



The NDIS Quality and Safeguards Commission

A new system for reporting incidents and making complaints in Western Australia

The NDIS Quality and Safeguards Commission (NDIS Commission) is a government body that works to improve the quality and safety of NDIS services and supports, investigates and resolves problems, and strengthens the skills and knowledge of providers and participants.

The NDIS Commission will commence its operations in Western Australia on 1 December 2020.

From 1 December 2020, the NDIS Commission will be operational in all states and territories, providing a single, national registration and regulatory system for providers that will set a consistent approach to quality and safety across Australia.

What has changed?

Under the legislation that the NDIS Commission administers, registered NDIS providers must have an incident management system in place to record and manage incidents (including allegations about incidents) that occur while providing supports or services to people with disability.

Registered NDIS providers must also have an in-house complaints management and resolution system, while all providers, registered and unregistered, must support participants to make a complaint.

The following tables provide guidance on the reporting of incidents and the making of complaints in Western Australia before, and after 1 December 2020.

Then and Now: Reporting incidents in Western Australia

Requirements	Prior to the NDIS Commission	Under the NDIS Commission
Supports and services to concerned	Disability service providers registered on the Western Australian (WA) Disability Service Provider Panel (DSSP) delivering state funded and NDIA funded supports.	Registered NDIS providers delivering NDIS-funded supports or services to NDIS participants
Incident Management System	The WA Disability Services Act 1993 , Section 25 (4) requires DSSP registered disability service providers to report any death, significant serious physical injury or psychological harm, an assault (including sexual abuse), or neglect of a person with disability in their care. The intent of the legislation is to safeguard people with disability and	As outlined in the NDIS (Incident Management and Reportable Incidents) Rules 2018 , incidents that must be recorded and managed include incidents where harm, or potential harm, is caused to a person with disability while they are receiving NDIS supports or services. The incident management system must include procedures for identifying,

Requirements	Prior to the NDIS Commission	Under the NDIS Commission
	<p>ensure disability service providers and Communities have in place sound practices to reduce the occurrence of such incidents.</p> <p>Disability sector organisations must ensure their staff are aware of the processes to follow when serious incidents occur. It is the disability sector organisation’s responsibility to respond to and manage the incident. This could include investigation, provision of support, evaluation of practices, or involvement of other parties such as the police.</p>	<p>assessing, recording, managing, resolving and reporting incidents to the NDIS Commission (if required).</p> <p>Registered NDIS providers must keep records about incidents, and must document their incident management system and make it available to workers and participants.</p>
<p>What must be reported</p>	<p>Serious incidents or allegations which result in harm to people with disability or caused by a person with disability.</p> <p>Reporting requirements apply to incidents that occur when a person with disability is outside receipt of a service as well as those that occur when receiving a service.</p>	<p>Reportable incidents are defined in section 73Z of the <i>National Disability Insurance Scheme Act 2013</i> and the NDIS (Incident Management and Reportable Incidents) Rules 2018.</p> <p>The definition provides that a reportable incident also includes a reference to a reportable incident that is alleged to have occurred.</p>
<p>What types of incidents to report</p>	<p>A serious incident report is required for one or more of the following:</p> <ul style="list-style-type: none"> • death of a person with a disability • serious physical injury or psychological harm suffered by a person with disability • abuse including physical, emotional, sexual, psychological, financial and neglect of a person with disability • the person is judged as posing a serious risk to the health, safety or welfare of themselves or others • exploitation or unjustified restrictive practices used with a person with disability • an assault on staff or a visitor to the service by a person with disability. 	<p>The following incidents (including allegations) arising in the context of NDIS supports or services must be notified to the NDIS Commission as a reportable incident:</p> <ul style="list-style-type: none"> • death of a participant • serious injury of a participant • abuse or neglect of a participant • unlawful sexual or physical contact with, or assault of, a participant • sexual misconduct committed against, or in the presence of, a participant, including grooming of the participant for sexual activity • use of a restrictive practice in relation to a participant, other than where the practice is authorised by the state or territory where it is used (if so required) and used in accordance with the participant’s behaviour support plan (often referred to collectively as

