

Access documentation

I have been a Participant since 2023, with access for 3 severe diagnosed conditions.

I pursued review immediately after I initially received my NDIS plan. I believed that all three of my accepted diagnoses, their complex impairment interplay, my access documentation, new living situations at the time of receiving my plan, and planning meeting evidence and requests were not carefully considered or factored into the funding of my first plan, (and subsequent plans), leaving me with many areas of underfunding or complete lack of support, which would have been appropriate for someone starting out facilitating their life with the right assistive tech and supports after such a dramatic loss of function. Especially as a single person without any family support. Over the two plus years of the appeal process I was involved in, it also became clear that the AI used by the NDIA causes many errors which when pointed out, were not, and are still not rectified. For example, I found out that my file only lists one accepted diagnosis, which is likely (still) the most significant cause of my underfunding. Additionally, during this process the NDIA CEO publicly admitted that their staff do not read supporting documentation, have no plans to, and their AI tools are deficient.

Tender bundles the NDIA sent to the Independent Medical Expert and submitted initially for the hearing did not include supporting access documents regarding my three accepted diagnoses. I also discovered (during the first conference call – late 2023) that the NDIA only had one of my accepted diagnoses listed in the system. They consequently accused me of misspending and misuse of funds and said I would have to repay money spent on CFSME and POTS supports. My access document was reprovided to them to put that to rest, with all three conditions clearly listed, and the ART also reconfirmed this is the case, directly before the hearing (AUG 2025). I don't recall the NDIA ever acknowledging they have corrected the error in their systems, and I believe the fact this issue has never been corrected, is a main contributor to why I was so underfunded, and why I am still so significantly underfunded. There is no process for pursuing correction of this fault.

The NDIS relied on outdated, incorrect technical documents. In a document (the AAT Comprehensive Technical Advice dated April 2025), only EDS was listed, which according to the TSP system, would lead to me being underfunded and restricted in allowed therapies, Assistive Tech and consumables, compared to if all 3 conditions had been correctly listed. Ironically, this seems to be a common problem caused by the NDIA's own AI technology, paired with their refusal to allow staff time to read participant reports. The "Typical Support Package" creates an automated funding package based on the average funding of plans of other participants with the same impairments. While this is an understandable starting place,

stopping there goes against the promise of the NDIS to support participants with individualised plans funded according to their particular situation and needs.

Earlier in 2025, before the hearing, when the NDIA submitted their SOFIC, they also provided a TAPIB report. It was riddled with errors, the most concerning and blatant being that I was still only listed for one condition (EDS). It is my understanding that this document is almost completely responsible for creating the funding package for participants, indicating mine has certainly never been appropriately funded. It also utilises AI. After many of my practitioners were demonised for their imperfect use of AI and their support basically completely discounted because of that, I was stunned that the NDIA's position was given any consideration at all until this critical error on my access documentation was attended to fully. I genuinely believe this is a miscarriage of principle, policy and care. The fault was not my error. It was 100% the error of the NDIS and their faulty administration systems and administrators themselves and shows either an immense level of carelessness (which I feel should be culpable), or wilful misconduct. The NDIS had their error pointed out to them twice, with official documentation and ART support, but they did not rectify the issue, or the resulting underfunding, which seems like negligence. In my case the ART did not enforce rectification, which in my view is clearly a miscarriage of justice and neglect.

NDIS Needs to Support ALL accepted conditions

National Disability Insurance Scheme Act 2013 (Cth) Section 34(1)(b) – NOTE

(b) A PARTICIPANT'S DISABILITY SUPPORT NEEDS ARISING FROM AN IMPAIRMENT IN RELATION TO WHICH THE PARTICIPANT MEETS THE DISABILITY REQUIREMENTS OR THE EARLY INTERVENTION REQUIREMENTS MAY BE AFFECTED BY A VARIETY OF FACTORS, INCLUDING ENVIRONMENTAL FACTORS OR THE IMPACT OF ANOTHER IMPAIRMENT TO WHICH THE PARTICIPANT DOES NOT MEET EITHER OF THOSE REQUIREMENTS.

