



The NDIS Quality and Safeguards Commission

A new system for reporting incidents in South Australia

The NDIS Quality and Safeguards Commission (NDIS Commission) is an independent government body that works to improve the quality and safety of NDIS services and supports for people with disability, investigates and resolves problems related to them, and strengthens the skills and knowledge of providers and NDIS participants. Responsibilities of the NDIS Commission are set out in the *National Disability Insurance Scheme Act 2013* (the NDIS Act).

The NDIS Commission commenced in South Australia on 1 July 2018.

When it is operational in all states and territories, the NDIS Commission will provide a single, national registration and regulatory system for providers that will set a consistent approach to quality and safety across Australia, including for reporting incidents that occur in connection with the provision of NDIS services and supports.

What has changed for providers needing to report incidents in South Australia?

Registered NDIS providers are required by Commonwealth law to have appropriate systems in place to respond to any incidents that occur or are alleged to have occurred in connection with the provision of supports or services to NDIS participants. The Government of South Australia also requires NDIS providers to notify them of certain types of incidents. These reporting obligations apply to all providers in receipt of funding from the Government of South Australia prior to 1 July 2018. Since that date Commonwealth law has also required that registered NDIS providers notify certain types of incidents to the NDIS Commission. From 1 July 2018, providers who are in receipt of funding from the Government of South Australia and the NDIS may be subject to both state based and NDIS Commission reporting obligations. The following table provides guidance on the reporting of incidents in South Australia prior to and since 1 July 2018.

Reporting Incidents in South Australia

Requirement	State Based Reporting	Under the NDIS Commission
Supports or services concerned	<ul style="list-style-type: none"> Clients in receipt of state funded services or supports 	<ul style="list-style-type: none"> NDIS Funded services or supports Commonwealth Department of Health Funded Continuity of Support

Requirement	State Based Reporting	Under the NDIS Commission
	<ul style="list-style-type: none"> • Clients who are yet to transition to receive NDIS services or supports 	
Incident Management System	<ul style="list-style-type: none"> • Providers must accurately record, update and maintain incident register 	<ul style="list-style-type: none"> • Registered providers must maintain an incident management system
What must be reported	<p>A ‘critical client incident’, which is an event (or alleged event) that:</p> <ul style="list-style-type: none"> • occurs as a result of, or during the delivery of services directly provided by a registered Disability Services Provider Panel (DSPP) provider, which is likely to cause significant negative impact to the health, safety or wellbeing of the service recipient (customer/client); and • may require a crisis response, incident management coordination and a consideration of a range of risks and sensitivities. <p>A ‘serious care concern’, which is:</p> <ul style="list-style-type: none"> • a breach in care standards where the alleged actions of a DSPP provider staff member, volunteer or person on placement, or general organisational practices, have placed a customer/client at significant risk or immediate danger of serious harm or have already caused a person with disability serious harm. 	<p>A ‘reportable incident’, which is an incident that occurred, or is alleged to have occurred, in connection with the provision of supports or services by a registered NDIS provider and is of a type specified by section 73Z of the NDIS Act or section 16 of the NDIS (Incident Management and Reportable Incidents) Rules 2018.</p> <p>Note the types of incidents are listed below.</p>
What types of Incidents to Report	<p>A ‘critical client incident’ may include:</p> <ul style="list-style-type: none"> • the unexpected death of a customer/client; 	<p>Each of the following is a ‘reportable incident’ if it occurred, or is alleged to have occurred, in connection with the provision of supports or services by a registered NDIS provider:</p>

Requirement	State Based Reporting	Under the NDIS Commission
	<ul style="list-style-type: none"> • the serious injury to or alleged assault (including physical, sexual abuse, sexual assault and indecent assault) of a customer/client; • allegations of serious unlawful or criminal activity or conduct involving staff that has caused, or has the potential to cause, serious harm to a customer/client; • an incident where a customer/client assaults or causes serious harm to others (including staff or other customers/clients); • a serious fire, natural disaster, accident or other incident which does, will, or is likely to: <ul style="list-style-type: none"> ○ pose a significant threat to the health, safety or wellbeing of customers/clients; ○ prevent the provision of services to customers/clients; or ○ result in the closure of or significant damage to premises of the service provider or the property of customers/clients. <p>A 'serious care concern' may include:</p> <ul style="list-style-type: none"> • exposing a person with disability to serious safety risks; • witnessing an act of abuse or neglect without intervening and failing to make an immediate report of the abuse to a manager/supervisor and the State; • abuse or restrictive practices; and • financial abuse. 	<ul style="list-style-type: none"> • the death of a person with disability; • serious injury of a person with disability; • abuse or neglect of a person with disability; • unlawful sexual or physical contact with, or assault of, a person with disability; • sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; • use of a restrictive practice in relation to a person with disability other than where the use is in accordance with an authorisation (however described) of a State (or Territory) in relation to the person. <p>Note also that providers are required to report alleged reportable incidents.</p>

