



Disability Services Commission

Western Australian National Disability Insurance Scheme (WA NDIS) Operational Policy

Eligibility

1. Keywords

Eligibility, eligibility criteria, participation, National Disability Insurance Scheme, assessment, disability requirements, early intervention, impairments.

2. Policy statement

This operational policy outlines the criteria for eligibility for WA NDIS.

3. Introduction

WA has committed to align eligibility in WA NDIS with the eligibility criteria for the National Disability Insurance Scheme. This Operational Policy outlines eligibility for participation in the WA NDIS trial, as determined by the Disability Services Act 1993, s26H.

A person is eligible for WA NDIS if each of the following criteria is met:

- (a) age requirements;
- (b) residence requirements; and,
- (c) either disability requirements OR early intervention requirements.

4. Principles

Eligibility is underpinned by a legislative base and agreements between the Western Australian and Commonwealth Governments.

The process for determining eligibility is transparent, easily understood and publicly available.

The process is documented and there is clear information for people with disability and other stakeholders.

The eligibility assessment is consistently applied across WA NDIS trial sites.

6. Implementation

This operational policy applies to eligibility for WA NDIS trial sites.

WA NDIS operates in the following trial sites areas:

- 1. Lower South West:** The local government areas of Augusta-Margaret River; Boyup Brook; Bridgetown-Greenbushes; Busselton; Donnybrook-Balingup; Manjimup and Nannup as constituted as at 1 July 2014. The trial period is from 1 July 2014 to 30 June 2017.
- 2. Cockburn-Kwinana:** The local government areas of Cockburn and Kwinana as constituted as at 1 July 2014. The trial period is from 1 July 2015 to 30 June 2017.
- 3. Armadale, Murray and Serpentine-Jarrahdale:** The local government areas of Armadale, Murray and Serpentine-Jarrahdale as constituted at 1 October 2016. The trial period is from 1 October 2016 to 30 June 2017.

7. Age requirements

A person will meet the age requirements if the person is aged from birth up to 65 years at the time when the eligibility request is made.

Individuals 65 years of age or older, and who are in receipt of Commission funded or provided supports and services at the start date of the applicable trial, will continue to be eligible for those services, but do not meet eligibility for the WA NDIS.

8. Residence requirements

A person meets the residence requirements if they:

- (a) legally reside in Australia; and
- (b) are either an Australian citizen, the holder of a permanent visa, or a protected Special Category Visa (SCV) (subclass 444) holder; and
- (c) resides in a trial site on the applicable trial site start date or meet the other categories set out in the qualifying residence requirement (set out in Regulation 16 in the Disability Services Regulations 2004); and
- (d) meet the ongoing residence requirement.

Individuals who are in receipt of Commission funded or provided supports and services at the start date of the applicable trial, but who do not meet residence requirements, will continue to be eligible for those Commission services, although will currently be ineligible for WA NDIS.

Appendix 1 provides additional information on meeting residence requirements.

9. Disability requirements

The disability requirements are met if:

- (a) the person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or to one or more impairments attributable to a psychiatric condition, and
- (b) the person's impairment or impairments are, or are likely to be, permanent; and
- (c) the impairment or impairments result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, one or more of the following activities: communication, social interaction, learning, mobility, self-care, self-management; and
- (d) the impairment or impairments affect the person's capacity for social and economic participation; and
- (e) the person is likely to require support under WA NDIS for the person's lifetime.

Note that impairment may be permanent, however the severity of its impact on the functional capacity of the person may fluctuate or there are prospects that the severity of the impact of the impairment on the person's functional capacity, including their psychosocial functioning, may improve.

Appendix 1 provides additional information on meeting disability requirements.

10. Early intervention requirements

A person meets the early intervention requirements if:

- (a) the person
 - i. has one or more identified intellectual, cognitive, neurological, sensory or physical impairments that are, or are likely to be, permanent; or
 - ii. has one or more identified impairments that are attributable to a psychiatric condition and are, or are likely to be, permanent; or
 - iii. is a child who has developmental delay; and
- (b) the Commission is satisfied that provision of early intervention supports for the person is likely to benefit the person by reducing the person's future needs for supports in relation to disability; and
- (c) the Commission is satisfied that provision of early intervention supports for the person is likely to benefit the person by:
 - i. mitigating or alleviating the impact of the person's impairment upon the functional capacity of the person to undertake communication, social interaction, learning, mobility, self-care or self-management; or
 - ii. preventing the deterioration of such functional capacity; or
 - iii. improving such functional capacity; or
 - iv. strengthening the sustainability of informal supports available to the person, including through building the capacity of the person's carer.

A person does not meet the early intervention requirements if the early intervention support for the person is more appropriately funded or provided through another service system rather than WA NDIS.

Appendix 1 provides additional information on early intervention requirements.

11. Information to assist in eligibility determination

To determine if an individual is eligible for supports in WA NDIS, the following sources may be considered:

- meeting and talking with the person with disability;
- talking to family members, informal carers and other people important to the person with disability;
- reports from health and/or educational professionals;
- relevant medical records; and/or
- personal documentation such as passport, birth certificate.

