National Disability Services

Quality and safeguards in the NDIS?

A NSW Provider Guide to promoting the human rights of people with disability and meeting NDIS Commission Requirements

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# Background to the guide

Compliance helps to promote the human rights of people with disability and is especially important in prevent harm to people supported. Indeed, many providers will choose to go beyond mere compliance with minimum practice standards and some of the other safeguarding mechanisms the NDIS Commission uses to facilitate safe, respectful and inclusive support provision.

Three approaches Providers can take:

* Compliance with required standards
* ‘Best practice’ as traditionally conceived, i.e., going beyond compliance. This might be in particular areas (‘We are going to excel in area X because it is consistent with our strategy’) or across the board
* ‘Purpose driven’ i.e., an emphasis on simplifying policy and procedures to improve uptake in practice

## **Intended audience of this guide**

The target of this guide is existing NDIS registered providers that require guidance with meeting the National Disability Insurance Scheme (NDIS) Commission requirements and those providers interested in promoting and protecting the safety and rights of NDIS Participants.

# About the guide

This guide will assist leadership teams to determine their processes for operating in the (NDIS) Quality and Safeguards Commission environment.

The guide will be useful for a range of service providers as the content is not prescriptive. Organisations may take what they need and customise their systems for their own circumstances. In smaller organisations, a process might simply require creating one item on a checklist; in larger organisations, a detailed process might be needed.

This document is a companion resource to two new National Disability Services guides –

* NDS’ *Business Analysis Tool* : This provides information to assist providers to be flexible and thrive in the context of the NDIS framework
* NDS’ *People with Disability and Supported Decision-making :* Information about supporting the rights of people with disabilities to make their own decisions

NDS hopes that these three new documents provide practical and thought-provoking information for NDIS registered providers. When organisations are complying with requirements and reflecting best practice, then they can have greater confidence that their systems are enhancing positive outcomes for people with disabilities and organisational performance.

The scope of the guide is the Core Module and Module 2A, as these modules are the ones that affect most NDS members. Of course, similar action items arise across the modules.

## **What parts of my quality and safeguards processes might need to be reviewed?**

This guide focusses on the following NDIS Quality and Safeguards Commission requirements[[1]](#footnote-1):

* Conditions of registration
* NDIS Practice Standard CORE module
* Incident management and reportable incidents
* Complaints management and resolution
* NDIS Code of Conduct and guidelines for providers and workers
* Restrictive practices and behaviour support
* Worker screening

## **How to use the guide**

This guide can be used as a checklist for the requirements of the NDIS Quality and Safeguards Commission above. For each requirement it addresses:

* General implications for providers
* Roles and responsibilities- Identifying people or roles that have specific responsibilities
* Information for participants-Identifies required information that must be available for participants
* Essential documents-Identifying key documents providers will be required to develop and maintain for the organisation and the Commission
* Staff training-Identifying staff training requirements.

# Suggested steps in reviewing your systems and processes

Determine how and to what extent you will involve participants in the design of your policies and processes: at a minimum, participants must have opportunity to contribute to organisational policy and processes about providing supports and for protecting Participant rights

1. Read this guide and determine what action is required
2. Hold a meeting of senior leaders to allocate responsibility. This will need to involve – as a minimum – the CEO or leader with overall responsibility for disability services, and the leaders responsible for operations, quality management, human resource management, and learning and development
3. Scope the resources, which will be required to complete the work: this might include people, software to host the quality management system and for incident reporting, and the budget allocations for these
4. Seek comments on the drafts, and incorporate feedback as appropriate
5. Where necessary, conduct a pilot of the new procedures and amend your procedures as required
6. Seek board endorsement for the policies that are reserved to the board
7. Implement new processes with staff and continue to monitor effectiveness

# **Provider Registration**

## **Requirements to register**

The organisation must register if:

* it is a corporation
* it supports NDIS participants who have their plan managed by the NDIA
* it delivers specialist disability accommodation, use restrictive practices, or develop behaviour support plans
* it delivers supports to older people with disability who are under the Commonwealth Continuity of Support Programme relating to Specialist Disability Services for Older People

## **Implications for providers**

* Review the NDIS Commission provider registration (NDIS providers) requirements[[2]](#footnote-2)
* Ensure your organisation and key personnel meet the suitability requirements[[3]](#footnote-3)
* Review the support categories your organisation is currently registered to provide, as this will determine the NDIS Practice Standards your organisation will be required to meet[[4]](#footnote-4)
* Commence your NDIS re-registration once the NDIS Commission has contacted your organisation to provide a registration expiry date. This includes identifying the supports you wish to provide[[5]](#footnote-5)
* Complete and submit your application, which includes your Self Assessment against the relevant NDIS Practice Standards
* Select an auditor, perhaps seeking a couple of quotes, as their costs can vary widely. The NDIS Commission website lists the current approved auditors to be used[[6]](#footnote-6)
* Suggested questions to ask when selecting an auditing body;
* What does the quote cover? What is included and excluded (for example surveillance audits and travel)?
* What is their experience of working with disability service providers?
* What are their strategies and approaches to communicating with people with disability who have complex communication requirements?
* Are they available at the time you need them?
* Ensure you have a process for identifying when a ‘material change’ (a change of circumstances that materially affects a provider’s ability, or the ability of any of the Provider’s key personnel, to provide the supports or services the provider is registered to provide) must be reported to the NDIS Commission[[7]](#footnote-7)

## **Roles and responsibilities**

* Identify the person who or positions which will keep up to date with NDIS Commission policy and guidelines developments and implement the associated implications for your organisation
* Amend job roles and position descriptions as required

## **Information for participants**

* Inform participants how your organisation meets the NDIS Commission’s requirements.

