



**NDIS Quality
and Safeguards
Commission**

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Complaints Management and Resolution Guidance

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Definitions

Act	The <i>National Disability Insurance Scheme Act 2013</i>
Complaints Rules	The <i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i>
NDIA	The National Disability Insurance Agency, whose role is to implement the National Disability Insurance Scheme (NDIS)
NDIS	The National Disability Insurance Scheme, which is a new way to support a better life for hundreds of thousands of Australians with a significant and permanent disability and their families and carers
NDIS Commission	The National Disability Insurance Scheme Quality and Safeguards Commission
NDIS provider	A person (other than the NDIA) who receives: <ul style="list-style-type: none"> • funding under the arrangements set out in Chapter 2 of the Act, or • NDIS amounts (other than as a participant), or • a person or entity who provides supports or services to people with disability other than under the NDIS; and who is prescribed by the NDIS rules as an NDIS provider. See s 9 of the Act
NDIS participant	A person with disability who receives supports or services from an NDIS provider who is a participant in the National Disability Insurance Scheme. See s 28, 29 and 30 of the Act.
Registered NDIS provider	A person or entity registered under s 73E of the Act, to provide supports and services to NDIS participants.
Worker	Includes employees, contractors and people otherwise engaged (for example, on a voluntary basis) by an NDIS provider

About this guidance

This guidance has been developed to provide information about how the NDIS Quality and Safeguards Commission (NDIS Commission) manages and resolves complaints it receives about the provision of NDIS supports and services. It is relevant for anyone seeking to make a complaint to the NDIS Commission including people with disability, their family, friends, carers, advocates and workers.

This guidance sets out:

- information about how to make a complaint to the NDIS Commission, and
- what happens when you make a complaint.

For information about complaint handling by NDIS providers, see: [Effective Complaint Handling Guidance for NDIS Providers](#)

Part 1 – NDIS Quality and Safeguards Commission

Who we are

The NDIS Commission is an independent government body that works to improve the quality and safety of NDIS services and supports, investigate and resolve problems, and strengthen the skills and knowledge of providers and participants across Australia.

The NDIS Commission implements the NDIS Quality and Safeguarding Framework, which introduces a new, nationally consistent approach to regulation for the NDIS.

What we do

The NDIS Commission:

- helps participants, and their families and carers, by responding to their concerns or complaints
- upholds the rights and dignity of people with disability, by empowering participants to speak up against abuse, neglect and harm, and requiring providers to uphold participants' right to be free from harm
- safeguards the safety and quality of services
- enforces the NDIS Code of Conduct and Practice Standards for providers and workers
- requires registered NDIS providers to report incidents, including abuse and neglect, to the NDIS Commission
- provides national oversight of, and leadership in relation to, behaviour support, and
- identifies areas for improvement across the NDIS market, and provides information and advice to improve future services.

Our guiding principles

The guiding principles underpinning the NDIS Commission's functions, set out in the *National Disability Insurance Scheme Act 2013* (the Act), include supporting the rights of people with disability to:

- realise their potential for physical, social, emotional and intellectual development
- participate in and contribute to social and economic life and be fully included in the community
- exercise choice and control in the pursuit of their goals, including in relation to taking reasonable risks and pursuing complaints
- be included in making decisions about their life
- to have their dignity respected and live a life free from abuse, neglect and exploitation

- have the roles of families, carers and other significant persons in their lives recognised and respected, and
- have the roles of advocates in representing the interests of people with disability acknowledged and respected.

Part 2 – Complaints functions and principles

The NDIS Commission is responsible for supporting the resolution of complaints about the provision of supports and services by all NDIS providers. Complaints can lead to better services for everyone, and can be a way to sort out issues quickly.

