

A Guide to the Administrative Appeals Tribunal for NDIS Appeals

What happens if I disagree with the result of my NDIS review?

If you disagree with a decision made by the National Disability Insurance Agency (NDIA), you must first ask the Agency to review the decision. This is called an *internal review*. If you then disagree with the decision of the Agency in your internal review, you can apply to review the decision with the Administrative Appeals Tribunal (AAT), an independent body. The decision you have been given by the Agency will say whether or not the AAT can review it. For example, it could say

“If you believe my decision is wrong you can apply for an external review by the Administrative Appeals Tribunal (AAT). You must do this within 28 calendar days of receiving this letter. Further information is available on the AAT website or you can call 1300 366 700.”

If it does not, then it will not be considered an internal review and the AAT cannot review it. When this fact sheet refers to “you” it means the NDIS participant, and includes his or her nominee, representative or support person.

Some of the decisions the AAT can review are:

- a decision that a person does not meet the access criteria
- a decision to approve the statement of supports in a participant's plan
- a decision not to review a participant's plan
- a decision to approve a person or entity as a registered provider of supports
- a decision to revoke an approval as a registered provider of supports
- a decision to make, or not to make, a determination about who may do things on behalf of a child
- a decision to make, or not to make, a determination that a person has parental responsibility for a child
- a decision to appoint a plan nominee or a correspondence nominee.

When reviewing a decision, the AAT has the power to:

- affirm the decision (meaning the decision is not changed); or
- vary the decision (meaning part of the decision is changed); or
- set aside the decision, and make a new decision in its place or send the case back to the Agency to make a new decision.

How Do I Apply?

You can fill out an [application form](#), write a letter by post, email or fax. The AAT can help you complete an application if you need assistance. Remember to attach a copy of the decision or if you cannot, give a brief description of the decision in your letter.

To appeal, you have 28 days after you have received the decision of the internal review from the NDIA. If you miss the cut off date, you can [apply for an extension](#) of time. If you change your mind, you can write at any time to withdraw your application without having to explain why, or the AAT can send you a withdrawal form.

Timeframes



Application received – AAT sends letter to you – Contact Officer appointed


3 days – Contact Officer makes contact with both parties

28 days – NDIA must provide documents called T documents in this time

2-4 weeks – after receipt of T docs, case Conference date made

2-4 weeks – Conciliation after Case conference

OR



6 weeks – after case conference – Fast Track hearing can be applied for where both parties are ready and no one is at any disadvantage.

Preparation for hearing – Summary of position no later than 7 days prior, and all documentation no later than 14 days prior.

A witness can provide evidence by video or phone but must apply beforehand. It may go to a Directions Hearing in order to determine if can or cannot happen.

Appeals Lodgement Statistics – NSW and Australia

There has been a spike in the number of appeals in relation to the NDIS. Total lodgements for appeals nationwide have increased for the period from 1 July 2016 to 31 May 2017, from 63[1] to 168, a 58 per cent rise. The majority of these lodgements came from NSW – 90 with 60 lodgements only in the last 3 months. Of the matters finalised nationally – 1.3% won their appeal (by the AAT), 6.4% won the appeal (by consent), 6.4% lost their appeal, 45% were withdrawn by the applicant, 16.6% had no jurisdiction, 15.4% were varied (by consent), 5.1 % were dismissed by the Tribunal.

These statistics show that it is still worthwhile making an application for review in the AAT.

If you are interested in more about the statistics with a full break down in NSW and the rest of Australia, [click here](#).

Contact us if you need more information or have any questions.

[Contact us](#) by phone, email, post if you want more information about applying to the AAT.