Mandatory requirements are providing information on:

* The complaints management system, which includes NDIS Commission contact details

Voluntary requirements include:

* How they can contribute to the development of organisational policy and processes and service planning
* Informing participants that the organisation is a registered NDIS provider
* Making the NDIS Code of Conduct available and stating that all staff are required to meet the code
* Assuring that worker screening is conducted for all staff (to commence July 2019)
* Confirming that mandatory worker orientation is in place for all staff
* Describing your incident management system
* A commitment to reducing and eliminating the use of restrictive practices

## **Essential documents**

* A template Service Agreement or service agreements covering:
* The supports you agree to provide
* In what circumstances a support will be suspended or ceased
* Prices as per current NDIS Price Guide for this state
* For SDA Providers, details about rent and ‘other expenses’ arrangements

## **Staff Training**

* Ensure all staff are aware of the supports you deliver and that they meet the requirements for delivering those supports
* Ensure all staff complete the worker orientation e-learning module, which is due to be released. The module covers human rights, respect, risk, and the roles and responsibilities of NDIS workers

# **NDIS Practice Standards**

## **Implications for NDIS providers**

* Determine which of the modules of the NDIS Practice Standards (PS) apply to your organisation by the supports you are registered to provide[[8]](#footnote-8)
* Identify practice you already have in place from your experience with the NSW Quality Framework requirements and any gaps that need to be addressed[[9]](#footnote-9). (*See Appendix 1 for a comparison between NDIS Practice Standards (Core Module) and NSW Quality Framework requirements.* Note the differences include the following:
* The previous NSW requirements included both the NSW Disability Service Standards (DSS) and a contractual obligation to comply with NSW Government (ADHC) policies. Of course, this contractual obligation no longer applies
* Many of the new requirements go beyond the old NSW Disability Service Standards in their breadth or depth
* There are new requirements in the Quality Indicators e.g. the need for service agreements
* There are specific requirements in the Practice Standards (Core Module) around waste management
* There are specific requirements around governance, including that people with disability can contribute to the governance of the organisation
* There is a greater emphasis in the Practice Standards (Core Module) that participants should have control about decisions, which affect them
* The Practice Standards (Core Module) require that information is communicated to participants in a ‘mode’ or language that they can access e.g., easy English
* Ensure the right of participants to access and have present, an advocate in the following instances is supported and facilitated;
* In making informed choices
* Where allegations of violence, abuse, neglect, exploitation or discrimination have been made
* When giving feedback or making a complaint to a provider
* In instances where a participant is affected by a reportable incident
* Making a complaint to the Commission or a person with a disability affected by a complaint to the Commissioner

## **Roles and responsibilities**

* Although quality is everyone’s business, it needs leadership and coordination. Ensure there is responsibility for who will provide leadership on quality and safeguarding and who will coordinate the work to be done
* Amend job roles and position descriptions as required to reflect these

## **Participant information**

* Ensure you can demonstrate you provide each participant with information that reflects the requirements of the Practice Standards regarding the following rights and entitlements:
* the provision of your supports and under what circumstances supports can be withdrawn
* your confidentiality policies
* personal information that will be collected and why
* how participant information is stored and used, and when and how each participant can access or correct their information
* that consent is sought to collect, use and retain participant’s information and to disclose their information
* access to an advocate in specific circumstances as described earlier
* your processes to give feedback or make a complaint
* information about incident management, including how incidents involving the participant will be managed
* support to understand the service agreement and conditions

## **Essential documents**

* Ensure you have a mechanism to gain and document consent (or lack of) from each participant to allow quality auditors to conduct interviews and/or examine client files, records or plans to ensure compliance with the Practice Standards[[10]](#footnote-10)
* Ensure you have a mechanism to gain and document consent (or lack of) from each participant with a Behaviour Support Plan, to share information for collaboration in positive behaviour support
* Where you deliver supported independent living (SIL) supports to participants in specialist disability accommodation (SDA) dwellings, you have documented arrangements in place with each participant and each specialist disability accommodation provider
* Ensure you have a system to identify, plan, facilitate, record and evaluate the effectiveness of staff training

## **Staff training**

* Demonstrate the requirements for mandatory staff training in the following areas is in place
* All workers are aware of, trained in, and comply with the Commission’s required procedures for complaints handling and for preventing and responding to incidents, including reportable incidents
* All workers responsible for administering medication understand the effects and side effects of the medication and the steps to take in the event of an incident involving medication
* An orientation and induction process is in place including the mandatory NDIS worker orientation program Quality, Safety and You, available on the NDIS Commission website[[11]](#footnote-11)
* Staff involved in the management of waste and hazardous substances receive training to ensure safe and appropriate handling including personal protective equipment (PPE)
* Where a participant has specific needs which require monitoring and/or daily support, workers are appropriately trained and understand the participant’s needs and preferences

# **Incident Management and Reportable Incidents**

Registered NDIS providers must implement and maintain a system to record and manage certain incidents that occur in connection with providing supports or services to people with disability. Certain incidents are reportable incidents, which must be notified to the Commission[[12]](#footnote-12).

## **Implications for NDIS providers**

* Review your incident management policies, procedures forms and systems to ensure they comply with NDIS Commission requirements[[13]](#footnote-13)
* Ensure you incorporate the new definition of a reportable incident. Note the expanded definition of reportable incidents for NSW providers now includes not just incidents involving people who live in supported accommodation but all supports by registered providers as well as the unauthorised use of a restrictive practice. In NSW, this now includes chemical restraint. The impact is that more types of allegations and incidents must be reported[[14]](#footnote-14)
* Confirm the identification, assessment, management, and resolution of incidents specifies the following:
* how incidents are identified, recorded and reported
* the people to whom incidents must be reported
* how people with disability affected by an incident will be supported and involved in resolving the incident
* that a response plan is developed when incidents occur
* when corrective action is required
* when an investigation is required, and
* how incident data can inform your quality management system and implement improvements to avoid future incidents
* Ensure the required timeframes for reporting are followed;
* for reportable incidents other than unauthorised use of a restrictive practice: 24 hours
* for unauthorised use of a restrictive practice: 5 days
	+ unless the incident also involved other reportable aspects: 24 hours[[15]](#footnote-15)
	+ See Appendix 2 for a Summary Chart of NDIS Commission incident reporting requirements
* Ensure records and related evidence about incidents are maintained
* Review information and communication technologies and systems to collect data and track the progress of incident response
* Review safety provisions for participants, e.g. prevention strategies, safe locations after an incident
* Provide support and assistance to people with a disability affected by an incident, including access to advocates
* Review workforce management systems e.g. training, ratios, roster changes after an incident, EAP
* Develop mechanisms to cross-reference incidents that are also the subject of a complaint, and/ or work health and safety investigations
* When required by the Commission, be prepared to engage an independent expert to investigate and report on incidents

