

SERVICE LEVEL AGREEMENT

AGILE PLAN MANAGEMENT PTY LTD



MARCH 7, 2021

AGILE PLAN MANAGEMENT PTY LTD
8 Jowarra Way Merrylands NSW 2160

AGILE PLAN MANAGEMENT PTY LTD

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Business Process Document

Introduction

This Business Process Document for Agile Plan Management Pty Ltd (“Agile”) provides a detailed description of a business process which is designed to meet an identified business need. To be effective, business processes must be formally designed, structured, documented, and communicated. It is important to capture as much detail as possible in the process description verbally, graphically, or using both methods. By doing so, all individuals and groups using the process will be able to more easily achieve the desired results, this document will provide an example of common and effective business documents used in this business.

Business Processes are effective ways to improve Agile’s business performance and manage resource efficiencies, and perform value-added functions to meet critical needs. This process will be integrated with other processes and the organisational structure of Agile.

Process Purpose:

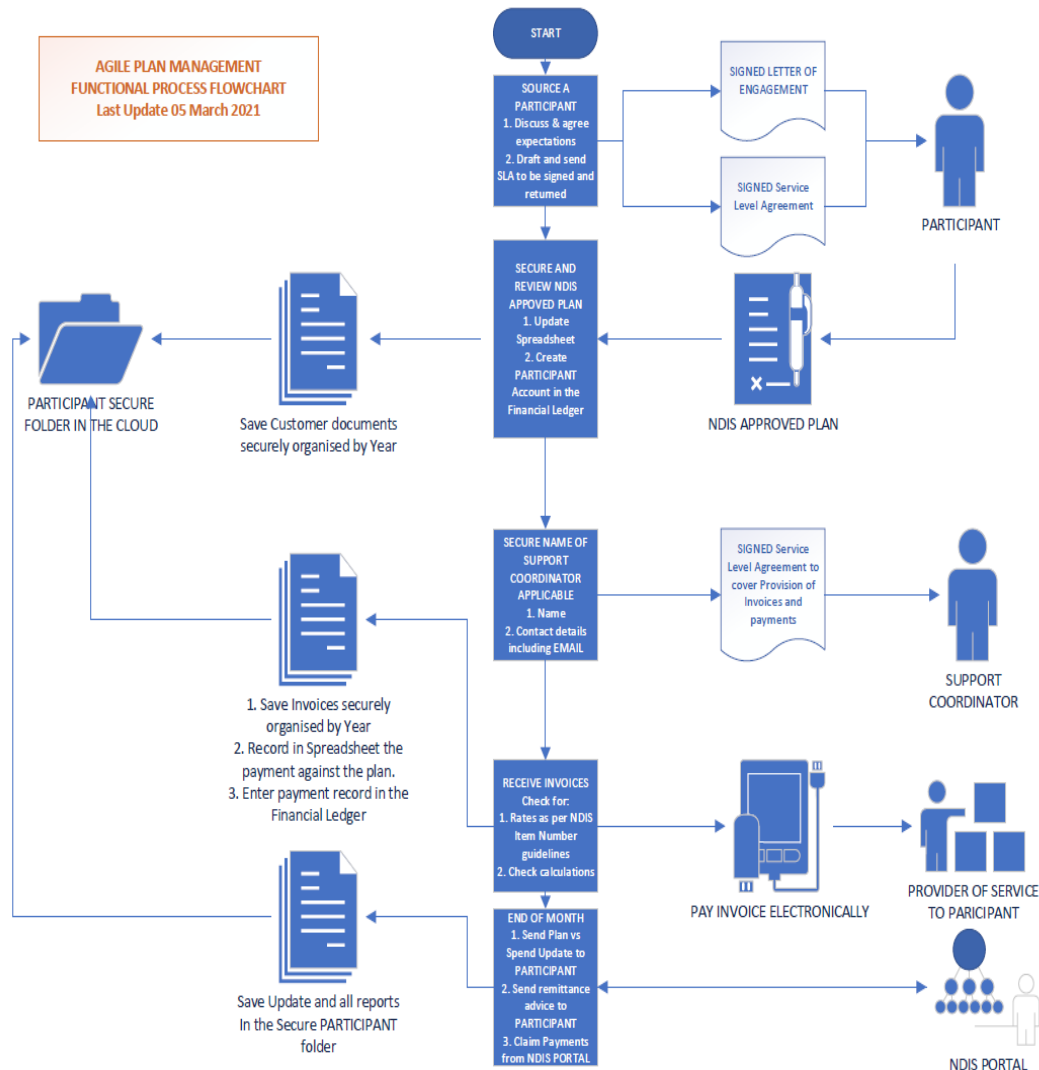
- Achieve effectiveness and consistency in the business process
- Effectively manage expectations of external organisations interacting with Agile.
- Improve profitability of the business

Routine Process Scope: The scope our routine processes:

- Agile’s engagement of the Participant/Nominee
- Professional communication with the Participant/Nominee
- Interactions with the Participant’s Support Coordinator.
- Receiving Invoices from Support Coordinator for payment
- Payment to service provider as per Invoice and instructions of the Support Coordinator
- Reporting to Participant periodically plan vs spend
- Making claims from NDIS portal
- Saving documents in the cloud
- Processing transactions in an electronic Accounting System
- Provision of any adhoc reports requested by the Participant

The process flow diagram

The process flow that covers Agile's Business practices is shown below:



Adhoc Process Scope: The scope our adhoc processes:

- Human Resource Management – Worker screening and NDIS Code of Conduct
- Incident Management System - Internal
- Complaint's resolution System – Internal and external
- Risk Management System – Health and safety focus

Human Resource Management:

Each participant's support needs are met by workers who are competent in relation to their role, hold relevant qualifications, and who have relevant expertise and experience to provide person-centred support. To achieve this outcome, the following checks will be performed prior to appointments:

- Validate worker identity with a 100 point check,
- Validate workers right to work,
- Perform pre-employment checks on the worker,
- Ensure the worker has a valid WWCC (Working with Children Certificate)
- The worker has the relevant qualifications and experience required to perform the role
- Worker to complete mandatory NDIS orientation module and records of continuing professional development are maintained.

Agile will comply to the Worker Screening Requirements as prescribed in the NDIS link below:

[Worker Screening Requirements | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](https://www.ndiscommission.gov.au/worker-screening-requirements)

The system should comply with the requirements under the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*, copy of which is attached at the end of this document.

Every worker of Agile will strictly comply to the following NDIS Codes of conduct which is further elaborated in the *National Disability Insurance Scheme (Code of Conduct) Rules 2018*, copy of which is attached at the end of this document.

- Respect the individual rights of each participant
- Respect and afford the privacy of each participant
- Provide support that is safe and protective of the participant
- Communicate with the participant in all Integrity and Honesty
- Respond to the concerns raised by the participant immediately or soon as practical
- Always respond immediately to any indication of abuse of the participant
- Prevent and respond immediately to any sexual misconduct raised by the participant

Incident Management System:

Each participant is safeguarded by the provider's incident management system, ensuring that incidents are acknowledged, respond to, well-managed and learned from. The following incidents are required to be reported by the Participant to Agile within 24 hours of the incident:

- Service Provided below Participants expectation that require reduction in payments to provider
- Breach of any NDIS guideline in the delivery of the service to the Participant
- Change of any established communication methods or contact details

- Change to existing Nominee
- Any incident that will cause me to make an adjustment to Agile's agreed service
- Incidents are logged in the format attached to this document and tracked according to the flow chart shown below.

The system should comply with the requirements under *the National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*, copy of which is attached at the end of this document.



The form Page 31 is to be used for the Incident Logging progress. Based on the complexity of the incident the documentation required can vary from verbal with a diarised note to a written documentation to cover all of the above steps.

Complaints Management System:

It is a policy of Agile to ensure that each participant has knowledge of and access to the our complaints management and resolution system. Complaints made by all parties are welcomed, acknowledged, respected and well-managed. \

It is needed by every business to collect the information about the person lodging the complaint. The form collects the information that is needed by the organisation to process the complaint.

The system should comply with the requirements under the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, copy of which is attached at the end of this document.

Any complaints against any person or his or her action should be reported to Agile in the form in Page 33. Complaints can also be directed to NDIS Quality and Safeguard Commissioner if the participant wishes accordingly.

Risk Management System:

It will be Agile's priority to identify any potential Risks to participants, workers, and the provider and managed.

Agile will effectively manage and ensure that work health and safety risks is in place and is relevant and proportionate to the size and scale of the provider and the scope and complexity of supports.

Agile will ensure that insurance is in place, including professional indemnity and public liability. Only if scope of the duties involved is expanded to Support Coordination or provider of a service that requires travelling an accident cover will be required.

At any time of the year Agile will review, amend, add or discontinue insurances if required according to the service provided by Agile and the workers added/reduced in the Agile services.

Business Process Documents

Attached to this document are the following report formats/ documentations to be referenced/used in the Agile Business processes:

- A. SLA – Agile and Participant – Page 9
- B. SLA – Agile and Support Coordinator – Page 41
- C. Incident Report – Page 29
- D. Complaints Report – Page 30
- E. National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018 – Attachment Page 1
- F. National Disability Insurance Scheme (Code of Conduct) Rules 2018 – Attachment Page 91
- G. National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 – Attachment Page 47
- H. National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018 – Attachment Page 68
- I. National Disability Insurance Scheme (Participant Service Charter) – Attachment Page 98

SLA – Agile and Participant

Plan Management Services

NDIS Service LEVEL Agreement

Service level
agreement entered
between AGILE PLAN
MANAGEMENT PTY
LTD and PARTICIPANT

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Service Agreement

1. Parties

This **Service Agreement** is made between

The PARTICIPANT _____, Date of Birth _____ in the
National Disability Insurance Scheme

And the

Provider: AGILE PLAN MANAGEMENT PTY LTD ("Plan Manager") (*NDIS Provider* **XXXXXXXXXX**)

And

The Service Agreement will commence upon date of signing, or plan start date, whichever is earlier, and be effective for 12 months. This Service Agreement will renew for a further 12 months upon written confirmation by both the Participant/Participant's representative and Provide and may be varied by either part at any time subject to 30-days written notification.

2. The NDIS and this Service Agreement

This Service Agreement is made for the purpose of providing plan management financial intermediary supports under the Participant's NDIS plan.

A copy of the Participant's NDIS plan is attached to this Service Agreement in Schedule 1.

The parties agree that this Service Agreement is made in the context of the NDIS, which is a scheme that aims to: -

- support the independence and social and economic participation of people with disability, and
- enable people with a disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports.

3. Schedule of supports

The Provider agrees to provide the Participant financial intermediary plan management supports in accordance with this agreement, including Schedule 2 and 3.

The plan management supports and their prices are set out in the attached Schedule 2 and are per the 2017/18 NDIS Price Guide. Plan Managers fees will be charged under the applicable price guide as applies based on date of delivery of financial intermediary services.

All prices are GST free and covers the full cost of providing the financial intermediary supports.