Additional supporting information may be requested in order to make an eligibility decision. The information requested should be the minimum required for the decision to be made. If the information requested to support the eligibility decision is not received within 28 days of being requested and Commission staff have made reasonable attempts to support the individual to gain the information, then it may be considered that the eligibility request has been withdrawn.

The eligibility determination process for intellectual disability and Autism Spectrum Disorder is undertaken by the Commission's Eligibility and Access team. Autism Spectrum Disorder is determined by a multidisciplinary team specialised in assessment. All other eligibility determinations will be made by the WA NDIS team. Local Coordinators may need the specialist advice of allied health professionals, including the Allied Health Consultant.

Advice can be sought from the Policy and Planning Directorate.

The time between a request for eligibility determination for WA NDIS and either a decision being made about that request, or a request being made by the Local Coordinator or the Eligibility and Access team for further information to make a decision, is 21 calendar days. Once the requested information has been received by the Commission, a decision must be made within 14 calendar days.



12. Change in eligibility status

On the occasion that there is a change in a person's circumstances which results in the eligibility requirements no longer being met, the person is no longer able to participate in the WA NDIS trial.

13. Review of eligibility decision

Decisions on eligibility for WA NDIS are reviewable decisions. The individual will be advised of the decision, that the decision can be reviewed, and of the review and appeal process.

For further information on the review process refer to the WA NDIS Operational Policy and Procedures - Reviewing and Appealing WA NDIS Decisions.

14. Related documents

Disability Services Act 1993 (amended 2014)
Disability Services Regulations 2004 (amended 2016)
National Disability Insurance Scheme Act 2013
Eligibility Policy for Specialist Disability Services funded or provided by the Disability Services Commission (updated October 2012)
National Partnership on the Extension and Expansion of the Trial of the WA NDIS Sites
WA NDIS Operational Policy - Reviewing and Appealing WA NDIS Decisions.
National Disability Insurance Scheme (Becoming a Participant) Rules 2016
WA NDIS– Operational Policy – Portability
Principles to Determine and Responsibilities of the NDIS and Other Support Systems, Applied Principles and Tables of Support, Annex D, 19 April 2013

15. Evaluation and review date

30 June 2017 or earlier if required.

For further information contact

Scheme Policy & Program Transition Manager
Policy and Planning Directorate
Date 30 June 2016

Appendix 1: Additional information on meeting eligibility requirements

Explanatory notes on meeting ongoing residence requirement

In deciding whether or not a person resides in WA NDIS trial site, consideration should be given to:

- (a) the nature of the accommodation used by the person; and
- (b) the nature and extent of the family relationships the person has in WA; and
- (c) the nature and extent of the person's employment, business or financial ties in WA; and
- (d) the nature and extent of the person's assets located in WA; and
- (e) the frequency and duration of the person's travel outside WA and Australia; and
- (f) any other matter relevant to determining whether the person intends to remain in WA.

If a person stops residing in a trial site, the person continues to satisfy the ongoing residence requirement for a period of 12 months. See the WA NDIS Operational Guideline on Portability for further information.

Moving into a WA NDIS trial site

A person may meet the residence requirements following the commencement of a trial period if:

- (a) The person starts to reside in the relevant WA NDIS trial site for the dominant purpose of accessing supports not provided under the Disability Services Act 1993 (for example, education, employment, health care or family support); and
- (b) exceptional circumstances apply—for example, the person would suffer significant financial or personal hardship, which could reasonably be expected to significantly undermine the person's wellbeing or social or economic participation, by reason of not being in the WA NDIS trial.

Children

A child must meet the residence requirements outlined in the policy.

A child meets the residence requirement of residing in a WA NDIS trial site area if the child is born after the start date in the trial site, and at least one of the child's birth parents who care for that child resides in the trial site on the day the child is born.

A child meets the qualifying residence requirement if the child comes to be in the care of a person who has ongoing parental responsibility for that child, and that person has resided in a trial site since the start date for that trial site, and this will be the child's place of residence.

A child meets the qualifying residence requirement if the child is in the care of the Chief

Executive Officer of the Department for Child Protection and Family Support and the child is placed:

- with a general or relative carer who has resided in a trial site since the start date for the applicable trial; or
- in a group living arrangement where the facility is located in a trial site area, operated by a government or non-government service provider,

and the placement is intended to be permanent for the term of the order, or a significant period thereof.

In the case of a child whose parents are separated and who spends time with each parent, the child will meet qualifying residence requirements if:

(a) at least one of the child's parents meets the qualifying residence requirements

or

(b) the following apply:

- i. at least one of the child's parents started to reside in a trial site for the dominant purpose of the child accessing supports that are not provided by WA NDIS (for example, education, employment, health care or family support); and
- ii. exceptional circumstances apply—for example, the child would suffer significant personal hardship (including because of financial hardship to the parent), which could reasonably be expected to significantly undermine their wellbeing or social or economic participation, by reason of not being found eligible for WA NDIS.

