

FAQ – REPORTABLE INCIDENTS & COMPLAINTS

Definitions

“ACQSC”	The Aged Care Quality and Safety Commission
“Complaints Rules”	<i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i>
“Dual Providers”	Approved residential aged care providers that are also registered NDIS providers providing residential care/NDIS supports or services to NDIS participants who are residents of the provider’s residential aged care facility.
“NDIS Act”	<i>National Disability Insurance Scheme Act 2013</i>
“NDIS Commission”	The NDIS Quality and Safeguards Commission
“Reportable Incident Rules”	<i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i>

Question	Answer
1. Are all deaths considered ‘reportable incidents’ under the NDIS Act and Reportable Incident Rules or only those occurring in connection with the delivery of NDIS supports or services?	<p>Only deaths of NDIS participants that occur in connection with the delivery of NDIS supports or services are reportable by dual providers to the NDIS Commissioner (through the Commission). The death of NDIS participants who are residents of a residential aged care facility operated by a dual provider would be reportable to the NDIS Commissioner if the death is connected with the provision of NDIS supports or services by that dual provider.</p> <p>Obligations of registered NDIS providers to notify reportable incidents to the NDIS Commission does not replace other existing obligations to report incidents to police, and other relevant authorities.</p>

<p>2. Will dual providers be able to submit reportable incidents to the NDIS Commission online?</p>	<p>Dual providers are required to notify the NDIS Commission of reportable incidents through the NDIS Commission Provider Portal. The NDIS Commission has developed guidance for reporting incidents using the NDIS Commission Portal. They are:</p> <ul style="list-style-type: none"> • Quick Reference Guide: Getting access to the NDIS Commission Portal • Quick Reference Guide: Create an Immediate Notification • Quick Reference Guide: Complete the 5 Day Notification Form • Quick Reference Guide: Managing My Reportable Incidents • Quick Reference Guide: Complete the final report • Incident reporting, management, and prevention Fact Sheet <p>Please visit Incident Management and Reportable Incidents (NDIS Providers) - https://www.ndiscommission.gov.au/providers/incident-management-and-reportable-incidents for information on what a registered NDIS provider (i.e. dual provider) should do to notify the NDIS Commission of issues accessing the NDIS Commission Portal.</p>
<p>3. How do dual providers report a reportable incident to the NDIS Commission?</p>	<p>Use the NDIS Commission Portal 'My Reportable Incidents' page to notify and manage all reportable incidents.</p> <p>More information can be found at NDIS Commission website https://www.ndiscommission.gov.au/providers/how-notify.</p> <p>There are 2 roles for reporting of reportable incidents in the NDIS Commission Portal.</p> <p>Authorised Reportable Incident Approver – a person (of the dual provider) that has the authority to review and be responsible for submission of an incident to the NDIS Commission.</p> <p>Authorised Reportable Incident Notifier – a supporting team member (of the dual provider) who can assist the Approver collate and report the required information.</p>

<p>4. Do the requirements under the NDIS Act and Reportable Incident Rules relating to 'reportable incidents' mean an increase in reporting requirements for dual providers?</p>	<p>The NDIS Commission takes a responsive and proportionate approach to regulation, providing guidance to build the capacity of NDIS providers to prevent and respond to incidents where possible.</p> <p>The NDIS Commission will work with dual providers to help them comply with their quality and safeguarding obligations as registered NDIS providers, including through education and training on these obligations.</p> <p>There may be some instances where dual reporting to ACQSC and the NDIS Commission will occur.</p>
<p>5. What should dual providers do if they are not sure whether an incident needs to be reported to the NDIS Commission?</p>	<p>All registered NDIS providers are encouraged to read the guidance available on the NDIS Commission's website.</p> <p>If a dual provider is still unsure whether a report to the NDIS Commission is required in relation to an incident, they should contact the NDIS Commission on 1800 035 544.</p>
<p>6. What strategies are in place to support NDIS participants to make a complaint, including those who may not have capacity to communicate an issue directly to the NDIS Commission?</p>	<p>People with disability have the right to complain about the services they receive. NDIS participants are encouraged to raise concerns or complaints with their provider first, as this is often the best way to have issues resolved quickly. All registered NDIS providers must have a complaints management and resolution system in place under the Complaints Rules. Participants can seek support from family, friend, or an independent advocate to support them to make a complaint. People with disability can use the Disability Advocacy Finder to find a disability advocate.</p> <p>Anyone can make a complaint to the NDIS Commission about NDIS supports or services. They do not need the consent of an NDIS participant to raise concerns about the quality and safety of supports or services provided to that participant. The NDIS Commission will contact the person with disability impacted by the issues raised in the complaint where possible and appropriate, to seek their views on the matter before determining what action to take, and what, if any, personal information may be disclosed to the complainant that is relevant to the outcome of the complaint.</p>

