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Supporting participants involved with the justice system

Providers and justice professionals should work with us to support a participant's needs while they're involved with the justice system.

We make decisions about NDIS eligibility and funding. Justice agencies are responsible for custody, supervision, enforcing lawful orders and community safety.

Learn about NDIS supports when a person is involved with the justice system.

Supporting people to apply to the NDIS

Providers and justice professionals can help a person involved with the justice system apply to the NDIS, with their consent.

This may include helping them:

- explain how their disability affects daily activities and what disability support they need
- gather evidence to apply as early as possible before transition planning begins.

Being involved with the justice system doesn't stop a person from being eligible for the NDIS. We decide whether a person meets the eligibility requirements under NDIS laws.

Applying to the NDIS and using NDIS supports is the person's choice. They can't be forced to apply or use their NDIS supports.

Supporting participants in custody

A participant's community-based supports may change when they enter custody.

Providers should work with the participant, justice professionals and us to:

- share relevant changes in disability support needs, where authorised
- make clear which supports are the justice system's responsibility

- plan how to provide funded NDIS supports.

We may fund some disability-related supports while a participant is in custody. These must be NDIS supports.

Justice agencies decide whether supports are safe to deliver while in custody and whether they meet security requirements.

Justice agencies are responsible for daily care and support in custody. This includes accommodation, personal care, healthcare, supervision and security.

We can't fund supports that are the justice system's responsibility.

Learn more about what supports are and are not NDIS supports.

Supporting participants to transition out of custody

Providers and justice professionals should work with us to plan for the participant's disability support needs when they leave custody.

Depending on the type of provider and what is in the participant's plan, this may include:

- providing NDIS supports to transition back into the community
- helping the participant build relationships with providers before release
- helping the participant prepare for new routines and places
- connecting the participant with ongoing disability, community and mainstream services.

We may fund time-limited, disability-related supports that help the participant transition back into the community.

Disability support and release planning should contribute to the same goals, while recognising that NDIS providers and justice agencies have different responsibilities.

Justice agencies lead release planning. Their responsibilities include:

- correctional case management
- risk and safety assessments
- parole preparation
- justice-led housing pathways
- connecting people with mainstream services
- community safety planning.

Justice professionals should share relevant release arrangements and changes with us early, where authorised.

Restrictive practices

Under the NDIS Act, restrictive practices are strictly regulated and can only be used in limited circumstances where they are authorised and included in a behaviour support plan.

These practices can’t be used by providers to enforce compliance with a court order, parole condition or other lawful order.

Lawful orders

A lawful order is an order from a court or tribunal that a person must follow. Examples include bail conditions, parole, probation and forensic orders.

Justice authorities enforce these orders, not NDIS providers. Approved NDIS supports can’t be used to check or enforce compliance.

For example, a support worker can help a participant build daily living skills or attend appointments. They can’t be funded to check if parole conditions are being followed or report breaches for a justice agency.

People who can help you

Justice Liaison Officers (JLOs) are the main contact between us, providers, justice professionals and agencies supporting people with disability who are involved with the justice system.

JLOs can:

- explain NDIS processes to mainstream justice services
- answer questions and help resolve barriers between the NDIS and mainstream services
- provide education and guidance on best practice.

JLOs can help justice professionals:

- support people to apply for the NDIS, including understanding consent requirements and preparing documents
- track applications and prioritise requests
- understand decisions and next steps, including creating a plan if the person is eligible
- connect with our internal teams
- support a participant’s transition back into the community.

Sharing participant information

Sharing participant information at the right time helps us and other services work together.

You can only share a participant's information when it's lawful and necessary to providing or planning supports, or with their consent.

In some circumstances we can share participant information if it's lawful for us to do so.

This information could include:

- evidence of disability and how it affects their daily life
- disability support and communication needs
- safeguarding concerns
- risks providers need to consider when delivering supports
- custody dates and expected release dates
- relevant conditions of court orders or approved leave
- how the participant would like to make their decisions
- contact details for other people and services involved in supporting the participant.

It's important to share information as early as possible if the participant:

- is in the youth justice system
- has complex support needs.

Downloadable resources

Learn more about the roles and responsibilities of the NDIS and the justice system.

Download our guide to assist, tribunals and judicial stakeholders:

- Guide to assist courts, tribunals and judicial stakeholders (PDF 200KB)
- Guide to assist courts, tribunals and judicial stakeholders (DOCX 127KB)

Download our guide for providers and external stakeholders:

- Guide for providers and external stakeholders (PDF 226KB)
- Guide for providers and external stakeholders (DOCX 99KB)

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