

Compensation Operational Guideline - Calculating the Compensation Reduction Amount (CRA) when compensation is fixed by a non-consent judgment, consent judgement, or settlement and the NDIS component is objectively identifiable

9.1 Calculating the Compensation Reduction Amount (CRA) when compensation is fixed by a non-consent judgment, consent judgement, or settlement and the National Disability Insurance Scheme (NDIS) component is objectively identifiable

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Where [compensation](#) is received under a [non-consent judgement](#), [consent judgement](#) or [settlement](#) and the [NDIS component](#) is [fixed](#), or is [objectively identifiable](#), the approved CRA will be calculated in accordance with rules 3.11-3.12 of the [National Disability Insurance Scheme \(Supports for Participants - Accounting for Compensation\) Rules 2013](#) (Compensation Rules) (also see rules 3.5 and 3.6).

9.1 Steps for calculating the CRA where the NDIS component is fixed by a non-consent judgement, consent judgement or settlement, or is objectively identifiable

To calculate the compensation reduction amount in accordance with rules 3.11-3.12 of the Compensation Rules, the NDIA will:

Step 1 - Rule 3.11(a) of the Compensation Rules

Identify the NDIS component of the compensation.

The NDIS component will be identified as follows:

- if the component is specified in a non-consent judgement – that amount;
- if the component is not specified in a non-consent judgement but the NDIA is satisfied a specified amount was paid to ensure the provisions of periodic payments – for example because benefits under a Commonwealth, State or Territory scheme of insurance are [commuted](#), that amount (rule 3.3);
- otherwise – the value of the periodic payments as assessed in accordance with accepted actuarial standards, in consultation with the scheme actuary (rule 3.3).

Step 2 - Rule 3.11(b) of the Compensation Rules

Subtract an amount equivalent to the total of the amounts paid by the participant for supports of a kind funded under the NDIS, between the date of the non-consent judgement, consent judgement or

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judgment, consent judgement, or settlement and the NDIS component is objectively identifiable

This step recognises a person may have used their compensation to pay for the kind of supports the NDIS may fund, prior to becoming a participant. By reducing the CRA to account for those amounts paid, the NDIA ensures participants are not disadvantaged by having used their compensation in this way. For more information on the kinds of supports funded under the NDIS see [NDIS Price Guides](#).

This amount will be identified in consultation with the participant. To identify this amount, the NDIA will require information and evidence of past amounts paid. For more information see [Information and documentation required for NDIA to accurately and appropriately undertake its functions, the Information Handling Operational Guidelines](#), and/or the [NDIA Privacy Policy](#).

Step 3 - Rule 3.11(c) of the Compensation Rules

Subtract the amount of any reduction in the participant's funding that has occurred previously in respect of the non-consent judgement, consent judgement or settlement.

A participant may have had previous reductions in funding applied to their statement of participant supports (see section 33(2) of the [National Disability Insurance Scheme Act 2013](#) (NDIS Act) in respect of compensation paid under the non-consent judgement, consent judgement or settlement.

Each time the participant's plan is reviewed, the new plan will take into account earlier CRAs calculated to prevent double reductions.

The amount remaining after steps 1 - 3, is the compensation reduction amount.

9.2 Example calculation

If:

- On 1 December 2017, a person receives \$1,000,000 under a non-consent judgement.
- The non-consent judgement identifies the NDIS component as \$300,000.
- On 1 December 2018 the person becomes a participant in the NDIS.
- Between 1 December 2017 and 30 November 2018, the participant paid \$25,000 for supports of a kind funded under the NDIS.

The compensation reduction amount is calculated as follows:

- Identify the NDIS component of the amount of compensation: \$300,000
- Subtract the amount paid to the participant for supports of a kind funded under the NDIS, between the date of the non-consent judgement (or settlement) and the date before the person became a participant: \$25,000

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judgment, consent judgement, or settlement and the NDIS component is objectively identifiable There has been no reduction of funding to the institution of participant supports in relation to the CRA calculated from the non-consent judgement. This means no subtraction is made under Rule 3.11(c) of the Compensation Rules. 01/06/2024, 11:55

The compensation reduction amount is \$275,000.

9.3 Compensation reduction amount reduced to nil

If a compensation reduction amount is reduced to nil, there will be no reduction to the statement of participant supports (see rule 3.12).

For more information see [What happens if compensation reduction amount is reduced to nil.](#)

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