



NDIA Justice Advisory Panel

Advice: Education and Engagement Across the Justice-NDIS Interface

Date: September 2026

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1. Executive Summary

The Justice Advisory Panel (Panel) is an expert advisory group to the National Disability Insurance Agency (NDIA) that examines policy and systemic issues across the disability and justice interface.

The Panel advises that education and engagement across the justice-National Disability Insurance Scheme (NDIS) interface should focus on the stakeholders, decision points and system interactions that have the greatest influence on participant outcomes.

The Panel has consistently observed gaps in understanding across justice, disability, and community systems regarding the role of the NDIS and the responsibilities of other service systems. These gaps contribute to inconsistent decision-making, unrealistic expectations of NDIS supports, delays in justice processes, fragmented service responses and missed opportunities for coordinated planning and early intervention.

The Panel recommends moving beyond general awareness raising towards a targeted, role specific and decision-focused approach. Priority attention should be directed towards stakeholders who significantly influence participant pathways, including court, judicial and tribunal stakeholders; police, parole boards, correctional services, legal representatives, and government decision-makers. Education should support these stakeholders to understand how disability and NDIS supports should be considered at key justice decision points, including diversion, bail, sentencing, parole, transition planning, and release.

The Panel identified six priority areas for education and engagement:

- Strengthening understanding of NDIS roles, responsibilities, and legislative limitations.
- Supporting informed decision-making at key justice decision points.
- Clarifying the distinction between disability support, risk management, and supervision functions.
- Embedding culturally safe, accessible, and lived-experience-informed approaches.
- Strengthening cross-system coordination, including NDIA capability and engagement across justice, disability, and community sectors.
- Supporting policy, legislative and system reform through targeted engagement with strategic stakeholders.

To address these challenges, the Panel proposes a tiered education and engagement model that aligns information and capability-building activities to stakeholder roles, responsibilities, and decision-making authority. This approach will help target resources to those with the greatest capacity to influence outcomes for people with disability who interact with the justice system. Together, these priorities aim to improve participant outcomes, strengthen coordination across systems, and support more effective transitions between custody and community.

This advice forms part of a broader suite of Panel recommendations and should be read in conjunction with the Information and Data Sharing, Youth Justice and Providers and Markets advice, recognising the interrelated nature of the issues addressed across the disability and justice interface.

2. Key Issues Identified by the Panel

While operational engagement between NDIA and justice stakeholders occurs regularly across jurisdictions, this does not consistently translate into shared understanding or effective application of NDIS information in decision-making contexts.

- **Inconsistent Understanding of Roles and Responsibilities**

Justice stakeholders demonstrate varying levels of understanding of NDIS roles, legislative boundaries, and broader system responsibilities, contributing to inconsistent expectations and decision-making across the justice–NDIS interface.

- **Misinterpretation of NDIS Supports in Risk Contexts**

NDIS supports are sometimes incorrectly interpreted as mechanisms for managing community risk, supervision, or compliance, creating expectations that are not the legislative purpose and responsibilities of the Scheme.

- **Lack of Targeted, Decision-Focused Education**

Education and engagement activities are not consistently aligned to stakeholder roles, responsibilities, or key justice decision points, limiting their effectiveness in supporting informed and consistent decision-making.

- **Under-engagement of Key Stakeholders**

Key stakeholders, including court, judicial and tribunal stakeholders, defence lawyers (particularly private and subcontracted firms), Aboriginal Legal Services, community justice groups, and families and carers, are not consistently engaged through existing education and outreach activities, therefore limiting opportunities to influence decision-making and participant outcomes.

- **Complex and Inaccessible Information**

NDIS materials are often complex and not tailored to diverse audiences, including people from culturally and linguistically diverse backgrounds.

- **Limited Cultural Safety and Community-Led Approaches**

Education and engagement approaches do not consistently reflect culturally appropriate practice or incorporate First Nations perspectives and community-led knowledge.

