



**NDIS Quality  
and Safeguards  
Commission**

# **NDIS Quality and Safeguards Commission**

**Incident Management System  
Guidance**



## Acknowledgment

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ISBN

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## Table of Contents

Acknowledgment .....	2
Definitions.....	4
About this guidance .....	5
Part 1 – Introduction.....	6
The NDIS Quality and Safeguards Commission.....	6
What the rules cover .....	7
Part 2 – Incident management system requirements.....	8
What is an incident? .....	8
What does the phrase ‘in connection with’ mean?.....	9
What does the phrase ‘harm to a person with disability’ mean? .....	9
What procedures do registered providers need to establish in their incident management system?.....	10
When an incident occurs .....	12
Learning from incidents .....	12
What records and information do providers need to keep?.....	13
Minimum record keeping requirements .....	14
Collection of information by the NDIS Commission about incidents .....	14
What do workers need to know? .....	15

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## Definitions

<b>Act</b>	Means the <i>National Disability Insurance Scheme Act 2013</i> .
<b>NDIS Commission</b>	Means the National Disability Insurance Scheme Quality and Safeguards Commission.
<b>Engaged</b>	A person is engaged, including volunteers, by an NDIS provider when both the involved person and the organisation have agreed that the person will provide supports or services for people with disability who receives funding under the NDIS or the Commonwealth Continuity of Support Programme relating to Specialist Disability Services for Older People.
<b>Incident</b>	Means acts, omissions, events or circumstances that occur in connection with providing supports or services to a person with disability; and that have, or could have, caused harm to a person with disability.
<b>Key personnel</b>	A member of the group of persons who is responsible for the executive decisions of the registered provider; or any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the person or entity. See s 11A of the Act.
<b>NDIA</b>	National Disability Insurance Agency, whose role is to implement the National Disability Insurance Scheme (NDIS).
<b>NDIS</b>	National Disability Insurance Scheme, which is a new way to support a better life for hundreds of thousands of Australians with a significant and permanent disability and their families and carers.
<b>NDIS provider</b>	<p>A person (other than the NDIA) who receives:</p> <ul style="list-style-type: none"><li>• funding under the arrangements set out in Chapter 2 of the Act; or</li><li>• NDIS amounts (other than as a participant); or</li></ul> <p>a person or entity who provides supports or services to people with disability other than under the NDIS; and who is prescribed by the NDIS rules as an NDIS provider. See s 9 of the Act.</p>
<b>Participant</b>	A person with disability who receives supports or services from an NDIS provider. In this guidance we generally refer to NDIS participants.
<b>Registered</b>	
<b>NDIS Provider</b>	Means a person or entity registered under s 73E of the Act, to provide supports and services to NDIS participants.
<b>Worker</b>	Includes employees, contractors and people otherwise engaged for example, on a volunteer basis by an NDIS provider and people contracted by this provider.

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## About this guidance

It is a condition of registration<sup>1</sup> that registered NDIS providers have an incident management system which sets out the procedures for identifying, managing and resolving incidents.<sup>2</sup> If a person who is a registered NDIS provider does not have an incident management system, they may be in breach of their conditions of registration and penalties may apply.<sup>3</sup>

This guidance will assist registered NDIS providers in developing or improving their incident management systems to help them meet the requirements of the:

- National Disability Insurance Scheme Act 2013 (the Act), and
- National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 (the Rules).

All NDIS providers – registered or unregistered – have a responsibility to ensure that they are delivering a sound level and quality of the services and supports to people with disability. It is good practice for NDIS providers even when unregistered to have an appropriate and effective incident management system in place, and to know how to respond to any incident that may occur.

Although NDIS providers that are not registered are not subject to the requirements outlined in this guidance, they must still comply with the NDIS Code of Conduct. NDIS providers that are not registered may therefore find this guidance useful in ensuring that their supports and services meet the standards expected under the NDIS Code of Conduct.

This guidance should be read in conjunction with the NDIS Commission's *reportable incidents guidance for NDIS providers* document.

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<sup>1</sup> Section 73F(2) of the *National Disability Insurance Scheme Act 2013* provides that the registration of a person as a registered NDIS provider is subject to a number of conditions, including subsection 73F(2)(g) which requires a registered NDIS provider to implement and maintain the applicable incident management system in accordance with section 73Y.

