



## A new incidents reporting and complaints system in the Australian Capital Territory

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, investigates and resolves problems, and strengthens the skills and knowledge of providers and participants.

**The NDIS Commission will commence in the Australian Capital Territory (ACT) on 1 July 2019 and will progressively roll out across Australia.**

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.

### What has changed?

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

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

The following table provides guidance on the reporting of incidents and complaints in the ACT prior to, and from 1 July 2019.

Incidents	Prior to the NDIS Commission	Under the NDIS Commission
Supports or services concerned	Specialist disability support service providers, as defined under the <i>Disability Services Act 1991</i> .	NDIS providers delivering funded services or supports to participants
Incident Management System	Providers delivering services in the ACT must accurately record, update and maintain an incident management system responsive to services provided and size of the business.	<p>As outlined in the <i>NDIS (Incident Management and Reportable Incidents) Rules 2018</i>, incidents that must be recorded and managed include incidents where harm, or potential harm, is caused to or by a person with disability while they are receiving NDIS supports or services.</p> <p>The incident management system must include procedures for identifying, assessing, recording, managing, resolving and reporting incidents.</p> <p>NDIS providers must keep records about incidents, and must document their incident management system and make it available to workers and participants.</p>

<p><b>What must be reported</b></p>	<p>Section 10 of the Disability Services Regulation 2014 (under the Disability Services Act 1991) requires that all Critical Incidents must be reported to the Director-General of the Community Services Directorate.</p> <p>A Critical Incident is any event that poses a serious risk to the life, health or safety, of an individual who is receiving services from your organisation.</p> <p>Reports are made to the Director-General of the Community Services Directorate via the Human Services Registrar.</p>	<p><u>Reportable Incidents</u> are serious incidents or allegations which result in harm to an NDIS participant which happened in connection with the provision of supports or services by registered NDIS providers.</p>
<p><b>What types of incidents to report</b></p>	<p>A Critical Incident can include incidents where staff, clients and third parties feel unsafe and under stress. It is impossible to describe every situation that may be a critical incident, however the following examples, in conjunction with the above information should give some guidance, if the incident involves:</p> <ul style="list-style-type: none"> <li>• a missing client;</li> <li>• a significant injury;</li> <li>• probable hospitalisation;</li> <li>• possible involvement by the Police or other emergency services;</li> <li>• an alleged sexual assault;</li> <li>• recognising a client who may be at risk of suicide or seriously injuring someone else;</li> <li>• a fire in the individual’s home;</li> <li>• alleged fraud; or</li> <li>• incorrect medication.</li> </ul>	<p>The following reportable incidents (including allegations) arising in the context of NDIS supports or services must be reported to the NDIS Commission:</p> <ul style="list-style-type: none"> <li>• the death of a participant;</li> <li>• serious injury of a participant;</li> <li>• abuse or neglect of a participant;</li> <li>• unlawful sexual or physical contact with, or assault of, a participant;</li> <li>• sexual misconduct committed against, or in the presence of, a participant, including grooming of the participant for sexual activity;</li> <li>• the use of a restrictive practice in relation to a participant, other than where the practice is authorised and used in accordance with the participants approved behaviour support plan.</li> </ul> <p>In addition to incident reporting requirements under the NDIS Commission, in the ACT the <i>Senior Practitioner Act 2018</i> requires providers to also report to the Senior Practitioner (ACT) the use of any restrictive practices outside an authorised behaviour support plan.</p>
<p><b>How you report</b></p>	<p>Critical Incidents can be reported by contacting the office of the Human Services Registrar on 02 6207 5474 or by emailing <a href="mailto:quality@act.gov.au">quality@act.gov.au</a>.</p>	<p>From 1 July 2019 providers will be able to report through the <a href="#">NDIS Commission’s website</a></p>
<p><b>When to report an incident</b></p>	<p>Reports must be made as soon as practicable.</p>	<p>Most reportable incidents must be notified to the NDIS Commission within 24 hours of a provider’s key personnel being made aware of the incident. A more detailed report about the incident and actions taken in response to it is required within five working days.</p> <p>The NDIS Commission must be notified of the use of unauthorised restrictive practices within five business days of a provider’s key personnel being made aware of the incident. If there is harm to a participant, it must be reported within 24 hours as the relevant reportable incident category, such as serious injury or abuse.</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>

