

UNDERSTANDING THE DIFFERENCES: NDIS AND LIFE INSURANCE

The Australian Government is working towards a complete national scheme that addresses the wide-ranging needs of disabled Australians. Previously, all states and territories operated independently, which resulted in inconsistencies and unmet demand for disability services and support.

This article considers the National Disability Insurance Scheme (NDIS), including who can gain access to the scheme, the scope of support and services provided, and the implications for life insurance advice.

There is a high level of misunderstanding in the community about what assistance the NDIS provides, and as an adviser, it is important to know the differences between what this scheme offers in comparison to personal insurance. This will enable you to educate your clients and cater for the scheme in any insurance needs analysis.

BACKGROUND AND PURPOSE OF THE NDIS

In 2011, the Productivity Commission Inquiry report, *Disability care and support*, was published and provided an overview on a number of items, including objectives of a national scheme, recommendations on what it would look like, and how it could be funded.

Subsequent to this, PricewaterhouseCoopers published its report, *Disability expectations. Investing in a better life, a stronger Australia*, which considered how such a scheme could progress.

Off the back of these two reports, the creation of 'DisabilityCare Australia' was announced in the 2013 Federal Budget. Many of the principles within the Productivity Commission Inquiry report were adopted by DisabilityCare Australia, such as

taking a lifetime approach, providing flexibility and choice, goal setting, and individual plans.

DisabilityCare Australia is now known as the National Disability Insurance Scheme or NDIS.

There were four test implementation sites in 2013, which were then followed by commencement of the full rollout in most states from July 2016 (over a three-year period). Now that we are in the middle of the rollout period, it's an appropriate time to revisit how the scheme works and what it offers.

With the proposed (at the time of writing) 0.5 per cent increase to the Medicare levy to 2.5 per cent from 1 July 2019, there is additional focus on the NDIS and what it should achieve. This follows the initial Medicare levy increase of 0.5 per cent in 2014 to partially fund the scheme.

The NDIS has been created to work with services available through other government agencies and support provided by family and friends. In addition, the NDIS can fund 'reasonable and necessary' supports related to an individual's disability. These supports are intended to allow disabled Australians to lead an 'ordinary life', become independent, increase their social and economic participation, pursue their goals, and be active in the community.

ELIGIBILITY CRITERIA

The criteria that must be satisfied, before access can be granted to NDIS services and funded supports, are:

- **Age criteria** – applicants must be under age 65 when they apply to join the NDIS. For anyone age 65 or older, they may receive support through the Commonwealth aged care system. If entry is gained prior to age 65, coverage is for life.



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This article is worth
0.5 CPD HOURS

FPA Dimension
Critical Thinking

ASIC Knowledge Area
Insurance

INCLUDES:

- NDIS eligibility criteria
- Process to access the NDIS
- Purchasing funded supports
- Impact on life insurance



- **Residency criteria** – applicants must live in Australia and be an Australian citizen, permanent resident, or holder of a specific protected special category visa.
- **Disability criteria** – applicants must have a condition that is likely to be permanent, which substantially affects their ability to perform one or more everyday activities (functional capacity), i.e. communication, social interaction, learning, mobility, self-care and self-management, and affects their social or economic participation; which makes it likely that support from the NDIS will be required for their lifetime.

Note that all disability criteria must be met.

A condition is deemed to be 'permanent' if it is likely that it will be lifelong, and even after the application of known, available and appropriate treatment, the condition would not be remedied. A condition that is episodic in nature, does not prevent it from being viewed as permanent. Therefore, for example, clients with mental health conditions, despite their symptoms varying cyclically, can still be classed as suffering from a permanent impairment.

It is possible to meet the early intervention requirements if the client's impairment is likely to be permanent; and the early provision of support may reduce the level of support required in the future, improve or reduce the deterioration of functional capacity, or aid the client's family/carers to continue caring for your client. Funding cannot

be available through another government scheme. There are different criteria for children under age six who have a developmental delay.