4. Responsibilities of the Provider

In terms of the provision of plan management financial intermediary supports, the Provider agrees to: -

- *Create the applicable Service Bookings on the NDIS portal.*
- *Process invoices from service providers in accordance with Participant's selected authorisation process (refer cl. 13), or if received directly from providers.*
- *Process Plan Managers financial intermediary invoices upon creation without formal authorisation.*
- *Claim the expense through the NDIS Portal, up to the maximum NDIS price list price.*
- *Providers can only be paid on presentation of an appropriate tax invoice, including ABN and bank account details. Providers cannot be family members, unless authorised in writing by the NDIS.*
- *Pay the service providers or reimburse participant by EFT only (there are no payments by cheque or money order) after receiving funds from NDIS.*
- *Maintain records for audit purposes.*
- *Provide a regular statement of spending to Participant and Participant's Support Coordinator, if applicable, tracking funding movements.*
- *If the participant is switching plan management provider to Plan Managers during an active plan, Plan Managers reserves the right to charge the participant directly for the one-off set-up fee as noted in Schedule 2, if it is unable to claim such from the NDIS.*

In addition, the Provider agrees to: -

- Communicate openly and honestly in a timely manner as agreed by the parties.
- Treat the Participant with courtesy and respect.
- Provide services in a professional manner and standard.
- Advise Participant of changes to service delivery and changes to service cost.
- Listen to the Participant's feedback and resolve problems quickly.
- Give the Participant the required notice if the Provider needs to end the Service Agreement (see 'Ending this Service Agreement' below for more information).
- Protect the Participant's privacy and confidential information.
- Provide supports in a manner consistent with all relevant laws, including the [*National Disability Insurance Scheme Act 2013*](#) and [*rules*](#), and the Australian Consumer Law; keep accurate records on the supports provided to the Participant.

- Issue regular invoices and statements of the supports delivered to the Participant as per the Terms of Business for Registered Providers.

The Provider will not be responsible for the following: -

- Undertake regular liaison with providers and monitoring quality of support provision.
- Organising or coordinating supports, including reviewing service agreements.
- Paying support providers who are outside the Participant's NDIS plan or where no funding is available in the plan to pay providers.
- If the participant self-manages any part of their plan, Plan Managers will not be responsible for any bookkeeping, payroll processing etc. of such supports.
- If the participant is switching plan management provider to Plan Managers during an active plan, Plan Managers will not be responsible for any invoices that pre-date the effective date of the changeover.
- Any invoices received from unregistered providers where the price charged is above the NDIS price list, can only be funded to the NDIS price-cap level. Any charges above the price list level are not the responsibility of Plan Managers.
- If the participant has NDIS funded transport which is not plan managed, Plan Managers will not be responsible for paying any transport charges however incurred.
- Activity Fees are not covered by the NDIS, unless specified in the NDIS plan.

5. Responsibilities of the Participant/Participant's representative

The Participant/Participant's representative agrees to: -

- Ensure that the NDIS Funding package includes a provision for plan management services and that Plan Managers are the nominated financial intermediary provider.
- Provide a full copy of the Participant NDIS plan, including plan narrative, as Schedule 1.
- If reimbursements are to be made to the Participant, payment by EFT is the only option. The Participant therefore agrees to provide bank account and BSB details.
- Provide Participant's date-of-birth.
- Inform the plan management Provider about how they wish the plan management support to be delivered to meet the Participant's needs, including invoice authorisation process, refer clause 13. If no invoice authorisation process is selected, invoices will be processed as they are received irrespective of where they come from.
- Inform the plan management Provider if they want a monthly spend report instead of the standard quarterly spend report, refer clause 13.
- Inform the Provider of the preferred means of communication.
- Approve invoices/expenses in a prompt manner in accordance with agreed authorisation process to ensure providers are paid in a reasonable timeframe.

- Ensure services and invoices are in accordance with NDIS Plan.
- Treat the Provider with courtesy and respect.
- Talk to the Provider if the participant has any concerns about the plan management supports being provided.
- Give the Provider the required notice if the Participant needs to end the Service Agreement (see section 8 ‘Ending this Service Agreement’ below for more information), and
- Let the Provider know immediately if the Participant’s NDIS plan is suspended or replaced by a new NDIS plan or the Participant stops being a participant in the NDIS.
- If the Participant is switching plan management provider to Plan Managers during an active plan, or for a new plan, the Participant will ensure that appropriate notice is given to existing plan management provider and that the NDIS are informed of such.
- If the Participant is switching plan management provider to Plan Managers during an active plan, and Plan Managers charges the participant directly for the one-off set-up fee as noted in Schedule 2, the Participant agrees to pay such a fee directly to Plan Managers upon issuance of an invoice by Plan Managers.
- If the Participant wants to authorise invoices before processing, ensure that providers send invoices directly to Participant, and not Plan Managers.
- Contact the NDIS and give ‘consent’ to share the NDIS plan with Plan Managers.
- If NDIS Plan Transport is self-managed, pay all transport charges however incurred.

6. Payments

The participant has nominated the Plan Management Provider “Plan Managers” to manage their plan managed funding for NDIS supports provided under this Service Agreement. After providing their supports, service providers will claim payment for those support from Plan Managers. The Participant will, if required, confirm satisfactory delivery of services and approve invoices prior to Plan Managers processing invoices on the NDIS portal and subsequently making payment to providers.

Plan Managers own Financial Intermediary service invoices will be processed upon creation and will not need participant/participant family approval before payment.

Plan Managers will not be responsible for any late fees or delay in payments. Situations of delayed payment circumstances may include, but are not limited to, participant failure to approve invoices in a timely manner, or NDIS portal issues, or provider bank account details not provided for EFT payments.

7. Changes to this Service Agreement

If changes to the supports or their delivery are required, the parties agree to discuss and review this Service Agreement, unless the change relates to the pricing of plan management Provider supports changes from the NDIS. The Parties agree that any other changes to this Service Agreement will be in writing with 30-days' notice from either party.

8. Ending this Service Agreement

Should either party wish to end this Service Agreement, they must give 1 months' notice in writing to the other party.

If either party seriously breaches this Service Agreement, the requirement of notice will be waived, and termination can be immediate.

9. Feedback, complaints and disputes

If the Participant wishes to give the Provider feedback or wishes to make a complaint, the Participant can talk to Stanley Jayanthakumar on either phone (+61 4) 14-685-006, email sjayanthakumar@gmail.com or in writing via post to the following address: -

Plan Managers, Stanley Jayanthakumar, 8 Jowarra Way Merrylands West NSW 2160

If the Participant is not satisfied or does not want to talk to this person, the Participant can contact the National Disability Insurance Agency by calling 1800 800 110, visiting one of their offices in person, or visiting ndis.gov.au for further information.

10. Confidentiality

1. Any information acquired in the course of this engagement, including any information relating to the Participant's affairs, is subject to strict confidentiality requirements. Information will not be disclosed to other parties except as required, or allowed for by law or professional standards, or with your express consent, or if required to be disclosed to any employee or subcontracted resources to perform their duties.
2. Processing of provider invoices is on a third-party cloud based software platform and the NDIS portal. Any breach of security on these, or any other platform used, is not Plan Managers responsibility and you accept that any platform or process used to execute our financial intermediary duties is approved by the participant.

Participant files will be subject to external audit and review. By signing this agreement, the Participant acknowledges that, if required, files relating to this engagement will be made available to such external parties.

11. Goods and Services Tax (GST)

For the purposes of GST legislation, the Parties confirm that:

- A supply of supports under this Service Agreement is a supply of one or more of the reasonable and necessary supports specified in the statement included, under subsection 33(2) of the [National Disability Insurance Scheme Act 2013](#) (NDIS Act), in the Participant's NDIS plan currently in effect under section 37 of the NDIS Act;
- The Participant's NDIS plan is expected to remain in effect during the period the supports are provided; and
- The Participant/Participant's representative will immediately notify the Provider if the Participant's NDIS Plan is replaced by a new plan or the Participant stops being a participant in the NDIS.

12. Contact details

The Participant/Participant's representative can be contacted on:

Contact Name			
Phone /Mobile			
Email			
Address			
Alternative contact person/details			
Bank Details	BSB:	A/C Number:	A/C Name:

The Provider can be contacted on:

Contact Name	Stanley Jayanthakumar
Phone /Mobile	
Email	sjayanthakumar@gmail.com
Address	

13. Agreement signatures

The parties agree to the terms and conditions of this Service Agreement.

PARTICIPANT

I, _____, understand, accept, and agree to the information outlined in this Service Agreement, and understand my rights and responsibilities as per NDIS Participant Service Charter Schedule 3. (See document Attached)

For invoices, I want to / do not want to (strike out whatever is not applicable) approve invoices before processing.

I elect to receive a spend report quarterly, unless I indicate I want to receive it more frequently.
How often: _____

Signature of Participant

Name of Participant

Date

OR

PARTICIPANT'S FAMILY MEMBER/NOMINEE (if applicable)

I _____ (relationship to participant _____), as an authorised family member/nominee for _____, understand, accept, and agree to the information outlined in this Service Agreement, and understand my rights and responsibilities as per NDIS Participant Service Charter Schedule 3. (See document Attached)

For invoices, I want to / do not want to (strike out whatever is not applicable) approve invoices before processing.

I elect to receive a spend report quarterly, unless I indicate I want to receive it more frequently. How often: _____

Signature of Participant representative
representative

Name of Participant's

Date

PROVIDER

Signature of authorised person from
Provider

Agile Plan Management Pty Ltd - Provider

Date

SLA – Agile and Support Coordinator

SERVICE LEVEL AGREEMENT

Plan Manager and the Support Coordinator
AGILE PLAN MANAGEMENT PTY LTD 8 Jowarra Way Merrylands NSW 2160

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1. Parties

This **Service Agreement** is made between

The Support Coordinator _____, a provider in the National Disability Insurance Scheme

And

Provider: AGILE PLAN MANAGEMENT PTY LTD ("Plan Manager") (*NDIS Provider* XXXXXXXXX)

The Service Agreement will commence upon date of signing, or plan start date, whichever is earlier, and be effective for 12 months. This Service Agreement will renew for a further 12 months upon written confirmation by both the Participant/Participant's representative and Provide and may be varied by either part at any time subject to 30-days written notification.

This agreement relates to

Participant: _____

2. Responsibilities of the Plan Manager

We Agree to:

- Provide Plan Management Services to the providers of services as per this agreement and in accordance with NDIA's description of Plan Management
- Include you in all communications about providers services
- Discuss all changes to providers service with you
- Communicate openly and honestly with you
- Be polite and respectful to you at all times
- Act on any complaints, concerns or feedback you have in a timely fashion
- Keep your information private in line with our Privacy Procedure
- Agree to pay all Providers invoices owing by the due date
- Notify you once the payment has been effected by Email

3. Responsibilities of the Support Coordinator

You Agree to:

- Be polite and respectful to us at all times
- Communicate with us in a timely manner, responding to phone calls, emails and other communication as they occur

- Feel comfortable providing feedback on our services
- Refrain from smoking when with our staff
- Notify us as soon as there are any new providers added before 24 hours of forwarding any Invoices from them to us
- Provide us with timely feedback if requested to undertake a feedback survey

4. Changes to this Service Agreement

If changes to the supports or their delivery are required, the parties agree to discuss and review this Service Agreement, unless the change relates to the pricing of plan management Provider supports changes from the NDIS. The Parties agree that any other changes to this Service Agreement will be in writing with 30-days' notice from either party.

5. Ending this Service Agreement

Should either party wish to end this Service Agreement, they must give 1 months' notice in writing to the other party.

If either party seriously breaches this Service Agreement, the requirement of notice will be waived, and termination can be immediate.

