



# Section 33 Instrument

## Plain English Summary

DSS 2024.09.25



# Section 33 Instrument – Summary

*The National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* will commence on 3 October. We are calling it the 'Amending Act'.

The Amending Act introduces the idea of funding amounts, funding components and funding periods and allows the Minister to make a new instrument under section 33(2E), that will set up how they will work for current plans. Current plans are referred to as old framework plans in the Amending Act.

Staff from the National Disability Insurance Agency (NDIA) have been speaking with participants, people with disability and disability sector representatives since May 2024 about section 33. Key feedback suggested improvements to the planning process to ensure the NDIA get total plan funding right would support the implementation of the section 33 instrument.

The NDIA CEO has recently communicated to all participants about the changes - [A message from the CEO about changes to NDIS legislation | NDIS](#). If a participant's plan is reviewed after 3 October 2024, the new plan will have a total budget amount and will be 12 months in duration. In the future, most people's plans will go for longer than this and the NDIA will let people know as soon as this change begins.

The new section 33 instrument is intended to help participants understand the process of planning and have a clearer idea about what funding amounts are available in their plan. It will complement changes being made to assist participants, plan nominees and plan managers to understand and manage NDIS funding.

## Total funding amounts

A participant's total funding amount will be the total amount of funding available for all supports under the plan as a whole. The total funding amount is worked out by totalling all funding components in a participant's plan.

## Funding components

Supports in a participant's plan will be grouped into one or more groups of supports called funding components. Each funding component will have a set budget for those supports, called funding component amounts. These will be similar to current categories of supports in participant plans. Each funding component amount is added together to provide participants with a total funding amount for their entire plan.

### Working out the funding component amount for a group of supports

When categorising reasonable and necessary supports into groups, this could be worked out by considering:

- the nature of a participant's supports
- the cost of supports using the NDIS Pricing Arrangements and Price Limits 2024-25 (or a quote etc)
- any requirements relating to the provision of the supports

- whether categorising the supports in a particular way would be a risk to the participant
- the proposed management of funding for the relevant support under the plan

## Funding Periods

Funding periods are set amounts of time when supports can be used.

Funding periods can be set for the total funding amount, and/or for groups of supports (funding component amounts).

Funding periods aim to assist participants to understand and manage their budgets over the length of their plan.

### Working out funding periods

When working out funding periods, the NDIA could consider the following matters:

- previous spending by the participant, plan nominee or plan manager
- whether a participant may be at risk of fraud or exploitation
- whether there is risk of the total funding in a participant plan being exceeded
- the total funding amount for the plan and nature and cost of supports in the plan
- whether the participant has requested a variation or reassessment of any of the participant's plans more than once without providing information about a change of circumstances

### Working out the start of the first funding period

Funding periods can be for the total funding amount in a plan or for specific funding components. This means there may be different funding periods for different groups of supports if there is more than one group of a supports in a participant's plan.

Funding periods for the total funding amount in the plan will start on the day the plan starts.

For plans with more than one funding period, the first funding period set out in the plan, will start on the day the plan starts

## Making payments above a funding amount

Under subsection 45(5), a participant can request additional funding where:

- the participant has experienced fraud or exploitation
- making the payment is necessary to prevent or lessen an imminent threat to an individual's life, health or safety
- the participant has been unable to request a plan variation or reassessment because of their disability or lack of decision-making support
- a participant is waiting for a decision on a variation request for crisis or emergency funding as a result of a change in support needs and the CEO has not made a decision
- any other circumstance set out in the NDIS rules