Review of National Disability Insurance Agency decisions in the Administrative Appeals Tribunal

# Guide to applying for a Referral for Assessment of Complex or Novel Legal Issues

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For more information contact: centralassessmentprovider@dss.gov.au

## About the Central Assessment Provider and review of National Disability Insurance Agency decisions in the Administrative Appeals Tribunal

The role of the Department of Social Services’ (DSS) Central Assessment Provider (CAP) is to decide whether applications to the Administrative Appeals Tribunal (AAT) to review decisions of the National Disability Insurance Agency (NDIA) raise complex or novel legal issues and are eligible for funding for the provision of legal assistance to the AAT applicant.

An AAT applicant or their legal guardian, an NDIS Appeals Support Person or an applicant’s legal representative can submit a referral to the CAP. The AAT applicant, or their legal guardian, must consent to the referral and the sharing of information about them between relevant organisations, by signing the Referral for Assessment of Complex or Novel Legal Issues form.

If the CAP decides that a matter raises a complex or novel legal issue, the matter will be referred to the Legal Aid Commission in the relevant state or territory.

Due to the limited nature of the funding, there is no guarantee that a referral will result in funding being made available. Funding is only available to Legal Aid Commissions.

Contact information for the Legal Aid Commissions:

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| --- | --- |
| **New South Wales**1300 888 529<http://www.legalaid.nsw.gov.au/>   | **Victoria**1300 792 387<http://www.legalaid.vic.gov.au/>  |
| **South Australia**1300 366 424<http://www.lsc.sa.gov.au/>  | **Tasmania**1300 366 611<http://www.legalaid.tas.gov.au/>  |
| **Western Australia**1300 650 579<http://www.legalaid.wa.gov.au/>  | **Australian Capital Territory**02 6243 3411<http://www.legalaidact.org.au/>  |
| **Northern Territory**1800 019 343<http://www.ntlac.nt.gov.au/>  | **Queensland****1300 65 11 88** <http://www.legalaid.qld.gov.au/>  |

**Please note:** Before a matter is referred to the CAP an application for review must be lodged with the AAT.

## Completing the ‘Referral for Assessment of Complex or Novel Legal Issues’ Form

Please read this guide and the Central Assessment Provider Guidelines for Assessment of Complex or Novel Matters before completing the Referral for Assessment of Complex or Novel Legal Issues form.

**You must complete all fields and answer all questions.**

### Applicant Details

The applicant is the person listed on the AAT form as the applicant (not the parent, in the case of a child).

### Reasons for seeking assessment by the CAP

Please outline the reasons you (the AAT applicant), or your representative, believe the decision you are seeking review of by the AAT raises a complex or novel legal issue. If more space is required please attach additional information as a separate document.

**Hint:** To determine whether a similar case has been heard visit the Australasian Legal Information Institute. It lists AAT decisions on NDIA matters. Follow the [link](http://www.austlii.edu.au/cgi-bin/sinosrch.cgi?method=boolean&meta=%2Fau&mask_path=au%2Fcases%2Fcth%2FAATA&mask_world=&query=national+disability+insurance&results=20&submit=Search&rank=on&callback=off&legisopt=&view=relevance&max).[[1]](#footnote-1)

### Supporting Documents

Please attach the following documentation:

* NDIA reviewable decision made under s.99 of the NDIS Act in dispute, e.g. an access or plan decision
* Application for an internal review with any supporting documents
* NDIA internal review decision
* AAT application
* Any other relevant documents, such as medical reports etc.

**Please note:** if you are unable to provide these documents there may be delays in receiving a CAP decision beyond the 30 calendar day processing period.

## Consent to collection of information

What information will be collected and how will it be used?

The information provided by completing and submitting the referral form will be kept by DSS and used:

* to assess whether the matter you are seeking review of in the AAT is considered to raise a complex or novel legal issue; and
* if appropriate, refer your matter to a Legal Aid Commission so that you can obtain legal services from that Legal Aid Commission.

When a completed referral form is received by the CAP, information about you that is relevant to the decision you are seeking review of will also be obtained by DSS from NDIA. This information will include copies of documents giving reasons for the decision(s) NDIA has made.

By giving your consent, you agree that:

* DSS may provide a copy of the completed referral form to NDIA and NDIA may provide information it holds about you to DSS (information held by NDIA in its records is known as ‘protected information’ under the National Disability Insurance Scheme Act 2013);
* if your matter is eligible for funding, DSS may inform the Legal Aid Commission in your State or Territory and disclose information about you, including your contact details, to that Legal Aid Commission;
* if you have an NDIS Appeals Support Person, DSS may share information about you in relation to this referral with that person; and
* DSS may inform the AAT that a referral to the CAP has been made and share information about you with the AAT where relevant to the CAP assessment.

Information about the decision you are seeking review of in the AAT is needed in order for the CAP within DSS to assess whether the matter raises a complex or novel legal issue and is eligible for funding. The CAP will use your information to make this assessment. If you do not agree to the collection and use of your information the CAP will not be able to assess whether your matter is eligible for funding.

Your information may also be used by DSS in de-identified form for the secondary purposes of:

* statistical analysis
* preparing case studies
* quality assurance
* research

If you are seeking review of a decision made by the NDIA but are not the NDIA participant, or their parent or guardian, please contact the CAP as alternative consent arrangements may be required.

**Please note:** a physical signature is required. Please print off the form, sign it and then scan a copy to send to the CAP.

## Submitting a referral

Referrals can be submitted to DSS by email or post.

Email:

centralassessmentprovider@dss.gov.au

Post:

Department of Social Services

Disability, Employment and Carers Group

Canberra Mail Centre ACT 2610

**Applications by email are preferred where possible.**

1. <http://www.austlii.edu.au/cgi-bin/sinosrch.cgi?method=boolean&meta=%2Fau&mask_path=au%2Fcases%2Fcth%2FAATA&mask_world=&query=national+disability+insurance&results=20&submit=Search&rank=on&callback=off&legisopt=&view=relevance&max> [↑](#footnote-ref-1)