Registered NDIS providers are required to have complaints management and resolution systems in place and support people with disability to understand how to make a complaint to the provider and to the NDIS Commission. For information about complaint handling by NDIS providers, see: [Effective Complaint Handling Guidance for NDIS Providers](#)

The NDIS Commission’s complaints functions include:

- managing, resolving, conciliating and the resolution of complaints
- providing education and developing resources on best practice complaints handling
- building the capability of people with disability to speak up when they are not happy about supports or services provided by NDIS providers
- helping NDIS providers to develop a culture of learning and innovation to deliver high quality supports and services, prevent incidents and respond to complaints
- reviewing complaints data, for example to identify systemic issues to be addressed, and
- report on information relating to complaints, for example the causes, types and number of complaints and their outcomes.

The NDIS Commission’s complaints management and resolution service is impartial and confidential.

Principles of complaints management

To guide best practice complaints handling, the NDIS Commission has developed the following six principles.

Principle	Description
Centred on people with disability	Management of a complaint is respectful of, and responsive to, a person with disability’s preferences, needs and values.

Principle	Description
Outcome focussed	Management of a complaint should reveal the factors that contributed to the complaint being made, and seek to prevent matters giving rise to complaints from reoccurring, where appropriate.
Clear, simple and consistent	The process for receiving and responding to complaints is easy to understand, accessible and consistently applied.
Accountable	NDIS providers are responsible for appropriately managing complaints. Everyone involved in the management of a complaint understands their role and responsibilities, and will be accountable for decisions or actions taken in regard to a complaint.
Continual improvement	The complaints process facilitates the ongoing identification of issues and implementation of changes to improve the quality and safety of NDIS supports and services.
Proportionate	The nature of any actions following a complaint will be proportionate to the issues raised and any risk of harm to people with disability.

Part 3 – Making a complaint to the NDIS Commission

The [Act](#) and [Complaints Rules](#) set up a complaints resolution scheme that is open to anyone to make a complaint about the provision of supports and services by NDIS providers, including anonymous complainants.

What is a complaint?

A complaint is an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

Most NDIS providers will already be familiar with handling complaints and be aware of the Australian/New Zealand standard *Guidelines for complaints management in organizations* (AS/NZS 10002:2014).

Why should somebody make a complaint?

Making a complaint can lead to improved services, communication and sometimes to changes to policies and procedures, and the way NDIS providers deliver services. Providers can use their complaints experience and information to regularly improve their communication and services.

What can a complaint be made about?

People can make a complaint to the NDIS Commission about any issue connected with NDIS funded supports or services provided by an NDIS provider (registered or unregistered). A complaint can be made about any NDIS provider and/or its workers, whether or not the provider is registered with the NDIS Commission.

Complaints should generally be raised directly with the NDIS provider in the first instance. A person does not have to raise their complaint with the provider before approaching the NDIS Commission for help.

Complaints the NDIS Commission can take

The NDIS Commission can receive complaints about issues such as:

- whether services or supports have been provided in a safe and respectful way
- whether services and supports have been delivered to an appropriate standard
- how an NDIS provider has managed a complaint about NDIS funded services or supports provided to an NDIS participant, and
- how an NDIS provider has responded to an advocate or carer of an NDIS participant.

All complaints will be taken seriously.

Complaints the NDIS Commission cannot take

The NDIS Commission cannot deal with complaints about:

- non NDIS funded services, such as in-kind supports¹ provided by an NDIS provider
- actions taken by the National Disability Insurance Agency (NDIA), including decisions about eligibility, funding and supports included in a participant's plan

¹ 'In kind supports' are defined in para. 6.8 of the National Disability Insurance Scheme (Plan Management) Rules 2013. Broadly, they are supports that are:

- included in a participant's plan as reasonable and necessary supports, and
- provided to a participant by a State, Territory, the Commonwealth, or a provider engaged or funded by one of them, and
- made available to the NDIA on an 'in-kind' basis as part of a jurisdiction's contribution to the NDIS.

- disability services or supports provided by an organisation which is not an NDIS provider, for example, health, education or transport services, and
- decisions of courts, tribunals or coroners.

There are other organisations that can deal with complaints about these things. If you are not sure who to contact, the NDIS Commission will help to connect you with the right organisation.

Complaints about the NDIA can be made to the NDIA or to the Commonwealth Ombudsman.