- **Impact on Decision-Making and Outcomes**

Collectively, these gaps contribute to delays, inconsistent decision-making, less effective transition planning and poorer outcomes for participants, service providers, and the broader community.

3. Advice

The considerations outlined below are intended to improve participant outcomes, strengthen justice decision-making, and enhance coordination between the disability, justice, and broader service systems. They should be read alongside:

- [Appendix A](#): Stakeholder Prioritisation and Identification, which provides an overarching structure for stakeholder prioritisation;
- [Appendix B](#): Tiered Education Model, which outlines the proposed capability-building approach; and
- [Appendix C](#): Alignment to Decision Points, which identifies key justice decision points, priority stakeholders, and associated education areas for the participant pathway.

Consideration 1: Strengthen Understanding of NDIS Roles, Boundaries and Limitations

The preamble regarding roles, boundaries and limitations is pertinent to this advice; however, acknowledges important context across all Panel advice.

The Panel identified misunderstandings about the role of the NDIA as a driver of inappropriate decision-making, system inefficiency, and significant risk. In particular, the Panel highlighted that *'no state or territory authority has power to transfer to the NDIA responsibility for managing the risk which a NDIS participant may pose to the general public. Nor does the NDIA have the legal authority to accept any such attempted transfer. Not only that, but the reputational risk which the NDIA would assume were it to nominally accede to that transfer, would be very large.'*

- Misunderstandings around the role and significance of the relevant principles can have serious consequences. Their effective interplay in the individual circumstances requires the joint application by the NDIA and the relevant state and territory court or parole board, each acting with insightful cooperation, of rigorous intellectual scrutiny married to common sense informed by experience and education.
- There is much in the NDIS Act which casts upon the NDIA a duty to support those with a disability so as to enable them to live as normally as possible. Section 3 of the NDIS Act has among its objects the provision of reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme. Another of its objects is the promotion of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community.
- There is nothing in the Act which gives the NDIA the power to enforce either the criminal law or the correctional policies of a state or territory. As a matter of Constitutional law, responsibility for that enforcement lies with the states and territories alone. Only their courts can impose penalties for breaches of their criminal law. Only their courts can impose, upon NDIS participants seeking release on bail, orders designed to reduce or eliminate the risk such participants pose to the general community. Only their courts and parole boards can impose, upon formerly incarcerated NDIS participants, supervisory regimes likewise designed to reduce or eliminate that risk.

- On the other hand, NDIS disability supports may, and generally will, provide significant, albeit ancillary, assistance in the management of a supervisory regime imposed by a state or territory court or parole board. NDIS-provided behavioural supports are an obvious example.
- The temptation, to which courts and parole boards sometimes succumb, is to incorporate these supports into their risk-aversion supervision, with the effect of making the NDIA an agency within the supervisory regime. But any such agency would be illegitimate, because it would be beyond the NDIA's lawful power. If, in the opinion of a court or parole board, the incorporation of a support provided by the NDIS is a necessary element in a risk-avoidance supervisory regime, then the provision of that support should, indeed, become the responsibility of the relevant state or territory correctional authority. The NDIA's responsibility will therefore cease.
- Whenever a court or parole board is contemplating imposing a regime of post-release supervision upon a NDIS participant, careful consideration should be given to the importance of consistency between the NDIS disability supports and that supervisory regime conditions. Orders which interfere with the provision of the NDIS supports should be avoided. One means, often available, would be to frame the orders in such a way as to eliminate such interference while retaining their effect as risk-avoidance mechanisms. For its part, the NDIA should - where no inconsistency with its duty to participants arises - design its supports so as to mesh with the supervisory regime. This step might not be open, however, if the supervision orders post-date the provision of the NDIS supports.
- A systematic and continuous attempt to give unity of effect to both NDIS supports and state and territory supervisory regimes has everything to commend it. Yet it will not be realised without the involvement of fully informed judicial officers, parole board members and NDIA personnel, all of whom are, through appropriate education, fully aware of the extent (including of course the limitations) of the powers and duties of each; and who are also equipped with all the information required to make decisions which correctly accord with the particular circumstances of each individual case.
- The sharing of information will be vital. The NDIA should be told of every instance in which a NDIS participant is to be the subject of an application for post-release supervision. It should have the right to be heard by the decision

