coordinator provides Clare with information about local community groups and other mainstream services that can assist her. They also provide information about how Clare can make a NDIS access request.*

*Clare works with her treating health professionals to submit an Access Request Form. This includes evidence of her age, residency and disability, including that her disability is permanent. The NDIA assesses Clare's application and find that she meets the initial access criteria. The NDIA asks Clare to complete an independent assessment and makes a referral to local independent assessor organisation.*

### **Access case study: Clare, 40 years old, Western Australia, continued...**

*Clare chooses to make two appointments with her assessor organisation. The first appointment will be at Clare's home, where she can show the assessor how she functions in her home, including how changes to her home will help her move around. The second appointment will be at the assessor's office. Across the two appointments, Clare will share information about herself guided by the assessor's questions.*

*Clare doesn't want anyone else to attend these appointments with her. She knows someone who knows her well will need to speak with the assessor, so she asks her friend Melissa to do this. Clare knows that all together, these appointments could take up to 3 hours and she plans to use that time to give the assessor a good sense of what she can and cannot do around her home.*

*Following the independent assessment, the outcomes are provided to the NDIA to finalise a decision on Clare's eligibility for the NDIS. The independent assessment provides evidence that Clare's functional capacity is significantly reduced. The NDIA determine that Clare meets the eligibility criteria and notifies Clare of the outcome of her request to access the NDIS shortly after her independent assessment. This also includes a summary of the independent assessment results for Clare's records. Clare's independent assessment will now be used by the NDIA to develop her first NDIS plan.*

## **3.4 Determining functional capacity**

Under the current access process, in addition to the information outlined above, applicants are also required to provide a range of information that explains the impact of their disability on their everyday life. This information is usually collected from doctors and allied health professionals or Early Childhood Partners for children under 7 years of age.

Under the new policy an independent assessment will be required to gather information on an applicant's functional capacity.

We will make this referral under section 26 of the NDIS Act.

Beginning in mid-2021, all applicants aged over 7 years of age will need to complete an independent assessment to access the NDIS that:

- aligns to the [Independent Assessment Framework](#) (covers all NDIS domains and provides the necessary information)
- uses the [suite of assessment tools](#) specified for their age

- is administered by a suitably qualified allied health professional from the appointed panel, trained in the use of the independent assessment approach and suite of assessment tools
- provides findings and results in the approved format.

The independent assessment uses a [suite of assessment tools](#) selected for their ability to gather reliable and valid information on a person's functional capacity across all areas of their life.

The suite of assessment tools is consistent with the national guideline for the assessment and diagnosis of autism spectrum disorders (ASD) in Australia. The Autism Collaborative Research Center's study of the reliability, validity and usability of assessment and functioning tools for ASD in the Australian context provided evidence of good reliability for the PEDI-CAT (ASD). The episodic nature of some disabilities, including psychosocial disabilities, has also been taken into consideration. There is strong evidence for the WHODAS in assessing function regardless of diagnosis, including extensive trials and evaluation of use for people with long term mental health conditions in the Australian context.

We will use the results of independent assessments to consistently and systematically determine whether an applicant has substantially reduced functional capacity. Information from the assessment will be considered with reference to a person's particular circumstances. We will use this information when making decisions regarding a person's eligibility to access the NDIS.

### 3.5 Completing an independent assessment

Independent assessments focus on capability, rather than disability. An independent assessment is not a medical diagnosis. It's about understanding the impact of a person's impairment on their functional capacity. This includes the impact of their environment. You can read more about [independent assessments on the NDIS website](#).

This approach aligns more closely with the access criteria in the NDIS Act, and provides a more accurate picture of an individual's capacity and support needs.

Independent assessments will be free for participants and fully funded by the NDIA.

Assessments are independent, meaning they are not conducted by a participant's treating health professional or by employees of the NDIA. This is consistent with advice from the Productivity Commission about the way the NDIS should work.

You can find out more about the tools that will be used and the assessors that will complete the assessments on the [NDIS website](#).