Complaints about the NDIS Commission can be made to the NDIS Commission or the Commonwealth Ombudsman. The NDIS Commission encourages people to provide feedback about how it can improve services. For information about how to make a complaint or provide feedback about the NDIS Commission visit the [Commission's website](#).

Who can make a complaint?

Anyone can make a complaint to the NDIS Commission about supports and services provided by an NDIS provider. This includes people with disability, their families, friends, carers, advocates or guardians, workers or volunteers of an NDIS provider or any other person who wishes to make a complaint.

How can a complaint be made?

A complaint can be made to the NDIS Commission by:

- phoning 1800 035 544 (free call from landlines) or TTY 133 677 (interpreters can be arranged)
- using the [National Relay Service](#) and asking for 1800 035 544
- completing a [complaint contact form](#) to let the NDIS Commission know how best to contact you.

What can the NDIS Commission do about a complaint?

The NDIS Commission can help a person to make a complaint to an NDIS provider. If the person is not able to resolve the complaint with the NDIS provider, the NDIS Commission will work with the people involved, for example, NDIS participants, their representatives (including advocates) and providers to resolve the complaint.

If a complaint raises a serious compliance issue, the NDIS Commission has powers to take action against the NDIS provider.

What can I expect when I make a complaint?

The NDIS Commission will:

- support people to make a complaint in a way which is culturally appropriate
- help people who require additional support to make a complaint

- provide information about the use of independent advocates, and
- handle complaints in line with the Principles of complaints management.

An NDIS Commission complaints officer will talk to you about your complaint to understand the issues you are concerned about and what you would like to see happen.

Protections for people making a complaint

The NDIS Commission works closely with people and their NDIS providers to ensure people are not disadvantaged in any way because they have made a complaint. If a complaint is a protected disclosure under the Act it is a serious offence to cause or threaten to cause a detriment to a person for making the disclosure.

Complaints can be made anonymously, or people can ask the NDIS Commission to keep some of the details of a complaint confidential. However, making an anonymous or confidential complaint may affect whether, or how thoroughly, the NDIS Commission can deal with it.

Registered NDIS providers are responsible for taking steps to uphold people's right to complain.

Part 4 – The complaints process

What happens when I make a complaint?

The NDIS Commission will acknowledge receipt of a complaint unless it was made anonymously or the contact details of the person making the complaint were not provided.

A complaints officer will contact you to understand the concerns you are raising. They will ask you for enough information so they can understand the issues involved and any concerns about the immediate health, safety and wellbeing of any person with disability affected by an issue raised in the complaint. This information will help the NDIS Commission decide how to respond.

If there are issues the NDIS Commission is unable to help you with, you will be provided with information to help you make a complaint to the right place.

If you have made a complaint on behalf of a person with disability, the NDIS Commission will ask whether that person is aware of the complaint and if they have requested or consented to you making the complaint. The NDIS Commission will seek their views wherever possible to understand what outcome they would like. The NDIS Commission's focus is on what is important to and for the person receiving the service, and will seek to involve them in the process as much as possible.

The NDIS Commission will send you written confirmation of the issues in the complaint and the outcomes you are seeking. The NDIS Commission will seek your consent and, where appropriate, that of any relevant person with disability affected by issues raised in a complaint to pass on information about the complaint to the NDIS provider.

Your privacy

The NDIS Commission collects and uses personal information, including sensitive information, for the purpose of performing functions as set out in the Act. The NDIS Commission is committed to handling information in accordance with the Australian Privacy Principles in the *Privacy Act 1988* and the *NDIS (Protection and Disclosure of Information) Rules*. Further information is contained in our [Privacy Policy](#).