Citation: National Disability Scheme Act 2013 (Cth), s 34(1)(b) Note, paragraph (b).

This statutory note is critical because it explicitly permits funding consideration for:

Environmental factors affecting disability support needs. The compounding impact of secondary impairments (even those that don't independently meet NDIS eligibility criteria).

I haven't been funded for my accepted conditions despite the above statutory note, and I have had supports stripped from me because they overlap with other diagnoses (not accepted) that are minor by comparison and not the reason I needed those supports. Which also obviously goes against the above law.

Power Imbalance and Evidentiary Barriers

The strategies the NDIS/NDIA are using to fight participants reviews and appeals need to be investigated. It is my belief that the process is corrupt and rife with procedural “David versus Goliath” unfairness. This impacts everyone, all participants who have to stand up and speak for themselves when supports allocated are insufficient to meet their basic needs. Procedural unfairness, stonewalling, gaslighting, trying to discredit practitioners because they can’t discredit their evidence, threatening participants who dare to go to review with things like being expelled from the NDIS, having plan funding slashed or limited in what is clearly reciprocal punishment. How can it be just, that any criminal on trial gets legal representation in court but an NDIS participant cannot get legal assistance, let alone legal representation in court/at hearing. The amount of money been spent by the NDIA fighting participants (many on disability pensions and with no legal aid) on lawyers from private law firms seems to be a hugely disproportionate use of funds. The need to even go to external review should be mostly completely unnecessary for most participants if there was a genuine participant to planner conversation possible internally when creating funding. The fact that no participant can actually speak to a planner to mitigate misunderstandings and holes in their knowledge of the disabilities completely baffles me and is the number one reason why millions of dollars each year is spent in reviews, which mostly goes the participant’s way. I believe the entire reason the NDIS is bringing in the new Robo planning tool and ART decision making restrictions is because despite their best efforts to dissuade participants and neglect them (under the guise of sustainability), most reviews are still won in the participant’s favour, and their new route is them scrambling to put in place yet another barrier to genuinely appropriate levels of care. True sustainability would be much more achievable if appropriate plans were put in place in the beginning and 50 million dollars a year was not spent fighting participants seeking genuinely appropriate supports. The NDIS sustainability issue is a self-made, internal administration NDIS issue not a participant issue.

The NDIS/NDIA has the benefit of multiple layers of legal and policy support in the conduct of reviews and hearings and has considerable access to financial and other resources. In contrast many participants, like myself, lack the financial means to secure medicolegal reports, and section 200A of the NDIS Act prevents the Agency from funding any legal representation or expert witnesses for participants. This leaves participants in an inherently disadvantaged position.

Participants are already severely, permanently disabled and requiring significant support in order to qualify for the NDIS. Gaining access is always a battle. Most participants require review almost immediately so the battle continues, usually because they don’t have enough support, which intensifies the cost of the battle on their disabilities and health, which is then further compounded by being treated like a criminal under threat of further limitations and funding slashes, and with the immense pressure of trying to navigate ever changing NDIS policies, whilst trying to fight them using common sense but having the NDIS and their lawyers returning fire with semantics and high cost lawyers. Even if an advocate can be secured (absolutely no guarantee of this), they themselves are burnt out and underfunded, and often unwilling to invest their support and time in a system they know is already stacked against the participant. People like myself who have gotten through the process and lost,

often become suicidal and indeed much more disabled and some die through neglect and suicide. For myself personally, the physical and mental cost of the review process and its outcome have set me back in my function significantly, to the point where I'm needing even more support than when I gained access.