	<p>In States and Territories that the NDIS Commission is operating, a complaint can be made to the NDIS Commission by:</p> <p>Phoning: 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged. National Relay Service and ask for 1800 035 544</p> <p>Completing a Complaint Contact Form. Registered NDIS providers are required to present information on how to make a complaint in a format consistent with an NDIS participant preferred method of communication.</p> <p>The NDIS Commission has several accessible formats available for use by NDIS participants and providers: https://www.ndiscommission.gov.au/resources/easy-read https://www.ndiscommission.gov.au/sites/default/files/documents/2020-05/how-make-complaint-easy-read-ov.pdf</p>
<p>7. Can workers of dual providers make complaints confidentially or anonymously?</p>	<p>If workers have a concern or complaint about the quality or safety of supports or services provided to an NDIS participant in any State and Territory, they can make a complaint to the NDIS Commission. The NDIS Commission will contact the person with disability impacted by the issues raised in the complaint where possible and appropriate, to seek their views on the matter before determining what action to take.</p> <p>The NDIS Commission understands that anonymity is an important element of privacy and some members of the public may wish to be anonymous when interacting with the NDIS Commission. The NDIS Commission also understands some members of the public may wish to use a pseudonym. Generally, members of the public will have the right to remain anonymous or adopt a pseudonym when dealing with the NDIS Commission. You can find more information about the complaint resolution process on the NDIS Commission’s website- https://www.ndiscommission.gov.au/providers/complaints-management</p>

<p>8. What happens after a complaint is made to the NDIS Commission? How soon will the NDIS Commission act after a complaint is made?</p>	<p>The NDIS Commission aims to resolve complaints quickly and simply. To do this, we will review the information provided to us by the complainant and the NDIS provider and talk to everyone involved about the complaint.</p> <p>If you make a complaint with the NDIS Commission, your complaint will be acknowledged, and an NDIS Commission complaints resolution officer will arrange a time to talk with you to understand the concerns you are raising. We will ask you for enough information so we can understand the issues involved and any immediate concerns. We will also ask for your permission to speak to the NDIS provider about your complaint, and to seek further information and documents from them.</p> <p>If you are making a complaint on behalf of an NDIS participant, we will ask if we can speak to them to seek their input and understand their concerns.</p> <p>The NDIS Commission will send you written confirmation of receipt of your complaint. You can find more information about the complaint resolution process on the NDIS Commission's website.</p>
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<p>9. What is "Unauthorised use of restrictive practice"?</p>	<p>A restrictive practice refers to the use of a practice that has the effect of restricting the rights or freedom of movement of a person with disability. This can include restraint (chemical, mechanical, social, or physical) and seclusion (keeping someone in isolation).</p> <p>There are three scenarios when the use of a restrictive practice is reportable as a reportable incident to the NDIS Commission:</p> <ul style="list-style-type: none"> • When the use of the restrictive practice for a person with disability <u>is not</u> in accordance with an existing authorisation (however described) of the relevant State or Territory. • When the use of the restrictive practice for a person with disability is in accordance with an existing authorisation (however described) of the relevant State or Territory, BUT the practice is not used in accordance with a behaviour support plan. • When the restrictive practice is used for a person with disability in a State or Territory which does not have an authorisation process for that practice AND the practice is not used in accordance with a behaviour support plan. <p>In circumstances where the State or Territory in which the restrictive practice is used does not have an authorisation process for restrictive practices, and the restrictive practice is used in accordance with the person's behaviour support plan, then this is not a reportable incident.</p> <p>If a dual provider is unsure about whether a use of a restrictive practice would be a reportable incident, they should contact the NDIS Commission for advice.</p>
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<p>10. What are the time frames for notifying the Commissioner of reportable incidents?</p>	<p>Reportable incidents (except Unauthorised use of restrictive practices) must be notified to the Commissioner (through the Commission) within 24 hours of the provider becoming aware of it. This notification must contain certain information depending on what information is available within that timeframe. Other information can be provided within 5 business days.</p> <p>The Unauthorised use of restrictive practice must be notified to the NDIS Commission within 5 business days of the provider becoming aware of it.</p> <p>If an Unauthorised use of a restrictive practice gives rise to another reportable incident, it must be reported within 24 hours.</p>
<p>11. What is an incident management system?</p>	<p>Under the Reportable Incident Rules an incident management system must cover:</p> <ul style="list-style-type: none"> • Incidents that consist of acts, omissions, events, or circumstances that occur in connection with providing NDIS supports or services to a person with disability and have, or could have, caused harm to the person with disability. • Incidents that consist of acts by a person with disability that occur in connection with providing NDIS supports or services to the person with disability and which have caused serious harm, or a risk of serious harm, to another person. • Reportable incidents that have or are alleged to have occurred in connection with providing NDIS supports or services to a person with disability.

