

Being an NDIS nominee

This fact sheet will help you understand what it means to be an NDIS nominee.

What is a nominee?

A nominee is a person who can make NDIS decisions for a participant aged 18 or older. A nominee can do things on behalf of the participant when working with the NDIS. We call this representative decision making.

The two types of nominees that can be appointed under the NDIS Act are:

- correspondence nominee
- plan nominee.

You can read more about the types of nominees on the NDIS website ([ndis.gov.au](https://www.ndis.gov.au)). Search for **Our Guidelines** and select **Appointing a nominee**.

Duties to the participant and the NDIA

As a nominee, under the NDIS Act you have:

- duties to the participant
- duties to the National Disability Insurance Agency (NDIA).

When we say us in this factsheet, we mean the NDIA.

Duties to the participant

Duty to understand the participant's wishes, and promote the participant's personal and social wellbeing

As a nominee, you must:

- find out what the participant would like to happen
- act in a way that supports the participant's personal and social wellbeing.

Sometimes the participant may not be able to let you know what they want. When this happens, you must try to work out what you think the participant would like to happen. You might do this by:

- looking back on other decisions the participant made
- thinking about the experiences you've had with the participant
- talking with other people who know the participant well.

Duty to consult

Before making an NDIS decision, you must also talk with other people in the participant's life. These people include:

- any other appointed NDIS nominee the participant has
- any court-appointed decision-maker the participant has
- any other decision-maker the participant has appointed
- any person who helps the participant manage day-to-day activities and make decisions, for example a support worker.

Duty to develop the participant's capacity

As a nominee you must help build the participant's skills to make decisions. Ideally, to a point where the participant can make decisions for themselves. This would mean they no longer need a nominee.

We must help you with this duty.

Duty to avoid or manage conflicts of interest

As a nominee you must tell us about any conflict of interest you have in relation to the participant. For example, if you provide the participant with services that you get paid for, we need to know. You must also tell us how you will manage this conflict of interest.

Notices asking the participant to do something personally

When the notice asks the participant to do something personally, the participant must do this. You can't do it on the participant's behalf. For example, the notice asks the participant to complete an allied health assessment. The participant must attend the allied health assessment personally. This is not something you can do for the participant. But the participant could ask you to go with them if they want. You should check this okay with the person doing the assessment.

For body corporate nominees only

A body corporate nominee is an organisation or company appointed as the participant's nominee.

For each participant they are the nominee for, they must:

- make sure there is an dedicated person, for example an employee or officer, who is involved with making the nominee decisions
- tell us who that person is
- tell us if that person changes.

Duties to the NDIA

Notices

We may send you or the participant a notice. A notice, usually a letter, will tell you when you need to complete an action or provide us with information.

As a nominee, you need to give us the information the notice asks for, in the timeframe we tell you, unless you have a reason.

Correspondence nominees

We send all notices to the correspondence nominee. When we send a notice to you as the correspondence nominee, we treat this as giving a notice to the participant.

Sometimes we contact the participant directly and give them a notice. If we do this, we will tell you that we gave the participant a notice and provide you with the details.

Plan nominees

We must tell plan nominees when we send a notice to the participant about the preparation, management or review of their plan. This includes the details of the notice.

Notice about the nominee's ability to act

We'll send you a written notice to you asking you to tell us of any event or change in situation that may affect your ability to:

- act as a nominee
- comply with notices we give you
- receive notices from us.

Duty to notify us of changes in circumstances

You must tell us as soon as practical if there is a change, or you become aware of a change that is likely to affect your ability to:

- act as a nominee
- receive notices from us
- comply with notices provided by us, including notices asking nominees to tell us how the participant has used their NDIS funds.

If you don't tell us about these changes, or likely changes, you may be subject to a civil penalty under NDIS laws.

If you do not meet your duties to the NDIS or participant

As a nominee, you must act in the participant's best interests and carry out your duties as outlined in NDIS laws. This includes supporting the participant's rights, will and preferences, and acting in good faith when dealing with us and other organisations involved in the NDIS.

Suspension and cancellation

If you do not meet your responsibilities as a nominee, we may take action.

Depending on the circumstances, this could include suspending or cancelling your appointment as a nominee.

You can read more about when we would suspend or cancel a nominee on the NDIS website ([ndis.gov.au](https://www.ndis.gov.au)). Search for **Our Guidelines** and select **Appointing a nominee**.

Civil penalties and criminal offences

In some circumstances, there may be civil penalties or criminal offences for nominee conduct.

These may apply if a nominee:

- provides false or misleading information to us or the NDIS Commission
- obtains NDIS funding they know you aren't entitled to
- obtains NDIS funds through deception or dishonesty
- intentionally destroys records to avoid investigation or interrupt an audit, review, investigation or compliance activity
- misuses their nominee role for personal gain or to cause harm to a participant
- improperly accesses or seeks information about a participant when they are no longer the participant's nominee.

A civil penalty is a court-ordered fine. Criminal offences may result in imprisonment.

We understand these are serious consequences. They are serious because nominees play an important role in supporting participant rights and safety.

NDIS laws also protect nominees. A nominee is not criminally liable or liable to a civil proceeding:

- in relation to the actions of a participant
- if they act in good faith in their role as nominee.

By accepting the nominee appointment, you agree to carry out your duties in a way that supports the participant's rights and safety.

Further information

You can find more information in Our Guideline – Appointing a nominee. On the NDIS website ([ndis.gov.au](https://www.ndis.gov.au)), search for **Our Guidelines** and select **Appointing a nominee**.