

FAQ's Worker Screening

In this FAQ:

“aged care provider check” means compliance with the requirements under Part 6 of the *Accountability Principles 2014* in relation to the person, including the requirement that the person has been issued with a police certificate (within the meaning of those Principles) within the last 3 years **AND** before 1 February 2021

“dual providers” means 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” means the *National Disability Insurance Scheme Act 2013*

“NWSD” means the NDIS Worker Screening Database

“Worker Screening Rules” means the *National Disability Insurance Scheme (Practice Standards- Worker Screening) Rules 2018*

Question	Answer
<p>1. From 1 December 2020, what special arrangements under the Worker Screening Rules will apply to dual providers only?</p>	<p>From 1 December 2020, dual providers can satisfy their obligations under the Worker Screening Rules by ensuring that a worker engaging in a ‘risk assessed role’ holds either:</p> <ul style="list-style-type: none"> - an acceptable aged care provider check; OR - an NDIS Worker Screening Check clearance (when it commences across Australia from 1 February 2021). <p>An acceptable aged care provider check will no longer be valid after three years having passed from the date the police certificate was issued (before 1 February 2021)</p>

Question	Answer
	<p data-bbox="799 233 1928 300">Compliance with the Worker Screening Rules is a condition of registration for all registered NDIS providers under the NDIS Act.</p> <p data-bbox="799 344 1261 373">A 'risk assessed role' includes:</p> <ul data-bbox="799 437 1962 730" style="list-style-type: none"><li data-bbox="799 437 1962 504">• key personnel (for example, a CEO, a board member) as defined in the NDIS Act (see further discussion in the answer to Question 2);<li data-bbox="799 549 1883 616">• a role for which the normal duties include the direct delivery of 'specified supports or specified services' to a person with disability; and<li data-bbox="799 660 1933 727">• a role for which the normal duties are likely to require 'more than incidental contact' with people with disability. <p data-bbox="799 782 1933 849">For a current list of 'specified service and specified supports' go to the NDIS Quality and Safeguards Commission's website.</p> <p data-bbox="799 893 1391 922">'More than incidental contact' includes:</p> <ul data-bbox="799 967 1980 1181" style="list-style-type: none"><li data-bbox="799 967 1496 995">• physically touching a person with disability; or<li data-bbox="799 1002 1980 1069">• building a rapport with a person with disability as an integral and ordinary part of the performance of normal duties; or<li data-bbox="799 1075 1980 1181">• having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting.

Question	Answer
<p>2. Who are key personnel in relation to risk assessed roles?</p>	<p>Under the NDIS Act, “key personnel” includes:</p> <ul style="list-style-type: none"> - A member of the group of persons who is responsible for the executive decisions of the person or entity; - Any other person who has authority or responsibility for (or significant influence over) planning, directing, or controlling the activities of the person or entity. <p>Further to this, key personnel includes directors of a body corporate incorporated under the <i>Corporations Act 2001</i> (Cth), and in any other case, a member of the governing body of the individual or entity.</p> <p>Under the special arrangements for dual providers, a dual provider may satisfy its obligation under the Worker Screening Rules, with respect to its key personnel, by ensuring that its key personnel hold an acceptable aged care provider check OR an NDIS Worker Screening Check clearance.</p>
<p>3. What is considered “more than incidental contact” in relation to risk assessed roles?</p>	<p>For the purposes of determining whether the normal duties of a role will require ‘more than incidental contact’ with a person with disability, contact includes:</p> <ul style="list-style-type: none"> • physical contact; • face-to-face contact; • oral communication; • written communication; and • electronic communication. <p>‘More than incidental contact’ may include other activities not listed here, but it is important to note that a role with ‘more than incidental contact’ with a person with disability is likely to include:</p>

Question	Answer
	<ul style="list-style-type: none"> • physically touching a person with disability; or • building a rapport with a person with disability as an integral and ordinary part of the performance of normal duties; or • having contact with multiple people with disability as part of the direct delivery of a specialist disability support or service, or in a specialist disability accommodation setting. <p>The definition of 'more than incidental contact' can be found in the Worker Screening Rules.</p>
<p>4. Will the NDIS Worker Screening Check replace the special arrangements for both dual providers and the states/territories?</p>	<p>From 1 February 2021, the NDIS Worker Screening Check will be operational and gradually phase out the different special arrangements currently operating in each state and territory for the screening of NDIS workers, with the outcome of establishing a nationally consistent screening process.</p> <p>From 1 February 2021, the special arrangements for state and territories will continue to operate in relation to certain NDIS workers who obtained a check (or clearance) under certain state or territory arrangements prior to 1 February 2021, and their check (or clearance) remains valid beyond 1 February 2021 (herein referred to as 'valid state/territory check').</p> <p>The special arrangements which are specific to dual providers will continue to operate until 1 February 2024. This means:</p> <ul style="list-style-type: none"> • Until the NDIS Worker Screening Check commences on 1 February 2021, dual providers will need to comply with their obligations to ensure their workers in risk-assessed roles hold an acceptable aged care provider check OR a valid state/territory check under the existing state or territory arrangements.