<sup>2</sup> *National Disability Insurance Scheme Act 2013*, s 73Y; NDIS (Incident Management and Reportable Incidents) Rules 2018, s 9(1).

<sup>3</sup> Section 73J makes it an offence for a person who is a registered NDIS provider not to comply with a condition of their registration.

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## Part 1 – Introduction

The National Disability Insurance Scheme (NDIS) is one of the largest social and economic policy reforms in Australian history. The NDIS supports Australians who are born with, or acquire, a permanent and significant disability before the age of 65 to lead a more independent and inclusive life.

The NDIS represents a fundamental change to how supports for people with disability are funded and delivered across Australia. It also represents a significant shift from services delivered under largely block-funded contractual relationships between providers and primarily state and territory governments, to one where people with disability are the purchasers and consumers of services from a diverse market under the NDIS.

### The NDIS Quality and Safeguards Commission

The NDIS Quality and Safeguards Commission (*the NDIS Commission*) is responsible for:

- Registering and regulating NDIS providers, including through the new **NDIS Practice Standards** and the **NDIS Code of Conduct**.
- Responding to concerns, complaints and reportable incidents, including allegations of abuse and neglect of NDIS participants.
- Monitoring compliance, and undertaking investigation and enforcement action.
- National oversight of the delivery of behaviour support, including monitoring the use of restrictive practices within the NDIS with the aim of reducing and eliminating restrictive practices.
- Leading collaboration with states and territories to design and implement nationally consistent NDIS worker screening.
- Facilitating information sharing arrangements with the NDIA, state and territory and other Commonwealth regulatory bodies.

The NDIS Commission has a key role to play in promoting commitments by providers to deliver high quality supports and services for people with disability. The guiding principles underpinning the NDIS Commission's functions, as set out in the *National Disability Insurance Scheme Act 2013* (the Act), support the rights of people with disability to:

- Realise their potential for physical, social, emotional and intellectual development.
- Participate in and contribute to community life including socially and economically.
- Exercise choice and pursue their goals including taking reasonable risks and pursuing any grievance.
- Be included in making decisions about their life.
- Live a life of dignity, free from abuse, neglect and exploitation.
- Have the roles of families, carers other significant persons in their lives recognised and respected and.

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- Have the roles of advocates in representing the interests of people with disability acknowledged and respected.

It is the responsibility of everyone involved in the NDIS to work together to ensure these rights are realised and that people with disability are at the centre of decision making.

## What the rules cover

The Act and the rules require registered NDIS providers to establish an incident management system that meets minimum requirements and that is appropriate for the size of a provider and the supports or services they provide.<sup>4</sup> The rules also set out the obligations on providers to notify, investigate and respond to reportable incidents.

The rules cover:

- the minimum requirements of an incident management system
- how and when reportable incidents must be notified to the NDIS Commission, and
- the action that can be taken by the NDIS Commission in relation to incident reports.

This guidance focuses on the requirements of a provider's incident management system.

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<sup>4</sup> NDIS (Incident Management and Reportable Incidents) Rules 2018

## Part 2 – Incident management system requirements

A registered NDIS provider's incident management system must be:

- appropriate for the size of the NDIS provider and for the classes of supports or services being delivered<sup>5</sup>
- documented,<sup>6</sup> and
- readily accessible to all workers employed or otherwise engaged by an NDIS provider and to persons with disability receiving supports or services from the NDIS provider.<sup>7</sup>

All registered NDIS providers have the same *minimum* requirements for their incident management system. However, the type of system maintained is likely to differ between providers, depending on their size and the types of supports or services they are delivering. Smaller NDIS providers (e.g. sole traders) may implement a more simple system, such as a spreadsheet, but they will still be obliged to establish procedures and train any workers in their roles and responsibilities. A larger organisation employing many workers will need to demonstrate that their existing systems meet or can be adapted to meet the new requirements, including procedures and training, which may require enhancements to existing ICT solutions. As organisations change over time, NDIS providers must ensure that their incident management system continues to reflect the size and scale of the organisation and the complexity and risk associated with the supports and services delivered.