## **Roles and responsibilities**

* Ensure you identify which position will be responsible for reporting, recording, conducting internal investigations and undertaking remedial action
* Amend all staff job roles and position descriptions as required to reflect new practices
* Delegate responsibility to incident management and reportable incident practices

## **Participant information**

* Share information with participants on how incidents will be managed

## **Essential documents**

* Document your system for the management of incidents
* Have a system to record and track evidence of incidents and actions taken
* Establish a policy for worker disclosure (see below in staff training) e.g. Whistle Blower Protection Policy. If a policy on whistle-blower protection already exists, update it for the new quality and safeguarding system
* Review Service Agreements to ensure they include your reporting obligations to the NDIS Commission in relation to incidents and the impact on participant’s privacy

## **Staff training implications**

* Train workers in the use of, and compliance with your incident management system
* Advise staff that they can make a complaint on behalf of a person with disability to the NDIS provider or to the NDIS Commission
* Ensure all workers comply with the incident management system and are aware of their roles and responsibilities in identifying, managing and resolving incidents and in preventing incidents from reoccurring[[16]](#footnote-16)

# **Complaints Management and Resolution**

## **Implications for providers**

* Review complaint management policies and procedures to ensure they reflect the NDIS Commission requirements[[17]](#footnote-17)
* Ensure your organisation has determined who will liaise with the NDIS Commission about any complaints they may receive about the organisation[[18]](#footnote-18)
* Ensure your organisation has procedures for when an incident is also the subject of a complaint. This may include cross-referencing or integration of your complaints and incident management systems
* Determine you have systems to collect and track key data relating to complaints, use of restricted practices, incidents and near misses

## **Roles and responsibilities**

* Identify who will receive complaints and what initial actions they need to take
* Identify who will conduct investigations
* Amend job roles and position descriptions accordingly

## **Participant information**

* Ensure your information for participants covers your own complaints management process and how people with concerns can contact the NDIS Commission to make a complaint

## **Essential documents**

* Clearly identify in Service Agreements what can and will be delivered by your organisation
* Your complaint process information is available on your public media
* Complaint management policy ensures your internal complaint management and resolution arrangements afford procedural fairness to all people when managing a complaint

## **Staff training implications**

* Train all workers in the use of, and compliance with your complaints handling system
* Determine the training requirements of staff who will undertake investigations

# **NDIS Code of Conduct**

## **Implications for providers**

* Review the NDIS Commission’s requirements for providers and workers, to identify any gaps in current policies, procedures and practice[[19]](#footnote-19)
* Ensure your practices reflect the wide definition of ‘workers’ under the NDIS Code of Conduct (the Code), including (but not limited to) employees, key personnel, sole-traders, contractors, sub-contractors, agents , and volunteers
* Review existing human resource and governance arrangements comply with the Code
* Check whether operational policies and procedures, and training activities reflect the Code
* Have a mechanism to ensure workers adhere to the Code
* Investigate and take appropriate action to address any alleged breaches
* Ensure obligations as a provider are met

## **Roles and responsibilities**

* Designate responsibility for implementing the Code of Conduct across all ‘workers’ via your human resource and governance systems
* Allocate responsibility for recording that staff have understood and agreed to meet their responsibilities under the Code of Conduct
* Amend job roles and position descriptions as required to reflect the above requirements

## **Participant information**

* Make available the NDIS Code of Conduct
* Specify what participants can expect of workers in relation to the Code

## **Essential documents**

* Document information about the Code of Conduct

## **Staff training**

* Assist and support workers to understand and to meet their obligations under the Code
* Establish mechanisms to guide workers about potential ethical dilemmas under the Code e.g. how to observe the duty of care and ensure dignity of risk

# **Restrictive Practice and Behaviour Support Implementation**

## **Implications for providers**

These suggestions are for providers that implement restrictive practices under Module 2A.

* Review the requirements of the relevant Behaviour Support Supplementary Module 2A in the NDIS Practice Standards[[20]](#footnote-20)
* Review policies and procedures to reflect the new definition of restrictive practices
* Ensure there are policy and processes for
* Lodging behaviour support plans that contain restrictive practices to the NDIS Commission
* Keeping records of the use of restrictive practices and their outcomes
* Monthly reporting on the use of restrictive practices, via the Commission’s portal
* Other requirements about data collection and reporting of specialist behaviour support practitioners, the restrictive practices authorisation (RPA) Panel or the Commission
* Review the transition arrangements in place for NSW providers of behaviour support that uses restrictive practices[[21]](#footnote-21)
* Ensure that the use of restrictive practices meets NSW RPA processes[[22]](#footnote-22)
* If employing specialist behaviour support practitioners ensure they are deemed suitable by and registered with the NDIS Commission
* During intake of new customers, including customer transferring from other providers, identify potential or known requirements for behaviour support and whether there is a budget for behaviour support assessment and planning in the new environment and for coordinating consent processes
* If the organisation operates beyond one state, and participants transfer between states, identify if there are authorisation requirements for the other state and how these will be funded
* Collaborate with specialist behaviour support practitioners in the development of behaviour support plans
* Ensure that unauthorised use of a restrictive practice, including in emergencies to protect customers, is a reportable incident and is reported[[23]](#footnote-23)

## **Roles and responsibilities**

* Identify which person or position will keep up to date with NDIS Commission behaviour support developments and their implications for practice
* Amend job roles and position descriptions as required to reflect the above requirements

## **Participant information**

* If a Participant has a behaviour support plan, ensure that a statement of intent to use a restrictive practice is given to the person and their supports in an accessible format
* Determine the participant’s capacity to consent to the use of a restrictive practices
* If the participant does not have capacity, determine who can authorise the use of the practice[[24]](#footnote-24)

## **Essential documents**

* Through both intake and Service Agreement discussions, you require the participant or their representative to inform you if there are behaviours of concern and/or a previous behaviour support plan in place. Ensure the Service Agreement states that, where behaviour support plans are required, the organisation will claim or charge for resulting work (for example, collaboration with specialist behaviour support practitioners and other service providers, for implementing the behaviour support plan, and reporting in relation to the use of restrictive practices)
* Adopt a behaviour support plan template that accommodates the NDIS Commission’s information and communication technology system.