Question	Answer
	<ul style="list-style-type: none"> • From 1 February 2021 to 1 February 2024, dual providers must ensure their workers in risk-assessed roles hold either an acceptable aged care provider check, OR an NDIS Worker Screening Check, OR a valid state/territory check under the relevant state or territory arrangements. • After 1 February 2024, dual providers must ensure their workers in risk assessed roles hold an NDIS Worker Screening Check.
<p>5. What is the cost of the NDIS Worker Screening Check, and will the cost be covered by the NDIS Quality and Safeguards Commission or NDIS providers?</p>	<p>At the time of application for the NDIS Worker Screening Check, payment will be required. Fees for the NDIS Worker Screening Check are set by the state or territory in which the application is submitted.</p> <p>There will be no cost to registered NDIS providers, unregistered providers, or self-managed participants when they seek to access information about the clearance status of NDIS workers who have applied for an NDIS Worker Screening Check through the new NWSD from 1 February 2021.</p>
<p>6. Will registered NDIS providers receive a notification if a worker's NDIS Worker Screening Check clearance status has changed or been revoked?</p>	<p>Yes. Once a determination has been made by an NDIS Worker Screening Unit in relation to an NDIS Worker Screening Check application, the outcome for that applicant and the date of expiry of their clearance/exclusion will be added to the NWSD.</p> <p>The NWSD will generate an email to an NDIS provider who has an employment relationship with a worker to advise that the NDIS worker's screening status has changed. The email will prompt the NDIS provider to log on to the NWSD to view the change of status.</p>
<p>7. How long will a NDIS Worker Screening Check clearance be valid for?</p>	<p>The NDIS Worker Screening Check clearance is valid for 5 years from the date of issue (unless suspended or revoked).</p>

Question	Answer
<p>8. Can a worker have multiple employers linked to their profile in the NDIS Worker Screening Check?</p>	<p>Yes they can.</p> <p>A worker who has undergone an NDIS Worker Screening Check can provide their application number or their NDIS Worker Screening Check number to all their employers. These employers can access the NWSD, search for the worker, and link to them. After the employer has linked to the worker, that employer will receive prompt emails if the worker's NDIS Worker Screening Check clearance status changes.</p>
<p>9. What if dual providers need to use agency staff to help support NDIS participants/residents in their residential facility?</p>	<p>Agency staff are “personnel” and agencies are “personnel providers” for the purposes of the Worker Screening Rules, however they are neither staff members nor volunteers of the dual provider. This means that, if agency staff engage in risk assessed roles for a dual provider, that provider will need to ensure that each agency staff holds:</p> <ul style="list-style-type: none"> - A check under the relevant state or territory arrangements (herein referred to as ‘valid state/territory check’); OR - an NDIS Worker Screening Check clearance (available from 1 February 2021). <p>The dual providers must ensure that, if using agency staff, they have:</p> <ul style="list-style-type: none"> - identified to the agency supplying the staff each risk assessed role that the agency staff member will be engaging in; - entered into an ‘appropriate contract’ (see below) with the agency; and - taken reasonable steps to satisfy themselves that each agency staff member who will be providing supports and services to NDIS participants has a valid state/territory check OR an NDIS Worker Screening Check clearance. <p>Under an appropriate contract between the dual provider and the agency providing agency staff to the dual provider:</p>

Question	Answer
	<ul style="list-style-type: none"> - the agency must ensure that they only provide agency staff who will engage in risk assessed roles, if the each agency staff has a valid state/territory check, OR an NDIS Worker Screening Check clearance; - the agency must disclose to the dual provider any information relating to the agency staff's NDIS Worker Screening Check clearance or exceptions to the requirement to obtain a clearance (i.e. valid state/territory checks). This includes (but is not limited to) information about an application in-progress for an NDIS Worker Screening Check clearance (or, an interim bar, a suspension, an exclusion, closure of an application for an NDIS Worker Screening Check clearance, the revocation of NDIS Worker Screening Check clearance, and the expiry of a valid state/territory check or NDIS Worker Screening Check clearance). <p>In working with NDIS participants, agency staff, employed or otherwise engaged by an NDIS provider must also abide by the NDIS Code of Conduct; and the dual provider must ensure all other registration obligations are met in relation to staff members, volunteers, and agency staff (personnel) involved in the provision of supports or services to NDIS participants.</p>
<p>10. What are the record keeping requirements for dual providers under the Worker Screening Rules?</p>	<p><u>Requirement to keep a list of all risk assessed roles</u></p> <p>Dual providers must keep a written list of all risk assessed roles engaged in by a person (including workers, personnel or individuals who are registered NDIS providers) for the purposes of delivering supports or services to NDIS participants.</p> <p>A dual provider must update the written list of roles which are risk assessed roles:</p> <ul style="list-style-type: none"> - if a new risk assessed role is identified or an existing role is reclassified as a risk assessed role following a review;

