

# NDIS Supported Decision Making Policy Summary

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[ndis.gov.au](https://www.ndis.gov.au)

The NDIS logo consists of the lowercase letters 'ndis' in a white, sans-serif font. The letter 'i' has a small green dot above it. The logo is set against a white circular background.

# Contents

1. Introduction	3
What is supported decision making?	3
2. Policy scope	3
3. Policy statement	4
4. NDIS approach to Supported Decision Making	4
Funding of decision supports for NDIS participants	5
5. Recognising decision supporters	5
Representatives	5
Other representatives outside the NDIS	6
6. Dignity of risk, consent, influence and safeguards	6
7. Implementation plan	7

## 1. Introduction

People with disability have the right to make their own decisions. The United Nations Convention on the Rights of Persons with Disabilities outlines the rights of people with disability to dignity, autonomy, decision making, and recognition of legal capacity.

We want to strengthen the National Disability Insurance Scheme (NDIS) based on advice from the Independent Advisory Council, feedback from the disability community and what we have learned in co-design.

We want to improve how we support people with disability to make decisions in the NDIS. The Supported Decision Making Policy (Policy) explains our role and the changes we will make.

The policy is focused on the decisions people make about the NDIS, like applying, their goals and how to use the supports in their plan.

### **What is supported decision making?**

Supported decision making is the process of providing support to people to make decisions to remain in control of their lives. It involves building the skills and knowledge of people, their families, carers, peers and professionals.

Everyone uses supported decision making, as everyone needs support with decisions at different points in time. These can range from small decisions like what to eat today to bigger decisions about where to live.

How much and what kind of support a person needs to make decisions can change from time to time too. A person's age and life experience also impact the decisions they make.

When we support participants to make decisions we move away from substitute decision making. This is when someone decides for the participant. Substitute decision making takes choice and control away from participants.

## 2. Policy scope

This policy covers:

- participants from when they enter the Scheme to when they exit the Scheme
- people with disability who engage with early childhood partners or Local Area Coordination partners ('partners')
- all areas of the NDIS, including NDIA staff and partners
- decisions people make about the NDIS, like applying, their goals and how to use the supports in their plan.

### 3. Policy statement

Everyone has the right to make decisions that affect their life and to have those decisions respected. People must be provided with the support necessary to make and communicate decisions that affect their lives.

The Australian Law Reform Commission (ALRC) recommended [four National Decision Making Principles](#). We follow these principles in this Policy.

Supporting people with disability to make decisions is a central part of the [National Disability Insurance Scheme Act 2013](#) (NDIS Act). The NDIA has an important role to recognise and use supported decision making in all interactions with participants.

To deliver the supported decision making policy we will:

- make supported decision making part of NDIS policies, systems and processes
- promote training and resources for participants and their families and carers
- provide opportunities for participants to make their own decisions
- help all NDIA and partner staff understand supported decision making and their role
- make sure all NDIA and partner staff have the training they need, to think about what support people with disability and their supporters might need to make decisions
- ensure NDIA and partner staff have conversations about making decisions focused on each person as an individual. Looking at their strengths, and how to build and maintain supports and networks that help them make decisions and lead the life they want
- work with government and stakeholders to build approaches together that support people with disability to make decisions.
- Improve how we appoint and review nominees, and have more focus on supported decision making including where there is a nominee in place.

### 4. NDIS approach to Supported Decision Making

Supporting NDIS participants to make decisions is a shared responsibility between many people, organisations, and levels of government.

We work alongside the NDIS Quality and Safeguards Commission, mainstream services, community organisations and participants with their family, friends, paid and unpaid carers and support providers.

We will seek to understand a person's decision support needs and who is supporting that person, rather than assess a person's capacity to make decisions.

The approach to supported decision making in the NDIS:

1. is individual to each person
2. recognises the role of relationships, kinship and trust
3. looks at decision making as a process
4. takes a lifespan approach
5. recognises the importance of key transitions in a person's life.

Some NDIS decisions are made by NDIA staff. The decisions NDIA staff make are set out in the NDIS Act. Important decisions that NDIA staff make are called 'reviewable decisions'. They include access to the NDIS, whether to appoint an NDIS nominee and the supports approved in a plan. We must provide reasons why we made the decision.

### **Funding of decision supports for NDIS participants**

Decision making support needs will be considered as part of planning.

## **5. Recognising decision supporters**

The ALRC looked at ways to make laws about making decisions, voting and justice fairer for people with disability in 2014. We apply their advice about decision making principles and recognising the role of supporters and representatives in this Policy.

The NDIA will support participants to be at the centre of their decisions as the decision maker.

A '**decision supporter**' is anyone chosen by the participant or person with disability to support them to make a decision. They can ask any person they would like to be their decision supporter, and there might be more than one person.

The NDIA will recognise the role of the decision supporter and their relationship to the person, how they support the person, and in what capacity.

Decision supporters must not make the decision on behalf of the person with disability. This is different from a 'representative'.

### **Representatives**

Representatives assist a person who requires support to make decisions or, where necessary, makes decisions on their behalf. The decision made by the representative reflects the will and preferences of the person they are assisting.

There are two types of representatives under the NDIS Act: child representatives and nominees.

Child representatives make decisions about the NDIS on behalf of participants under the age of 18 (children).

Nominees make decisions about the NDIS on behalf of participants over the age of 18 (adults). A 'nominee' is a representative who is appointed by the CEO under the NDIS Act to act on behalf of a participant who is 18 years or older.

Our policy position on child representatives and nominees is that:

- supported decision making must be encouraged
- representatives (child representatives and NDIS nominees) will not be appointed as an alternative to providing appropriate support
- we will only appoint plan nominees on our own initiative if a participant cannot be supported to make their own decisions about the NDIS
- the will, preferences and rights of all participants will direct decisions that affect their lives.

The NDIS will only appoint a representative to make decisions on an adult participant's behalf if the participant can't be assisted to make the decision, or they do not want to make the decision for themselves.

### **Other representatives outside the NDIS**

In some cases, participants and people with disability who apply for the NDIS will have appointed representatives who can make decisions in other areas of their life.

We recognise court appointed decision makers made by state and territory bodies have the authority to make decisions about a participant.

## **6. Dignity of risk, consent, influence and safeguards**

People with disability have the right to make decisions that involve risk. Risk should be considered and discussed during the decision making process.

Through supporting risk and encouraging people to make choices and take chances, people can learn and increase self-esteem, self-respect, empowerment and hope, leading them to live self-determined lives.

Sometimes a participant's preferences and decisions may put them at risk of harm. If this happens a decision supporter can help them to understand these risks and how they can be managed.

If a participant doesn't understand the risks, even with supported decision making, and serious harm might happen because of their decision then a substitute decision making arrangement (plan nominee) may be needed. This plan nominee would make decisions focused on wellbeing, and it would only happen for a limited time.

The NDIA's approach to supporting participant safety is detailed in the [NDIS Participant Safeguarding Policy](#).

## 7. Implementation plan

The Policy is the first step to improving our approach to supported decision making.

We are committed to working together to implement the Policy with the people it affects.

The [Supported Decision Making Implementation Plan](#) outlines the key areas we need to make improvement in.