maker, and that right should be secured by state and territory legislation. In the great majority of cases, however, the NDIA will not need to exercise a right to be heard because, if there is appropriate consultation which is also appropriately timed, the correctional authority (which will necessarily be the applicant for supervisory orders) will have been provided with all the information which the NDIA seeks to have taken into account; and the authority will then, as a model litigant, be bound to place that information before the decision-maker – the relevant court or parole board

- There will be occasions when the NDIA wishes to exercise its right to be heard. This might be the case if the NDIA and the relevant state or territory correctional authority cannot agree upon the supervisory orders which the authority intends to seek. It might also be the case on those occasions when the NDIA has concerns about the risk which a participant might pose to the safety of providers or others for whom the NDIA has a duty of care.

The Panel recommends that the following actions be progressed:

- Implement a multi stakeholder education and training program, to improve understanding of disability and enhance understanding of the NDIS roles and responsibilities.
- A core component of a targeted education approach should focus upon what the NDIA and NDIS supports can do:
 - specifying the role of the NDIS in funding supports that meet the persons NDIS disability related support needs
 - clarifying that a person's engagement with the NDIS is voluntary and so too is their choice to engage with NDIS disability supports
 - explaining how NDIS supports and information can be used and interpreted, including its limitations and appropriate use in decision-making contexts, including bail, sentencing, parole, and release.

- Collectively, targeted approaches must also address what the NDIA and NDIS supports **cannot** do:
 - not be used to fulfil responsibilities for supervision, compliance, risk management, or public safety functions, noting courts, parole boards, and correctional authorities retain responsibility for public protection and the enforcement of legal orders
 - describe that the NDIA is not a party to proceedings and cannot be compelled by any state or territory authority to undertake functions or make decisions beyond its statutory responsibilities and authorities
 - clearly articulate how NDIS supports should be considered in justice decision-making contexts, including bail, sentencing, parole, and release.

Consideration 2: Prioritise High-Impact Stakeholders Across the Justice Interface

Improving outcomes across the justice-NDIS interface requires a shared understanding of disability and coordinated action across justice, disability, and community systems. Education and engagement activities should be targeted to stakeholders with the greatest influence on participant outcomes, justice decision-making, and system risk, enabling an opportunity to shape participant pathways through the justice system. The prioritisation of stakeholder cohorts is outlined in [Appendix A](#).

The Panel recommends that the following actions be progressed:

- Prioritise targeted education for courts, tribunals, parole boards, and other justice decision-makers involved in release, supervision, and community transition decisions.
- Engage police and diversion services at a strategic, system-wide level, including commands responsible for disability or vulnerable cohorts, to support early disability identification, diversion, disability-responsive justice pathways, and education, recognising their influence at first justice contact.
- Target legal professionals, including defence lawyers (particularly private and subcontracted providers), prosecutors, and legal aid services:
 - expand engagement to include Aboriginal Legal Services, community justice groups, and culturally specific organisations
 - engage specialist courts and culturally specific justice forums, including Aboriginal and Torres Strait Islander sentencing courts (e.g. Koori and Murri Courts).

- Recognise families and carers as key stakeholders and, where appropriate, support their participation in education and engagement activities that contribute to improved participant outcomes.
- Build NDIA staff capability in priority justice-interface functions, including plan implementation, risk context, information sharing, escalation pathways, and transition planning for participants entering or leaving custody.
- Provide justice-specific training and practical guidance for support coordinators so they can coordinate transition planning, connect participants to appropriate services, and navigate responsibilities across NDIA, justice, disability, and community systems.
- Work with the NDIS Quality and Safeguards Commission to strengthen provider readiness for justice-interface participants, including compliance with regulatory requirements, safeguarding obligations, restrictive practice requirements, and workforce capability expectations.