For reference my case was *Butler versus NDIA 2023/6289*

Calculating Support Hours

The NDIA do not give any rationalised method for how they calculate the amount of Support Work hours a participant needs to assist with daily living tasks directly affected by their disabilities. There seems to be no rhyme or reason to the number of hours calculated and no correlation to the average time required for the same tasks as reported by the Australian Bureau of Statistics. (time the average single Australian takes to do basic daily living tasks that I can't do due to my accepted disabilities).

The NDIA gave me 15 hours per week of Support; the Bureau of Statistics showed an average of 47 hours per week for the same tasks. So, I think it's fair that the NDIA be forced to explain how they allocate Support time. Because it's clearly not statistical or common sense, and they definitely don't take Allied Health expert opinions into account. So what are they using?

Determining Value for Money

Determining Value for money supports makes no sense. Many obviously proven Assistive technologies like Smart Home Technologies and Dishwashers, and externally provided services at approved rates, like a laundry service, hairdresser and transport assistance funding, are proven to be more cost effective than using Support Worker hours for these same tasks. Much of the Assistive Tech costs less than a year of the equivalent Support Work, let alone the support required on it's place, over the lifetime of the participant. In my case we argued several items that would significantly replace Support Work, all were rejected citing "not value for money", despite the completely contrary evidence. Again baffling. Using the AT and outsourced services has been proven to be more efficient and cost effective and yet is not even considered as reasonable for reasons that have not been clearly explained. Again, the NDIA do not present any clear calculation of cost benefit or rationalisation.

Many Assistive Tech items would reduce Support Worker hours, or provide essential safety, independence and accessibility. The more appropriate Assistive Tech that is provisioned, the less support is needed overall from Support Workers, in the short and long term. Making a home as accessible as possible keeps participants out of supported living with round the clock care. It costs the government much more to have to provide care in a nursing home. The

sooner appropriate Assistive Tech and Home Modification supports are provisioned the more safe, stable and mentally supported and independent and functional a participant is likely to be in their own home. Whereas the unreasonable restrictions, the semantic arguments against reasonable supports, the stonewalling against small business outsourcing (hairdressers, laundromats, etc), perpetuates a cycle of decline instead, both mentally and physically, which in turn perpetuates heightened support needs across all domains, which again is baffling.

First port of call for making the NDIS more sustainable is to put in means testing to rule out millionaires. They have the capacity to completely self-fund all supports.

This submission is so important to contribute, but I am aware that it is nowhere near complete, and most likely not good enough for purpose, and I know for a fact that the majority of people that should be putting in submissions either don't have the capacity at all to navigate this and/or are unwilling to spend any more energy creating yet another submission for yet another enquiry. That will probably lead to yet another misappropriation of the facts and issues which will probably lead to yet more changes to the NDIS that will negatively impact participants above all others, or worse nothing at all. But what else can we do? So, I've done what I can with what limited support that I have in the hope someone with humanity is one of the decision makers for the outcome of this inquiry. The problem with the NDIS is majority its own administration, it's political agenda, and the carelessness and malice of those who have been in charge of making decisions (personally, the CEO of 2024/25 is a perfect example of wilful malice.

**IN THE ADMINISTRATIVE APPEALS TRIBUNAL
NATIONAL DISABILITY INSURANCE SCHEME DIVISION
PERTH REGISTRY**

BETWEEN

VICTORIA BUTLER
Applicant

And

NATIONAL DISABILITY INSURANCE AGENCY
Respondent

TERMS OF AGREEMENT

Section 42C Administrative Appeals Tribunal Act 1975

1. References to provisions in an Act are references to provisions in the *National Disability Insurance Scheme Act 2013*, unless otherwise stated.
2. The Applicant and Respondent (**parties**) have reached agreement as to the terms of a decision of the Tribunal that would be acceptable to the parties.
3. The terms of the agreement are:

The internal review decision of the Respondent dated 11 November 2022, which confirmed the reviewable decision of 25 July 2022 is set aside and in substitution it is decided that the Applicant meets the access criteria in s21, namely:

- (a) the age requirement in s22;
- (b) the residence requirement in s23; and
- (c) the disability requirements in s24.