## **Staff training**

* Ensure relevant workers have access to appropriate training to enhance their skills in, and knowledge of positive behaviour support practice, restrictive practices and the risks associated with those practices
* Implement a system for developing the skills of staff in positive behaviour support to minimise and/ or eliminate the need for restrictive practices

# **Worker Screening**

## **Implications for providers**

* Review the NDIS Commission worker screening requirements[[25]](#footnote-25)
* Ensure your recruitment, selection and screening processes reflect these requirements
* Undertake a risk assessment of all roles and identify which roles require worker screening check[[26]](#footnote-26)
* Update policies and procedures for worker screening.
* Develop an implementation plan for when the worker screening check commences in June 2019[[27]](#footnote-27)
* Develop a recording system to ensure worker checks are maintained
* Monitor and review any sub-contracting arrangements to ensure their worker screening meets NDIS requirements

## **Roles and responsibilities**

* Identify people or roles responsible for checking, maintaining and recording current worker screening checks
* Amend job roles and position descriptions as required to reflect these

## **Information for participants**

* Information about what is included in the worker screening checks

## **Essential documents**

* Policy on those employees and volunteers (those who have more than incidental contact with people with a disability) who are subject to worker screening checks
* Records showing verification of worker screening checks

# **Appendix 1**

## **Comparing the NDIS Practice Standards (Core Module) and the former NSW ADHC Quality Framework requirements**

## **Introduction**

The aim of this mapping is to examine the impact the introduction of the NDIS Practice Standards (Core Module) has on NSW Disability Providers in terms of additional and/or different practice requirements. The comparison identifies practice areas which should have been addressed under the NSW Government Quality Framework requirements.

The quality framework requirements included Third Party Verification against the NSW Disability Services Standards (NSW DSS), requirements to meet both ADHC policies and NSW legislation and to have a Quality Management System in operation.

Abbreviations used

|  |  |
| --- | --- |
| NSW DSS | NSW Disability Service Standards |
| QMS | Quality Management System |
| PS (CORE) | NDIS Practice Standards Core Module |

## **Results**

Mapping standards against each other

The current NSW DSS have 83 indicators of practice (or supporting criteria, which explain the practical requirements the provider must meet in order to demonstrate the outcome required). The PS (CORE) have 76 indicators of practice.

Of these 76 PS (CORE) indicators of practice, 26 are reflected in the NSW DSS. This does not mean that the remaining 50 indicators of practice are new practice requirements and therefore providers would necessarily be unfamiliar with these practice requirements. Along with the NSW Government requirement that providers demonstrate performance against the NSW DSS; additional State Government quality framework requirements include providers’ adherence to the following:

* Departmental policies, as part of funding agreement conditions
* Meeting State legislative requirements, in particular the Ombudsman’s serious incident reporting requirements
* Have an established quality management system in place.
* Consideration of other requirements

The mapping has also considered these additional requirements and identified that a further 18 PS (CORE) indicators would also be met by those providers which met the additional quality framework requirements (largely from the ADHC policies and guidelines).

The table at Appendix 1 attempts to illustrate the similarities and differences for each Practice Standard indicator and identifies gaps that may require focussed resourcing by providers (NDS). The table provides the following:

* each Practice Standard outcome name,
* practice that wasn’t required under the NSW quality framework (referenced by the indicator number)
* the potential work required for providers.

Those Practice Standards in *italics* indicate practice that is not currently required under the NSW DSS, and thus potentially present new requirements. Current providers will need to review and develop their practice in these areas. (Note there will be some providers that may meet these requirements as they practice beyond the minimum requirements or meet more robust sets of standards).

**General comparison between the PS (CORE) indicators and NSW Quality Framework requirements**

* Many of the PS (CORE) indicators are either more specific, and clearer in their requirements than the NSW DSS, (i.e. break up the indicator of practice into multiple and concrete requirements) or mix a range of requirements whereas under the NSW DSS only part of the indicator has been required.
* NSW quality requirements were beyond just compliance with the NSW DSS and had a high focus on contractually-required compliance with ADHC policies and guidelines.
* NSW Disability Services Standards are Disability program standards. They were developed specifically to set minimum standards for how supports were to be delivered with less emphasis on organisational performance ie governance, incident management and response, worker screening, HR management systems or environmental controls.
* New areas that reflect practice required by the NDIS Act e.g. service agreements.
* Very specific requirements in the PS (CORE) around waste management reflect contemporary moves in standards.
* Governance has specific requirements, which are not captured in the NSW DSS as a set of program standards.
* There is a greater emphasis in the PS (CORE) on the principle that Participants should have control about decisions which affect them.
* There is a focus in the PS (CORE) on a requirement that information is communicated to participants in a ‘mode’ or language that they can access-new and potentially resource intensive e.g. easy English.

## **Key changes in Quality requirements for NSW Disability providers**

**Comparison of NDIS Commission Practice Standards (Core Module) to NSW Quality Framework Requirements**

This table says the name of the NDIS Practice standard, then identifies what of these practice standards were not required under the NSW quality framework and the final column identifies the outstanding gaps and potential work for providers.