### **Access case study: Jacob, 16 years old, Queensland**

*Jacob is 16 and lives in regional Queensland. Jacob has Autism Spectrum Disorder.*

*Jacob lives with his mum, Carol, and has never had any paid disability support so is applying for access to the NDIS. Jacob's mum thought now could be a good time to apply to the NDIS because Jacob will soon finish school and start working, which will mean a lot of change for Jacob.*

*Carol contacts the NDIS and is put in touch with her Local Area Coordinator. The Local Area Coordinator provides Carol with information about local community groups and other mainstream services that can assist Jacob. They also provide information about how Carol can complete a NDIS access request on Jacob's behalf.*

*Carol works with Jacob's treating health professionals to submit an Access Request Form. This includes evidence of Jacob's age, residency and disability, including that Jacob's disability is permanent. The NDIA assesses the application and finds that Jacob meets the initial access criteria. The NDIA asks Jacob to complete an independent assessment and makes a referral to local independent assessor organisation.*

*Carol is contacted by the organisation appointed by the NDIA to conduct independent assessments in their area. Because Jacob has school and takes a while to warm to new people, they have chosen to make appointments on two days after school for Jacob to meet and speak with the assessor at home. Jacob and Carol know these appointments might take up to 3 hours.*

*Jacob doesn't want his mum there for the whole conversation, so Carol and Jacob have agreed that Carol will only stay for the part of the assessment that needs someone who knows him well and then she will go. For the rest of the conversation, Jacob speaks with the assessor in his room, where he plays video games. Before this, Jacob makes himself and the assessor a drink and a snack.*

*Jacob and the assessor spend the next few hours talking in Jacob's room about the things he can do and things he finds difficult and might need help with. Before the assessor leaves, Jacob cleans up their dishes.*

*Shortly after the appointments, the assessor will send the assessment outcomes to the NDIA.*

*The NDIA determines that Jacob has substantially reduced functional capacity and meets all of the eligibility criteria for the NDIS. The NDIA notifies Jacob and Carol of the outcome of Jacob's request to access the NDIS. The NDIA also sends them a summary*

### 3.5.1 Setting up and attending an independent assessment

Accessible information will be available before applicants complete their independent assessment. It will cover:

- what to expect (including who will contact the applicant to organise an appointment, how long will it take, where it will happen and what will happen during the assessment)
- what the applicant needs to do (including nominating someone who knows them well to also attend, this may include a family member, support person or treating health professional)
- the decisions the applicant can make (including options for where independent assessment is delivered, for example at home or in the community, whether they need interpreting support services, etc.).

Where possible, applicants will be able to give their preferences about which organisation they would like to complete their independent assessment.

Assessor organisations will be required to contact the applicant within two days of accepting the referral and schedule the assessment within 10 days. The applicant can reschedule their appointment and pause their NDIS access request if a later assessment date suits them better. However, the independent assessment needs to be done within 90 days, in line with the timeframes included in the [Participant Service Guarantee](#).

The time it takes to complete an independent assessment will depend on a person's age and disability. It is estimated that the assessments will take around 3 hours on average. If preferred, the assessment can also take place over a number of days.

Independent assessments are mostly about having a structured conversation and include a number of specific questions in order to complete the assessment tools. At the beginning of the appointment, there will be time for the assessor and applicant to meet and to get to know each other. This may include sharing things you do every day.

Tools used as part of the independent assessment process ask about how the person manages without any help, how they manage with help and/or supports, over a period of time, not just on the day of the appointment. The assessment tools use a combination of interactions, discussions and questionnaires that take into account different settings and different times. This is so we can find out what good days and bad days look like.

Several of the assessment tools can be completed by either the applicant and/or a person who knows them well. One assessment tool (the Vineland) is not self-reported and requires another person to attend to talk with the assessor and provide information.

Choosing who else attends the independent assessment is up to the applicant. Where no support person is nominated, we will initiate a process to help identify an appropriate person or persons if requested by the applicant.

The assessment can take place wherever an applicant chooses, including their home, an office or within the community. It may also be via video call, if suitable.

We are developing a support for decision making policy. It will be about making sure participants are actively engaged in decisions that are being made about their lives. A separate consultation paper will be published on this in early 2021.

### 3.5.2 Accessible and tailored options available for applicants

The NDIS provides individualised supports for people with significant disability, which means applicants may require supports and reasonable adjustments to make sure their independent assessments is accessible. We will ensure independent assessments are inclusive for all people with disability.

The delivery of independent assessment tools can be tailored. This includes:

- the way the applicant and assessor communicate, including use of assistive technology and interpreters
- the assessment location (such as the applicant's home or work place, the assessor's office or where the applicant spends time in their community)
- assessment timing (such as scheduling the assessment over a number of days, or outside business hours)
- how much of the assessment will be completed by a person who knows them well
- who the applicant nominates to support them to complete the assessment (such as a family member or treating professional)
- how the assessment results will be communicated and with whom.

### 3.5.3 Application of independent assessments for different cohorts

We have released [strategies](#) that commit to ensuring all Australians with disability can participate socially and economically in their communities by accessing and achieving outcomes from the NDIS. These Strategies include the:

- Cultural and Linguistic Diversity Strategy
- Rural and Remote Strategy
- Aboriginal and Torres Strait Islander Strategy
- LGBTIQ+ Strategy

Through these strategies we have worked with targeted groups to enhance the NDIS.