### What is an incident?

A registered NDIS provider's incident management system must cover the following incidents:<sup>8</sup>

- acts, omissions, events or circumstances that occur in connection with providing supports or services to a person with disability and which have, or could have, caused harm to the person with disability
- acts by a person with disability that occur in connection with providing supports or services to the person with disability and which have caused serious harm, or a risk of serious harm, to another person, and
- reportable incidents that have or are alleged to have occurred in connection with providing supports or services to a person with disability.

A reportable incident is:<sup>9</sup>

- the death of a person with disability

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<sup>5</sup> *National Disability Insurance Scheme Act 2013*, s 73Y(a).

<sup>6</sup> NDIS (Incident Management and Reportable Incidents) Rules, s12(1).

<sup>7</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 12(1)(b).

<sup>8</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 9.

<sup>9</sup> *National Disability Insurance Scheme Act 2013*, s 73Z(4) and s 16 of the NDIS (Incident Management and Reportable Incident) Rules.

- serious injury of a person with disability
- abuse or neglect of a person with disability
- unlawful sexual or physical contact with, or assault of, a person with disability
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity
- the use of an unauthorised restrictive practice in relation to a person with disability.

If an incident is a *reportable incident*, registered NDIS providers have an additional requirement to notify the NDIS Commission of the incident and keep them informed of any investigation or actions arising from the incident.<sup>10</sup> The NDIS Commission will oversight registered providers' responses to *reportable incidents*. The NDIS Commission has published separate guidance for registered providers with information about reportable incidents [[insert hyperlink to the Reportable incident guidance here](#)].

### What does the phrase 'in connection with' mean?

In relation to incidents covered by the incident management system, the phrase '*in connection with*' is intended to be broad. It covers incidents that may have occurred during the course of supports or services being provided, altered or withdrawn. An incident does not necessarily have to occur *during* the provision of supports or services to be connected with the support or service being provided. For example, while not exhaustive, the type of incidents that will be considered to have occurred *in connection with* the provision of supports or services include:

- when a person with disability is receiving a support or service (for example, where a person with disability is receiving care from a worker)
- when a person with disability attends the premises of an NDIS provider, or where the support or service is 'off-site', and an incident occurs at the location where those supports or services were provided
- when the person is receiving funded supports in the home, or
- where a person with disability is in residential care.

If the incident did not occur in connection with the provision of supports or services, it is not required to be recorded in the incident management system or, in the case of a reportable incident, reported to the NDIS Commission.

### What does the phrase 'harm to a person with disability' mean?

Harm to a person with disability includes an actual or potential adverse or negative impact on the physical or psychological well-being of that person. The level of harm caused is not a determining factor in deciding whether the incident is one which must be managed under the incident management system. Incidents where there is no harm caused but the incident could have resulted in harm to a person with disability must still be managed under the incident management system.

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<sup>10</sup> NDIS (Incident Management and Reportable Incidents) Rules, s10(5).

## What procedures do registered providers need to establish in their incident management system?

The incident management system must establish procedures to be followed in identifying, managing and resolving incidents. The procedures may vary, depending on the seriousness of the incident.<sup>11</sup> For example, procedures outlining the way in which support workers must report the death of a participant may be more extensive and immediate compared to reporting a low risk medication error which did not result in harm to a person with disability.

The procedures to be established are outlined in the table below.

Procedure	Description
<p><b>How incidents are identified, recorded and reported – rule 10(1)(a)</b></p>	<p>These procedures should, at a minimum, address the following:</p> <ul style="list-style-type: none"> <li>• describing an incident</li> <li>• how an incident is identified (for example, when a worker observes an incident or where a person with disability informs a worker of an incident)</li> <li>• the method and manner of recording an incident;</li> <li>• the timeframes for internal reports, and</li> <li>• how incidents should be reported internally (for example, does it need to be in writing, in an internal form or verbally).</li> </ul> <p>There are minimum requirements for registered providers concerning the records they need to keep about incidents. The specific requirements are set out in the section– <i>What records and information do providers need to keep?</i></p>
<p><b>To whom incidents must be reported – rule 10(1)(b) and rule 10(1)(c)</b></p>	<p>Providers should establish clear reporting lines when incidents occur, including specifying who must be notified when an incident occurs. The procedure may include:</p> <ul style="list-style-type: none"> <li>• guidance around when police or emergency services should be notified</li> <li>• guidance around notifying guardians, family or carers, and</li> <li>• who must be notified internally when an incident occurs (for example, supervisors, managers or key personnel).</li> </ul> <p>The system must also specify the person who is responsible for reporting incidents that are reportable incidents to the NDIS Commission.</p>

<sup>11</sup> NDIS (Incident Management and Reportable Incidents) Rules, s10(2).

