



# Changes to the NDIS Act: The Amendment Bill

Deaf Services and the Deaf Society

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## ABOUT US

The Deaf Society and Deaf Services Ltd (TDS&DSL) are specialist service providers for deaf, deafblind, and hard of hearing Australians. We merged into one organisation in October 2020 and work with the Deaf Community to see deaf people “empowered, connected, and achieving”.

## GUIDE FOR SUBMISSION

**If you wish to make a submission on Schedule 1 (Participant Service Guarantee) or Schedule 2 (Flexibility Measures) of the Bill, you may wish to answer the following questions:**

1. Could the proposed amendments in this particular Schedule lead to any misinterpretation or unintended consequences?

Flexibility Measures allowing the NDIA to intervene where there is market failure will not address the ongoing problem of thin markets for Deaf participants. Certain supports for Deaf participants cannot be provided in regions where there are no skilled resources available, such as Auslan interpreters or support coordinators who are at least proficient in Auslan. Fluency in Auslan, like any language, takes years to acquire.

To ensure Deaf participants have access to the services they require, TDS&DSL recommends that the NDIA embed the provision of appropriate communication devices with 4G capability where there are supply issues and service gaps. This will enable Deaf participants to access Auslan interpreters and other signing supports remotely where there are none available locally.

In addition to this, under proposed changes, **Item 40** of schedule 1 inserts two new subsections, **100(1B)** and **(1C) of the Act**, indicating participants can request the CEO provide reasons for decisions made by the NDIA, prior to any internal review application.

TDS&DSL recommends that all correspondence from the Agency should be provided to Deaf participants in their first language, Auslan, due to varying literacy levels across the Deaf community. This will ensure all participants receive reasons for decisions made about them, in their language of choice, and not just those who are willing or capable of submitting a request.

2. Are there any other changes which could improve the participant experience in the NDIS?

To improve the participant experience for the Deaf and hard of hearing community, TDS&DSL recommends the following:

- Approve the provision of appropriate communication devices for Deaf participants such as tablets with 4G capability to improve access to Auslan interpreters, thereby engaging in and connecting to the wider community through virtual means especially in rural and remote areas where known thin markets exist.
- Provide appropriate, Deaf friendly applications for video calls made by the NDIA, such as Zoom, to ensure full accessibility. Internal security measures should not be a barrier to utilising accessible platforms for this cohort and further innovation in this space should be considered.

- Provide Auslan access at the NDIA Call Centre through employing Deaf people, to enable Deaf participants to connect with the NDIA in its first language, Auslan.
- Provide culturally appropriate services to Deaf and hard of hearing participants by mandating regular and ongoing Deafness Awareness Training for all NDIA staff working in service delivery nationally and engage more Deaf planners and LACs.
- Deliver all Agency documents to Deaf participants with Auslan translations via QR code to ensure content is accessible and understood.
- Provide more information on the NDIA website in Auslan, including COVID-19 responses and changes.
- Provide a detailed translation of a typical Support Plan in Auslan on the NDIA website.

**If you wish to make a submission on the new NDIS Participant Service Guarantee Rules, you may wish to answer the following questions:**

1. Are the proposed engagement principles and service standards that will underpin how the NDIA works alongside people with disability in delivering the NDIS appropriate? Are there additional particular types of consultation or engagement important to consider? (See Part 2 of the NDIS PSG Rules)

As a temporary response to COVID-19, the NDIA allowed participants to spend up to \$750 from their core budget to purchase an iPad or tablet. Unfortunately, service providers were advised that participants could not purchase a device with 4G capability, limiting its use to areas only with Wi-Fi. Whilst this temporary response was well intentioned, its limitations and eventual removal from core budgets has the potential to reiterate the concept of what we know as thin markets and limited access to services thereby impede on participants connectedness which is an underpinning service standard of the NDIS.

As an approach to addressing thin markets, TDS&DSL's interpreting division, Auslan Connections, provides Video Remote Interpreting (VRI). VRI reduces travel, maximising interpreter's availability, allowing Deaf participants residing in regional and remote areas to access Auslan interpreters via video conference. However, if the approved device does not have 4G capability, and there is no access to Wi-Fi, the device is not functional.

#### **Case Study**

A Deaf participant in the Northern Territory was declined a communication device by the NDIA to access interpreters remotely. The NDIA stated the device was not disability specific, despite a Speech Therapist's report justifying the need for a communication device. Without the device and 4G capability, the Participant is unable to access Auslan interpreters or Speech Therapy. It should be noted that there are no Auslan interpreters in the Northern Territory and the only way for a Deaf participant residing in the Northern Territory to access Auslan interpreters is via a communication device with 4G capability.

**If you wish to make a submission on the new NDIS Plan Administration Rules, you may wish to answer the following questions:**

The Rules include aspects of the initial intent of the NDIS rules – e.g., grace periods (section 6 of these Rules), payment of NDIS amounts (section 9 of these Rules). These parts do not constitute new policy.

1. Do the Rules clearly set out the circumstances in which a participant’s plan can be varied, and the circumstances in which the NDIA would ordinarily first conduct a reassessment? (sections 10, 11 and 12 of the Rules)

Whilst there is generally some understanding of the variation Rules that will be applicable under the Scheme such as variation relating to compensation Rule 10(2)(f), it is our belief that where the Rules stipulate that the CEO can vary plans on their own initiative without request, consultation, or consent from the participant go beyond the Tune recommendation. In the spirit of the intended outcomes of the NDIS Act to ensure that participants can contribute to making informed choices and controlling the direction of their life through various supports needed, this rule to allow the CEO to vary plans on their own initiative appears to go against the intent of the Act and indirectly impacting on participants capacity to control their own destiny. . The NDIA at any point in this process of accessing the Scheme, should not be able to vary plans without some consultation with the participant, especially in regard to Rule 10(2)(g).

**If you wish to make a submission on the changes to the NDIS Plan Management Rules, you may wish to answer the following questions:**

1. The Rules set out the considerations taken into account when a participant or their representative request to self-manage their NDIS funding, or use the support of a registered plan management provider. Is it clear how these considerations are designed to protect participants from unreasonable risk or harm? (sections 9 and 10 of the Rules)

For the NDIA to deem a Deaf participant unable to access Plan Management will greatly reduce their ability to execute their plan. Being forced to only use Auslan interpreters who are registered with the NDIA will also significantly limit the participant’s choice and control. Auslan interpreters have an extremely specialised skill set that cannot be acquired in a short period of time, and many Auslan interpreters are currently providing services to Deaf participants who are not registered with the NDIA as a provider. Additionally thin markets may be impacted further if NDIA registered service providers who are providing support coordination are unable to provide additional services such as Auslan interpreting, Speech Therapy, One on One Skill Development and Auslan in the Home. Whilst TDS&DSL understands the importance of protecting participants from unreasonable risk or harm, there will be unintended consequences impacting Deaf participants who require culturally and linguistically specific supports in Auslan.