The Access and Eligibility Policy and the processes and tools developed to implement independent assessments are being designed to be inclusive of these diverse communities.

### 3.6 Additional information

In some circumstances other information may be needed to determine if a person is eligible for the NDIS. If required, we will request this information. We will consider all evidence provided in relation to impairment and the permanence, or likely permanence, of that impairment. Where appropriate, this information can be provided by the applicant's treating health professional.

Clinical information and reports from the applicant's usual treating health professional can provide an understanding of the supports or interventions that have and have not worked in the past, as well as any barriers and proposed supports for the future. Independent assessments provide a holistic view of functional capacity at a point in time, and do not replace the clinical relationship and expertise that are important for achieving outcomes and supporting a participant throughout their life.

We require information relating to functional capacity to be consistently gathered, through independent assessments, to inform access decisions. Our [Independent Assessment Framework](#) sets out the information we require, and the assessment tools selected to provide this information in a consistent and holistic way aligned with the NDIS Act. You can read more about this in the [Selection of Assessment Tools paper](#).

The suite of assessment tools used in independent assessments will enable us to make fair access decisions for the majority of people. There may be times when it will be necessary for delegates to request other specialised reports and assessments, ask more questions, or source extra information. Further information about the use of additional information in the planning process is provided in the proposed planning policy for [personalised budgets and plan flexibility consultation paper](#).

### 3.7 Exemptions from independent assessments

To ensure that the independent assessment process works for all participants, accessibility will remain our priority.

Independent assessments will be delivered in a tailored way to overcome barriers, including for participants with complex needs. It is anticipated that most applicants and their nominated support person will be able to fully and safely complete an independent assessment.

We acknowledge there may be exceptional circumstances where it may not be appropriate to request an individual to undertake an independent assessment.

Due to the exceptional nature of these situations, producing an exhaustive list of them isn't possible. Instead we will take an approach that recognises that certain individual circumstances may mean it is not possible or reasonable for an applicant to complete an independent assessment.

The delegate may decide that an applicant does not need to complete an independent assessment where there is a risk to safety or an assessment is deemed inaccessible or invalid.

- a) **Risk and safety:** where the process is likely to do more harm than benefit to the individual, and may pose a safety risk to the individual or the assessor (this may include where paranoia is present and severe, there are severe behaviours of concern, or specific trauma related concerns which can't be alleviated).
- b) **Assessment is inaccessible or invalid:** where there may be concerns about the process producing valid information and other sources and/or forms of information are better suited (e.g. a support person can't be identified to complete relevant components of the independent assessment).

The delegates decision not to grant an exception for an independent assessment will not be a reviewable decision.

Where an exception has been granted, the applicant will still need to provide evidence in another way that demonstrates substantially reduced functional capacity against Independent Assessment Framework, in order for the delegate to determine whether the applicant is eligible for access to the NDIS.

Outside of these exceptions, if an applicant chooses not to complete an independent assessment, we will consider that the applicant has withdrawn their access request.

### 3.8 Sharing independent assessment results

Regardless of the access request outcome, all applicants will be provided with both a summary of their independent assessment results and an explanation of the access decision. Guidance to help applicants understand their independent assessment results will also be provided.

Applicants will continue to be able to access the information we hold on them via the our [Participant Information Access Scheme](#).

### 3.9 Using independent assessment results to make decisions about access

The results of the independent assessment will be provided to the access delegate and will inform decisions about the applicant's eligibility to access the NDIS.

We will use the results of a person's independent assessment to determine whether they have substantially reduced functional capacity to undertake any of the six activity domains in the NDIS Act. This will include consideration of environmental factors, the presentation of their condition (i.e. episodic) and whether they were having a typical day for them.

An independent assessment will allow us to determine where a person's functional capacity lies on a continuum in relation to the wider Australian population. This helps us understand if a person's support needs are best provided by the NDIS or other mainstream systems of support, such as the health system.

The information from the independent assessment will also be used to inform decisions about the need and eligibility for some specific supports such as Specialist Disability Accommodation.

### 3.10 Eligibility reassessments

The NDIS supports people to reach their potential and live an ordinary life. The process we will use for eligibility reassessments is in line with the insurance principles of the NDIS, supporting capacity building of people with disability to live as part of the community.

If the time comes that people do not need NDIS supports anymore, and they no longer meet the residence, disability or early intervention requirements, then the CEO or their delegate may revoke their status as a participant in the NDIS in accordance with section 30 of the NDIS Act.

Where an independent assessment indicates a significant improvement in functional capacity, a participant may be referred for an eligibility reassessment, consistent with the current provisions of the Act. The information from the independent assessment may then be used to inform an eligibility reassessment decision.