Resolution of a complaint

Sometimes a complaint can be resolved quickly. At other times, it can take time to understand the issues, gather information and reach a resolution. In helping you to decide how to resolve a complaint, the NDIS Commission may:

- talk to you to understand the complaint and how it can be resolved. If you are making a complaint on behalf of a person with disability, the NDIS Commission may also talk to them about the complaint
- request information and documentation to help clarify the issues
- talk to the NDIS provider to get their views about the complaint
- talk to you about the information the NDIS Commission gets from a provider and, if you are making a complaint on behalf of a person with disability, also talk to them about information gathered
- work closely with you and the NDIS provider to find ways to resolve the complaint. If you are making a complaint on behalf of a person with disability, the NDIS Commission may also include them in finding ways to resolve the complaint. The Commission involves the person with a disability as much as possible in the process.

After the NDIS Commission has reviewed all relevant information about the complaint, it may require the NDIS provider to undertake remedial action within a specified time to address identified concerns, for example:

- to take certain steps to help an affected person with disability, or
- make changes to their complaints management and resolution system.

The NDIS provider may be required to report back to the NDIS Commission on actions it has taken to address the identified concerns.

The NDIS Commission will monitor the NDIS provider's response. As part of this, the NDIS Commission may request further documentation, contact people involved in the complaint, visit the service or talk to other people affected by the issues including other people with disability and staff.

If the NDIS Commission is not satisfied that the NDIS provider has taken the remedial action within the specified timeframe, it will consider taking compliance action.

Resolving complaints through conciliation

Conciliation may attempt to resolve a complaint that could not be resolved through the initial assessment phase of the processes. The most common form of conciliation is a meeting between the person making the complaint, the person with disability affected by an issue raised in the complaint, and the provider. Participation in a conciliation meeting is an open and voluntary process.

The purpose of a conciliation meeting is to help people reach agreement on how the complaint can be resolved. Individual meetings are scheduled ahead of the conciliation meeting to help each party prepare and plan how they will participate. The NDIS Commission will facilitate the conciliation and help clarify the issues, gather information and encourage discussions between people at the conciliation meeting. The NDIS Commission does not advocate for either the person or the provider. It is not a public hearing, or a hearing before a court or a tribunal.

Each person is given the opportunity to put forward their views. Because of this, conciliation may be preferable for some people as this person-centered approach allows the person making the complaint to have their views heard directly by the provider.

If the conciliation results in the parties agreeing to particular actions and outcomes, the NDIS Commission may end the resolution process on the basis that the parties have reached an agreement. Even if no agreement is reached, the NDIS Commission may decide to end the resolution process for other reasons, for example, if the NDIS Commission is satisfied that, given all the circumstances, the continuation of the resolution process is not appropriate or warranted.

Investigation

The NDIS Commission may decide that an issue raised in a complaint is better dealt with through compliance action, including an investigation. This may include issues where the NDIS Commission identifies serious concerns or risks to people with disability. The NDIS Commission will comply with its [procedural fairness guidelines](#) in any investigation it undertakes.

What happens next?

Most complaints are resolved during the assessment phase of the complaint handling process. However, there are a number of ways a complaints resolution process may end, including:

- if the issues have been resolved because the person making the complaint and the NDIS provider have agreed on a resolution outcome
- the NDIS provider has addressed the issues to the satisfaction of the NDIS Commission
- the NDIS Commission has required the NDIS provider to undertake remedial action within a specified timeframe, or
- a complaint has been withdrawn.

The NDIS Commission may also decide to end a complaints resolution process if it believes:

- the complaint or issue is better dealt by another person or body
- the circumstances giving rise to the complaint or issue cannot be determined

- the information given by the complainant was not given in good faith
- the complaint or issue has already been, or is already being, dealt with
- a person with disability affected by an issue raised in the complaint does not wish the resolution process to continue;
- the complaint or issue is, or has been, the subject of a legal proceeding or a coronial inquiry, and the complaint or issue has been, or will be, adequately dealt with under the Complaints Rules, or
- having regard to all the circumstances, continuation of the resolution process is not appropriate or warranted.

In deciding whether to end a resolution process, the NDIS Commission will consider:

- whether the health, safety or welfare of any person with disability affected by an issue raised in the complaint will be negatively impacted by the decision, and
- whether the complaint may have been withdrawn on the basis of victimisation, coercion or duress.