| **NDIS Practice Standards (Core) Outcome Name**  | **NDIS Practise Standards Indicators not required by NSW Framework****(indicator number identified)** | **Potential required work for providers** |
| --- | --- | --- |
| ***Division 1 Rights and responsibilities*** |
| Person Centred Supports  | 2 Provider ensures that when communicating with participant about the provision of supports, the communication mode is responsive to the participant’s needs | 2 Identification of communication mode developed for each participant and ensure provider can cater to these needs.Policy on communication with participants.Range of strategies to best communicate based on identified needs of client group. |
| **Individual Values and Beliefs** | 1 Provider ensures that at the direction of the participant, the culture, diversity, values and beliefs of that participant are identified and sensitively responded to | 1 Review policy and practice to ensure participants are invited to identify their cultural, diversity, values and beliefs and ensure these are responded to. |
| Privacy and Dignity | 1 Consistent processes and practices are in place that respect and protect the personal privacy and dignity of each participant.2 Each participant is advised of confidentiality policies using the language, mode of communication and terms that the participant is most likely to understand.3 Each participant understands and agrees to what personal information will be collected and why, including recorded material in audio and/or visual format  | 1 Review and amend P&P to include reference to dignity.2 Identification of communication mode for each participant and cater to these needs.Policy on communication.Range of strategies to best communicate based on identified needs of client group.3 Ensure participants are provided with information and its purpose of what information is collected and why. Consents for this can be inserted into service agreement. Include the requirements as an NDIS registered provider to provide information to the NDIS Commission and Agency and purposes. E.g. mandatory reporting. |
| Independence and Informed Choice | 1 This includes the provision of information using the communication mode that is responsive to the participant’s needs.3 Provider ensures participants autonomy is respected including their right to intimacy and sexual expression4 Provider ensure participants are provided with time to consider and review their options and seek advice at any stage of support provision, not only when circumstances or goals change.5 Requirement to include advocates. | 1 See communication strategy above…3 Review P&P to ensure this is addressed and implemented4 Review P&P on person centred approaches to planning to ensure support is provided at any stage determined by the participant to consider and review their support options.5 Review P&P to include right to access an advocate of their choice is supported |
| Violence, Abuse Neglect, Exploitation and Discrimination | 1 Ensure Policies, procedures and practices are in place to actively prevent violence abuse, neglect, exploitation or discrimination.2 Participant is informed about the use of and access to an advocate when allegations of abuse neglect violence exploitation or discrimination are made.3 Records are made of any details and outcomes of a review of allegations of violence, abuse, neglect exploitation or discrimination and action is taken to prevent similar incidents occurring again. | 1 Review P&p AND CHECK THEY INCLUDE reference to violence2 Review P&P on dealing with allegations to include this.3 Review NDIS (Incident Management and Reportable Incidents) Rules 2018 and associated obligations. Ensure allegations and subsequent investigations and outcomes provide opportunities for organisational improvement to prevent further instances. |
| **Division 2 Governance and Operational Management** |
| Governance and Operational Management | 2 Governing body has a structure to monitor and respond to quality and safeguarding matters associated with delivering supports to participants4 The governing body ensures that strategic and business planning includes requirements relating to operating under the NDIS.6 The provider is managed by suitably qualified/experiences personnel with clear defined responsibilities, authority and accountability for the provision of supports.7 There is a documented system of delegated responsibility and authority to another suitable person in the absence of a usual position holder in place.8 Perceived and actual conflicts of interest are managed and documented including through development and maintenance of organisational policies.Specific reference to NDIS Guide to suitability requirements | 2 Review governing body practices in monitoring mechanisms regarding quality and safeguards activity3 Policy amendments to include consideration of NDIS requirements4 Reference to NDIS requirements e.g.NDIS Guide to suitability requirements6 Review QMS to ensure requirements are met7 Review P&P on delegated authorities and acting up.8 ensure conflict of interest P&P reflect this requirement |
| Risk Management | 1 Risks are not only identified but also analysed, prioritised and treated.2 A documented system that effectively manages identified risks, is in place, and is relevant and proportionate to the size and scale of the provider and scope and complexity of supports provided.3 The risk management system includes incident management, complaints management, work health and safety, human resource management, financial management, information management and governance. | 1 Will require review of risk identification and management practices particularly organisational |
| Quality Management | 1 The QMS system to include how to meet the requirements of legislation. 2 The QMS has a program of internal audits relevant to the size and scale of the provider and scope and complexity of supports delivered. | Will require review of Quality management system practices to ensure regular audits are included |
| Information Management | 1,2,3,4Requirement to have an information Management system is not required for NSW DSS. May be part of your QMS. | Information management system review to ensure this indicator are covered.2 P&P on Information management, including consents. |
| Feedback and Complaints Management | Nil | Will require review to include reference to the NDIS (Complaints Management and Resolution) Rules 2018 |
| Incident Management | Contains reference to the NDIS Incident Management and Reportable Incidents Rules | Will require review to include reference to the NDIS (Incident Management and Reportable Incidents) Rules 2018Strategy for informing participants of your incident management  |
| Human Resource Management | 1 The skills and knowledge required of each position within a provider are identified and documented together with the responsibilities, scope and limitations of each position. 2 Records of Pre-employment checks, qualifications and experience of all staff are maintained.3 An orientation and induction process is in place that is completed by workers including the completion of the mandatory NDIS worker orientation program.4 A system to identify plan, facilitate. Record and evaluate the effectiveness of training and education for workers is in place to ensure that workers meet the needs of participants. The system identifies training that is mandatory and includes training in relation to staff obligations under the NDIS Practice Standards and other NDIS rules.5 Timely supervision, support and resources are available to workers relevant to the scope and complexity of supports delivered.6 Performance of workers is managed developed and documented, including through providing feedback and development opportunities. | Review HR systems, policies and procedures to ensure these indicators are met |