<p><b>Who is responsible for reporting an incident</b></p>	<p>The service provider is responsible for meeting reporting obligations.</p>	<p>All registered 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.</p>
<p><b>Corrective action</b></p>	<p>After you report a Critical Incident to us we will review the information. Our primary goal is to ensure that risks to people using your service are managed appropriately. We may seek further information from you, we may conclude that all appropriate actions have occurred, or we may and make specific recommendations on improvements.</p> <p>The office of the Human Services Registrar will work collaboratively with specialist disability service providers to review services to ensure they are responsive to customers/clients. This includes reviewing specific concerns / complaints and obtaining relevant information to identify any systemic or practice issues, and making recommendation to minimise the risk of a similar incidents occurring and the continuous improvement of services.</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>Upon review of specified actions undertaken by a provider, a determination may be made to refer a matter on to another function within the NDIS Commission.</p>
<p><b>Record keeping</b></p>	<p>A Specialist Disability Service Provider is required to:</p> <ul style="list-style-type: none"> <li>• accurately record, update, maintain and monitor occurrence and details of: all incidents and critical incidents; and complaints and feedback; and</li> <li>• 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 reasonably accessible form.</li> </ul>	<p>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.</p>
<p><b>Additional reporting obligations</b></p>	<p>Additional matters to be reported to the ACT office of Human Services Registrar:</p> <ul style="list-style-type: none"> <li>• Any material change or proposed change to the constitution and rules or memorandum and articles of association;</li> <li>• Any change in the Chair of the Board, Public Officer, Chief Executive (or any equivalent positions) or executive management;</li> <li>• The intention to obtain an exemption from compliance with any law of the Territory that applies to the provider, including under the <i>Discrimination Act 1991 (ACT)</i>; and</li> <li>• Any circumstance that could adversely affect your financial capacity to deliver specialist disability services.</li> <li>• Any undertaking of: <ul style="list-style-type: none"> <li>– an investigation of the provider;</li> <li>– arbitration;</li> <li>– litigation; or</li> <li>– other adjudicative proceeding that could have an adverse impact on the provider’s capacity to comply with the standards.</li> </ul> </li> </ul>	<p>Registered providers are required to report serious incidents to the NDIS Commission.</p> <p>This does not replace existing obligations to report suspected crimes to the police and other relevant authorities.</p>

	<p>Additional reporting to other ACT government authorities:</p> <ul style="list-style-type: none"> <li>• All mandatory / voluntary reporting requirements under the Children and Young People Act 2008 must be met.</li> <li>• Workplace injuries to be reported to Worksafe as per Work Health and Safety Act 2011 and Work Health and Safety Regulation 2011.</li> <li>• Under the <i>Senior Practitioner Act 2018</i>, providers are required to report all uses of a restrictive practice to the ACT Senior Practitioner, whether there is a positive behaviour support plan registered (authorised) for the person or not.</li> </ul> <p>‘Designated entities’ were also required to report allegations, offences or convictions relating to child abuse or child related misconduct under the <b>ACT Reportable Conduct Scheme</b> through the ACT Ombudsman.</p>	
--	--	--

Complaints	Prior to the NDIS Commission	Under the NDIS Commission
<p>How a participant can make a complaint</p>	<p>Specialist Disability Service Providers are required under the Act to have in place complaints and feedback procedures that are readily available to service users.</p> <p>Service users are encouraged to submit their complaints directly to the service to which the complaints relate but there are no wrong doors in the ACT. A complaint can be made to the Human Services Registrar, the Senior Practitioner, the Disability and Community Services Commissioner, Official Visitors or other oversight agencies the complainant may wish to submit their complaint.</p> <p><b>Human Services Registrar</b>  <a href="mailto:quality@act.gov.au">quality@act.gov.au</a>, (02) 6207 5474</p> <p><b>Senior Practitioner</b>  <a href="mailto:actseniorpractitioner@act.gov.au">actseniorpractitioner@act.gov.au</a>, (02) 6207 5474</p> <p><b>Human Rights Commission</b>  <a href="mailto:human.rights@act.gov.au">human.rights@act.gov.au</a>, GPO Box 158 Canberra  ACT 2601</p> <p><b>Official Visitors</b>  1800 150 036</p>	<p>Complaints about the quality or safety of NDIS supports and services can be made to the NDIS Commission by calling 1800 035 544. Complaints about the NDIA or participant plans continue to be made to the NDIA or to the Commonwealth Ombudsman.</p> <p>Registered 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 complaints.</p>

## Find out more

You can find more information and resources on the NDIS Quality and Safeguards Commission website at [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au) or you can call the NDIS Commission on **1800 035 544** during business hours.