Requirements	Prior to the NDIS Commission	Under the NDIS Commission
		the unauthorised use of restrictive practices).
How you report	Whenever an event or set of circumstances arise that require reporting, the Chief Executive Officer of the DSSP registered disability service provider must ensure the matter is reported to Communities through the online Serious Incident Reporting (SIR) System.	From 1 December 2020 providers will be able to report through the NDIS Commission's website .
When to report an incident	<p>Disability service providers must report serious incidents through the online SIR System within 7 days of an incident occurring. The incident report records details of the incident and the actions taken by the disability service provider to safeguard those persons involved.</p> <p>Communities ensures any incidents that indicate poor practice concerns are included in contract management plans requiring future appropriate action by disability service providers.</p> <p>Communities has worked with people with disability, families, peak bodies and WA disability service providers to develop <i>A Guide for the Elimination of Restrictive Practices (3rd Edition, 2019)</i>.</p> <p>Every DSPP Head Agreement with a service provider outlines the contractual obligations to meet the National Standards for Disability Services, including minimising the use of restrictive practices under Standard 1: Rights and Standard 6: Service Management.</p>	<p>Apart from the unauthorised use of restrictive practices, all reportable incidents must be notified to the NDIS Commission within 24 hours of the registered NDIS provider becoming aware of the incident. A more detailed report about the incident and actions taken in response to it is required within five business days.</p> <p>The NDIS Commission must be notified of the use of unauthorised restrictive practices within five business days of a registered NDIS provider becoming aware of the incident. If there is other harm to a participant, it must be reported within 24 hours as the relevant reportable incident category, such as serious injury or abuse, if it meets that criteria.</p> <p>A final report may also be required within 60 business days of submitting the five-day report. The NDIS Commission will advise providers if a final report is required.</p>
Who is responsible for reporting an incident	<p>All disability service providers that have a service agreement (or other contract, including a grant) with Communities are required to report serious and notifiable incidents in accordance with the SIR Guidelines.</p> <p>On 8 June 2020 Communities released its Authorisation of Restrictive Practices in Funded Disability Services Policy, which encourages the reduction/elimination of the use of restricted practices and enables authorisation of regulated restrictive</p>	All registered NDIS providers, regardless of their service type, are required to notify the NDIS Commission of reportable incidents that occur in connection with the delivery of NDIS supports and services.

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	<p>practices where there are no other support options available to protect the safety of an individual or other members of the community. The policy takes effect on 1 December 2020 when WA assumes responsibility for the authorisation of regulated restrictive practices.</p>	
<p>Corrective action</p>	<p>Registered disability services providers are contractually linked to quality, safeguarding, compliance and accountability systems through the DSPP registration process. Legally enforceable Head Agreements are actively managed by departmental contract managers and include remedial actions that safeguard people with disability, including action and independent investigations which could impact on continued registration.</p>	<p>Registered NDIS providers, are responsible for preventing, responding to, and managing these incidents.</p> <p>Registered NDIS providers must ensure that they are responded to appropriately and steps taken to prevent such incidents from happening again.</p> <p>The NDIS Commission may take action in response to a reportable incident, where required. This may include requiring the provider to undertake specified remedial action, carry out an internal investigation about the incident, refer the incident to another body, or engage an independent expert to investigate and report on the incident.</p> <p>The NDIS Commission can also undertake its own monitoring or investigative activities in relation to the reportable incident, irrespective of what actions may have already been asked of the provider upon the incident being notified to the Commission.</p>
<p>Record keeping</p>	<p>Through its online SIR System, Communities maintains a record of serious incident reports lodged by disability service providers.</p>	<p>For each incident that must be covered by the provider's incident management system, the provider must keep records for a period of seven years from the day the record is made and date of notifying the NDIS Commission of the incident.</p>
<p>Additional reporting obligations</p>	<p>Registered disability service providers are required to report serious incidents to Communities through the online SIR System. This does not replace existing obligations to report suspected crimes to the police and other relevant authorities.</p>	<p>The requirement to notify the NDIS Commission of reportable incidents does not replace existing obligations to report suspected crimes to the police and other relevant authorities.</p>

Then and Now: Making complaints in Western Australia

Complaints	Prior to the NDIS Commission	Under the NDIS Commission
Provider responsibilities	<p>DSPP registered disability service providers are required to have effective and proportionate internal complaint management and resolution arrangements in place.</p> <p>Registered providers must afford procedural fairness to people when managing their complaints.</p>	<p>Registered NDIS providers are required to have effective and proportionate internal complaint management and resolution arrangements in place.</p> <p>Registered NDIS providers must afford procedural fairness to people when managing complaints.</p>
How a participant can make a complaint	<p>The Health and Disability Services Complaints Office (HaDSCO) is an independent statutory authority providing an impartial resolution service for complaints relating to health, disability and mental health services provided in Western Australia.</p> <p>People who contact HaDSCO are encouraged to use their service provider's complaint mechanisms in the first instance. Complaints to the HaDSCO can be made about services received, or services not received but believed they should have received.</p> <p>NDIS participants may make complaints about services and supports to the Health and Disability Services Complaints Office about incidents that occurred before transition.</p> <p>Email: enquiries@hadsco.wa.gov.au</p> <p>Country Free Call: 1800 813 583</p> <p>Telephone: (08) 6551 7600</p>	<p>Complaints about the quality or safety of NDIS supports and services provided by any NDIS provider, registered or unregistered, can be made to the NDIS Commission by calling 1800 035 544.</p> <p>Complaints about the NDIA or participant plans are still to be made to the NDIA or to the Commonwealth Ombudsman.</p>

Find out more

You can find more information and resources on the NDIS Commission website at www.ndiscommission.gov.au, or call **1800 035 544** during business hours.