A participant will be supported to transition out of the NDIS if they no longer meet the residence, disability or early intervention requirements of the NDIS. This is not new. Support to transition out will include general supports, such as Local Area Coordination and activities funded through ILC, to continue connecting with their community and mainstream services.

People with disability can return to the NDIS if there are further changes to their functional capacity in the future (supported by appropriate evidence, including an independent assessment).

### 3.11 Appeal rights and complaints

We will not be changing the review process. The access decision remains a reviewable decision and the applicant can request an internal review and then appeal the decision at the Administrative Appeals Tribunal (AAT).

Independent assessment results themselves will not be directly reviewable by the AAT. This is because independent assessments are not a decision the delegate makes under the NDIS Act. Instead, the delegate will request that an applicant has an independent assessment for the purposes of informing an access decision under the NDIS Act.

Disagreeing with the results of an otherwise sound and robust independent assessment is not sufficient for the NDIA to fund another assessment. Applicants can only seek a second assessment where the assessment was not consistent with the independent assessment framework, or if the applicant has had a significant change to their functional capacity or circumstances. In the instance where a new assessment is provided, the initial assessment and outcomes are to be considered invalid for all further decision making purposes.

We are developing a quality assurance framework for the delivery of independent assessments. This will ensure they meet the standards under relevant professional and regulatory frameworks.

Independent assessor organisations will also be:

- subject to the NDIS Code of Conduct
- required to meet the engagement principles and service standards set out in the Participant Service Guarantee.

We will establish a robust monitoring framework to ensure the way independent assessments are delivered is consistent and reliable, including across different parts of the country and by different assessor organisations.

A complaints process will be available for applicants who are dissatisfied with an independent assessment, their assessor, or the assessor organisation.

## 4. Consultation questions

We're working to finalise the design of the Access and Eligibility Policy. We're committed to working with people with disability, their families and carers, and the disability community and other stakeholders to get these changes right.

We value your feedback on the following questions. You can respond to all of them or just a few. We welcome any feedback on the policy as it is outlined in this paper.

### **Learning about the NDIS**

1. What will people who apply for the NDIS need to know about the independent assessments process? How this information is best provided?

### **Accessing the NDIS**

2. What should we consider in removing the access lists?
3. How can we clarify evidence requirements from health professionals about a person's disability and whether or not it is, or is likely to be, permanent and life long?
4. How should we make the distinction between disability and chronic, acute or palliative health conditions clearer?

### **Undertaking an independent assessment**

5. What are the traits and skills that you most want in an assessor?
6. What makes this process the most accessible that it can be? For example, is it by holding the assessment in your home?
7. How can we ensure independent assessments are delivered in a way that considers and promotes cultural safety and inclusion?

### **Exemptions**

8. What are the limited circumstances which may lead to a person not needing to complete an independent assessment?

### **Quality assurance**

9. How can we best monitor the quality of independent assessments being delivered and ensure the process is meeting participant expectations?

### **Communications and accessibility of information**

10. How should we provide the assessment results to the person applying for the NDIS?

## 5. Glossary

### Definitions

<b>Applicant</b>	A person with disability who is seeking to access the NDIS and has submitted an Access Request Form.
<b>Defined Programs</b>	Disability support and early intervention programs provided by state and territory governments that were determined to have similar eligibility criteria as the NDIS. People with disability accessing these programs did not have to apply in the standard way to access the NDIS during the transition to the NDIS across Australia.
<b>Delegate</b>	An NDIA staff member with delegated authority from the NDIA CEO to make decisions under the NDIS Act.
<b>Functional capacity</b>	Functional capacity refers to an individual's ability to be involved in life situations and to execute tasks or actions, with and without assistance (assistive devices and/or personal assistance). Information regarding impairment(s) and environmental factors, and how they impact the individual's function is included when assessing functional capacity.
<b>NDIS transition</b>	Refers to the transfer of the provision or funding of disability supports from state/territory to the federal government under the NDIS. Transition occurred gradually following NDIS trials commencing in 2013.
<b>Nominee</b>	A person who is appointed to act and make decisions for a participant who does not have a parent or guardian
<b>Participant</b>	A person who meets the NDIS access requirements.
<b>Prospective participant</b>	A person in relation to whom an access request has been made but not yet decided.
<b>Provider</b>	Someone who has products or services to help participants achieve the goals in their plan.
<b>Support for decision making</b>	Refers to the tools, frameworks and other mechanisms that help a participant directly to make a decision.
<b>Supported decision making</b>	Refers to additional people (such as nominees and guardians) who help a participant make a decision.