



NDIS Quality  
and Safeguards  
Commission

# Complaints Presentation Residential Aged Care Providers

October 2020

# Introduction

Complaints are integral to ensuring quality and safeguarding rights. They provide valuable insights:

Highlight areas where improvements can be made

Clarify what participants value and need

If handled well, can restore and build relationships and loyalty

If dealt with early, can address matters before they become serious.

# Participants

NDIS participants have the right to complain or provide feedback about the safety and quality of NDIS supports and services.

Providers need to foster a culture that values feedback and complaints



# The NDIS Act

Every registered NDIS provider must have an effective complaints management and resolution system (s73 W of the NDIS Act). The system must:

- Be “proportionate’ ie, appropriate for size and types of services/ supports provided
- Acknowledge the role of advocates and other representatives, and facilitate access to advocates
- Comply with the *NDIS (Complaints Management and Resolution) Rules 2018*

NB: Noncompliance is a breach of conditions of registration (s73F(2)(g))



# The Complaint Rules

***NDIS (Complaints Management and Resolution) Rules 2018***, ('Complaint Rules') has three parts:

- Part 2 - Details what must be included in the complaints management and resolution systems of registered NDIS providers  
[Effective Complaints Handling Guidelines for NDIS Providers](#)
- Part 3 - Details how complaints can be made to the NDIS Commission, and how the NDIS Commission may deal with them. It also permits the NDIS Commissioner to initiate own motion inquiries into issues and complaints.

# Registered Provider Obligations under the Complaint Rules

- Be **easy to understand** and access and **ensure confidentiality**
- **Recognise the rights and responsibilities** of people with disability, providers, workers, advocates and others in the process, and **ensure training** for staff
- **Acknowledge, assess and resolve** complaints in a fair and timely manner
- Ensure **procedural fairness**, by ensuring people who may be impacted by decisions are able to be heard before a decision is made, and that the decision maker is free from bias or conflict of interest
- **Ensure support and assistance is available** to people with disability and family members to permit them **to fully participate** in the complaint process and its resolution
- **Let people know how** they can make a complaint to the provider and to the NDIS Commission
- Ensure a complainant and people with disability affected by the issues raised in the complaint **suffer no adverse affect** as a result of making a complaint
- Ensure **appropriate records** are kept of all complaints received, how they were dealt with, their outcome, and any action taken in response to them, and that these are kept for 7 years
- Provide for **periodic reviews** of the system, as well as the issues raised in complaints, **to drive continuous improvement** in the organisation.

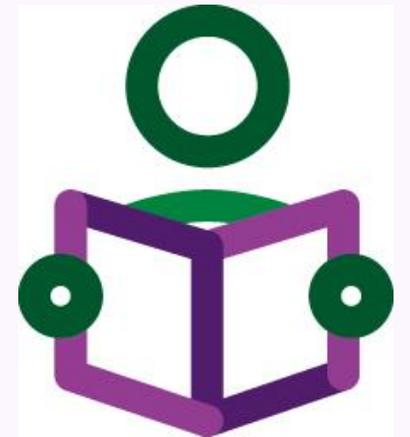
# Guidance for Providers

The NDIS Commission has developed guidance material to help providers in managing complaints appropriately

This is available on our website: [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au)

It includes: [Effective Complaint Handling Guidelines for NDIS Providers](#)

It also includes information about how we handle complaints:  
[Complaints Management and Resolution Guidance](#)



# Complaints to the NDIS Commission

Any one can complain to us about an issue arising out of, or in connection with, the provision of supports or services provided by an NDIS provider

In reviewing complaints, we examine the issues raised to see:

- if the **NDIS Code of Conduct** has been breached by an NDIS provider or a worker
- If a registered NDIS provider has not met **required standards**
- If a registered NDIS provider has not got an **effective complaints system**

We can NOT look at complaints about the NDIA or decisions on plans.

# Complaints and the NDIS Code of Conduct



Respect individual rights and self-determination



Respect privacy



Act with integrity, honesty and transparency



Deliver services safely and competently



Ensure quality and safety



Prevent and respond to violence, neglect, abuse, exploitation and sexual misconduct

The Code of Conduct:

- **applies to all providers** (registered/unregistered) **and workers** delivering NDIS supports and services.
- helps **shape behaviour and culture** of providers and workers

When assessing complaints, we will consider if there is evidence to suggest a provider or worker has breached the code, and if so, what action we need to take.