At the end of the resolution process, the NDIS Commission will write to the person who made the complaint, the affected person with disability, the NDIS provider and any worker of a provider which may have adverse findings made against them. The following information will be provided:

- notice of the outcome of the resolution process including:
 - any key findings or outcomes of the resolution process
 - any actions agreed to be taken by an NDIS provider or complainant in relation to the issue
 - any remedial action in relation to the complaint or issue that the NDIS Commission requires the NDIS provider to undertake within a specified period, and
 - the NDIS Commission’s decision to end the resolution process and the reasons for that decision,
- information about how the complainant or the NDIS provider may apply for reconsideration of the NDIS Commission’s decision;
- any other information the NDIS Commission considers relevant.

If there are any concerns about communicating with a participant directly, you should discuss the matter with the NDIS Commission’s Complaints team.

What if a person disagrees with the complaints process or a decision?

If, at any time during the complaints process, a person is concerned about how the NDIS Commission is managing their complaint or the conduct of NDIS Commission staff, they are encouraged to contact us so concerns can be resolved. The NDIS Commission can be contacted for this feedback using the details below:

- email: contactcentre@ndiscommission.gov.au
- phone: 1800 035 544

Feedback and complaints about the NDIS Commission are dealt with separately to complaints about decisions made in relation to a complaints process. If a person is unhappy with the NDIS Commission's decision in relation to a complaint to take no further action or defer taking action, or to end a resolution process, a request can generally be made for a reconsideration of the decision.

How is an application for reconsideration made?

An application for reconsideration can be directed to the Assistant Director, Quality Assurance, NDIS Commission using the following contact details:

- email: complaints@ndiscommission.gov.au
- phone: 1800 035 544
- post: Assistant Director, Quality Assurance, NDIS Commission, PO Box 210, Penrith NSW 2750

An application for reconsideration needs to:

- be made within 42 days of the parties being notified of the relevant decision, and
- provide reasons for why the reconsideration is sought, e.g. what has happened, what are you unhappy about?

The reconsideration process

The reconsideration will be undertaken by a person not involved in the original decision-making process.

Once an application for reconsideration has been received, a decision will be made within 28 days to confirm that the original decision stands, or that a new resolution process will be undertaken. A complainant, provider or other person involved in the resolution process may be asked to provide further information to assist the reconsideration.

If it is decided that the original decision stands, the person who applied for the reconsideration will be notified in writing.

If a new resolution process is to be undertaken, the NDIS Commission will notify:

- the person who made the complaint
- a person with disability affected by an issue (unless it would be inappropriate to do so)
- the NDIS provider to which the issue relates, and
- any worker of the NDIS provider who may have an adverse finding made against them.

The processes the NDIS Commission will follow to finalise the new resolution process, and to notify the relevant people that the new resolution process has been finalised, are the same as for ending the initial resolution process.

A person cannot apply for a reconsideration of a decision made as a result of an earlier reconsideration process.

Making a complaint to the Commonwealth Ombudsman

If you disagree with the decision that the NDIS Commission has made about a complaint you are encouraged to apply for reconsideration of the decision in the way described above, before contacting the Commonwealth Ombudsman.

Anyone who is not happy with the NDIS Commission can raise their concerns with the Commonwealth Ombudsman. The Ombudsman investigates complaints from people who believe they have been treated wrongly, unfairly, unjustly or discriminated against by an Australian Government department or agency. The NDIS Commission is a government agency.

The Ombudsman is impartial and independent. The Ombudsman can resolve disputes through consultation, negotiation and formal recommendations.

The Ombudsman can only look at the NDIS Commission's actions in managing a complaint. If the Ombudsman identifies a problem with the NDIS Commission's response, it can make findings and recommendations. The NDIS Commission will consider the Ombudsman's findings and recommendations, including taking any action consistent with its commitment to continuous quality improvement.

More detailed information on how the Ombudsman's office performs its role is available on the Commonwealth [Ombudsman's website](#).