CASE STUDY: ASSESSMENT IN PRACTICE

As mentioned above, in order to access the NDIS, all disability criteria must be satisfied, along with age and residency requirements.

The disability requirements were tested in June 2014 and December 2015 in Mulligan and NDIS¹, in the Administrative Appeals Tribunal. In this case, it was considered whether Mr Mulligan's conditions, being ischaemic heart disease, cardiomyopathy, Conn's syndrome, and sciatica; were impairments that substantially reduced his functional capacity to engage in everyday activities and reduced his social and economic participation, and that he would require support under the NDIS for his lifetime.

Mr Mulligan was receiving the Disability Support Pension, and working when he was able to, in the years leading up to when the case was heard. He was on a leave of absence since March 2014, due to sciatica pain. His application to access the NDIS was to receive funded support for someone to mow his lawn, due to experiencing shortness of breath whenever he exerted himself.

The decision made in 2014 was that Mr Mulligan met all disability requirements except that his condition caused a substantial reduction in his ability to perform everyday activities, although it was acknowledged that he did those tasks, often with a great deal of pain

and more slowly than he would have, if he was not impaired.

Members of the tribunal did state that Mr Mulligan met the criteria that required his social and economic participation to be affected, noting that it was not a legislative requirement that social and economic participation decrease significantly. However, overall, as Mr Mulligan did not meet the functional capacity test, the NDIA's decision was affirmed, and his application for access to the NDIS was declined.

In 2015, Mr Mulligan took the matter to the Federal Court, which then set aside the Tribunal's decision. It was referred back to the Tribunal for a second review. The original decision was reaffirmed, as there was no evidence to support Mr Mulligan's claim that his functional capacity for mobility, self-care or self-management was substantially reduced due to his condition(s).

PROCESS TO ACCESS THE NDIS

Clients will need to apply to join the NDIS, which involves completion of a form that includes questions about eligibility criteria, and provision of consent to seek information from third parties. Subsequent to this, the National Disability Insurance Agency (NDIA) may ask for additional information relating to your client's medical history, which could include the completion of forms by their health professional in regard to their medical history.

Proof of your client's disability is generally required, showing what disability your client suffers from, how long it is expected to last, and how it impacts their life. This last requirement may be waived if the condition is already known to have a permanent and significant effect on their ability to communicate, socially interact, learn, be mobile, self-care, and self-manage.

For example, clients with severe intellectual disabilities, or those with brain injuries resulting in paralysis, would be exempt from this requirement.



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Continued overleaf



PURCHASING FUNDED SUPPORTS

The NDIS provides a certain amount of flexibility in how funded supports are purchased. The purchase can either be fully managed by the NDIA or can be completed by the NDIS participant.

As funded supports must represent value for money, purchases must be made from a list of preferred suppliers, where some have agreed to price their products or services at a level under a fixed ceiling, or where others have provided justification for why their price is higher than the benchmark.

The types of funded supports that may be made available through a participant's individual plan include those that help with their everyday activities, transportation (including vehicle modifications), ability to work, behavioural therapies, mobility aids (such as wheelchairs), and home modifications.

However, all funded supports must be deemed to be 'reasonable and necessary'.

What is deemed to be reasonable and necessary comes down to the discussion and information provided to the NDIS consultant. Therefore, there may instances where the funded supports available through the NDIS do not meet your client's expectations.

Specifically, the NDIS does not provide income replacement (and therefore, won't provide a safety net to pay down debt), funding for the cost of medical treatment, or the cost of overseas travel and/or accommodation that could allow access to treatment abroad.

IMPACT ON LIFE INSURANCE

Income Protection policies

As we have mentioned above, to access the services provided by the NDIS, individuals need to, amongst other things, have evidence showing they suffer from a disability that is permanent and significant.

In 2017, the majority of claims on Income Protection policies were



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due to musculoskeletal conditions, accidents, mental health conditions and cancer². Therefore, in practise, the NDIS may be inaccessible for many income protection policy holders, and therefore, an adjustment to the insured monthly benefit, waiting period or benefit period is not warranted.

