



# Coronavirus (COVID-19): Case studies of the NDIS Quality and Safeguards Commission's compliance approach

This fact sheet uses case studies to explain some key considerations NDIS providers should bear in mind to comply with their obligations to keep NDIS participants safe from harm during the COVID-19 pandemic.

## Key points

- Providers must continue to uphold the rights of NDIS participants and their need for continuity of supports and services during the COVID-19 pandemic.
- It is important to enable NDIS participants to exercise choice and control, and to respect each participant's right to the dignity of risk in decision-making.

## Our regulatory approach during the COVID-19 pandemic

We issued a [provider alert on 31 March 2020](#) that outlined our regulatory response during the COVID-19 pandemic.

While we recognise that COVID-19 is changing the delivery of supports and services to NDIS participants, the obligations of all NDIS providers – registered and unregistered – remain unchanged.

We are taking a proportionate regulatory approach with providers, and are concentrating on supporting you to be agile and resourceful in meeting your obligations. It is vital that all providers continue to uphold the rights of NDIS participants and their need for continuity of supports and services to keep them safe and healthy.

## Case studies

The following three case studies are drawn from a number of complaints we have received during the pandemic. Each one addresses an aspect of a provider's failure to fulfil their obligations to the NDIS participants they support.

These scenarios are also a timely reminder of the importance of enabling people with disability to **exercise choice and control** in the planning and delivery of their supports, and to respect their right to the **dignity of risk** in decision-making.



## CASE STUDY A: Restricting access to visitors to reduce risk of COVID-19 infection

**Scenario:** Provider A manages a disability accommodation setting. To protect the participants from the risk of COVID-19 infection, Provider A refuses to allow any visitors to enter the premises, including external support providers and family members who provide critical support to NDIS participants. Provider A could allow access to visitors under the prevailing Public Health Orders in their state/territory.

### What could Provider A have done differently?

Before banning all visitors, Provider A should have considered:

- reviewing their visitor management policy to ensure it aligns with current public health orders in their state or territory
- informing all visitors that would be permitted to enter the premises about their infection control policy including any use of PPE, social distancing and good hand hygiene
- consulting with participants and their families about the proposed changes to the visitor management policy, including how those changes might impact the supports and services NDIS participants receive, and how alternative arrangements could be put in place
- conducting risk assessments on the impact of any change to the visitor policy on participants' mental and physical wellbeing. For example, some participants may rely on external support providers or family members to help them undertake activities such as exercise, and attending medical appointments.

**Alternative scenario:** Provider A manages a disability accommodation setting. Because of their obligation under the NDIS Code of Conduct to “act on concerns about matters that might have an impact on the quality and safety of supports provided to people with disability”, they are considering revising their visitor management policy to reduce the risk of participants being infected with COVID-19.

Provider A begins by checking the current advice from the Australian Government and their state or territory health authority to make sure any proposed changes would align with these. They also undertook an assessment of the risks of the proposed changes to participants, and suggested controls to manage these where appropriate. For example, they reviewed behaviour support strategies for participants who may display behaviours of concern; and consider what effect any proposed changes may have on participants' mental and physical wellbeing.

Provider A then explains to the NDIS participants they support, as well as their families, why they are proposing to temporarily change the policy. They invite the participants and their families to provide feedback on the proposed changes. This communication is done using the each participant's preferred communication channels. The provider also supports participants to put in place alternative support and service arrangements that they may wish.

## CASE STUDY B: Policies for NDIS participants who live in SIL accommodation

**Scenario:** Provider B manages a supported independent living (SIL) premises. During COVID-19, participants who leave their home are being prevented from returning to their home unless they have confirmation from their doctor that they do not have COVID-19.

### What could Provider B have done differently?

Provider B should have considered:



- current advice from the Australian Government and the state and territory health authorities about travelling outside the home
- current advice from health authorities about who should be tested for COVID-19
- assessing each resident's needs and risks on a more flexible basis, rather than implementing a standard one-size-fits-all policy
- reminding the NDIS participants about the importance of practising social distancing and good hand hygiene
- consulting with participants and their families, guardians or advocates about ways to minimise the risk of contracting COVID-19 – both when they are in the home and when they leave
- developing contingency plans to the continued provision of disability supports and services to participants who are suspected or have been exposed to COVID-19 infection.

**Alternative scenario:** Provider B manages a supported independent living (SIL) premises. Provider B believes that some of the NDIS participants they support may be at greater risk of contact with COVID-19 infection when they leave the premises, they are considering changing some of their rules about where they can go. They check the current advice from the Australian Government and their state/territory health authority to make sure their proposed changes align with this.

They use participants' preferred communication channels to explain to them and their families, guardians or advocates what the proposed change to the rules will be and how it will affect them. They ask for their feedback to make sure their needs are taken into account, including how the provider can support participants to continue to engage in activities and receive supports and services.

When the rules are changed, Provider B uses participants' preferred communication channels to make sure all participants and their families understand how these changes affect them. Provider B also gives them the name and phone number of a person to contact if the participants or their families have questions or want to discuss it further.

## **UPDATED - CASE STUDY C: Use of personal protective equipment (PPE)**

**Scenario:** Provider C delivers in-home supports to NDIS participants. Some participants have complained to the NDIS Commission that the workers from Provider C are not wearing PPE when providing them with general supports. The participants are worried that this is increasing their risk of COVID-19 infection and believe that Provider C is not fulfilling its obligations to keep them safe. It is not required that Provider C or its workers wear PPE while delivering supports and services under current public health orders.

### **What could Provider C have done differently?**

Provider C should have:

- ensured that where it is required by public health advice, workers comply with the requirements to wear PPE when they are delivering supports and services
- recognised that the publicity surrounding the lack of availability of PPE may have increased the level of fear and anxiety in the community
- ensured their workers understand when they must use PPE (and how to do so correctly) and when PPE is not required to address risks around exposure to COVID-19 infection
- communicated clearly with NDIS participants about when their support workers need to use PPE and when it is not needed, in accordance with current public health advice



- communicated clearly with NDIS participants about the measures that will be put in place if a support worker contracts COVID-19.

**Alternative scenario:** Provider C delivers in-home supports to NDIS participants. Although the types of services Provider C delivers do not usually require its workers to wear masks or gloves, they recognise increased risks associated with COVID-19 infection and associated anxieties, so they:

- regularly check relevant public health orders and Commonwealth health advice to see whether the use of PPE is required
- if the use of PPE is not required, explain to their workers why they do not need to use PPE when providing general supports, and answer any questions they have about this
- train their workers in infection control procedures and remind them of the public health messages about COVID-19 and the need to practise social distancing and good hand hygiene
- use the preferred communication channels of the NDIS participants they support to explain what infection control precautions they are taking, and why their workers are not wearing PPE. Provider C then gives each participant a plain language fact sheet that clearly sets out this information. (The fact sheet is also available in Easy Read and other languages, if needed.)

## Further information, alerts and resources

The [Coronavirus \(COVID-19\) information webpage](#) on the NDIS Commission website contains links to updates, training, alerts and other resources.

We also have a COVID-19 webpage containing information for [people with disability](#), and containing webpage of [frequently asked questions](#) about COVID-19 for all stakeholders.

## Contact Us

**Call:** 1800 035 544 (free call from landlines). Our contact centre is open 9.00am to 4.30pm in the NT, 9.00am to 5.00pm in the ACT, NSW, QLD, SA, TAS and VIC Monday to Friday, excluding public holidays.

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