

Appealing an NDIS decision



It can be a shock if your child's NDIS Plan comes back with major changes or is different from what you expected.

If this happens, take some time to read through the Plan and consider if your child's needs are still being met.

If you are still concerned you can ask for a review of the decision. You may need to provide more evidence to justify what you believe your child and family needs.

There are three types of review:

- Internal review
- External review, also known as an Administrative Review Tribunal (ART) Appeal
- Change in circumstances

Your child's current approved Plan will continue throughout the review process until a decision is made.

Requesting a review of an NDIS decision can be time consuming and emotionally draining. It can help to get support through this process.

1. Internal review

An internal review must be requested within three months of the decision.

To request an internal review you can:

- Call the NDIS on 1800 800 110
- Complete the Request for a Review of a Decision form. Sometimes this is called an s100. <https://www.ndis.gov.au/applying-access-ndis/how-apply/receiving-your-access-decision/internal-review-decision#download-the-review-of-a-decision-form>
- Send a letter with supporting evidence to:

Chief Executive Officer
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601

What you need to provide

- Date of the decision
- What decision you were expecting
- Why you think the NDIA should make a different decision
- Why you want to reconsider some of the information you provided
- Any new evidence you would like the NDIA to consider, such as medical or therapy reports

How long the process takes

The NDIA aims to complete reviews within 90 days from the day they receive your request.

If this isn't possible, they will contact you to explain why they need more time and when they will make a decision.

Other things to consider

The decision may be provided to you in writing with no opportunity for discussion.

2. External review or ART Appeal

If you are unhappy with the internal review decision you can make an appeal to the Administrative Review Tribunal (ART). This is called an external review.

You can only request an external review after an internal review decision has been made.

You must lodge an ART Appeal within 28 days of getting the outcome of your internal review.

Application forms are available online:

<https://www.aat.gov.au/apply-for-a-review/national-disability-insurance-scheme-ndis/how-to-apply>

The Tribunal will let you know if they can review the decision or not. If they can't, they will explain why and give you an opportunity to tell them why you think they need to do the review. A hearing may be held to decide if they can review the decision.

If they can review the decision, the next step is usually a case conference. This is a private meeting between you and the NDIA facilitated by the ART to talk about your case. Many cases are resolved at this stage.

The case conference will be conducted by an ART representative and attended by:

- You or your representative
- A representative of the NDIA
- An NDIA lawyer

You can bring a support person such as a friend or family member with you.

If there is no agreement, the Tribunal will prepare a written case plan setting out how the application will proceed.

A hearing will be held if the review is not resolved at the case conference. This is an opportunity for you to present information and say why you disagree with the decision under review.

Evidence you need to provide

- Evidence you provided for the internal review
- Any additional evidence you think will support your position

An NDIA lawyer may contact you to request further evidence.

How long the process takes

The ART Appeal process usually takes at least a few months.

Other things to consider

The ART representative will remain unbiased and allow the case to be discussed fairly.

They are not authorised to make a decision but they can suggest how to resolve the issue.

There may be more than one case conference before it is resolved or goes to a hearing.

Getting advocacy help

You can get help from advocacy organisations but there may be a waiting list. Here is the list of funded organisations. ACD is not funded to help with NDIS appeals.

Finding an NDIS Appeals Program provider

<https://www.dss.gov.au/support-appealing-ndis-decisions#finding-an-ndis-appeals-program-provider>

3. Change in circumstances

If your circumstances have changed since your planning meeting, you can ask for a Plan Review instead of appealing the decision.

Changes that might result in a Plan Review include:

- Changes to support from family and friends
- Changes to the functional impact of your child's disability, meaning you might need more or less support

To inform the NDIS of a change of circumstances you can:

- Call the NDIS on 1800 800 110
- Complete the Change of Situation or Change of Details form
<https://www.ndis.gov.au/participants/using-your-plan/changing-your-plan/change-circumstances#download-the-form>

- Send a letter with supporting evidence to:

Chief Executive Officer
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601

Evidence you need to provide

Information about why the change in circumstances means the Plan needs to change.

How long the process takes

The NDIS should let you know within 14 days if there needs to be a Plan Review because of your change in circumstances.

Useful links

Support with appealing NDIS decisions

<https://www.dss.gov.au/support-appealing-ndis-decisions>

How to review a planning decision

<https://www.ndis.gov.au/participants/how-review-planning-decision>

Related topics

Getting good evidence for the NDIS

<https://www.acd.org.au/getting-good-evidence-for-the-ndis/>

Getting ready for your child's NDIS Plan Reassessment meeting

<https://www.acd.org.au/getting-ready-for-your-childs-ndis-plan-reassessment-meeting/>