# Who can complain?

**Anyone can raise a complaint with us.** This includes:

- a person with disability who is receiving, or is eligible to receive, supports or services from an NDIS provider
- a worker employed or otherwise engaged by an NDIS provider (including volunteers)
- an advocate, friend or family of a person with disability,
- any other person.

Complaints can be made anonymously, and we can keep details confidential if requested.



# Complaints from Advocates

## **Where a complaint is made on behalf of a person with disability:**

- we need to seek consent of the person (or their legally appointed representative) to the complaint being made, and to information about them being disclosed to the advocate.

## **When there the person is unable to consent, and has no representative :**

- We may disclose information to a complainant during the course of our complaint handling to assist us in deciding how to deal with it, and as part of any resolution process.
- We may disclose information about action taken and the outcome of a complaint to an person who we consider '*has sufficient interest in the matter*'. This will be decided on a case by case basis, and will be subject to our obligations under the *Privacy Act 1988*.

# Our approach to complaints

Educating and supporting people with disability and their families and carers to make complaints and work with providers to resolve them

Educating and building providers' understanding of how to manage complaints, how to develop a positive complaints culture and how to use complaints for continuous improvement

Addressing issues requiring our more formal intervention and action, including identifying and acting on serious issues of abuse or neglect or other non-compliance with the practice standards or Code of Conduct

Ensuring the participant is at the centre of our decision making and actions

# Our Management of complaints

**We aim to help resolve complaints quickly and simply.**

We will review the information provided to us by the complainant and the NDIS provider, and talk to everyone involved. This may include participants impacted by the issues.

**Our response may include:**

- Assisting the parties with advice and information
- Helping the participant and provider resolve the matter between them
- Requiring the provider do certain things, or provide information.
- Offering to conduct a conciliation i.e. a meeting is held between the participant, provider and us.

Where a matter is not resolved, or we consider it raises serious issues of non-compliance or abuse or neglect, we may refer it for compliance and enforcement action or investigation.

# What outcomes do we seek?

**The provider may need to take actions to address issues raised in the complaint.**

This might include:

- offering explanations and apologies and ensuring specific problems are fixed
- making changes to their complaints management system to make it easier for people to raise concerns
- making changes to their policies and procedures
- ensuring staff undertake particular training



The provider may be required to report back to the Commission on its progress.

# Possible actions where serious concerns arise

## Site Visits

- where there are concerns of immediate risk of harm, the NDIS Commission will respond quickly and may visit the provider's premises to assess the situation.

## Investigation

- at anytime during the complaints process, breaches of the NDIS Act 2013, rules or Practice Standards are identified compliance and investigations action may be taken.

## Compliance and enforcement action

- which may result in fines, or in serious matters, worker banning orders, or revocation of provider registration.

# Reconsiderations

**People involved in the complaint can request to have our decision reconsidered.**

- to be made within six weeks of being notified of the decision.
- to include information about why they want the decision changed.
- the reconsideration will be done by someone not involved in the original decision.

The **complainant** and **person with disability affected by the issues** can request this in nearly all complaint decisions.

The **provider** and a **person engaged by the provider the subject of an adverse finding** can request this in complaints where a formal resolution process was undertaken.

# Complaints other agencies may deal with

Some complaints are better dealt with by other agencies:

- Complaints about the National Disability Insurance Agency (NDIA) and decisions about eligibility, funding or a participant's plan are dealt with by the NDIA, and can be taken to the Commonwealth Ombudsman
- services or supports provided by an organisation which is not an NDIS provider (for example, health, education or transport services)
- legal disputes requiring decision by courts and tribunals
- Consumer affairs matters, such as the quality of building repairs



**We can help connect a complainant with the right organisation.**

# Links with the Aged Care Quality and Safety Commission

Residents funded through the NDIS are able to complain to both the Aged Care Quality & Safety Commission (ACQSC) and the NDIS Commission

Where complaints are received by us that may include matters that can be dealt with by the ACQSC, we will work with them to determine which agency is most suited to deal with the matters raised.

We are finalising arrangements between our agencies to ensure the appropriate sharing of information that is relevant to the performance of each agency's regulatory responsibilities.

# Further information

For more information visit:

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

Or call: 1800 035 544 (free call from landlines)

Follow us on LinkedIn and Facebook





Questions?