Question	Answer
	<ul style="list-style-type: none"> - within 20 business days of the new risk assessed role being identified, or the existing role being reclassified, as the case may be. <p>The list must include:</p> <ul style="list-style-type: none"> - the title or other organisational identifier for the role; - which part of the definition of 'risk assessed role' applies to the role; - a description of the role; - the date on which the role was assessed as being a risk assessed role; - the name and title of the person who assessed the role as being a risk assessed role. <p><u>Requirement to keep a list of information about workers</u></p> <p>The dual provider must keep a written list of all workers who engage in risk assessed roles in a form which would allow an auditor to determine which workers were engaged in risk assessed roles with the provider on any given day in the seven years prior to the day the auditor examines the list:</p> <p>The dual provider must keep an up-to-date list of the following information in relation to each worker (those persons comprising of the dual providers' workforce, e.g. staff members, volunteers, independent contractors, etc).</p> <ul style="list-style-type: none"> - The worker's full name, date of birth and address; - The risk assessed role/s in which the worker engages; - If a dual provider may allow the worker to engage in a risk assessed role without a clearance exceptions that apply (e.g. special arrangements for RAC providers), the start and end date of the period in which the exception applies and the name of the person who supervises the worker during the period;

Question	Answer
	<ul style="list-style-type: none"> - The worker's NDIS Worker Screening Check, application number, check number, and any expiry date for that outcome (for an NDIS Worker Screening Check clearance) - whether the worker's clearance is subject to a decision to suspend or revoke a clearance, or any other decision (and the nature of that decision) which has the effect that the dual provider may not allow the worker to engage in a risk assessed role. <p><u>Requirement to keep records about workers</u></p> <p>The dual provider must keep a copy of any record relating to:</p> <ul style="list-style-type: none"> - an interim bar, suspension, exclusion in relation to an NDIS Worker Screening Check clearance of its worker; or - action taken by the dual provider in relation to the interim bar, suspension or exclusion. - allegations of misconduct against any worker who has an NDIS Worker Screening Check clearance and action taken, including any investigation, in response to those allegations. <p><u>Requirement to keep records of personnel</u></p> <p>A dual provider, in relation to their personnel (agency staff, etc) and personnel provider (agency) must also keep a copy of:</p> <ul style="list-style-type: none"> - any appropriate contract; - any record relating to the administration of the appropriate contract, and enforcement of any obligations required to be imposed in the contract; - any record of information provided to the dual provider about member of personnel pursuant to the appropriate contract;

Question	Answer
	<ul style="list-style-type: none"> - any record in relation to the dual provider's compliance with its obligations to taken reasonable steps to satisfy itself that the member of other personnel has a clearance. - any record about an allegation of any misconduct against any member of personnel with an NDIS Worker Screening Check clearance. <p><u>Requirement to keep lists and records for seven years</u></p> <p>Records must be kept for seven years from the date the record is made.</p>
<p>11. Will the record keeping requirements under the Worker Screening Rules be satisfied through the information captured within the Worker Screening Check Database or does that need to be an additional record made by the dual provider?</p>	<p>Dual providers can access linked employee details from the NDIS Worker Screening Database. This information will include the name of the worker, their date of birth, their worker screening number, their NDIS Worker Screening Check clearance status, the expiry date of their clearance, and whether they are eligible to work with NDIS participants.</p> <p>Additional requirements (as set out in the answer to question 10) to keep and maintain records will apply separately.</p>
<p>12. What steps need to be taken by dual providers when an applicant for a risk assessed role already has an NDIS Worker Screening Check clearance and is linked with another employer?</p>	<p>A worker who has undergone an NDIS Worker Screening Check can provide their application number or their NDIS Worker Screening Check number to all their employers. These employers can access the NWSD, search for the worker, and link to them. After the employer has linked to the worker, that employer will receive prompt emails if the worker's NDIS Worker Screening Check clearance status changes.</p>
<p>13. What do dual providers need to have in place by 1 December 2020 to be compliant with the Worker Screening Rules?</p>	<p>From 1 December 2020, amendments to the Worker Screening Rules will commence, including the addition of provisions for the special arrangements for dual providers. Prior to this date, any residential aged care providers who are already dual providers (registered with the NDIS Commission) will need to continue to</p>