The Tribunal notes that the Applicant meets the disability requirements in s24 in relation to the impairments arising from the diagnoses of Ehlers Danlos Syndrome, Chronic Fatigue Syndrome/Myalgic Encephalomyelitis, and Post Orthostatic Tachycardia Syndrome only.

4. The parties request that the Tribunal make a decision in accordance with the agreement, pursuant to s42C(2) of the *Administrative Appeals Tribunal Act 1975* (Cth).

[REDACTED]
Applicant

Name: Victoria Butler

[REDACTED]
Solicitor on behalf of Respondent

[REDACTED]

Read 2025.07.05 via FB article via NDIS Participants and Providers Australia Facebook Page
via The Saturday Paper July 5th Article.

EXCLUSIVE



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NDIS Participants and Providers Australia is more than a page – it's a movement.

We fight for all things disability: rights, respect, and an NDIS that actually works.

We call out the cruelty.

We expose the lies.

No spin. No sellouts. Just people power.

: NDIA Chief Intervened to throw advocate off scheme

The chief executive of the National Disability Insurance Agency directed her most senior executives to revoke the access of a disabled participant after their advocacy work was slammed on conservative talkback radio as a “rorting” risk. The claims aired during a segment where then minister Bill Shorten was a guest.

“Hi everyone, I just need to be clear my priority is revoking access as quickly as possible for this participant,” NDIA chief executive Rebecca Falkingham wrote to senior colleagues on June 7 last year. “All other issues are a second-order priority.”

According to documents released under freedom of information laws, Falkingham, who was hand-picked by Shorten to lead the NDIA when Labor came to power in 2022, sent this note to four of her deputy chief executives, the general manager of the fraud fusion taskforce and the general manager of strategic communications after being told about a “Ben Fordham story” that had aired on 2GB the day before.

In it, Fordham took 90 minutes of YouTube videos from a disability advocate and NDIS participant and played carefully selected clips that he claimed showed the participant had coached their doctors and now others about NDIS “buzzwords” that are more likely to grant access to the scheme.

Fordham was following his colleague Ray Hadley, who had interviewed Shorten on the subject of NDIS “rorts” and played a short grab of the participant to the then minister, before adding it would “be nice” to see “where [they are] at and what [they’re] doing”.

On the Friday morning, after both shows had aired, and with no official investigation and no contact with any of the person’s medical practitioners, Falkingham issued instructions to her top lieutenants to remove the disabled person from the scheme.

Her email was sent at 11.44am. Four minutes later, there was an email from the deputy chief executive in charge of scheme integrity, John Dardaneliotis: “Have found ... participant. So far have found \$15k in supports in last 12 months. Team is putting stoppers as we speak. Other stuff also being progressed. Will update in a few hours.”

The participant had a \$30,000 plan and had underspent their funding by half.

Within 18 minutes, immediate blocks had been put on payments and the agency was working on an eligibility reassessment focused on “determining that access revocation is legally defensible”.

The process would ultimately cost hundreds of thousands of dollars in time and legal fees. More than 10 months later, the person at the centre of the scandal was reinstated to the NDIS with more officially recognised disabilities than when they had their access revoked.

Throughout, however, Falkingham was clear she just wanted advice on revoking access. This was “what I want to announce today”.

A director in the fraud team had already suggested the agency initiate a plan review “which would ideally lead to an eligibility reassessment”, but after a day of seeking legal advice, over which the agency has claimed privilege and which has not been disclosed, it opted to “fast track” an eligibility reassessment.

On the afternoon of Falkingham’s first email, the access team’s branch manager, Cassie Hammond, provided the NDIA’s internal policies, guidelines and template letters on eligibility assessments to the three deputy chief executives and other key managers.

“I have attached the current manual eligibility reassessment letters that are in use,” she wrote.

“We provide a right of reply process at ER commencement which is 28 days.”