6. Feedback, complaints and disputes

If the Participant wishes to give the Provider feedback or wishes to make a complaint, the Participant can talk to Stanley Jayanthakumar on either phone (+61 4) 14-685-006, email sjayanthakumar@gmail.com or in writing via post to the following address: -

Plan Managers, Stanley Jayanthakumar, 8 Jowarra Way Merrylands West NSW 2160

If the Participant is not satisfied or does not want to talk to this person, the Participant can contact the National Disability Insurance Agency by calling 1800 800 110, visiting one of their offices in person, or visiting ndis.gov.au for further information.

7. Confidentiality

Any information acquired in the course of this engagement, including any information relating to the Participant's affairs, is subject to strict confidentiality requirements. Information will not be disclosed to other parties except as required, or allowed for by law or professional standards, or with your express consent, or if required to be disclosed to any employee or subcontracted resources to perform their duties.

Processing of provider invoices is on a third-party cloud based software platform and the NDIS portal. Any breach of security on these, or any other platform used, is not Plan Managers responsibility and you accept that any platform or process used to execute our financial intermediary duties is approved by the participant.

All provider invoices will be subject to external audit and review. By signing this agreement, the Support Coordinator acknowledges that, if required, files relating to this engagement will be made available to such external parties.

8. Goods and Services Tax (GST)

For the purposes of GST legislation, the Parties confirm that:

- A supply of supports under this Service Agreement is a supply of one or more of the reasonable and necessary supports specified in the statement included, under subsection 33(2) of the [National Disability Insurance Scheme Act 2013](#) (NDIS Act), in the Participant's NDIS plan currently in effect under section 37 of the NDIS Act;
- The Participant's NDIS plan is expected to remain in effect during the period the supports are provided; and
- The Participant/Participant's representative will immediately notify the Provider if the Participant's NDIS Plan is replaced by a new plan or the Participant stops being a participant in the NDIS.

9. Contact details

The Support Coordinator's representative can be contacted on:

Contact Name	
Phone Mobile	
Email	
Address	
Alternative contact	

10. Agreement signatures

The parties agree to the terms and conditions of this Service Agreement.

SUPPORT COORDINATOR

I understand, accept, and agree to the information outlined in this Service Level Agreement, and understand my rights and responsibilities as per Schedule 3 Client Charter.

Signature of Support Coordinator

Name of Support Coordinator

Date

PLAN MANAGER

Signature of authorised person from
AGILE PLAN MANAGEMENT PTY LTD

Signature of authorised person from
AGILE PLAN MANAGEMENT PTY LTD

Date

AGILE PLAN MANAGEMENT PTY LTD

Incident Report

REPORTED

BY: _____

TITLE /

ROLE: _____

DATE OF

REPORT: _____

INCIDENT NO.: _____

INCIDENT INFORMATION

INCIDENT

TYPE: _____

DATE OF

INCIDENT: _____

LOCATION: _____

CITY: _____

STATE: _____

ZIP

CODE: _____

SPECIFIC AREA OF LOCATION (if
applicable): _____

INCIDENT DESCRIPTION

NAME / ROLE / CONTACT OF PARTIES INVOLVED

1. _____

2. _____

3. _____

NAME / ROLE / CONTACT OF WITNESSES

1. _____

2. _____

3. _____

REPORTING

OFFICER: _____

FOLLOW-UP ACTION : _____

PHONE: _____

AGILE PLAN MANAGEMENT PTY LTD

Complaints Form

Issued To:

Department: [Enter Department to complaint]

Location: [complete address here]

Complaint made by: [Enter Name Here]

Bolevard-EAST

Date: September 23, 2015

Address: 87- TECH TOWN,

Complaint Details:

Don't forget to attach all necessary documentation,

Proposed Action Purposes

Don't forget to attach all necessary documentation

Name & Signature: _____

Form Accepted by: [Authority Name Here]

Designation

Signature & Date: _____

AGILE PLAN MANAGEMENT PTY LTD

The following documents are attached to this process document: (Attachment Pages 1-97)

National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018 (Attachment Page 1)

National Disability Insurance Scheme (Code of Conduct) Rules 2018 (Attachment Page 47)

National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 (Attachment Page 54)

National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018 (Attachment Page 75)

National Disability Insurance Scheme (Participant Service Charter) (Attachment Page 98)



National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018

made under the

National Disability Insurance Scheme Act 2013

Compilation No. 3

Compilation date: 1 December 2020

Includes amendments up to: F2020L01512

Registered: 24 December 2020

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* that shows the text of the law as amended and in force on 1 December 2020 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Preamble

The National Disability Insurance Scheme (NDIS) represents a fundamental change to how supports for people with disability are funded and delivered across Australia. The NDIS is designed to produce major benefits for people with disability, their families and the broader community.

The NDIS Quality and Safeguards Commission is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market.

The NDIS Commission will build the capability of participants in the NDIS and NDIS providers to uphold the rights of people with disability and realise the benefits of the NDIS. The legislation underpinning the NDIS is intended to support participants to be informed purchasers and consumers of NDIS supports and services and to live free from abuse, neglect, violence and exploitation.

These rules set out requirements relating to worker screening. They are an important element of the NDIS practice standards that seek to minimise the risk of harm to people with disability from the people who work closely with them.

While the primary responsibility for recruiting appropriate staff and providing a safe environment for people with disability rests with employers, a worker screening outcome is one source of information that can support employers in fulfilling this responsibility. The national policy for NDIS worker screening will be brought into effect through relevant Commonwealth, State and Territory legislation and policy. The NDIS Commissioner is responsible for working with all Australian Governments to develop and oversee the broad policy design for a nationally consistent approach to NDIS worker screening.

Worker screening is only one of a range of strategies that operate together to reduce risk of harm to people with disability. Providers must also implement additional policies, procedures and practices that assist in identifying and minimising risk of harm to people with disability. This includes promoting positive organisational cultures that do not tolerate abuse, neglect or exploitation; ensuring quality recruitment, selection and screening; and maintaining a focus on education and training.

Part 1—Preliminary

1 Name

This instrument is the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Application

- (1) The NDIS Practice Standards for worker screening set out in Parts 2 and 4 apply to:
 - (a) a person or entity who is applying to become a registered NDIS provider; and
 - (b) all registered NDIS providers in participating jurisdictions (see section 9).
- (2) Part 3 (which sets out record keeping requirements in relation to worker screening) applies to all registered NDIS providers.
- (3) Part 4 (which provides for transitional and special arrangements) applies in relation to certain providers in a participating jurisdiction if the circumstances set out in Part 4 apply (see sections 14 and 14A and Part 4).

5 Definitions

- Note: A number of expressions used in this instrument are defined in section 9 of the *National Disability Insurance Scheme Act 2013*, including the following:
- (b) key personnel;
 - (c) NDIS Practice Standards;
 - (ca) NDIS worker screening check;
 - (cb) NDIS worker screening law;
 - (d) participant;
 - (e) participating jurisdiction;
 - (f) registered NDIS provider;
 - (g) reportable incident.

In this instrument:

acceptable NSW check has the meaning given by subsections 23(5), (6) and (7).

acceptable SA check has the meaning given by subsections 24(6), (6A) and (6B).

acceptable WA check has the meaning given by subsections 29A(5) and (6).

Act means the *National Disability Insurance Scheme Act 2013*.

aged care provider check has the meaning given by subsections 29B(5) and (6).

Agreement means the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme made by the Commonwealth, the States, the Australian Capital Territory and the Northern Territory, commencing from 1 July 2018.

applicant means a person or entity who has made an application for registration under section 73C of the Act.

appropriate contract has the meaning given by section 5A.

certification has the meaning given in section 5 of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

clearance means a decision made under the NDIS worker screening law of a participating jurisdiction:

- (a) in response to an application for an NDIS worker screening check;
- (b) having the effect that the person who made the application is cleared to work with people with disability in a risk assessed role;
- (c) irrespective of whether the making of the decision is described as an assessment, clearance, approval or otherwise;

being a decision which is current and operative.

closed, in relation to an NDIS worker screening check, means closed to further consideration at the instigation of an NDIS worker screening unit, including as a result of the failure of the worker or personnel to whom the check relates to progress the application.

exclusion means a decision under the NDIS worker screening law of a participating jurisdiction:

- (a) in response to an application for an NDIS worker screening check;
- (b) having the effect that the person who made the application is excluded from working with people with disability in a risk assessed role;
- (c) irrespective of whether the making of the decision is described as a negative assessment, refusal to grant a clearance, refusal to approve or otherwise.

interim bar means an interim decision made under the NDIS worker screening law of a participating jurisdiction, being a decision made:

- (a) after the person has made an application for an NDIS worker screening check to the NDIS worker screening unit in that participating jurisdiction; and
- (b) before a decision has been made to issue an exclusion or a clearance in response to that application;

having the effect that the person is barred from working with people with disability in a risk assessed role while the application is determined.

Note 1: An interim bar is used where records are identified which indicate that an applicant may pose a risk to people with disability. An interim bar is used to prevent that applicant from working with people with disability until a final decision is made. An interim bar stays in place until the NDIS worker screening unit removes it, or the application is finalised – see clause 53 of the Agreement.

Note 2: Under the national policy for NDIS worker screening, it is intended that internal review of interim bar decisions will be available, where the bar is not resolved (either by the bar being lifted, or a final decision being made on the application) within the period specified in the participating jurisdiction's NDIS worker screening law – see clause 53 of the Agreement.

more than incidental contact has the meaning given by section 6 of this instrument.

national policy for NDIS worker screening means the policy contained in the Agreement, as amended from time to time.

Note: The Agreement is available on the Commission's website.

NDIS worker screening unit means the person or body which is responsible for conducting NDIS worker screening checks for a State or Territory under its NDIS worker screening law.

personnel means individuals:

- (a) who are not workers or registered NDIS providers; but
- (b) whose services are made available by a personnel provider to perform work:
 - (i) at a registered NDIS provider's premises; or
 - (ii) as part of the provision of supports or services to any person with a disability, by, or on behalf of, a registered NDIS provider.

personnel provider means a person or entity that makes the services of personnel available to perform work for, or on behalf of, a registered NDIS provider.

process of obtaining a clearance: see section 15.

rapport means a relationship or understanding, being more than merely polite and functional.

risk assessed role means:

- (a) a key personnel role of a person or an entity;
- (b) a role for which the normal duties include the direct delivery of specified supports or specified services to a person with disability; or
- (c) a role for which the normal duties are likely to require more than incidental contact with a person with disability.

Note: For what constitutes "more than incidental contact" see section 6.

specified service means a service that is included in the list (as in force or existing from time to time) published by the Commissioner pursuant to section 7.

Note: Pursuant to subsection 209(2) of the Act, this instrument may make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

specified support means a support that is included in the list (as in force or existing from time to time) published by the Commissioner pursuant to section 7 of this instrument.

Note: Pursuant to subsection 209(2) of the Act, this instrument may make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

suspension means a decision under the NDIS worker screening law of a participating jurisdiction to suspend the operation of a clearance.

transitional arrangements in relation to a participating jurisdiction means the measures which apply in that participating jurisdiction in accordance with sections 14 and 14A and Part 4 of this instrument.

Note: Section 121 of the Agreement provides for transition to full implementation to occur on a basis which ensures the safety of people with disability and a smooth transition for workers and providers, and with respect to the operational capacity of NDIS worker screening units.

verification means an assessment by an approved quality auditor of an applicant, or of a registered NDIS provider, against an applicable standard by conducting a desk audit of the applicant or provider, including reviewing the applicant's or provider's relevant documentation, in relation to the standard.

withdrawn, in relation to an application for an NDIS worker screening check, means withdrawn by the person who made the application, subject to any restrictions on withdrawal imposed by the relevant participating jurisdiction.

