

Making Substitute Decisions under the National Disability Insurance Scheme (NDIS)

The Role of the NSW Public Guardian

Who is the Public Guardian?

The Public Guardian is appointed by the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT) or the Supreme Court as the guardian of last resort.

The Public Guardian is only appointed for a limited time to make certain health and lifestyle decisions for people with a disability who are deemed unable to make their own decisions. Health and lifestyle decisions can include decisions about accommodation, services, health care and medical and dental treatment.

Are all people represented by the Public Guardian eligible for the NDIS?

The Public Guardian does not decide who is eligible for the NDIS but does advocate for represented people to become participants in the scheme. The NDIS can be accessed by Australian citizens who have a permanent disability and are aged 65 and under.

More information about the NDIS and how to access the scheme is available at www.ndis.gov.au

What is the key role of the NSW Public Guardian within the NDIS?

Every NDIS participant does not necessarily have or need a guardian. In a lot of cases, participants can be supported to make their own decisions about the supports they want.

If appointed with the appropriate functions the Public Guardian has a specific and limited role with regards to the NDIS. The Public Guardian will advocate for the participant's reasonable and necessary support needs,

both current and future, to be built into their NDIS plans.

Our role is to stand in the shoes of the person, seek their will and preference about decisions and uphold their human rights.

What will the Public Guardian do?

- ✓ provide verbal consent for represented people to access the NDIS
- ✓ participate in planning meetings when appropriate
- ✓ advocate on behalf of the participant where there are gaps in their current supports
- ✓ consent to specific services to support the participant, as identified in the NDIS plan
- ✓ encourage the promotion of the participant's decision making capacity
- ✓ request alternative providers be located if needs of the participant are not being met
- ✓ consent to release of relevant information
- ✓ receive and keep a copy of the participant's NDIS plans on file
- ✓ request a review of a plan if necessary

What won't the Public Guardian do?

- ✗ sign service agreements
- ✗ manage the participant's plan
- ✗ act as a case manager or coordinator of supports
- ✗ make any payments or receive invoices
- ✗ be appointed or act as the Nominee
- ✗ formally evaluate the quality of care or standards of registered providers

If you have concerns about a service provider, you can contact the NDIS Quality and Safeguards Commission on 1800 035 544 or visit their website www.ndiscommission.gov.au

Where to find more information on NDIS Nominees and alternatives to Guardianship

Legally appointing a substitute decision maker is a last resort and should only be considered after all other informal options including support with decision making have been tried.

To read more on supported decision making and alternatives to guardianship you can visit the Public Guardian website listed in the contact information below.

Specifically in the context of the NDIS, if a person has an appointed Nominee and there are no substitute health or lifestyle decisions to be made, there may be no need to legally appoint a Guardian.

To read more about appointing a Plan or Correspondence Nominee, visit the NDIS website at <https://www.ndis.gov.au/understanding/families-and-carers/guardians-and-nominees-explained>.

Information about NDIS and financial management orders

Contact the NSW Trustee and Guardian on 1300 364 103 for information about managing a person's funding if they have a legally appointed financial manager or Enduring Power of Attorney. Alternatively you can visit their website www.tag.nsw.gov.au

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