| Continuity of Supports | 1 Day-to-day operations are managed in an efficient and effective way to avoid disruption and ensure continuity of supports. 2 In the event of worker absence or vacancy, a suitably qualified and/or experienced person performs the role. 3 Needs and preferences are documented and provided to support staff prior to commencing work with each participant.4 Arrangements are in place to ensure support is provided to the participant without interruption throughout the period of their service agreement. These arrangements are relevant and proportionate to the scope and complexity of supports delivered by the provider.5 Where changes or interruptions are unavoidable, alternative arrangements are explained and agreed with the participant.6 Where applicable, disaster preparedness and planning measures are in place to enable continuation of critical supports before, during and after a disaster | Will require work to review/establish policies and practices that meet these indicators |
| **Division 3 Provision of Supports** |
| Access to Supports | 2 Reasonable adjustments to the support delivery environment are made and monitored to ensure it is fit for purpose and each participant’s health, privacy, dignity, quality of life and independence is supported. 3 Each participant is supported to understand under what circumstances supports can be withdrawn. Access to supports required by the participant will not be withdrawn or denied solely based on a dignity of risk choice that has been made by the participant. | Will require work to review/establish policies and practices that meet these indicators |
| Support Planning | 2 In collaboration with each participant, a risk assessment is completed and documented for each participant’s support plan, and then appropriate strategies to treat known risks are planned and implemented. 3 Periodic reviews of the effectiveness of risk management strategies are undertaken with each participant to ensure risks are being adequately addressed, and changes are made when required. 5 Where progress is different from expected outcomes and goals, work is done with the participant to change and update the support plan.6 Where appropriate, and with the consent of the participant, information on the support plan is communicated to family members, carers, other providers and relevant government agencies. | Review current practice to see how this relates to Indicator requirements |
| Service Agreements and Participants | 1 Collaboration occurs with each participant to develop a service agreement which establishes expectations, explains the supports to be delivered, and specifies any conditions attached to the delivery of supports, including why these conditions are attached. 2 Each participant is supported to understand their service agreement and conditions using the language, mode of communication and terms that the participant is most likely to understand. 3 Where the service agreement is created in writing, each participant receives a copy of their agreement signed by the participant and the provider. Where this is not practicable, or the participant chooses not to have an agreement, a record is made of the circumstances under which the participant did not receive a copy of their agreement. 4 Where the provider delivers supported independent living supports to participants in specialist disability accommodation dwellings, documented arrangements are in place with each participant and each specialist disability accommodation provider. At a minimum, the arrangements should outline the party or parties responsible and their roles (where applicable) for the following matters:How a Participant’s concerns about the dwelling will be communicated and addressed;How potential conflicts involving participant(s) will be managed; How changes to participant circumstances and/or support needs will be agreed and communicated;In shared living, how vacancies will be filled, including each participant’s right to have their needs, preferences and situation taken into account; andHow behaviours of concern, which may put tenancies at risk, will be managed, if this is a relevant issue for the participant. | Review current practice to see how this relates to Indicator requirements |
| Responsive Support Provision | 1 Supports are provided based on the least intrusive options, in accordance with contemporary evidence-informed practices that meet participant needs and help achieve desired outcomes.2 Where agreed in the service agreement, and with the participant’s consent or direction, links are developed and maintained through collaboration with other providers to share information and meet participant needs.3 Reasonable efforts are made to involve the participant in selecting their workers, including the preferred gender of workers providing personal care supports. 4 Where a participant has specific needs, which require monitoring, and/or daily support, workers are appropriately trained and understand the participant’s needs and preferences. | Review current practice to see how this relates to Indicator requirements |
| Transition to/from the provider | 1 A planned transition to or from the provider is facilitated in collaboration with each participant when possible, and this is documented, communicated and effectively managed. 2 Risks associated with each transition to or from the provider are identified, documented and responded to. 3 Processes for transitioning to or from the provider are developed, applied, reviewed and communicated. | Review current practice to see how this relates to Indicator requirements |
| **Division 4 Support Provision Environment** |
| Safe Environment | 1 Each participant can easily identify workers engaged to provide the agreed supports.2 Where supports are provided in the participant’s home, work is undertaken with the participant to ensure a safe support delivery environment. 3 Where relevant, work is undertaken with other providers and services to identify and treat risks, ensure safe environments, and prevent and manage injuries. | Review Policies to ensure indicator requirements are reflected in your own practice |
| Participant Money and Property | 1 Where the provider has access to a participant’s money or other property, processes to ensure that it is managed, protected and accounted for are developed, applied, reviewed and communicated. Participants’ money or other property is only used with the consent of the participant and for the purposes intended by the participant. 2 If required, each participant is supported to access and spend his or her own money as the participant determines. 3 Participants are not given financial advice or information other than that which would reasonably be required under the participant’s plan. | Review Policies to ensure indicator requirements are reflected in your own practice |
| Management of Medications | 1 Records clearly identify the medication and dosage required by each participant, including all information required to correctly identify the participant and to safely administer the medication. 2 All workers responsible for administering medication understand the effects and side-effects of the medication and the steps to take in the event of an incident involving medication. 3 All medications are stored safely and securely, can be easily identified and differentiated, and are only accessed by appropriately trained workers. | Review Policies to ensure indicator requirements are reflected in your own practice |
| Management of Waste | 1 Policies, procedures and practices are in place for the safe and appropriate storage and disposal of waste, infectious or hazardous substances that comply with current legislation and local health district requirements. 2 All incidents involving infectious material, body substances or hazardous substances are reported, recorded, investigated and reviewed. 3 An emergency plan is in place to respond to clinical waste or hazardous substance management issues and/or accidents. Where the plan is implemented, its effectiveness is evaluated, and revisions are made if required. 4 Workers involved in the management of waste and hazardous substances receive training to ensure safe and appropriate handling. This includes training on any protective equipment and clothing required when handling waste or hazardous substances. | Review Policies to ensure indicator requirements are reflected in your own practice |