However, the receipt of NDIS funding to purchase required supports may be an offset for some income protection policies.

Generally, retail policies will limit offsets to income from other insurance policies, workers' compensation and other similar payments (that are replacement of income), and for some occupations, income received from their employer or business.

However, it is important to be across what offsets apply to different income protection policies, particularly if they are group or direct policies, as the terms can vary widely.

TPD policies

In 2017, the top causes of claim on TPD policies were musculoskeletal and neurological conditions, accidents, mental health conditions and cancer².

The criteria that must be satisfied for a TPD policy can vary, depending on the underlying definition. If occupation-based, then this may be quite different from the requirements under the NDIS, where the condition must be permanent and have a significant negative effect on the individual's ability to perform one or more of a number of everyday activities.

This benchmark is more closely aligned with a general cover TPD definition, which requires that the insured person is more severely disabled to make a successful claim. Therefore, for the majority of clients, who require occupation-based cover, the NDIS will not replace TPD.

For those clients who only require general cover TPD (or those who are unable to obtain occupation-based cover due to their hazardous occupation or pastime(s)), a reduction in the sum insured could be considered, given that the NDIS can fund home modifications and mobility aids.

Once again, this measure should be taken with caution, as 'reasonable and necessary' funded supports through the NDIS may not be what your client desires.

Trauma policies

The amount of trauma cover that is obtained is usually based on a reduction of debt, one or two years of income replacement, and an amount to cover medical expenses. Generally, debt is not fully extinguished and income is not replaced in perpetuity, because it is expected that the client will be able to return to work after they have taken an appropriate amount of time to recover.

Trauma policies may have many specified medical events listed under the policy. However, in 2017, the most common reason for claim was because of cancer or cardiovascular conditions – with these two conditions making up 85 per cent of all claims².

It is unlikely that these claimants would have met the criteria to access



the NDIS. However, with claims made for degenerative diseases, such as muscular dystrophy, these clients may be able to access the NDIS when they are affected to an extent that it significantly inhibits their daily life.

CONCLUSION

The NDIS is a great step towards meeting the needs of disabled Australians. However, it should be viewed as the minimum standard, rather than an equivalent to life insurance. Advisers should be well informed, so they can explain exactly what the NDIS can provide and what it can't.

Life insurance can provide a much higher level of cover and flexibility, allowing clients to achieve more than an 'ordinary life'.

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FOOTNOTES

1. *Mulligan and National Disability Insurance Agency [2014] AATA 374, and Mulligan and National Disability Insurance Agency [2015] AATA 974.*
2. *BT Protection Plans.*

QUESTIONS

To answer the following questions, go to the CPD tab at moneyandlife.com.au/professionals

1 The National Disability Insurance Scheme (NDIS) is scheduled to reach full rollout for most states by:

- 1 July 2016.
- 1 January 2018.
- 1 July 2019.
- 1 January 2020.

2 The purpose of the National Disability Insurance Scheme (NDIS) is to:

- Take a nationally consistent approach to providing services and supports that enable eligible disabled individuals living in Australia to lead an ordinary life.
- Provide income replacement and debt reduction cover.
- Replace personal life insurance cover through taxpayer funding.
- Allow access to the best medical care available in Australia.

3 To access the NDIS, applicants must satisfy the following criteria:

- Age, residency and disability requirements.
- Disability requirements only.
- Means testing, age, residency and disability requirements.
- Income testing, age, residency and disability requirements.

4 The disability criteria require that the applicant suffers from:

- a condition that is permanent and significant.
- a listed condition that is known to affect functional capacity to perform everyday activities.
- a condition that is episodic in nature.
- a condition that is permanent, significantly affects their ability to perform everyday tasks, affects their social and economic participation, which makes it likely they will require support from the NDIS for their lifetime.

5 What is the proposed rate of Medicare levy, applicable from 1 July 2019, to fully fund the NDIS?

- 1.5 per cent.
- 2 per cent.
- 2.5 per cent.
- 3 per cent.



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