For reasons that are never explained, however, the agency sent a letter to the participant that provided only seven days’ notice for a right of reply. It was sent on June 11, after the long weekend, and they were given until June 18 to respond.

This timeline was not supported by the operational guideline used by the access and eligibility team, which was also provided to the deputy chief executives as advice.

Before that severely truncated timeframe had expired, the general manager of strategic communications, Shannon Rees, was chasing an update on the matter for her higher-ups.

“Hello team, RF [Rebecca Falkingham] has asked we track outcomes of such cases for the minister,” she wrote. “Do we have an outcome on this one yet?”

Cassie Hammond replied: “The seven days provided for notice of decision is up tomorrow, so we will be finalising the revocation.”

The NDIS participant provided 259 pages of evidence, old and new, in addition to writing their own statement addressing the central contention made by the agency: that they had potentially provided “false or misleading” information during an initial scheme access application. The evidence included an impact statement and a 12-page personal response to the proposed reassessment, in addition to the professional opinions of multiple treating specialists.

“The lack of compassion, and the urgency in which I have been forced to organise the demands of the NDIA to retain much needed support, has considerably impacted my health and wellbeing,” they wrote.

"I find it disheartening that the NDIA has given me only a week to assemble the necessary evidence (with no option for extensions), to contact my medical team and ask for their time, given how limited my functional capacity is and how strained our medical system is."

The participant sent their response less than a day after the deadline. A letter advising they were going to have their status as an NDIS participant revoked was sent 41 minutes later. The decision had already been made.

"This case does illustrate that there are situations where the agency does genuinely do the wrong thing and does seem to have it out for individuals. So it is incredibly scary for participants out there."

Shortly after the official letter was sent, on the afternoon of July 19, a delegate informed her colleagues by email that she had "completed the revocation decision, and the participants [sic] access status will cease effective the 17th July 2024".

She noted the participant's response but said she hadn't read all of it. She wasn't required to. "Since finalising the decision, the participant has provided a response with additional evidence, however this was provided after the due date. I haven't reviewed all of the evidence, because ultimately the decision has been made and will require an s.100 if it were to be reversed, but I did want to flag [their] actual response, particularly the last 3 pages."

The participant fought the decision and was listed for hearing in the new Administrative Review Tribunal. Just before the case was to be heard, however, the NDIA folded. This mirrors the approach during the robodebt saga, where departments settled cases to avoid material being made public at a substantive hearing.

Elise Almond, a senior lawyer at Villamanta Disability Rights Legal Service, who is representing the NDIS participant, says one of the earliest internal emails that triggered this episode suggested the agency could contact the medical experts that had supported the participant's access to the scheme, which could have ended their inquiries then and there.

"That never happened, and our client was more than happy for that to happen. In fact, encouraged it to happen and said so in their response to the agency," she says.

That would have made sense, Almond says, if the agency was concerned about doing its job in safeguarding the public funds that go to NDIS participants. Instead, she said, this was a publicity exercise.

"I would say there was only one outcome that was acceptable from the agency's perspective, and that was the one they got," she says.

"It seems to me to be a pretty clear overreach of powers. But at the tribunal, after they briefed a private law firm, suddenly it was, 'Okay we are now satisfied that access is met', for all of the

diagnoses that were on the record originally, plus a new diagnosis that had come up throughout the course of the appeal that our client paid [for] out of pocket to go and get that assessment.”

This case is a particularly sharp example of the crisis in leadership that has beset the National Disability Insurance Agency since its inception and that has continued under the tenure of Falkingham, the former Victorian public servant brought to the federal arena to draw a line under a run of controversial choices made under the Coalition.

Following the illegal robodebt scheme, two of the key architects of the program, Scott Britton and Jason Ryman – found to have designed and implemented it by the royal commission but ignorant of the fact it was unlawful – moved to the NDIA in fraud and integrity roles. They remained there as the royal commission into robodebt began.