Procedure	Description
<p><b>How registered NDIS providers can support, assist and involve a person with disability affected by an incident to ensure their health, safety and wellbeing – rule 9(1)(d) and rule 9(1)(e)</b></p>	<p>The incident management system <i>must</i> specify:</p> <ul style="list-style-type: none"> <li>• how the registered NDIS provider will provide support and assistance to a person with disability affected by an incident, to ensure the person’s health, safety and wellbeing,<sup>12</sup> and</li> <li>• how a person with disability affected by an incident will be involved in the management and resolution of the incident.<sup>13</sup></li> </ul> <p>For example, the registered NDIS provider may specify that, in the event of an incident, it will keep the person with disability impacted by the incident informed, or ask the impacted person to provide feedback and input into assessments, investigations and any corrective actions proposed or taken by the registered NDIS provider.</p>
<p><b>When an investigation into an incident is required – rule 10(1)(f)</b></p>	<p>In some circumstances it may be necessary to conduct an investigation to establish the cause of a particular incident, its effect and any operational issues that may have contributed to the incident occurring.</p> <p>Registered NDIS providers must have a process in place to identify when such an investigation is required, and the nature of that investigation.<sup>14</sup> If police are involved, an internal investigation should not commence until the police have completed their inquiries.</p> <p>An investigation into an incident is not necessarily the same as an investigation into a reportable incident and, in general, it may not be as formal or extensive. Further, unless a reportable incident is identified, it is unlikely to involve the NDIS Commission.</p> <p>Providers should ensure that workers involved in conducting and responding to incidents receive appropriate training. Providers are required to adhere to the NDIS Commission’s Procedural Fairness Guidelines during the course of conducting any investigation into an incident. Further guidance about how providers should respond to reportable incidents is contained in the NDIS Commission’s <i>Reportable incidents guidance for providers</i> document.</p>
<p><b>When corrective action should</b></p>	<p>Registered NDIS providers must have a procedure in place to identify when corrective action should be taken in response to an incident and the nature of</p>

<sup>12</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(1)(c).

<sup>13</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(1)(e).

<sup>14</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(1)(f).

Procedure	Description
<p><b>be taken – rule 10(1)(g)</b></p>	<p>such action.<sup>15</sup> For example, it is expected that a registered NDIS provider would take corrective action in the following circumstances:</p> <ul style="list-style-type: none"> <li>• where an incident may have been prevented (or the severity lessened) by some action (or inaction) by a provider or worker</li> <li>• where there is an ongoing risk to people with disability, or</li> <li>• where action by the provider may prevent or minimise the risk of a reoccurrence.</li> </ul> <p>Examples of corrective actions include:</p> <ul style="list-style-type: none"> <li>• re-training or further training of workers</li> <li>• practice improvements including developing or enhancing policies and procedures</li> <li>• changes to the environment in which supports or services are provided, and changes to the way in which supports or services are provided.</li> </ul>

## When an incident occurs

It is good practice for registered NDIS providers to establish a *response plan* to incidents when they occur, to ensure the health, safety and wellbeing of people with disability. A plan for how to deal with incidents could include:

- any actions to be taken immediately after an incident to ensure the health, safety and wellbeing of a person or persons with disability involved in an incident;
- the assessment and mitigation of any immediate risks to other people with disability that could be impacted by the incident; and
- where the incident is or may be a reportable incident, further action that must be taken.

Further guidance about how providers should respond to reportable incidents is contained in the NDIS Commission’s *Reportable incidents guidance for providers* document.

## Learning from incidents

Like complaints and other feedback, incidents provide an opportunity to review practices and procedures and identify where improvements in service quality can be made.

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<sup>15</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(1)(f).

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Registered NDIS providers must carry out an assessment which has regard to the following issues:<sup>16</sup>

- whether the incident could have been prevented
- how well the incident was managed and resolved;
- what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact, and
- whether other persons or bodies need to be notified of the incident.