Note: Section 55 of the Agreement addresses the kinds of restrictions on withdrawal which have been flagged by participating jurisdictions.

work has the same meaning as in section 85ZZGM of the *Crimes Act 1914*.

worker means any of the following:

- (a) an individual employed or otherwise engaged by a registered NDIS provider;
- (b) each of the key personnel of a registered NDIS provider;
- (c) a partner of a partnership that is a registered NDIS provider;
- (d) an individual who is a registered NDIS provider.

5A Definition of *appropriate contract*

- (1) An ***appropriate contract*** is a legally binding arrangement that:
 - (a) is between a registered NDIS provider and a personnel provider in relation to an individual or individuals who will be personnel; and
 - (b) imposes the obligations set out in subsection (2) on the personnel provider.
- (2) The obligations are as follows:

-
- (a) the personnel provider must only make available the services of an individual to engage in a risk assessed role with the registered NDIS provider if:
 - (i) the individual has a clearance or is subject to an exception under Division 4 of Part 2; and
 - (ii) the personnel provider discloses to the registered NDIS provider before the individual is engaged in that role all information relating to the individual's clearance or the exception the individual is subject to under that Division; and
 - (iii) the personnel provider continues to disclose to the registered NDIS provider all information relating to the individual's clearance or the exception the individual is subject to during the period the individual is engaged in that role;
 - (b) the personnel provider must comply with any reasonable request from the registered NDIS provider:
 - (i) for information relating to whether an individual made available by the personnel provider has a clearance, or is subject to an exception under Division 4 of Part 2; and
 - (ii) for assistance to investigate any complaint made to the registered NDIS provider about the conduct of, or any reportable incident involving, an individual made available by the personnel provider; and
 - (iii) for information relating to whether and how the personnel provider is complying with its obligations under the appropriate contract;
 - (c) the personnel provider must impose the obligations referred to in paragraphs (a) and (b) on any other party with whom the personnel provider enters into an arrangement, which involves or allows for the provision of services by the individual to the registered NDIS provider.
- (3) For the purposes of subparagraph (2)(a)(ii), without limiting that subparagraph, information relating to the individual's clearance includes information about the following:
- (a) the clearance and the day the clearance expires or ceases to be in force;
 - (b) any applications made for an NDIS worker screening check in relation to the individual;
 - (c) any interim bar, suspension or exclusion the individual has been, or is, subject to;
 - (d) the refusal or closure of an application for worker screening clearance;
 - (e) the revocation (however described in the NDIS worker screening law of the relevant participating jurisdiction) of a clearance.
- (4) If a registered NDIS provider and a personnel provider enter into a legally binding arrangement before 1 February 2021, the arrangement is also an ***appropriate contract*** if it imposes the obligations required by subsection 13(4) of this instrument as in force immediately before the commencement of the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment (Miscellaneous Measures) Rules 2020*.
-

6 Definitions relating to more than incidental contact

- (1) For the purposes of this instrument:

contact includes physical contact, face-to-face contact, oral communication, written communication and electronic communication.

- (2) Without limiting what may constitute more than incidental contact, the normal duties of a role are likely to require more than incidental contact with a person with a disability if those duties include:

- (a) physically touching a person with disability; or
- (b) building a rapport with a person with disability as an integral and ordinary part of the performance of those duties; or

Example 1: The role of a worker involves the delivery of mobility equipment to the homes of people with disability. As a standard part of that role, he provides training and instructions to the customer about how to use the equipment safely and makes adjustments to the equipment to make it suitable for the customer. This role is likely to require **more than incidental contact**. This is because there is 'contact' with a person with disability, and the ordinary content of that contact (testing the person's needs and preferences with them, talking about and responding to the nature of their disability) means that there is a level openness and trust required on the part of the person with disability which would routinely involve the worker building a level of rapport with them.

Example 2: An accountant works for a business that supplies custom prosthetics to people with a disability, and performs only "back office" duties. The accountant has coincidental contact with people with disability many work days, when moving through public areas of the business, at which time the accountant nods and says hello to the customers. The accountant's role does not involve **more than incidental contact** with people with disability. This is because the duties of the role do not require the accountant to have more than polite, functional contact with people with disability, or get to know them in any way.

- (c) having contact with multiple people with disability:
 - (i) as part of the direct delivery of a specialist disability support or service; or
 - (ii) in a specialist disability accommodation setting.

7 Commissioner must publish lists

The Commissioner must publish the list of specified supports and services as soon as practicable after it is made or amended.

Part 2—NDIS Practice Standards relating to worker screening

Division 1—Purpose of this Part

8 Purpose of this Part

- (1) This Part is made for the purposes of subsection 73T(1) of the Act.

Note: The NDIS Practice Standards in this instrument are in addition to those contained in the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

- (2) It specifies the standards concerning the screening of individuals who engage in risk assessed roles in the provision of supports or services by registered NDIS providers.

Note 1: Applicants must be assessed by an approved quality auditor as meeting the applicable standards and other requirements prescribed by the NDIS Practice Standards in order to be registered as a registered NDIS provider (see paragraph 73E(1)(c) of the Act).

Note 2: Non-compliance with the NDIS Practice Standards by a registered NDIS provider constitutes a breach of a condition of registration (see paragraph 73F(2)(c) and section 73J of the Act).

Note 3: Part 4 of this instrument contains transitional and special arrangements that apply instead of, or as well as, some of the rules in this Part in certain circumstances: see sections 14 and 14A.

Division 2—Applicable standards and assessment process

9 Applicable standards, requirements and assessment processes

- (1) To be registered to provide any class of support, an applicant must be assessed by an approved quality auditor, by verification, as meeting the standards and requirements specified in this Part (and Part 4 (if applicable)) as if any reference in those Parts to “registered NDIS provider” were a reference to “applicant”.
- (2) To remain registered to provide any class of support, a registered NDIS provider must continue to comply with the standards specified in this Part (and Part 4 (if applicable)).

10 Assessment by certification meets requirement to be assessed by verification

For the purposes of this Part, if compliance with an applicable standard must be assessed using verification, the requirement is met if compliance with the standard is assessed using certification.

Division 3—Risk assessment and management

11 Identification of risk assessed roles

A registered NDIS provider must:

- (a) assess all roles that will be undertaken with the registered NDIS provider in relation to the provision of supports or services to any person with disability by the following persons:
 - (i) workers;
 - (ii) personnel; and
- (b) identify each role assessed under paragraph (a) that is a risk assessed role.

Note: A registered NDIS provider who is an individual is a worker: see the definition of **worker** in section 5.

12 Risk management plan

- (1) A registered NDIS provider must develop and maintain a written risk management plan for protecting people with disability while any workers or personnel are:

- (a) engaged in a risk assessed role with the registered NDIS provider; and
 - (b) in the process of obtaining a clearance.

Note: A registered NDIS provider who is an individual is a worker: see the definition of **worker** in section 5.

- (2) The risk management plan must:
 - (a) identify and describe each risk to a person with disability for whom the registered NDIS provider provides supports or services; and
 - (b) explain how each risk will be managed.
- (3) A registered NDIS provider must review the risk management plan if:
 - (a) the Commissioner requires the registered NDIS provider to do so; or
 - (b) there is a reportable incident involving a worker or any personnel.
- (4) A registered NDIS provider must implement the risk management plan, unless otherwise agreed by the Commissioner.

Division 4—Worker screening clearance

13 Risk assessed roles restricted to workers or personnel with clearance

Subject to the exceptions contained in this Division, a registered NDIS provider that provides supports or services to a person with disability in a participating jurisdiction:

- (a) must only allow a worker to engage in a risk assessed role, if the worker has a clearance; and
- (b) must only allow an individual who is personnel to engage in a risk assessed role, if the registered NDIS provider has:
 - (i) identified to the relevant personnel provider each risk assessed role that the individual will engage in; and
 - (ii) entered into an appropriate contract with the personnel provider for the individual; and
 - (iii) taken reasonable steps to satisfy itself that the individual has a clearance; and
- (c) if the registered NDIS provider is an individual—must only engage in a risk assessed role if the registered NDIS provider has a clearance.

14 Exceptions in relation to clearance

- (1) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) all of the following apply:
 - (i) the person is in the process of obtaining a clearance;
 - (ii) the person is appropriately supervised by a person with a clearance;
 - (iii) the registered NDIS provider is implementing a risk management plan developed and maintained in accordance with Division 3;
 - (iv) the law of the participating jurisdiction in which the person provides supports or services to a person with disability allows the person to engage in a risk assessed role while that person is in the process of obtaining a clearance; or
 - (b) all of the following apply:
 - (i) the registered NDIS provider is complying with the transitional arrangements set out in Part 4 that apply in relation to the person in the participating jurisdiction in which supports or services are provided to a person with disability;
 - (ii) the person has not been issued with an interim bar that is in force and is not subject to an exclusion in relation to an application for an NDIS worker screening check;
 - (iii) the person is not subject to a suspension that is in force in relation to a clearance and has not had a clearance cancelled; or
 - (c) the person is:

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- (i) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (ii) directly supervised by a worker of the provider who has a clearance.
- (2) A registered NDIS provider who is an individual may engage in a risk assessed role when the registered NDIS provider does not have a clearance at a time when:
 - (a) all of the following apply:
 - (i) the registered NDIS provider is in the process of obtaining a clearance;
 - (ii) the registered NDIS provider is appropriately supervised by a person with a clearance;
 - (iii) the registered NDIS provider is implementing a risk management plan developed and maintained in accordance with Division 3;
 - (iv) the law of the participating jurisdiction in which the person provides services to a person with disability allows the registered NDIS provider to engage in a risk assessed role while the registered NDIS provider is in the process of obtaining a clearance; or
 - (b) all of the following apply:
 - (i) the registered NDIS provider is complying with the transitional arrangements set out in Part 4 that apply in relation to the person in the participating jurisdiction in which supports or services are provided to a person with disability;
 - (ii) the registered NDIS provider has not been issued with an interim bar that is in force and is not subject to an exclusion in relation to an application for an NDIS worker screening check;
 - (iii) the registered NDIS provider is not subject to a suspension that is in force in relation to a clearance and has not had a clearance cancelled.

14A Circumstances in which exception does not apply in “no card, no start” participating jurisdictions

- (1) Paragraphs 14(1)(a) and 14(2)(a) do not apply to a person if:
 - (a) the person has submitted an application for a clearance to an NDIS worker screening unit; and
 - (b) the law of the participating jurisdiction in which the application is submitted prohibits a person from engaging in a risk assessed role while the person is in the process of obtaining a clearance; and
 - (c) the person does not have an acceptable check that applies in that participating jurisdiction; and
 - (d) a decision has not been made on the application.
- (2) For the purposes of paragraph (1)(c), a person has an acceptable check that applies in a participating jurisdiction if:
 - (a) if the person is providing services to a participant in New South Wales—the person has an acceptable NSW check or an acceptable aged care provider check; or

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- (b) if the person is providing services to a participant in South Australia—the person has an acceptable SA check or an acceptable aged care provider check; or
- (c) if the person is providing services to a participant in Victoria—the person is allowed to engage in a risk assessed role because of subsection 25(3) or an acceptable aged care check; or
- (d) if the person is providing services to a participant in Queensland—the person is allowed to engage in a risk assessed role because of subsection 26(3) or an acceptable aged care check; or
- (e) if the person is providing services to a participant in Tasmania—the person is allowed to engage in a risk assessed role because of subsection 27(3) or an acceptable aged care check; or
- (f) if the person is providing services to a participant in the Australian Capital Territory—the person is allowed to engage in a risk assessed role because of subsection 28(3) or an acceptable aged care check; or
- (g) if the person is providing services to a participant in the Northern Territory—the person is allowed to engage in a risk assessed role because of subsection 29(3) or an acceptable aged care check; or
- (h) if the person is providing services to a participant in Western Australia—the person has an acceptable WA check or an acceptable aged care check.