Requirement	State Based Reporting	Under the NDIS Commission
When to Report an Incident	Reports must be made as soon as practicable (or within close of business on the next business day) to the SA Department of Human Services, Director Incident Management or Manager Feedback and Incident Review.	All reportable incidents, except for those concerning use of a restrictive practice, must be reported to the NDIS Commission within 24 hours of the registered NDIS provider becoming aware of the incident. Those concerning use of restrictive practice, other than in accordance with an authorisation or a however described must be notified within 5 days.
Who is responsible for Reporting an Incident	The service provider is responsible for meeting reporting obligations as described in their Master Agreement and Deed Poll.	The following are responsible for ensuring that incidents are reported: <ul style="list-style-type: none"> • the provider’s key personnel; • the person specified in the provider’s incident management system who is responsible for reporting incidents that are reportable incidents to the NDIS Commission.
How You Report	Email to: DHSIncidentManagementFeedbackandIncidentReview@sa.gov.au Phone: 8207 0490	Forms for notifying the NDIS Commission of a reportable incident and information about how to get them to the NDIS Commission are available on the NDIS Commission website. www.ndiscommission.gov.au/RI
Corrective Action	The SA Department of Human Services will work collaboratively with DSPP providers to review services to ensure they are responsive to customers/clients. This includes reviewing the specific concerns and obtaining relevant information to identify any systemic or practice issues, and ensuring that practices, policies and procedures are amended to minimise the risk of a similar incidents occurring and the continuous improvement of services.	The NDIS Commission can take action in response to a notification of a reportable incident or require the provider to take certain action.

Requirement	State Based Reporting	Under the NDIS Commission
<p>Additional Reporting Obligations</p>	<p>Additional matters to be reported to the SA Department of Human Services:</p> <ul style="list-style-type: none"> • the death of a customer/client; • any staff being convicted, charged or reported for a summary offence or an indictable offence; and • any alleged misconduct by staff in connection with the services, or concerns about a staff’s suitability to work with people who are vulnerable, have a disability or are children. <p>Additional reporting to other SA government authorities:</p> <ul style="list-style-type: none"> • Where a critical client incident or serious care concern may constitute a criminal offence or if police attendance is necessary to ensure the safety of those involved in the incident or restore order, the incident must immediately be reported to the South Australia Police (SAPOL). • All mandatory reporting requirements under the <i>Children’s Protection Act 1993</i> (SA) must be met, including those identified in the Child-Safe Environments Reporting Child Abuse and Neglect: Guidelines for Mandated Notifiers, and any other such requirements • In accordance with the <i>Coroners Act 2003</i> (SA), there must be immediate notification of SAPOL or the State Coroner of the death of a customer/client, after becoming aware that it is, or may be, a reportable death. This 	<p>Where a reportable incident may constitute a criminal offence or if police attendance is necessary to ensure the safety of those involved in the incident, the incident must immediately be reported to the South Australia Police (SAPOL).</p>

Requirement	State Based Reporting	Under the NDIS Commission
	notification is not necessary if the person believes on reasonable grounds that the death has already been reported.	
Record Keeping	<p>A DSPP provider is required to:</p> <ul style="list-style-type: none"> accurately record, update and maintain a register or registers, recording the occurrence and details of all customer/client deaths, critical client incidents, serious care concerns, incidents and complaints; and ensure that copies of all correspondence and other information received or created by the service provider and staff are kept for at least 7 years (or as otherwise required by Law) and in a form reasonably accessible. 	Registered NDIS providers must keep records of each reportable incident that occurs, or is alleged to have occurred, for a period of seven years from the date of notifying the NDIS Commission of the incident.

Where transition arrangements apply after 1 July 2018, the NDIS Commission is working with South Australia Government based agencies and regulatory bodies to manage reportable incidents.

Department of Human Services state-based reporting requirements still apply for state customers/clients who are yet to receive services through the NDIS and while they continue to receive state funded services. South Australia Government mandatory reporting requirements continue to apply. This includes reporting requirements under:

- *Children's Protection Act 1993 (SA)*; and
- *Coroners Act 2003 (SA)*.

Find out more

You can find more information and resources on the NDIS Quality and Safeguards Commission website at www.ndiscommission.gov.au

You can contact the NDIS Commission at feedback@ndiscommission.gov.au or on 1800 035 544.