	<p>As a registered NDIS provider, you are responsible for preventing, responding to, and managing these incidents. Your incident management system needs to include procedures for identifying, assessing, recording, managing, resolving, and reporting incidents. You must record all these incidents (not just reportable incidents) and ensure you respond appropriately and take steps to prevent such incidents from happening again.</p> <p>The NDIS Commission has developed guidance - https://www.ndiscommission.gov.au/providers/incident-management-and-reportable-incidents to assist you in developing or improving your incident management systems to meet the requirements for the size and scope of your organisation and the services and supports you deliver.</p>
<p>12. What needs to be notified to the NDIS Commission by dual providers?</p>	<p>Dual providers must notify the NDIS Commission of all reportable incidents (including allegations), even where the provider has recorded and responded to these incidents within its own incident management system.</p> <p>For an incident to be reportable a certain act or event needs to have happened (or alleged to have happened) in connection with the provision of supports or services by the registered NDIS provider. This includes:</p> <ul style="list-style-type: none"> ➤ The death of a person with disability; ➤ 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 with disability for sexual activity; and ➤ Unauthorised use of restrictive practices in relation to a person with disability (see answer to Question 9).

<p>13. Will a dual provider be obligated to notify all reportable incidents to the NDIS Commission, including those not relating to an NDIS participant?</p>	<p>No, only reportable incidents that occur <u>in connection with NDIS supports or services</u> to a person with disability need to be reported to the NDIS Commission.</p>
<p>14. Are dual providers required to notify all reportable incidents to both the ACQSC and the NDIS Commission?</p>	<p>Dual providers will need to understand the requirements of both ACQSC and the NDIS Commission and ensure that they report in accordance with their obligations.</p>
<p>15. If dual providers have a complaints policy and procedure which is relevant for all their residents do they need a separate one for their residents who are NDIS participants?</p>	<p>The Complaints Rules set out the complaints management and resolution system requirements for registered NDIS providers. Dual providers should review their system to ensure compliance with their obligations.</p>
<p>16. If dual providers already have an incident management system in their residential aged care facility, what do they have to have in place for residents who are NDIS participants?</p>	<p>Registered NDIS providers must have an incident management system that meets minimum requirements under the Reportable Incident Rules and that is appropriate for the size of the organization and the supports or services they provide.</p> <p>The Reportable Incident Rules also set out the obligations on registered NDIS providers to notify, investigate and respond to reportable incidents. Dual providers will need to ensure their incident management system meets the minimum requirements and follows the guidelines for incident management systems which can be found here:</p> <p>Incident Management System Guidance</p>

<p>17. What do workers need to do if there is an incident relating to an NDIS participant in their residential aged care facility?</p>	<p>When an incident occurs, workers must take action to ensure people involved are safe. This may include people with disability, other residents, workers, or other people who are there when an incident happens.</p> <p>The workplace incident management system should include procedures about how to identify, manage and report incidents, and a response plan. Workers should follow the steps in the dual provider’s incident management system and response plan.</p>
<p>18. What is considered serious injury for NDIS Commission reportable incidents?</p>	<p>A serious injury includes, but is not limited to:</p> <ul style="list-style-type: none"> ● Fracture ● Burn ● Deep cut ● Extensive bruising ● Concussion ● Any other injury requiring hospitalisation <p>In determining whether an injury is serious, also consider the level of harm caused.</p>
<p>19. Who can make a complaint to the NDIS Commission?</p>	<p>Anyone can raise a complaint with us. This includes:</p> <ul style="list-style-type: none"> ➤ 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. <p>Complaints can be made anonymously, and we can keep details confidential if requested.</p>

<p>20. Are the NDIS Commission and ACQSC working together around complaints to avoid duplication?</p>	<p>Complaints can be made to both the Aged Care Quality & Safety Commission (ACQSC) and the NDIS Commission.</p> <p>Where complaints are received by the NDIS Commission 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.</p> <p>Arrangements are being finalised between the agencies to ensure there is appropriate sharing of information that is relevant to the performance of each agency's regulatory responsibilities.</p>
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