Britton and Ryman have since left the agency or gone on leave but the debt-raising practices that began or evolved while they were employed there have since met with criticism from the Australian National Audit Office (ANAO).

Last month the ANAO released an audit on compliance management at the NDIA, which found serious lapses in oversight at the agency. It found the NDIA was raising debts against participants without any legal basis.

The report cited an internal briefing that “uncovered a number of issues in the current Post Payment Review process”. These included a “lack of alignment with the NDIS Act (2013), resulting in the raising of unlawful debts, inaccurate or absent references to the Act in outbound comms, jeopardising procedural fairness ... [and] an absence of an established quality assurance processes [sic]”.

These institutional shortcuts have created a historic liability of almost \$10 million on this issue alone. They pose significant threats to disabled participants, who are increasingly subject to the vague threat of “compliance” after Labor’s sweeping scheme reforms. Those reforms were framed, after market research, as necessary to address an out-of-control fraud problem the government has never been able to define.

Similarly, the ANAO released a June 10 audit of the NDIA board and found it “largely effective” but noted board decisions did not always show “consideration of relevant legislative criteria” and the body lacked detail on regulatory compliance, did not always respond to non-compliance and was shy about demanding more information from the executive it was designed to oversee.

Now, as new price caps and rules are introduced unilaterally and threaten to damage access to therapy for participants, those worried about the pace of change and adherence to policy and the law have few places to turn.

“We have many, many calls with participants concerned about things that have happened, decisions that have been made by the agency, and often my response has been, ‘It’s not a

conspiracy, they're taking this action in response to this thing that you did,' ” Elise Almond says. “But this case does illustrate that there are situations where the agency does genuinely do the wrong thing and does seem to have it out for individuals. So it is incredibly scary for participants out there. We can't, in good faith, say, 'No, they're a big government agency, they have their policies, they will follow them, at least in that you can trust.' Because this case shows that, no, you can't trust that they will follow even their own policies.”

Villamanta is now fighting for further records under freedom of information laws, after a protracted battle that has seen the NDIA forced to release these damning emails despite initially attempting to keep them hidden.

“The actions of the Respondent [the agency] are highly contentious, with the revised decision including clear disclosures of those in the highest positions within the National Disability Insurance Agency (NDIA), including the CEO, knowingly rejecting the NDIA's own procedures in their mission to remove the Applicant from the NDIS as quickly as possible,” Almond wrote to the Office of the Australian Information Commissioner last month.

“The manner in which the Respondent triggered and conducted the eligibility reassessment has created skepticism regarding the Respondent's integrity and adherence to their legislative obligations and policies.”

NDIS Minister Jenny McAllister did not respond to questions from The Saturday Paper about whether the conduct of the agency executive should be investigated, but a spokesperson for the minister said: “We are focused on ensuring the NDIS operates transparently and delivers fairer and more consistent decisions.”

A spokesperson for the agency said all participants have a right to review at tribunal and “new information” was provided that allowed them to reinstate access for the participant in this case before it went to hearing.

The Saturday Paper asked if the agency was confident the conduct of its executives was within the bounds of the Public Governance, Performance and Accountability Act that regulates Commonwealth Officials.

#NDIS

'I'm terrified' – Disability advocate about to lose NDIS support

<https://www.2gb.com/im-terrified-disability-advocate-about-to-lose-ndis-support/>

The Hon Bill Shorten MP - Transcripts

Minister Shorten interview on 2GB Ben Fordam Live with Ben Fordham

<https://ministers.dss.gov.au/transcripts/13186>

Major rorts in the NDIS costing taxpayers BILLIONS

<https://www.2gb.com/revealed-major-ports-in-the-ndis-costing-taxpayers-billions/>

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NEWS

Internal emails show the National Disability Insurance Agency rushed to withdraw access for a disabled person whose funding was criticised on talkback radio, only to reinstate it 10 months later. *By Rick Morton.*

Exclusive: NDIA chief intervened to throw advocate off scheme