Explanatory notes on meeting disability requirements

A disability attributable to impairment

Whether a person has a disability and whether that disability is attributable to one of the impairments is essentially a question of fact.

Diagnostic information is generally required to determine whether a person has a disability attributable to an impairment.

When is impairment permanent, or likely to be permanent, for the disability requirements?

An impairment that varies in intensity (for example because the impairment is of a chronic episodic nature) may be permanent, and the person may be likely to require support under the NDIS for the person's lifetime, despite the variation.

An impairment is, or is likely to be, permanent only if there are no known, available and appropriate evidence-based clinical, medical or other treatments that would be likely to remedy the impairment.

An impairment may be permanent notwithstanding that the severity of its impact on the functional capacity of the person may fluctuate or there are prospects that the severity of the impact on the person's functional capacity, including their psychosocial disability, may

change.

An impairment may require medical treatment and review before a determination can be made about whether the impairment is permanent or likely to be permanent. The impairment is, or is likely to be, permanent only if the impairment does not require further medical treatment or review in order for its permanency or likely permanency to be demonstrated (even though the impairment may continue to be treated and reviewed after this has been demonstrated).

If an impairment is of a degenerative nature, the impairment is, or is likely to be, permanent if medical or other treatment would not, or would be unlikely to, improve it.

When does an impairment result in substantially reduced functional capacity to undertake relevant activities?

An impairment results in substantially reduced functional capacity of a person to undertake one or more of the relevant activities:

- (a) Communication (understanding and being understood by others)
- (b) Social interaction (making and keeping friends and relationships, behaving within limits accepted by others, and/or coping with feelings and emotions)
- (c) Learning (understanding and remembering information, learning new things, practicing and using new skills and ideas)
- (d) Mobility (moving around their home and community and/or performing other tasks involving movement, e.g. using hands and arms)
- (e) Self-care (e.g. daily showering, bathing, dressing, eating, toileting and grooming; and/or special health care needs attended to by self, family members or carers)
- (f) Self-management (planning and organising daily life and managing household personal finances)

An impairment results in substantially reduced functional capacity of a person if:

- the person is unable to participate effectively in the activity, or to perform tasks or actions required to undertake or participate effectively in the activity, without assistive technology, equipment (other than commonly used items such as glasses, dressing aids, walking sticks) or home modifications (other than common modifications such as hand rails at stairs, bathroom grab rails). A person is considered to be unable to undertake an activity effectively due to their impairment if they cannot safely complete a task within an acceptable time period. The person may complete the task more slowly or in a different manner to others and still be considered to be effective in the task; or
- the person usually requires assistance (including physical assistance, guidance, supervision or prompting) from other people to participate in the activity or to perform tasks or actions required to undertake or participate in the activity normally expected to be able to be performed independently by a person of their age. That is, the need for

this assistance from other people on most days is inconsistent with expectations of tasks or activities that would normally be performed independently by a person of their age.

- the person is unable to participate in the activity or to perform tasks or actions required to undertake or participate in the activity, even with assistive technology, equipment, home modifications or assistance from another person. That is, they require complete assistance as they are not at all able to perform one or more essential daily activities or tasks appropriate to their age (e.g. a person over the age of 3 years cannot stand, use their hands or arms to perform tasks, communicate their needs in any way, and/or interact with others).

Children and assessing substantially reduced functional capacity

Where the diagnosis is not yet resolved in a child under six years of age, early intervention requirements may be used in preference to the disability requirement in determining whether a child is eligible for support through WA NDIS.

Explanatory notes on meeting early intervention requirements

When is an impairment permanent or likely to be permanent for the early intervention requirements?

Refer to explanatory note above on disability requirement for determining if an impairment is, or is likely to be, permanent.

Deciding whether provision of early intervention supports is likely to benefit the person

In deciding whether provision of early intervention supports is likely to benefit the person, the Commission will consider:

- (a) the likely trajectory and impact of the person's impairment over time; and
- (b) the potential benefits of early intervention on the impact of the impairment on the person's functional capacity and in reducing their future needs for supports; and
- (c) evidence from a range of sources, such as information provided by the person with disability, their family or carers. Expert opinion may also be sought.

Early intervention in early childhood (for children with developmental delay)

The provision of early intervention supports for a child under the age of six years is likely to benefit the child in the ways outlined under early intervention requirements if one or more of the child's impairments is a mental or physical impairment which, by itself or in combination with other mental or physical impairments, results in developmental delay.

Developmental delay is defined as a delay in the development of a child under six years of age that:

- a. is attributable to a mental or physical impairment or a combination of mental and physical impairments; and



- b. results in substantial reduction in functional capacity in one or more of the following areas of major life activity:
 - i. self-care;
 - ii. receptive and expressive language;
 - iii. cognitive development;
 - iv. motor development; and
- c. results in the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services that are of extended duration and are individually planned and coordinated.