15 When a person is in the process of obtaining a clearance

- (1) Subject to subsection (2), a person is in the *process of obtaining a clearance* during the period starting on the day on which the person submits a complete application for a clearance to the relevant NDIS worker screening unit, and ending on the day on which a clearance or exclusion is made.
- (2) A person is not in the *process of obtaining a clearance*:
 - (a) if the person has applied for an NDIS worker screening check on at least one prior occasion, and on the most recent prior occasion the person was subject to an exclusion;
 - (b) if the person has had a clearance on at least one prior occasion, and on the most recent prior occasion the clearance was revoked;

Note: The NDIS worker screening law of a participating jurisdiction may refer to a revocation using a different term. It may be referred to, for example, as an exclusion, because it has the effect of excluding a person from working with people with disability.

 - (c) on any day after the application for an NDIS worker screening check is withdrawn by the person;
 - (d) on any day after the application for an NDIS worker screening check is closed;

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- (e) on any day when an interim bar is in force in relation to the person;
 - (f) at any time the person is not being supervised in accordance with the requirements of section 14 of this instrument, as applicable; or
 - (g) at any time a risk management plan required under this instrument is not being implemented.
- (3) For the purpose of this section, a person has submitted a complete application to the relevant NDIS worker screening unit if:
- (a) that unit has issued a notice in writing to the person confirming that the application has been made; and
 - (aa) a registered NDIS provider has confirmed to that unit that:
 - (i) the person is, or intends to be, a worker; or
 - (ii) if the registered NDIS provider is an individual—the person is the registered NDIS provider; and
 - (b) if the person is a worker - the registered NDIS provider with whom the person engages in a risk assessed role has seen that notice; and
 - (c) if the person is a worker - the registered NDIS provider has made a record of the worker screening application number on that notice as required by section 18.
- Note: Section 2B of the *Acts Interpretation Act 1901* provides that “writing” includes any mode of representing or reproducing words, figures, drawing or symbols in a visible form. As a result, electronic communications, such as an email or an SMS message, are capable of constituting a notice in writing.
- (4) For the purposes of paragraph 15(3)(aa), confirmation must be given in accordance with any applicable requirements of the NDIS worker screening law of the participating jurisdiction in which the application has been submitted.

Part 3—Record keeping requirements for worker screening

16 Purpose of this Part

- (1) This Part is made for the purposes of section 73Q of the Act.
- (2) It prescribes requirements in relation to records that a registered NDIS provider must keep in relation to the screening of individuals who engage in risk assessed roles with registered NDIS providers.

Note: Compliance with section 73Q and this Part is a condition of registration (see paragraph 73F(2)(d) of the Act), breach of which is a civil penalty provision (see section 73J of the Act).

17 Kinds of records which must be kept—records about risk assessed roles

- (1) A registered NDIS provider must keep a written list of all roles with the registered NDIS provider which are risk assessed roles that are engaged in by a person.

Note: Each risk assessed role with the registered NDIS provider must be included in the record, irrespective of whether the person who engages in the role is a worker, is personnel or is a registered NDIS provider who is an individual.

- (2) A registered NDIS provider must update the written list of roles which are risk assessed roles:
 - (a) if a new risk assessed role is identified or an existing role is reclassified as a risk assessed role following a review;
 - (b) within 20 business days of the new risk assessed role being identified, or the existing role being reclassified, as the case may be.
- (3) A list created or maintained for the purposes of this section must include:
 - (a) the title or other organisational identifier for the role;
 - (b) which paragraph or paragraphs of the definition of risk assessed role applies to the role;
 - (c) a description of the role;
 - (d) the date on which the role was assessed as being a risk assessed role;
 - (e) the name and title of the person who assessed the role as being a risk assessed role.

18 Kinds of records which must be kept – records about workers

- (1) A registered NDIS provider must keep a written list of:
 - (a) each worker who engages in a risk assessed role; and
 - (b) the information mentioned in subsection (3) in relation to each worker.
-

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- (2) The registered NDIS provider must keep the written list up-to-date.
- (3) For the purposes of paragraph (1)(b), the written list must include the following information:
 - (a) the worker's full name, date of birth and address;
 - (b) the risk assessed role or roles in which the worker engages;
 - (c) if a registered NDIS provider may allow the worker to engage in a risk assessed role without a clearance:
 - (i) the exception under section 14 that applies in relation to the worker; and
 - (ii) the start and end date of the period in which the exception under section 14 applies; and
 - (iii) if the exception under section 14 requires the worker to be supervised—the name of the person who supervises the worker during this period;
 - (d) if a registered NDIS provider may only allow the worker to engage in a risk assessed role with a clearance:
 - (i) the worker's NDIS worker screening check application number; and
 - (ii) the worker's NDIS worker screening check number; and
 - (iii) the worker's NDIS worker screening check outcome and any expiry date for that outcome; and
 - (iv) whether the worker's clearance is subject to a decision to suspend or revoke a clearance, or any other decision which has the effect that the registered NDIS provider may not allow the worker to engage in a risk assessed role; and
 - (v) the nature of any decision mentioned in subparagraph (iv).
- (4) A registered NDIS provider must keep a copy of any record relating to:
 - (a) an interim bar;
 - (b) a suspension;
 - (c) an exclusion; or
 - (d) action taken by the provider in relation to paragraph (a), (b) or (c);
 in relation to any worker.
- (5) A registered NDIS provider must keep a copy of any record relating to:
 - (a) allegations of any misconduct against any worker with an NDIS worker screening check clearance; and
 - (b) action taken, including any investigation, in response to paragraph (a).

19 Kinds of records which must be kept—personnel

A registered NDIS provider must keep a copy of:

- (a) any appropriate contract;
- (b) any record relating to the administration of the appropriate contract, including the enforcement of any obligation mentioned in subsection 5A(2);
- (c) any record of information provided to the NDIS provider about an individual who is personnel pursuant to the appropriate contract;
- (d) any record relating to its performance of subparagraph 13(b)(iii);
- (e) any record about an allegation of any misconduct against any individual who is personnel with an NDIS worker screening check clearance.

20 The form in which records must be kept

A registered NDIS provider must keep the list required by subsection 18(1) 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.

21 The period for which records must be kept

A record subject to this Part must be kept for 7 years from the date the record is made.

Part 4—NDIS Practice Standards relating to transitional and special arrangements for worker screening

22 Purpose of this Part

- (1) This Part is made for the purposes of subsection 73T(1) of the Act and sections 14 and 14A of this instrument.
- (2) It specifies the standards concerning the screening of workers and personnel when transitional arrangements apply in relation to a participating jurisdiction.
- (3) It also gives effect to the staged implementation of the national policy for NDIS worker screening, described in Part 12 (Transfer) of the Agreement.

23 Application - special arrangements New South Wales

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in New South Wales.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in New South Wales if that provider complies with this section.

Transitional arrangements

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) the person has an acceptable NSW check at that time; and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (11) has not come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) at that time, the person is:
 - (i) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (ii) directly supervised by a person who has an acceptable NSW check at that time; and
 - (b) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (11) has not yet come into effect.
- (5) A person has an ***acceptable NSW check*** at a time if:
 - (a) at that time, the person is not engaging in child-related work in the risk assessed role; and
 - (b) a criminal record check in relation to the person was obtained:
 - (i) no more than 4 years before that time; and

- (ii) on or before 30 June 2018; and
 - (c) that criminal record check showed that the person had no conviction for a prescribed criminal offence; and
 - (d) the person has not subsequently been subject to a criminal record check that showed that the person had a conviction for a prescribed criminal offence.
- (6) A person has an ***acceptable NSW check*** at a time if:
 - (a) at that time, the person is not engaging in child-related work in the risk assessed role; and
 - (b) a criminal record check in relation to the person was obtained:
 - (i) no more than 2 years before that time; and
 - (ii) during the transition period; and
 - (c) that criminal record check showed that the person had no conviction for a prescribed criminal offence; and
 - (d) the person has not subsequently been subject to a criminal record check that showed that the person had a conviction for a prescribed criminal offence.
- (7) A person has an ***acceptable NSW check*** at a time if:
 - (a) at that time, the person is engaging in child-related work in the risk assessed role; and
 - (b) at that time, a working with children check clearance (within the meaning of the *Child Protection (Working With Children) Act 2012* (NSW) as in force from time to time) issued to the person is in force; and
 - (c) that clearance was issued to the person on a day that is no later than the last day of the transition period.
- (9) The transition time for a person is the later of:
 - (a) 1 February 2021; or
 - (b) the expiry of an acceptable NSW check which applied to that person on 1 February 2021.
- (10) An acceptable NSW check expires at the end of the last day that it meets the requirements of paragraph (6)(b), (7)(b) or (8)(c), as applicable.

Notice

- (11) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Definitions

- (12) In this section:

child-related work has the same meaning as in the *Child Protection (Working With Children) Act 2012* (NSW) as in force from time to time.

criminal record check means a check of the same kind as that required for the purposes of section 32 of the *Disability Inclusion Act 2014* (NSW) as in force from time to time.

prescribed criminal offence has the same meaning as in the *Disability Inclusion Act 2014* (NSW) as in force from time to time.

transition period means the period:

- (a) starting on 1 July 2018; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in New South Wales.

24 Application - special arrangements South Australia

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in South Australia.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in South Australia if that provider complies with this section.

Transitional arrangements

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) the person has an acceptable SA check; and
 - (b) it is before the transition time for the person; and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (9) has not come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if the person is:
 - (a) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (b) directly supervised by a person who meets the requirements of (3)(a) and (b); and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (9) has not yet come into effect.

Acceptable SA checks—recognition of South Australian checks

- (6) A person has an ***acceptable SA check*** if:

- (a) the risk assessed role does not involve the person engaging in child-related work; and
 - (b) before or during the transition period, or within 2 months after the end of the transition period:
 - (i) the person has been subject to an assessment (within the meaning of section 5B of the *Disability Services Act 1993* (SA) as in force from time to time); and
 - (ii) an authorised screening unit has made a finding, in relation to that assessment, to the effect that the person is cleared for disability services employment; and
 - (c) an authorised screening unit has not subsequently made a contrary finding in relation to another assessment the person has been subject to under that Act; and
 - (d) it is not more than 3 years since the finding referred to in subparagraph (b)(ii).
- (6A) A person has an ***acceptable SA check*** if:
- (a) before or during the transition period:
 - (i) the person has been subject to an assessment (within the meaning of section 8B of the *Children's Protection Act 1993* (SA) as in force immediately before it was repealed or section 8 of the *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017* (SA) as in force from time to time); and
 - (ii) an authorised screening unit has made a finding, in relation to that assessment, to the effect that the person is cleared for child-related employment; and
 - (b) an authorised screening unit has not:
 - (i) made a finding under an Act mentioned in subparagraph (a)(i) to the effect that the person is not cleared for child-related employment; or
 - (ii) made a finding under the *Disability Services Act 1993* (SA), as in force from time to time, to the effect that the person is not cleared for disability services employment; and
 - (c) the person is not a prohibited person; and
 - (d) it is not more than 3 years since the finding referred to in subparagraph (a)(ii).
- (6B) A person has an ***acceptable SA check*** if:
- (a) during the transition period:
 - (i) the person has been subject to a working with children check conducted by the central assessment unit in accordance with the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time; and
 - (ii) the central assessment unit has determined under that Act that the person is not prohibited from working with children; and

- (b) an authorised screening unit has not made a finding under the Disability Services Act 1993 (SA), as in force from time to time, to the effect that the person is not cleared for disability services employment; and
- (c) the person is not a prohibited person; and
- (d) it is not more than 5 years since the determination referred to in subparagraph (a)(ii).