# Appendix 2

## **Reportable Incidents: NDIS Providers’ Obligations**

## **Implications for NDIS Providers**

From 1 July 2018, the obligations of NDIS providers to report incidents involving participants have changed. Some key changes are as follows –

* The NDIS Commission has an expanded definition of reportable incidents, so more types of allegations/ incidents must be reported
* All reportable incidents that were previously reported to the NSW Ombudsman (Part 3C), should now be reported to the NDIS Commission. Reportable conduct in relation to child protection should continue to be reported to the NSW Ombudsman
* The timeframes for required reporting to the NDIS Commission is much shorter, i.e. 24 hours for most reportable incidents, except for unauthorised use of a restricted practice, which is 5 days
* For some allegations/ incidents, providers are required to report to more than one agency. In these circumstances, it is not yet clear which agency will be the primary contact for NDIS providers, and who is responsible to conduct/ direct/ monitor investigations
* The NDIS Commission has specified the components that must be included in NDIS providers’ Incident Management Systems (see link at end of this document).

**What NDIS providers can do:**

* Review Incident Management policies, procedures, forms and systems to comply with the NDIS Commission’s requirements
* Identify key personnel with responsibilities for reporting, and conducting internal investigations
* Maintain detailed records and evidence relating to reportable incidents
* Review ICT systems to collect data and track the progress of incident reports
* Review safety provisions for participants, e.g. prevention strategies, safe locations after an incident
* Review workforce management systems, e.g. training, staff ratios, roster changes after an incident, EAP
* Review Service Agreements to ensure inclusion of the provider’s reporting obligations, and the implications for participants’ privacy
* Consider developing relationships with the local police station, e.g. if likely to be high level of serious incidents.

## **Summary Chart of Reporting Requirements**

This chart summarises the obligations of NDIS providers for reportable incidents from 1 July 2018. At the end of the chart, there is also information about acting on other types of allegations/ incidents that are not reportable incidents. Links to further information are provided at the end of this document.

| **Issue Type (Allegations and Incidents)** | **Who to report to** | **What is reportable** | **Who, when & how** | **Comments** |
| --- | --- | --- | --- | --- |
| Reportable Incidents  |
| Deaths of people with a disability  | NDIS Commission | Deaths of people with a disability in connection with the provision of NDIS services. Includes people 0-65 years, and people in family, community and residential settings | *Who* – Person identified in the provider’s Incident Management documents*When* – Within 24 hours of becoming aware the incident has occurred*How* – On Commission’s form via email, until online system commences  | Excludes deaths that are unconnected to the provision of NDIS services, e.g. health, justiceCheck if the incident should also be reported to – NSW Police (if criminal offence)NSW CoronerFACS (for people 0-18 years) |
| NSW Ombudsman  | Deaths of people with a disability in relation to involvement of other NSW service systems, e.g. health, justice | *Who* – person identified in the provider’s Incident Management documents | Ombo advises - After 1 July 2018 NSW providers that are no longer funded under the *Disability Inclusion Act* are not required to report under Part 3C of the *Ombudsman Act 1974,* irrespective of who supplies the premises under a lease agreement. *(However, its fact sheet implies deaths in FACS properties should be reported to NSW Ombo)*Check if the death should also be reported to – NSW Police (if criminal offence)NSW CoronerFACS (for people 0-18 years)NDIS Commission - if the death is also connected to NDIS services  |
| Serious injury of a participant | NDIS Commission | A serious injury includes, but is not limited to – fractures, burns, deep cuts, extensive bruising, concussion, and any other injury requiring hospitalisation | *Who* – person identified in the provider’s Incident Management documents*When* – Within 24 hours of becoming aware the incident has occurred*How* – On Commission’s form via email, until online system commences |  |
| Abuse/ neglect of a participant | NDIS Commission | Abuse includes – improper or degrading behaviour and comments, harassment, use of force, financial coercion or withholding the person’s money.Neglect includes failure to act to prevent harm, including deprivation of food, drink, inadequate supervision, and recklessness | *Who* – person identified in the provider’s Incident Management documents*When* – Within 24 hours of becoming aware the incident has occurred*How* – On Commission’s form via email, until online system commences |  |
| Unlawful sexual/ physical contact, or assault, of a participant | NDIS Commission | Includes sexual assault, indecent assault, acts of indecency, and physical assault (including threats) | *Who* – person identified in the provider’s Incident Management documents*When* – Within 24 hours of becoming aware the incident has occurred*How* – On Commission’s form via email, until online system commences | Excludes authorised use of restricted practice, moving a person out of harm’s way, preventing the person causing harm to others/ property, and self-defence. |
| Sexual misconduct of, or in presence of, or grooming, of a participant | NDIS Commission | Misconduct occurring in connection with the provision of services, including grooming for sexual purposes, filming a person without consent, crossing professional boundaries | *Who* – person identified in the provider’s Incident Management documents*When* – Within 24 hours of becoming aware the incident has occurred*How* – On Commission’s form via email, until online system commences |  |
| Unauthorised use of a restricted practice on a participant | NDIS Commission | Restrictive practices that are not authorised and included in a behaviour support plan, are –SeclusionChemical restraintMechanical restraintPhysical restraintEnvironmental restraint | *Who* – person identified in the provider’s Incident Management documents*When* – Within 5 days *How* – On Commission’s form via email, until online system commences | Excludes – Restrictive practices that are authorised and described in a behaviour support planWhere there is no authorising process in the relevant state/ territory |
| **Other allegations/ incidents (not reportable incidents)** |
| Abuse/ neglect/ exploitation of participants in community settings | NSW Ombudsman Ageing and Disability Commissioner(From 1st July 2019) | Any allegations/ incidents involving people with a disability living in the family home or private accommodation | *Who* – person identified in the provider’s Incident Management documents | Excludes incidents that occur in connection with NDIS services, which are reported to the NDIS Commission (see above) |
| Reportable Conduct (relating to child protection) | NSW Ombudsman  | Child protection allegations against employees | *Who* – person identified in the provider’s Incident Management documents | If a finding is made against an employee, the NSW Ombudsman is responsible to report to the NSW Children’s Guardian. |
| FACS (Children 0-18 years) | Allegations/ incidents of – NeglectSexual abusePhysical abuseEmotional abuse or psychological harm | Anyone can contact Child Protection Helpline 132 111 (24/7)Mandatory Reporters should call 133 627 |  |
| Criminal offences | NSW Police | All allegations of a criminal offence, and details as requested by NSW Police | *Who* – Person identified by the provider, e.g. CEO*When* – As soon as the provider is aware the incident has occurred*How* - In person at a police station, or ‘000’ in an emergency | Report incident, but do not question the alleged offender. Ask for an event number.Check if the incident should also be reported to – NDIS CommissionFACS and NSW Ombudsman (for people 0-18 years) |
| Complaints about (other) NDIS providers and/or their employees | NDIS Commission | As requested by the NDIS Commission | *Who* – Person identified by the provider, e.g. CEO*When* – As determined by the provider making the complaint | Issues about the treatment of participants may be handled as reportable incidents.The NDIS Commission will assist in referring matters to the appropriate body if the issue is not in its jurisdiction.Check if an incident of employee behaviour should also be reported to – FACS and NSW Ombudsman (for people 0-18 years)NSW Police (if criminal offence) |
| NSW Office of Fair Trading | Details about ‘sharp practices’ as requested by OFT | *Who* – Person identified by the provider, e.g. CEO*When* – As determined by the provider making the complaint | The OFT will assist in referring matters to the appropriate body if the issue is not in its jurisdiction, e.g. treatment of participants |
| Complaints about NDIA | NDIA | Complaints can be made about specific decisions made the NDIA |  | Some NDIA decisions are ‘reviewable’, and an appeal can be lodged. In some cases, appeals may be heard by the Administrative Appeals Tribunal. |
| Commonwealth Ombudsman |  |  |  |
| Complaints about NSW community services (incl. FACS) | NSW Ombudsman | As requested by NSW Ombudsman | *Who* – Person identified by the provider, e.g. CEO*When* – As determined by the provider making the complaint |  |