Question	Answer
	comply with their obligations under the Worker Screening Rules as they exist. Those that are not registered with the NDIS Commission, need not comply with the Worker Screening Rules.
<p>14. What happens after 1 February 2021 if a person has a valid acceptable aged care provider check in place?</p>	<p>An acceptable aged care check can be relied on after 1 February 2021, until three years have passed from the date the police certificate was issued (before 1 February 2021)</p>
<p>15. Does the NDIS Worker Screening Check replace the aged care worker screening?</p>	<p>No. The NDIS Worker Screening Check clearance is required for persons engaged in risk assessed roles with a dual provider. It does not replace the screening requirements and arrangements that apply to workers within aged care, who are not engaged in risk assessed roles.</p>
<p>16. Are all workers of dual providers subject to the screening requirements under the Worker Screening Rules?</p>	<p>No. Only workers engaged by dual providers in risk assessed roles will be subject to the screening requirements under the Worker Screening Rules.</p>
<p>17. If a dual provider has 4 residential facility outlets but only 2 outlets have NDIS participants in them, are all 4 outlets required to ensure workers within those outlets have the appropriate clearance, or just the 2 with NDIS participants?</p>	<p>Dual providers must assess all roles their workers and personnel will engage in, and identify each one that is a risk assessed role. There may be more risk assessed roles identified within residential facility outlets that have NDIS participants, as opposed to none. However, it is important to note that the concept of risk assessed roles is not outlet-specific (see definition of 'risk assessed role' in the answer to Questions 1).</p>

Question	Answer
<p>18. Are staff employed by sub-contractors of a dual provider to engage in risk assessed roles covered by the special arrangements for dual providers under the Worker Screening Rules?</p>	<p>Yes.</p> <p>The special arrangements for dual providers under the Worker Screening Rules will require “staff members” of dual providers engaged in risk assessed roles to either hold an acceptable aged care provider check or a clearance.</p> <p>A staff member as defined under the <i>Aged Care Act 1997</i> is an <u>individual</u> who is employed, hired, retained or <u>contracted</u> by the approved provider (whether directly or through an employment or recruiting agency) to provide care or other services. Contractors who are individuals will meet the definition of staff members. However subcontractors and their staff will not meet that definition.</p> <p>Staff of sub-contractors engaged in risk assessed roles are covered by the definition of ‘personnel’, under the Worker Screening Rules (please refer to the answer in Question 9, for a discussion of the dual provider’s obligations in relation to ‘personnel’ engaging in risk assessed roles).</p>
<p>19. From 1 February 2021, do all new workers of dual providers in risk assessed roles – staff members, volunteers, and contractors– need to undergo an NDIS Worker Screening Check and receive a clearance to continue to work in that risk assessed role?</p>	<p>It will not be the case that all new workers employed or otherwise engaged by dual providers to engage in risk assessed roles from 1 February 2021 are required to obtain an NDIS Worker Screening Check clearance, <u>if</u> those new workers already hold an acceptable aged care provider check or a ‘valid state/territory check’ (see further discussion in the answer to Question 4).</p>
<p>20. If a worker (staff members, volunteers, contractors, etc) in a risk assessed role has a police certificate that expires</p>	<p>When the acceptable aged care provider check is no longer valid (because the police certificate obtained before 1 February 2020 is over three years old), and it is after 1 February 2021, the worker must have an NDIS Worker Screening Check</p>

Question	Answer
<p><i>after 1 February 2021, do they need to submit an NDIS Worker Screening Check application and receive a clearance to continue to work in a risk assessed role?</i></p>	<p>clearance to remain engaged in the risk assessed role (unless they have a ‘valid state/territory check’) (see further discussion in the answer to Question 4).</p> <p>The latest date an acceptable aged care provider check can be relied upon in relation to workers of a dual provider working in risk assessed roles is 1 February 2024. After that date, relevant workers must have an NDIS Worker Screening Check clearance (unless a ‘valid state/territory check’ can be relied upon).</p>
<p>21. <i>What will dual providers have to do after 1 February 2021?</i></p>	<ul style="list-style-type: none"> • Dual providers will have to continue complying with their obligations under the Worker Screening Rules. These include: <ul style="list-style-type: none"> ○ continuing to identify which of their workers are in risk-assessed roles. ○ making sure that each of their workers has an acceptable aged care provider check, OR an NDIS Worker Screening Check clearance OR a ‘valid state/territory check’. ○ record keeping (see answer to Question 10).