Transition time

- (7) The transition time for a person is the later of:
 - (a) 1 February 2021; or
 - (b) the expiry of an acceptable SA check which applied to that person on 1 February 2021.
- (8) An acceptable SA check expires at the end of the last day that it meets the requirements of paragraph (6)(d), (6A)(d) or (6B)(d), as applicable.

Notice

- (9) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Definitions

- (10) In this section:

child-related work has the same meaning as in section 6 of the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time.

prohibited person has the same meaning as in section 15 of the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time.

transition period means the period:

- (a) starting on 1 July 2018; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in South Australia.

25 Application—special arrangements for Victoria

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Victoria.

- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Victoria if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:

- (a) it is during the transition period; and
- (b) the provider is compliant with the safety screening requirements in relation to the person in accordance with the safety screening policy issued by the Victorian Department of Health and Human Services and as in force from time to time; and
- (c) the person's safety screening is current in accordance with the requirements; and
- (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.

- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:

- (a) it is during the transition period; and
- (b) the person is a secondary school student on a formal work experience placement with the provider; and
- (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
- (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Special arrangements after the end of the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:

- (a) it is after the end of the transition period; and
- (b) before the end of the transition period, the provider was compliant with the safety screening requirements in relation to the person in accordance with the safety screening policy issued by the Victorian Department of Health and Human Services and as in force from time to time; and
- (c) the person's safety screening is current in accordance with the requirements; and
- (d) any of the following apply:

- (i) the person has a current working with children check (within the meaning of the *Working with Children Act 2005* (Vic.) as in force from time to time) that was issued to the person before the end of the transition period;
 - (ii) less than 6 months have elapsed since the end of the transition period;
 - (iii) 6 months or more have elapsed since the end of the transition period and the person is in the process of obtaining a clearance; and
 - (e) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.
- (6) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b), (c) and (d); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (8) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Victoria.

26 Application—special arrangements for Queensland

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Queensland.

- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Queensland if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) any of the following apply:
 - (i) the person meets the requirements specified in the *Disability Services Act 2006* (Qld), as in force from time to time, in relation to screening of persons engaged to provide services to people with disability;
 - (ii) the person meets the requirements specified in the *Working with Children (Risk Management and Screening) Act 2000* (Qld), as in force from time to time, in relation to screening for regulated employment or regulated businesses;
 - (iii) the person engages in the risk assessed role in the person's capacity as a registered health practitioner (within the meaning of the *Health Practitioner Regulation National Law 2009* (Qld) as in force from time to time) and the person has a certificate of registration (within the meaning of that Act); and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.

Special arrangements after the transition period

- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period:
 - (i) the person satisfied paragraph (3)(b); or
 - (ii) the person has made a valid application to seek to meet a requirement mentioned in subparagraph (3)(b)(i) or (ii) and that application has not been decided; and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (5) For the purposes of paragraph (4)(c), the **transition time** for a person is the later of the following:

- (a) if the person meets subparagraph (4)(b)(i)—the day the relevant notice or certificate that the person held immediately before the end of the transition period expires;
- (b) if the person meets subparagraph (4)(b)(ii)—the earlier of the following:
 - (i) if the person is granted a notice in relation to the valid application mentioned in that subparagraph—the day that notice expires;
 - (ii) if the person is not granted a notice in relation to that valid application—the day the person was notified of the decision not to grant the notice.
- (6) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (4)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (8) In this section:

regulated business has the meaning given by the *Working with Children (Risk Management and Screening) Act 2000* (Qld) as in force from time to time.

regulated employment has the meaning given by the *Working with Children (Risk Management and Screening) Act 2000* (Qld) as in force from time to time.

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Queensland.

27 Application—special arrangements for Tasmania

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Tasmania.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Tasmania if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is registered to engage in a regulated activity under the *Registration to Work with Vulnerable People Act 2013* (Tas.), as in force from time to time; and
 - (c) the registration is in terms that allow the person to engage in the role concerned; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and

- (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:
 - (a) 3 years after the person was registered to engage in a regulated activity under the *Registration to Work with Vulnerable People Act 2013* (Tas.), as in force from time to time; and
 - (b) the expiry of the registration that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Tasmania.

28 Application—special arrangements for ACT

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in the Australian Capital Territory.

- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in the Australian Capital Territory if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) the person is registered to engage in a regulated activity under the *Working with Vulnerable People (Background Checking) Act 2011* (ACT), as in force from time to time; and
 - (c) the registration is in terms that allow the person to engage in the role concerned; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:

- (a) 3 years after the person is registered under the *Working with Vulnerable People (Background Checking) Act 2011* (ACT), as in force from time to time; and
 - (b) the expiry of the registration that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in the Australian Capital Territory.

29 Application—special arrangements for Northern Territory

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in the Northern Territory.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in the Northern Territory if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person has a clearance notice granted under the *Care and Protection of Children Act 2007* (NT) (as in force from time to time) that is in force; and
 - (c) the clearance notice is in terms that allow the person to engage in the role concerned; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:
 - (a) 2 years after the person was given a clearance notice under the *Care and Protection of Children Act 2007* (NT), as in force from time to time; and
 - (b) the expiry of the clearance notice that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:

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- (a) it is after the end of the transition period; and
- (b) the person is a secondary school student on a formal work experience placement with the provider; and
- (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
- (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 30 June 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in the Northern Territory.

29A Application—special arrangements for Western Australia

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Western Australia.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Western Australia if that registered NDIS provider complies with this section.

Transitional arrangements

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) the person has an acceptable WA check at that time; and
 - (b) a notice (if any) issued to the registered NDIS provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) at that time, the person is a secondary school student on a formal work experience placement with the registered NDIS provider; and

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- (b) the person is directly supervised by a person who has an acceptable WA check at that time; and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (5) A person has an ***acceptable WA check*** at a time (the ***relevant time***) before 1 February 2023, if:
- (a) at the relevant time, the person is engaged by the registered NDIS provider; and
 - (b) the person had been engaged by the registered NDIS provider on a day (the ***engagement day***) before 1 December 2020 and has been continuously engaged with that provider since the engagement day; and
 - (c) a national police check in relation to the person had been obtained from a checking agency no more than 3 years before both:
 - (i) the relevant time; and
 - (ii) 1 February 2021; and
 - (d) the national police check showed that the person had no conviction for a relevant offence; and
 - (e) at the relevant time, the registered NDIS provider is not aware of the person being subsequently convicted of a relevant offence; and
 - (f) if the risk assessed role involves the person engaging in child-related work—on a day that is no later than the last day of the transition period:
 - (i) the person had been issued with an assessment notice, or a further assessment notice, and at the relevant time that assessment notice is in effect and has not expired or been cancelled; or
 - (ii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time the person has been issued with an assessment notice in relation to that application and that assessment notice is in effect and has not expired or been cancelled; or
 - (iii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time that application has not been decided or withdrawn and the person has not been issued with an interim negative notice in relation to that application.
- (6) A person has an ***acceptable WA check*** at a time (the ***relevant time***) before 1 February 2023, if:
- (a) at the relevant time, the person is engaged by the registered NDIS provider; and
 - (b) the person had begun the engagement with the registered NDIS provider on or after 1 December 2020 and before 1 February 2021; and
 - (c) a national police check in relation to the person had been obtained from a checking agency no more than 12 months before both:
 - (i) the relevant time; and
 - (ii) the day the person began that engagement; and
 - (d) the national police check showed that the person had no conviction for a relevant offence; and
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- (e) at the relevant time, the registered NDIS provider is not aware of the person being subsequently convicted of a relevant offence; and
- (f) if the risk assessed role involves the person engaging in child-related work—on a day that is no later than the last day of the transition period:
 - (i) the person had been issued with an assessment notice, or a further assessment notice, and at the relevant time that assessment notice is in effect and has not expired or been cancelled; or
 - (ii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time the person has been issued with an assessment notice in relation to that application and that assessment notice is in effect and has not expired or been cancelled; or
 - (iii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time that application has not been decided or withdrawn and the person has not been issued with an interim negative notice in relation to that application.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Definitions

- (8) In this section:

assessment notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

checking agency means a State or Territory police service, or an agency accredited by the Australian Criminal Intelligence Commission in relation to the provision of a national police check.

child-related work has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

further assessment notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

interim negative notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

relevant offence: an offence committed by a person is a **relevant offence** if:

- (a) the person was at least 18 years old when the offence was committed; and
- (b) the offence involved, or related to, any of the following:
 - (i) an offence under section 192 of the *Children and Community Services Act 2004* (WA), as in force from time to time;
 - (ii) an offence under section 181, 186, 187, 279 or 283, subsection 306(4), section 320 or 322, subsection 329(2), (3), (4), (5)

Section 29B

- or (6) or section 330 of *The Criminal Code* (WA), as in force from time to time;
- (iii) an offence under section 16, 17 or 18 of the *Prostitution Act 2000* (WA), as in force from time to time;
- (iv) an offence under a law of another participating jurisdiction that is equivalent to an offence mentioned in subparagraph (i), (ii) or (iii);
- (v) a class 1 offence or a class 2 offence within the meaning given by the *National Disability Insurance Scheme (Worker Screening) Act 2020* (WA), as in force from time to time.

transition period means the period:

- (a) starting on 1 December 2020; and
- (b) ending on the earlier of:
 - (i) 31 January 2023; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Western Australia.

29B Application—special arrangement for residential aged care providers

- (1) This section applies to a person or entity on a day if, on that day:
 - (a) the person or entity is an approved provider (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*); and
 - (b) the person or entity is providing residential care (within the meaning of the *Aged Care Act 1997*) to a participant; and
 - (c) the participant is a resident of the person or entity's residential facility; and
 - (d) the person or entity is a registered NDIS provider; and
 - (e) the person or entity is providing supports or services to the participant in a participating jurisdiction.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering supports or services in a participating jurisdiction if that provider complies with this section.

Transitional arrangements

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) the registered NDIS provider is an approved provider (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*); and
 - (b) the person is:
 - (i) a staff member of the approved provider; or
 - (ii) a volunteer for the approved provider; or
 - (iii) one of the approved provider's key personnel (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*); and
 - (c) the person has an acceptable aged care provider check; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.

- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if the person is:
- (a) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (b) directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Acceptable aged care provider checks—recognition of checks under the Accountability Principles 2014

- (5) A person has an **acceptable aged care provider check** if:
- (a) the person is either:
 - (i) a staff member of the approved provider; or
 - (ii) a volunteer for the approved provider; and
 - (b) the requirements under Part 6 of the *Accountability Principles 2014* have been complied with 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
 - (c) the police certificate is issued before 1 February 2021.
- (6) A person has an **acceptable aged care provider check** if:
- (a) the person is one of the approved provider's key personnel (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*); and
 - (b) the person is not covered by subsection (5); and
 - (c) the requirements under Part 7A of the *Accountability Principles 2014* have been complied with in relation to the person, including the requirement that the provider has obtained a police certificate (within the meaning of those Principles) for the person; and
 - (d) the police certificate is issued before 1 February 2021.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Concurrent operation

- (8) To avoid doubt, this section is intended to operate concurrently with sections 23 to 29A.

Definitions

- (9) In this section:

staff member, of an approved provider, has the same meaning as in the *Accountability Principles 2014*.

volunteer, for an approved provider, has the same meaning as in the *Accountability Principles 2014*.

Sunset

- (10) This section ceases to have effect at the end of 1 February 2024.

30 Notice that NDIS worker screening unit is operational in a participating jurisdiction

The Minister may, by notifiable instrument, give notice that the NDIS worker screening unit for a State or Territory is operational in that State or Territory, with the agreement of that State or Territory.

Endnotes**Endnote 1—About the endnotes**

Endnotes**Endnote 1—About the endnotes**

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018	26 June 2018 (F2018L00887)	1 July 2018 (s 2(1) item 1)	
National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment Rules 2019	28 June 2019 (F2019L00937)	1 July 2019 (s 2(1) item 1)	—
National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment Rules 2020	29 June 2020 (F2020L00839)	30 June 2020 (s 2(1) item 1)	—
National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment (Miscellaneous Measures) Rules 2020	30 Nov 2020 (F2020L01508)	1 Dec 2020 (s 2(1) item 1)	—
National Disability Insurance Scheme Legislation Amendment (Transitioning Aged Care Providers) Rules 2020	30 Nov 2020 (F2020L01512)	Sch 1 (items 3–7): 1 Dec 2020 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	am F2020L01508
s 5	am F2020L00839; F2020L01508; F2020L01512
s 5A	ad F2020L01508
Part 2	
Part 2 heading	rs F2020L01508
Division 1	
Division 1	rs F2020L01508
s 8	rs F2020L01508
Division 2	
Division 2 heading	rs F2020L01508
s 9	rs F2020L01508
Division 3	
Division 3	rs F2020L01508
s 11	rs F2020L01508
s 12	rs F2020L01508
Division 4	
Division 4 heading	rs F2020L01508
s 13	am F2020L00839
	rs F2020L01508
s 14	rs F2020L01508
s 14A	ad F2019L00937
	am F2020L00839; F2020L01508; F2020L01512
s 15	am F2019L00937; F2020L00839; F2020L01508
Part 3	
s 16	rs F2020L01508
s 17	am F2020L01508
s 18	am F2020L00839; F2020L01508
s 19	am F2020L01508
Part 4	
Part 4 heading	am F2020L00839
	rs F2020L01508
s 22	rs F2020L01508
s 23	am F2019L00937; F2020L00839; F2020L01508
s 24	am F2019L00937; F2020L00839; F2020L01508
s 25	ad F2019L00937; F2020L00839

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am F2020L01508
s 26	ad F2019L00937; F2020L00839
	am F2020L01508
s 27	ad F2019L00937; F2020L00839
	am F2020L01508
s 28	ad F2019L00937; F2020L00839
	am F2020L01508
s 29	ad F2019L00937; F2020L00839
	am F2020L01508
s 29A	ad F2020L01508
s 29B	ad F2020L01512
	exp end of 1 Feb 2024 (s 29B(10))
s 30	ad F2019L00937
	am F2020L01508



National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018

I, Graeme Head, as delegate of the Minister for Social Services, make the following rules.

Dated 17 May 2018

Graeme Head
Commissioner of the NDIS Quality and Safeguards Commission

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Preamble

The National Disability Insurance Scheme (NDIS) represents a fundamental change to how supports for people with disability are funded and delivered across Australia. The NDIS is designed to produce major benefits for people with disability, their families and the broader community.

The NDIS Quality and Safeguards Commission is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market. The Commission will build the capability of NDIS participants and providers to uphold the rights of people with disability and realise the benefits of the NDIS. The legislation underpinning the NDIS is intended to support participants to be informed purchasers and consumers of NDIS supports and services and to live free from abuse, neglect, violence and exploitation.

Registered NDIS providers must establish incident management arrangements to enable the identification of systemic issues and drive improvements in the quality of the supports they deliver. Providers must also notify, investigate and respond to reportable incidents.

The NDIS Quality and Safeguards Commissioner will receive notifications of reportable incidents and oversee providers' responses to these incidents.

The Commissioner will work with providers to build their capability to respond appropriately to incidents and improve their systems to prevent incidents from occurring and minimise their impact on people with disability when they do occur.

Oversight, combined with effective provider practice, can reduce preventable deaths, serious injuries and other serious incidents through early intervention and capacity-building.

Part 1 Preliminary

Section 1

Part 1—Preliminary**1 Name**

This instrument is the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 9 of the Act, including the following:

- (a) key personnel;
- (b) registered NDIS provider;
- (c) reportable incident.

In this instrument:

Act means the *National Disability Insurance Scheme Act 2013*.

Part 2—Incident management systems for registered NDIS providers

Division 1—Introduction

5 Simplified outline of this Part

This Part requires all registered NDIS providers to implement and maintain a system to record and manage certain incidents that happen in connection with providing supports or services to people with disability.

The incidents that must be recorded and managed are:

- (a) incidents that have, or could have, caused harm to a person with disability receiving supports or services; and
- (b) acts by a person with disability that happen in connection with the provision of supports or services and that have caused serious harm, or a risk of serious harm, to another person; and
- (c) reportable incidents that are alleged to have occurred in connection with the provision of supports or services.

The incident management system must set up procedures for identifying, assessing, managing and resolving such incidents. These procedures must specify things such as 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 and when corrective action is required.

Registered NDIS providers must keep records about incidents, and must document their incident management system. Copies of the documented system must be available to certain people, including workers and persons with disability receiving supports or services from the provider.

6 Purpose of this Part

- (1) This Part is made for the purposes of paragraph 73Y(b) of the Act.
- (2) It sets out what must be included in the incident management systems of registered NDIS providers.

Note 1: Failure by a registered NDIS provider to comply with the requirements of this Part constitutes a breach of condition of registration (see paragraph 73F(2)(g) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

Note 2: A registered NDIS provider has additional obligations if an incident is the subject of a complaint (see sections 73W and 73X of the Act and the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*).

Part 2 Incident management systems for registered NDIS providers**Division 1** Introduction**Section 7**

7 Incidents that are also reportable incidents

The requirements of this Part and the requirements of Part 3 must be complied with in relation to an incident if the incident is both:

- (a) of a kind that is required to be covered by an incident management system;
and
- (b) a reportable incident.

Note: For the kinds of incidents required to be covered by an incident management system, see section 9 of this instrument. For the meaning of *reportable incident*, see subsection 73Z(4) of the Act and section 16 of this instrument.

Division 2—Incident management system requirements

8 System must comply with this Division

A registered NDIS provider must implement and maintain an incident management system that complies with the requirements set out in this Division.

Note: The incident management system must also be appropriate for the size of the provider and for the classes of supports or services provided (see paragraph 73Y(a) of the Act).

9 Incidents that must be covered

- (1) The incident management system of a registered NDIS provider must cover incidents that consist of acts, omissions, events or circumstances that:
 - (a) occur in connection with providing supports or services to a person with disability; and
 - (b) have, or could have, caused harm to the person with disability.
- (2) The incident management system must also cover incidents that consist of acts by a person with disability that:
 - (a) occur in connection with providing supports or services to the person with disability; and
 - (b) have caused serious harm, or a risk of serious harm, to another person.
- (3) The incident management system must also cover reportable incidents that are alleged to have occurred in connection with providing supports or services to a person with disability.

10 Incident management system procedures

- (1) The incident management system of a registered NDIS provider must establish procedures to be followed in identifying, managing and resolving incidents, including procedures that specify the following:
 - (a) how incidents are identified, recorded and reported;
 - (b) to whom incidents must be reported;
 - (c) the person who is responsible for reporting incidents that are reportable incidents to the Commissioner;
 - (d) how the registered NDIS provider will provide support and assistance to persons with disability affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety and wellbeing;
 - (e) how persons with disability affected by an incident will be involved in the management and resolution of the incident;
 - (f) when an investigation by the registered NDIS provider is required to establish the causes of a particular incident, its effect and any operational issues that may have contributed to the incident occurring, and the nature of that investigation;
 - (g) when corrective action is required and the nature of that action.

Part 2 Incident management systems for registered NDIS providers**Division 2** Incident management system requirements**Section 11**

- (2) The procedures may vary, depending on the seriousness of the incident.
- (3) The incident management system must require all incidents to be assessed in relation to the following, with the assessment considering the views of persons with disability affected by the incident:
 - (a) whether the incident could have been prevented;
 - (b) how well the incident was managed and resolved;
 - (c) what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact;
 - (d) whether other persons or bodies need to be notified of the incident.
- (4) The incident management system must set out procedures for ensuring that the requirements of subsection (3) are complied with.
- (5) The incident management system must provide that, if the incident is a reportable incident, the incident must also be notified and managed in accordance with Part 3.
- (6) The incident management system must also provide for the periodic review of the system to ensure its effectiveness.

11 System must afford procedural fairness

- (1) The incident management system of a registered NDIS provider must require that people are afforded procedural fairness when an incident is dealt with by the provider.
- (2) The Commissioner may, by notifiable instrument, make guidelines relating to procedural fairness for the purposes of subsection (1).

12 Documentation, record keeping and statistics

- (1) A registered NDIS provider must:
 - (a) document its incident management system; and
 - (b) provide copies of the documented system, in an accessible form, to the following persons:
 - (i) persons with disability receiving supports or services from the registered NDIS provider;
 - (ii) each person employed or otherwise engaged by the registered NDIS provider;
 - (iii) the family members, carers, independent advocates and significant others of persons with disability receiving supports or services from the registered NDIS provider; and
 - (c) assist persons referred to in paragraph (b) to understand how the documented system operates.
- (2) The incident management system of a registered NDIS provider must provide for the following details, as a minimum, to be recorded in relation to each incident that occurs:
 - (a) a description of the incident, including the impact on, or harm caused to, any person with disability affected by the incident;

Incident management systems for registered NDIS providers **Part 2**
Incident management system requirements **Division 2**

Section 12

-
- (b) whether the incident is a reportable incident;
 - (c) if known—the time, date and place at which the incident occurred;
 - (d) if paragraph (c) does not apply—the time and date the incident was first identified;
 - (e) the names and contact details of the persons involved in the incident;
 - (f) the names and contact details of any witnesses to the incident;
 - (g) details of the assessment undertaken in accordance with the requirements of subsection 10(3);
 - (h) the actions taken in response to the incident, including actions taken to support or assist persons with disability affected by the incident;
 - (i) any consultations undertaken with the persons with disability affected by the incident;
 - (j) whether persons with disability affected by the incident have been provided with any reports or findings regarding the incident;
 - (k) if an investigation is undertaken by the provider in relation to the incident—the details and outcomes of the investigation;
 - (l) the name and contact details of the person making the record of the incident.
- (3) The incident management system must provide for the following details, as a minimum, to be recorded in relation to each reportable incident that is alleged to have occurred:
- (a) a description of the alleged incident;
 - (b) if known—the time, date and place at which the incident is alleged to have occurred;
 - (c) the names and contact details of the persons involved in the alleged incident;
 - (d) the names and contact details of any witnesses to the alleged incident;
 - (e) details of the assessment undertaken in accordance with the requirements of subsection 10(3);
 - (f) the actions taken in response to the alleged incident, including actions taken to support or assist persons with disability affected by the incident;
 - (g) any consultations undertaken with the persons with disability affected by the alleged incident;
 - (h) whether persons with disability affected by the incident have been provided with any reports or findings regarding the alleged incident;
 - (i) if an investigation is undertaken by the provider in relation to the alleged incident—the details and outcomes of the investigation;
 - (j) the name and contact details of the person making the record of the alleged incident.
- (4) A record made for the purposes of subsection (2) or (3) must be kept for 7 years from the day the record is made.