Consideration 3: Implement a Tiered, Decision-Focused Education Model

The Panel emphasises the need for a structured, tiered approach to education and engagement that reflects differing roles, responsibilities, and decision-making authority across the system with all tiers being provided NDIS foundational education. [Appendix B](#) outlines the proposed three-level education model, while [Appendix C](#) demonstrates how education should be aligned to key justice decision points and participant transition pathways.

The Panel recommends that the following actions be progressed:

- The structured education model includes:
 - foundational NDIS awareness for all stakeholders
 - role-specific guidance for those involved in transition, planning, and service coordination.
- Specialised decision-focused training for courts, tribunals, parole boards, and other stakeholders whose decisions directly affect participant pathways. This should show how to interpret NDIS information in decision-making contexts; distinguishing NDIS disability support provision from risk management and supervision functions and consider disability-related support needs when making decisions about bail, sentencing, parole, release, and transition planning.

- Education should be designed in partnership between service systems, with subject matter expertise provided by the applicable government partner, and:
- Made practical through awareness raising, case-based learning, and specialised training and education relevant to key topics including the distinction between disability support provision, behaviour support, risk management, and supervision responsibilities; and how they intersect with NDIS legislation and support determinations:
 - delivered through credible channels, such as peer-led judicial education for tribunal members, courts, and judicial officers, and adapted to each jurisdiction's legal processes, decision points, and stakeholder roles
 - accompanied by practice tools and resources such as quick reference guides, flowcharts, and role-specific resources for justice stakeholders
 - aligned to role appropriate intersection with justice decision points and responsibilities arising at early identification and access, justice system entry, bail, sentencing, custody, pre-release, parole, and post-release transition.

Consideration 4: Embed Culturally Safe, Accessible and Lived Experience Approaches

Education should be accessible, culturally safe and grounded in lived experience to be effective across diverse communities.

The Panel recommends that the following actions be progressed:

- Embed culturally safe and responsive practices by involving people from diverse backgrounds, and those with lived experience of disability and justice-system interaction in co-design, review and delivery of education and engagement activities; including education targeted to justice decision-makers, and participant capacity-building initiatives.
- Improve clarity and usability of materials, including plain language and translated content for First Nations and Culturally and Linguistically Diverse (CALD) audiences.
- Incorporate culturally appropriate communication methods, including interpreters and community-led engagement.
- Explore lived experience and peer-led education models, including within custodial settings, to improve understanding and engagement with and about the NDIS, for people within the justice system.

- Consider partnership with Aboriginal Community Controlled Organisations (ACCOs) and community-led organisations to co-design and deliver education.

4. Summary

Improving education and engagement across the justice–NDIS interface is critical to supporting informed decision-making, effective transition planning, and better outcomes for participants. Work with Commonwealth, state and territory partners should target opportunities to move from broad awareness-raising activities to targeted, ‘role-specific’ education that supports stakeholders to understand the role, responsibilities and limitations of the NDIS and its interaction with the justice system.

The Panel recommends a coordinated approach that focuses on key decision-makers and decision points, culturally safe and lived experience-informed approaches, and supports broader policy and system reform.

This approach will improve decision-making, strengthen coordination across systems, and support better outcomes for participants interacting with the justice system.

The NDIA has an important leadership role in progressing this work in partnership with Commonwealth, state and territory agencies, justice stakeholders, and community partners.

Appendix A - Stakeholder Prioritisation and Identification

This appendix provides an indicative framework to support the design and delivery of targeted, role-specific education and engagement across the justice–NDIS interface. It reflects the Panel’s view that education should be aligned to stakeholder influence, decision-making responsibility, and system risk, rather than delivered through a standardised approach.

