

# The Public Guardian and the NDIS

The Public Guardian has a direct role in implementing the obligations and protecting rights prescribed under the United Nations *Convention on the Rights of Persons with Disabilities*

## The National Disability Insurance Scheme (NDIS)

The NDIS is a national system to provide funding for disability support and services.

The NDIS is not means-tested, and participants include people with intellectual, physical, sensory and psychosocial disabilities.

The most significant feature of the NDIS is to encourage choice, control and self-directed funding for people with disabilities.

The NDIS allows a participant in the scheme to choose how and where their funding is spent, based on their support needs and personal goals.

Accessed by Australian citizens who have a permanent disability and are aged under 65, the NDIS will progressively roll out across Queensland over a three year period commencing 1 July 2016.

Information about the NDIS is available at [www.ndis.gov.au](http://www.ndis.gov.au).

## The Public Guardian and the NDIS

Under the *Guardianship and Administration Act 2000* (GAA) and the *Powers of Attorney Act 1998* (PAA), the Public Guardian may act as guardian or attorney for an adult with impaired capacity.

Although the function of these roles can include making decisions on behalf of the adult in relation to services funded under the NDIS, the Public Guardian promotes a supported decision making approach and encourages adults with impaired capacity to have maximum participation and minimal limitations in decisions affecting their lives.

The Public Guardian does not determine eligibility for the NDIS but we will advocate for represented people to access the scheme or alternate supports.



### Contact Us

Office of the Public Guardian

t. 1300 653 187 or 07 3234 0870

e. [adult@publicguardian.qld.gov.au](mailto:adult@publicguardian.qld.gov.au)

[www.publicguardian.qld.gov.au](http://www.publicguardian.qld.gov.au)

## The Public Guardian and service providers

The Public Guardian works with the participant and other interested parties to support them to choose a service provider in accordance with their NDIS plan.

The participant's right to choose a provider is always encouraged to the greatest extent possible, and a participant must be able to change service providers when they wish (in accordance with any service agreements).

Participants are encouraged to express their will and preferences, and the Public Guardian will only override will and preferences where necessary to protect them from significant risk to their personal or social wellbeing.

The Public Guardian is able to provide consent for the service provider to engage and provide supports to the participant, relevant to the specific items within their NDIS plan.

This consent can also include authorisation for the service provider to make a service booking within the NDIS portal, where the participant is unable to do so themselves.

The Public Guardian's consent will always be provided in writing, either via email or letter to the service provider, with the understanding that the Public Guardian will not generally sign a service agreement on behalf of adults, instead service providers are encouraged to work with NDIS participants directly, allowing them choice and control over how their services will be provided.

The service provider should ensure the participant has adequate information and support to assist them in understanding the nature and effect of each particular matter within the agreement.

The participant should also be provided with the opportunity to propose any changes to the agreement or negotiate terms of the supports.

## Seeking Public Guardian appointment specifically for NDIS matters

The Public Guardian should only be appointed guardian for an adult in relation to NDIS when there is no less restrictive way for the adult to be supported.

Where an adult has been identified as requiring assistance to go through the NDIS process, the adult in the first instance should be either:

- referred to the Local Area Co-ordinator,
- assisted by family or friends, or
- referred to an advocate.

Prior to an application being submitted for the appointment of a guardian, the adult should be given all support necessary to ensure they understand the NDIS process and can exercise choice and control.

An application for the appointment of a guardian should only be submitted in cases where the adult does not have the capacity to express choice and control in relation to their NDIS plan and they are not able to be assisted to make their own decision.

If you are unsure if an application should be lodged you can contact the Office of the Public Guardian to discuss this further.