## **Contact details and links**

**NDIS (Quality and Safeguards) Commission**

Website: [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au)

Draft Reportable Incidents Guide: [www.ndiscommission.gov.au/document/596](http://www.ndiscommission.gov.au/document/596)

Draft Incident Management System Guide: [www.ndiscommission.gov.au/document/586](http://www.ndiscommission.gov.au/document/586)

**NSW Ombudsman**

Website: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

Fact sheet on reportable conduct (of employees working with children) -

[www.ombo.nsw.gov.au/what-we-do/our-work/employment-related-child-protection/reportable-allegations-and-convictions](http://www.ombo.nsw.gov.au/what-we-do/our-work/employment-related-child-protection/reportable-allegations-and-convictions)

**NSW Office of Fair Trading**

Website: [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Information and links for participants and NDIS providers - [http://www.fairtrading.nsw.gov.au/ftw/About\_us/Access\_and\_equity/Information\_for\_people\_with\_a\_disability.page?#Information\_for\_people\_selling\_goods\_and\_services\_to\_people\_with\_disabilities](http://www.fairtrading.nsw.gov.au/ftw/About_us/Access_and_equity/Information_for_people_with_a_disability.page#Information_for_people_selling_goods_and_services_to_people_with_disabilities)

**Commonwealth Ombudsman**

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

Information and links about making a complaint about the NDIA - <http://www.ombudsman.gov.au/about/working-with-people-with-disability>

1. <https://www.ndiscommission.gov.au/providers> [↑](#footnote-ref-1)
2. <https://www.ndiscommission.gov.au/providers/provider-registration> Provider Registration [↑](#footnote-ref-2)
3. https://www.ndiscommission.gov.au/document/1001 Suitability Assessment Process Guide [↑](#footnote-ref-3)
4. <https://www.ndiscommission.gov.au/document/1006> Registration Requirements by supports and Services [↑](#footnote-ref-4)
5. <https://www.ndiscommission.gov.au/document/996> Provider Registration Renewal Process Guide [↑](#footnote-ref-5)
6. <https://www.ndiscommission.gov.au/resources/ndis-provider-register/auditors> List of approved auditing bodies [↑](#footnote-ref-6)
7. <https://www.legislation.gov.au/Details/F2018L00631> Provider Registration and Background Rules [↑](#footnote-ref-7)
8. <https://www.ndiscommission.gov.au/document/1006> Registration requirements by supports and services [↑](#footnote-ref-8)
9. <https://www.legislation.gov.au/Details/F2018N00041> Quality Indicator Guidelines [↑](#footnote-ref-9)
10. <https://www.legislation.gov.au/Details/F2018N00114> Approved Quality Auditor Scheme Guidelines [↑](#footnote-ref-10)
11. <https://www.ndiscommission.gov.au/workers/training-course> Worker Orientation Module [↑](#footnote-ref-11)
12. https://www.ndiscommission.gov.au/document/1086 Incident Management System Guide [↑](#footnote-ref-12)
13. https://www.ndiscommission.gov.au/document/1086 Incident Management System Guide [↑](#footnote-ref-13)
14. [www.ndiscommission.gov.au/document/596](http://www.ndiscommission.gov.au/document/596) Reportable Incidents Guide [↑](#footnote-ref-14)
15. <https://www.ndiscommission.gov.au/providers/reportable-incidents> Reportable Incidents (NDIS Providers) information and links to reporting forms [↑](#footnote-ref-15)
16. <https://www.legislation.gov.au/Details/F2018L00633> National Disability Insurance Scheme Incident Management and Reportable Incident Rules 2018, s 12(1) and (2). [↑](#footnote-ref-16)
17. <https://www.ndiscommission.gov.au/sites/default/files/documents/2018-10/complainthandlingguidelinesforproviders.pdf>

Complaint Handling Guide for Providers [↑](#footnote-ref-17)
18. <https://www.ndiscommission.gov.au/document/581> Complaints Management and Resolution Guidance [↑](#footnote-ref-18)
19. <https://www.ndiscommission.gov.au/document/566> NDIS Code of Conduct\_Guidance for Providers [↑](#footnote-ref-19)
20. <https://www.legislation.gov.au/Details/F2018L00632> Restrictive Practices and Behaviour Support Rules [↑](#footnote-ref-20)
21. <https://www.ndiscommission.gov.au/providers/behaviour-support/implementing-behaviour-support-nsw-sa> [↑](#footnote-ref-21)
22. <https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal> [↑](#footnote-ref-22)
23. <https://www.ndiscommission.gov.au/providers/reportable-incidents> [↑](#footnote-ref-23)
24. <https://www.facs.nsw.gov.au/providers/deliver-disability-services/restrictive-practices-authorisation-portal>, and http://www.ncat.nsw.gov.au/Documents/gd\_information\_appointment\_financial\_manager\_and\_or\_guardian.pdf – guardianship and consent for the use of restrictive practices [↑](#footnote-ref-24)
25. <https://www.ndiscommission.gov.au/providers/worker-screening> Worker Screening [↑](#footnote-ref-25)
26. <https://www.ndiscommission.gov.au/providers/worker-screening> Worker Screening [↑](#footnote-ref-26)
27. <https://ndis.nsw.gov.au/ndis-worker-screening/> NDIS Worker Screening [↑](#footnote-ref-27)