Tier 1 Decisions may fall outside NDIA remit, with immediate impacts on participant outcomes, liberty, and community safety. Misunderstanding can result in inappropriate reliance on NDIS supports to manage risk.	Tier 2 Misalignment between justice and NDIS responsibilities may lead to gaps in transition planning, inappropriate supports, and system-level failures in coordination and accountability.	Tier 3 Inconsistent understanding of NDIS processes, and disability may result in misinterpretation of behaviour, missed early intervention opportunities, and variable decision-making in practice.	Tier 4 Lower direct decision-making influence, but gaps in baseline knowledge contribute to broader system inconsistency and reduced effectiveness of supports.
• Magistrates and Judges • Tribunals • Specialist Courts and Aboriginal and Torres Strait Islander sentencing courts (e.g. Koori Courts, Murri Courts, and similar jurisdiction-specific forums) • Public Guardians and Public Trustees • Bail Assessors • Parole Boards • State and Territory Justice Officials involved in court, parole, release, and supervision processes • Legal Services • Aboriginal and Torres Strait Islander Legal Services • Defence lawyers and barristers, including legal aid practitioners • Community Justice Groups and equivalent advisory bodies • NDIA Staff in justice-interface functions	• Corrections and youth justice • State justice officials • Prison in-reach / transition teams • Youth diversion and assessment services • Forensic mental health services • Operational decision-makers • Corrections services • Youth justice services • Prison in-reach services • Transition and reintegration teams • Youth diversion and assessment services • Forensic mental health services • Operational justice decision-makers • Custodial peer-support and prisoner leadership groups (where established)	• Support Coordinators • Recovery Coaches • Disability Support Providers • Therapists and Allied Health Professionals • Court Support Services • Justice Liaison and Court Liaison Officers • Senior Practitioners • Specialist police commands and units with responsibility for disability, ageing, or high-risk vulnerable persons • Australian Federal Police and jurisdiction-specific specialist units where relevant	• Aboriginal Community Controlled Organisations (ACCOs) • Disability and Justice Peak Bodies • Families, carers, and kinship supports • Community-led support networks • Peer networks and lived-experience groups • NDIA Staff • NDIS Partners and Local Area Coordinators (LACs)

Appendix B – Tiered Education Model

The Panel supports a three-level education model, progressing from foundational awareness to specialised, decision-focused capability.

Level	Purpose	Key Topics	Target Audience
Level 1: NDIS Foundational Awareness	Establish baseline understanding	NDIS purpose and limitations NDIA roles Reasonable and Necessary supports Justice interface overview	All stakeholders, particularly Tier 3 and Tier 4
Level 2: NDIS Specific Practice – Applied Knowledge	Build operational capability	NDIS plans and processes Transition points System boundaries Early intervention pathways	Tier 2 and Tier 3 stakeholders
Level 3: Specialised Education – Decision-Focused Capability	Support high-impact decision-making	Legislative limits Bail, sentencing, and parole considerations Disability support versus risk management	Tier 1 stakeholders and key decision-makers

Appendix C – Alignment to Decision Points

The Panel emphasises that education must be aligned to key justice decision points, where misunderstanding has the greatest impact on outcomes.

Decision Point	Key Stakeholders	Education Focus
Early Identification and Access	Families, carers, ACCOs, youth services, child protection, education providers, support services	Disability identification, referral pathways, NDIS access processes and early intervention opportunities
Justice System Entry (Police/Court Contact)	Courts, tribunals, legal practitioners, specialist police units, justice officials	Disability considerations, access to support information and referral pathways
Bail	Courts, tribunals (where relevant) lawyers, justice officials	Role of NDIS supports versus risk management and supervision responsibilities
Sentencing	Courts, tribunals, legal practitioners	Functional capacity, disability-related needs, and support considerations
Custody	Corrections, service providers, prison in-reach teams	Plan portability, participant engagement, and continuity of supports
Pre-release	Corrections, NDIA, transition services	Transition readiness, information sharing, and support availability
Parole / Supervision	Parole boards, tribunals, justice agencies, legal representatives	Distinguishing support provision from community safety and supervision responsibilities

Decision Point	Key Stakeholders	Education Focus
Post-Release and Community Reintegration	NDIA, providers, ACCOs, families and carers	Continuity of supports, service coordination, and escalation pathways