The assessment must consider the views of persons with disability impacted by the incident.

Registered NDIS providers are expected to consider the outcome of such assessments to determine what further action should be taken, which could include:

- providing ongoing support to impacted people with disability and/or ensuring the ongoing wellbeing and safety of impacted people with disability
- identifying and implementing practice improvement measures
- notifying the NDIS Commissioner and/or other bodies or agencies, if appropriate
- undertaking further investigations
- identifying and taking corrective action to prevent a reoccurrence of incidents, or
- deciding that no further action is necessary.

The incident management system must also provide for periodic review of the system, and the identification and resolution of systemic issues in relation to incidents.<sup>17</sup>

## What records and information do providers need to keep?

Registered NDIS providers are required to keep records relating to incidents and to provide statistical and other information about incidents to the NDIS Commission upon request.

Good record keeping assists in improving accountability and promotes transparent decision-making. Registered NDIS providers should, when establishing and reviewing their incident management system, consider whether their record keeping practices would enable someone to quickly understand the procedures established under the system, how decisions are reached in relation to incidents, the rationale for those decisions, and the action subsequently taken.

It is good practice for records to be kept in an organised, accessible and legible manner. For example, all of the documents relating to an incident covered by the registered NDIS provider's incident management system should be held in one place and be able to be readily located.

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<sup>16</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(3).

<sup>17</sup> NDIS (Incident Management and Reportable Incidents) Rules, s 10(6).

## Minimum record keeping requirements

For each incident, registered NDIS providers must record, at a minimum, the following details:<sup>18</sup>

- a description of the incident, including the impact on, or harm caused to, any person with disability
- whether the incident is a reportable incident
- if known, the time, date and place at which the incident occurred or if not known, the time, date and place at which the incident was first identified
- the names and contact details of the persons involved in the incident and any witnesses to it
- the actions taken in response to the incident, including action taken to support or assist a person with disability impacted by an incident
- if an investigation is undertaken by the provider in relation to the incident —the details and outcomes of the investigation, and
- the name, position and contact details of the person making the record of the incident.

A registered NDIS provider can also record any other relevant details about an incident. This could include, for example, gender and/or Aboriginal/Torres Strait Islander status of individuals involved in an incident. In deciding whether further details should be recorded about an incident, the registered NDIS provider should consider, but is not limited to, the following factors:

- the nature of the supports or services being provided
- the seriousness of the incident (including where it is not a reportable incident, but is beyond a simple or minor incident), and
- whether it is part of a pattern of incidents.

All records must be kept for seven years from the day that the record is made.<sup>19</sup>

## Collection of information by the NDIS Commission about incidents

The NDIS Commission may ask a registered NDIS provider to provide information about incidents. Registered NDIS providers need to make sure that their incident management system supports the collection of statistical and other information about incidents, so that it can be provided to the NDIS Commission on request.<sup>20</sup>

Such information may include, but is not limited to:

- the number and frequency of incidents
- when and where incidents occur

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<sup>18</sup> *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*, s 12(2) and (3).

<sup>19</sup> *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*, s 12(4).

<sup>20</sup> *National Disability Insurance Scheme Incident Management and Reportable Incidents Rules 2018*, s 12(5).

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- the type of incidents that occur, and
  - who is involved in incidents (for example, whether particular workers and/or people with disability are involved in multiple incidents).

## What do workers need to know?

Workers need to understand that they are supported by management to report incidents and that there are no negative consequences for doing so. Each organisation should have a policy for worker disclosure. All workers should be advised that they can make a complaint on behalf of a person with disability to the NDIS provider or to the NDIS Commission. All workers must comply with the registered NDIS provider's incident management system, and be aware of their roles and responsibilities in identifying, managing and resolving incidents and in preventing incidents from reoccurring.<sup>21</sup>

Training must be provided to all workers in the use of, and compliance with, the incident management system.

As the registered NDIS provider's incident management system must be appropriate for the size of the provider and the class of supports or services provided, the form, method and extent of the training must be similarly appropriate.

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<sup>21</sup> *National Disability Insurance Scheme Incident Management and Reportable Incident Rules 2018*, s 12(1) and (2).