



# A new incidents reporting and complaints system in Victoria

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 Victoria 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.

From 1 July 2019, NDIS registered providers who are also state funded providers may be subject to both state based and NDIS Commission reporting obligations.

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

Incidents	Prior to the NDIS Commission	Under the NDIS Commission
Supports or services concerned	State-based services funded by the Department of Health and Human Services.	NDIS providers delivering funded services or supports to participants
Incident Management System	Service providers must own, manage and maintain a client incident register which has the capability to interface with the department’s Client Incident Management System (CIMS) and aligns with requirements outlined in CIMS including: <ul style="list-style-type: none"> <li>• Identification and response</li> <li>• Reporting</li> <li>• Incident investigation; or</li> <li>• Incident review</li> <li>• Analysis and learning.</li> </ul>	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.  The incident management system must include procedures for identifying, assessing, recording, managing, resolving and reporting incidents.  NDIS providers must keep records about incidents, and must document their incident management

		system and make it available to workers and participants.
What must be reported	A <b>reportable client incident</b> is an event or circumstance that occurred during service delivery, which resulted in harm or has the potential to harm a client. An incident that has occurred 'during service delivery' is an incident that occurs during provision of an in-scope service and/or as a result of, or related to, a deficiency or a potential failure in service provision.	<b>Reportable Incidents</b> 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.
What types of incidents to report	Reportable client incidents are categorised as 'major impact' or a 'non-major impact'. The following incident types always need to be reported as <b>major impact</b> incidents: <ul style="list-style-type: none"> <li>• Unexpected client death</li> <li>• Suicide/attempted suicide</li> <li>• Physical abuse</li> <li>• Sexual abuse</li> <li>• Sexual exploitation.</li> </ul> <b>Major impact</b> incidents can also include: <ul style="list-style-type: none"> <li>• Severe physical, emotional or psychological injury or suffering which is likely to cause ongoing trauma.</li> <li>• A pattern of incidents related to one client, which, when taken together, meet the level of harm to a client defined above.</li> <li>• Allegations of physical, emotional, psychological, sexual, or financial abuse.</li> <li>• Poor quality of care.</li> </ul> <b>Non-major impact</b> incidents can include: <ul style="list-style-type: none"> <li>• Incidents that cause physical, emotional or psychological injury or suffering, without resulting in major impact as described above.</li> <li>• Impacts to the client which do not require significant changes to care requirements, other than short-term interventions.</li> <li>• Incidents that involve a client but result in minimal harm.</li> <li>• Incidents that do not otherwise meet the criteria for 'major impact' above.</li> </ul>	The following reportable incidents (including allegations) arising in the context of NDIS supports or services must be reported to the NDIS Commission: <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>
How you report	Department funded services and Victorian approved NDIS providers reported and managed client incidents electronically via the department's CIMS IT webform or the service provider's IT system, either within 24 hours or on a monthly basis, depending on the classification of the incident.  All service providers must own, manage and maintain a client incident register.	From 1 July 2019 providers will be able to report through the <a href="#">NDIS Commission's website</a>

<p><b>When to report an incident</b></p>	<p><b>Major impact</b> incidents must be reported to the department within 24 hours of the incident occurring or of the service provider becoming aware of the incident.</p> <p><b>Non-major impact</b> incidents must be recorded in the service provider’s client incident register within five working days of the provider becoming aware of the incident and reported to the department in a batch on a monthly basis.</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>It is the primary responsibility of the service provider to report and manage an incident. Where a client accesses multiple state funded service types or providers, the service provider that first becomes aware of the incident is responsible for ensuring the client’s safety and completing the incident report unless, by mutual agreement of the service providers, a more appropriate service or service provider takes over this responsibility.</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>Immediate response and ongoing support are the responsibility of the service provider.</p> <p>Service providers are required to have robust, documented processes in place for carrying out or commissioning incident reviews and corrective actions in line with the department’s Client Incident Management Guide.</p> <p>All major impact incidents must be subject to either an investigation or a review led by the service provider. The provider must decide the appropriate investigative or review action. Incidents may be subject to investigation by the Disability Services Commissioner (DSC) who may direct service providers to act to make service improvements.</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>Service providers have to own, manage and maintain a client incident register.</p> <p>Service providers must update their client incident register within 24 hours of becoming aware of a major impact incident. Service providers need to capture key details of all non-major impact incidents in their client incident register.</p> <p>All retention and disposal of records should be as per Public Record Office of Victoria Standards.</p>	<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>Where an 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 Victorian Police.</p> <p>Where a child is the alleged victim of abuse by an employee or volunteer, procedures for notifying the Commission for Children and Young People under the Reportable Conduct Scheme should be followed.</p> <p>A statutory obligation to report deaths to the Coroner may also apply.</p> <p>Under the Occupational Health and Safety Act 2004 an employer may be obliged to notify WorkSafe if there is an incident at a workplace.</p> <p>Where a provider is subject to DSC 'Notice to Take Action', the provider may be required to report to the DSC on actions taken.</p>	<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>
--	---	---

Complaints	Prior to the NDIS Commission	Under the NDIS Commission
<p><b>How a participant can make a complaint</b></p>	<p>Complaints about registered providers can be made to the Disability Services Commissioner, Mental Health Complaints Commissioner, Health Complaints Commissioner, Office of Public Advocate, Victorian Ombudsman, Victorian Civil and Administrative Tribunal or the Victorian Department of Health and Human Services and the Department of Education.</p> <p>Providers must have a complaints management system in place with a clear process to receive and resolve complaints about their services and supports.</p> <p>Providers must ensure that people who use their service know how to make a complaint to the provider and to other external regulatory/statutory bodies.</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. 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.

Further information about Victoria's quality and safeguards arrangements during transition can be found on the [Victorian Government's NDIS website](#).