Note: A registered NDIS provider may be required to comply with other Commonwealth, State or Territory laws in relation to the retention of records.

Part 2 Incident management systems for registered NDIS providers**Division 2** Incident management system requirements**Section 13**

- (5) The incident management system must provide for the collection of statistical and other information relating to incidents to enable the registered NDIS provider to:
 - (a) review issues raised by the occurrence of incidents; and
 - (b) identify and address systemic issues; and
 - (c) report information relating to complaints to the Commissioner, if requested to do so by the Commissioner.
- (6) This section does not limit paragraph 10(1)(a).

13 Roles, responsibilities, compliance and training of workers

- (1) The incident management system of a registered NDIS provider must set out the roles and responsibilities of any persons employed or otherwise engaged by the registered NDIS provider in identifying, managing and resolving incidents and in preventing incidents from occurring.
- (2) Without limiting subsection (1), the incident management system must provide that each person employed or otherwise engaged by the registered NDIS provider must comply with the incident management system.
- (3) The incident management system must include requirements relating to the provision of training to any persons employed or otherwise engaged by the registered NDIS provider in the use of, and compliance with, the incident management system.

Part 3—Reportable incidents

14 Simplified outline of this Part

Certain incidents that happen, or are alleged to have happened, in connection with the provision of supports or services by registered NDIS providers are known as **reportable incidents**. These incidents include the death, serious injury, abuse or neglect of a person with disability and the use of restrictive practices in particular circumstances.

If a reportable incident occurs, or is alleged to have occurred, the registered NDIS provider must give details about the incident to the Commissioner. Details of certain incidents (such as the death of a person with disability) must be notified within 24 hours, while others must be notified within 5 business days.

Registered NDIS providers must keep records about reportable incidents.

If the Commissioner is notified about a reportable incident, the Commissioner may take certain action, including requiring the provider to undertake specified remedial action, carry out an internal investigation about the incident or engage an independent expert to investigate and report on the incident.

The Commissioner has the power to authorise inquiries in relation to reportable incidents. An inquiry can be carried out even if a reportable incident has not been notified to the Commissioner.

The Commissioner can publish a report setting out his or her findings in relation to an inquiry.

15 Purpose of this Part

- (1) This Part is made for the purposes of section 73Z of the Act.
- (2) It is about reportable incidents that occur in connection with the provision of supports or services by registered NDIS providers.
 - Note 1: This Part covers reportable incidents that are alleged to have occurred, as well as reportable incidents that have actually occurred (see section 17).
 - Note 2: For the meaning of **reportable incident**, see subsection 73Z(4) of the Act and section 16 of this instrument.
- (3) These reportable incidents must be notified and managed in accordance with this Part.
 - Note: Failure by a registered NDIS provider to comply with the requirements of this Part constitutes a breach of condition of registration (see paragraph 73F(2)(h) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

Part 3 Reportable incidents

Section 16

16 What is a *reportable incident*?

- (1) This section is made for the purposes of subsection 73Z(5) of the Act.

Note 1: Subsection 73Z(4) of the Act provides that *reportable incident* means:

- (a) the death of a person with disability; or
- (b) serious injury of a person with disability; or
- (c) abuse or neglect of a person with disability; or
- (d) unlawful sexual or physical contact with, or assault of, a person with disability; or
- (e) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; or
- (f) the use of a restrictive practice in relation to a person with disability, other than where the use is in accordance with an authorisation (however described) of a State or Territory in relation to the person.

Note 2: Subsection 73Z(5) of the Act allows this instrument to provide that specified acts, omissions or events are, or are not, reportable incidents. This instrument can override subsection 73Z(4) of the Act in this regard.

- (2) An act specified in paragraph 73Z(4)(d) of the Act that occurs in relation to a person with disability is not a *reportable incident* if:
- (a) the act is unlawful physical contact with a person with disability; and
 - (b) the contact with, and impact on, the person with disability is negligible.
- (3) Despite paragraph 73Z(4)(f) of the Act, the use of a restrictive practice in relation to a person with disability where the use is in accordance with an authorisation (however described) of a State or Territory is a *reportable incident* if the use is not in accordance with a behaviour support plan for the person with disability.

Note: See also subsection 73Z(4) of the Act, which sets out the definition of *reportable incidents*.

- (4) Despite paragraph 73Z(4)(f) of the Act, the use of a restrictive practice in relation to a person with disability where the use is not in accordance with an authorisation (however described) of a State or Territory is not a *reportable incident* if:
- (a) the use is in accordance with a behaviour support plan for the person with disability; and
 - (b) the State or Territory in which the restrictive practice is used does not have authorisation process in relation to the use of the restrictive practice.

17 Reportable incidents include alleged reportable incidents

A reference in this Part to a reportable incident that has occurred includes a reference to a reportable incident that is alleged to have occurred.

18 Duty of key personnel of registered NDIS providers in relation to reportable incidents

The following must take all reasonable steps to ensure that reportable incidents that occur in connection with the provision of supports or services by a registered NDIS provider are notified to the Commissioner:

- (a) members of the key personnel of the provider;

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- (b) the person specified for the purposes of paragraph 10(1)(c) for the provider.

19 Duty of workers to notify registered NDIS provider of reportable incidents

If a person employed or otherwise engaged by a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider, the person must notify one of the following of that fact as soon as possible:

- (a) a member of the provider's key personnel;
- (b) a supervisor or manager of the person;
- (c) the person specified for the purposes of paragraph 10(1)(c) for the provider.

20 Certain reportable incidents must be notified to the Commissioner within 24 hours

- (1) This section applies if:
 - (a) a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider; and
 - (b) the reportable incident is:
 - (i) the death of a person with disability; or
 - (ii) the serious injury of a person with disability; or
 - (iii) the abuse or neglect of a person with disability; or
 - (iv) the unlawful sexual or physical contact with, or assault of, a person with disability; or
 - (v) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity.

Note: For the purposes of subparagraph (b)(iv), certain physical contact is not a reportable incident and so is not covered by the requirements of this section (see subsection 16(2)).

- (2) Subject to subsection (3), the registered NDIS provider must notify the Commissioner of the following information within 24 hours:
 - (a) the name and contact details of the registered NDIS provider;
 - (b) a description of the reportable incident;
 - (c) except for a reportable incident of a kind covered by subparagraph (1)(b)(i)—a description of the impact on, or harm caused to, the person with disability;
 - (d) the immediate actions taken in response to the reportable incident, including actions taken to ensure the health, safety and wellbeing of persons with disability affected by the incident and whether the incident has been reported to police or any other body;
 - (e) the name and contact details of the person making the notification;
 - (f) if known—the time, date and place at which the reportable incident occurred;

Part 3 Reportable incidents**Section 21**

- (g) the names and contact details of the persons involved in the reportable incident;
- (h) any other information required by the Commissioner.

Note: The information required by paragraphs (b), (c), (f) and (g) may not need to be given in certain circumstances (see section 22).

- (3) If, within 24 hours after the provider became aware that the incident occurred, insufficient information is available to comply with subsection (2), the provider must:
 - (a) provide the information mentioned in paragraphs (2)(a) to (e) within the 24 hour period; and
 - (b) provide the remaining information required by that subsection within 5 business days after the provider became aware that the incident occurred.
- (4) The registered NDIS provider must notify the Commissioner of the following information within 5 business days after the provider became aware that the incident occurred:
 - (a) the names and contact details of any witnesses to the reportable incident;
 - (b) any further actions proposed to be taken in response to the reportable incident.
- (5) A notification in accordance with subsection (2) may be given by telephone or in writing.
- (6) A notification given in accordance with paragraph (3)(a) or (b) or subsection (4) must be given in writing.
- (7) If a notification is given in writing, the Commissioner must acknowledge its receipt within 24 hours.
- (8) The Commissioner must approve a form for the purposes of giving notifications in writing under this section.

21 Other reportable incidents must be notified to the Commissioner within 5 business days

- (1) A registered NDIS provider must notify the Commissioner in accordance with this section if:
 - (a) the registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider; and
 - (b) the reportable incident is not of a kind covered by paragraph 20(1)(b).
- (2) The notification must:
 - (a) be given in writing; and
 - (b) be given within 5 business days after the provider became aware that the reportable incident occurred; and
 - (c) include all of the information required by subsection (3).
- (3) The information required is as follows:
 - (a) the name and contact details of the registered NDIS provider;

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- (b) a description of the reportable incident, including the impact on, or harm caused to, the person with disability;
- (c) if known—the time, date and place at which the reportable incident occurred;
- (d) the names and contact details of the persons involved in the reportable incident;
- (e) the names and contact details of any witnesses to the reportable incident;
- (f) the immediate actions taken in response to the reportable incident, including actions taken to ensure the health, safety and wellbeing of persons with disability affected by the incident and whether the incident has been reported to police or any other body;
- (g) any further actions proposed to be taken in response to the reportable incident;
- (h) the name and contact details of the person making the notification;
- (i) any other information required by the Commissioner.

Note: The information required by paragraphs (b) to (e) may not need to be given in certain circumstances (see section 22).

- (4) The Commissioner must acknowledge receipt of the notification within 24 hours after receiving it.
- (5) The Commissioner must approve a form for the purposes of giving notifications under this section.

22 Circumstances in which certain information relating to reportable incidents need not be obtained or notified

A registered NDIS provider is not required to obtain, or notify the Commissioner of, the information mentioned in paragraph 20(2)(b), (c), (f) or (g), 20(4)(a) or 21(3)(b), (c), (d) or (e) if obtaining the information would, or could reasonably be expected to:

- (a) prejudice the conduct of a criminal investigation; or
- (b) expose a person with disability to a risk of harm.

23 Keeping the Commissioner updated

- (1) This section applies if:
 - (a) a registered NDIS provider gives notification of a reportable incident under section 20 or 21 at a particular time; and
 - (b) the provider becomes aware of significant new information in relation to the incident after that time; and
 - (c) the significant new information:
 - (i) is or relates to a change in the kind of reportable incident; or
 - (ii) is a further reportable incident.
- (2) The provider must notify the Commissioner of the significant new information as soon as reasonably practicable after becoming aware of the information.
- (3) The notification must be given in writing.

Part 3 Reportable incidents

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- (4) If notification is given under this section of a further reportable incident, the registered NDIS provider is taken to have complied with section 20 or 21 (as the case requires).
- (5) The Commissioner may approve a form for the purposes of giving notifications in writing under this section.

24 Providing the Commissioner with a final report

- (1) If a registered NDIS provider gives notification of a reportable incident under subsection 20(4) or section 21, the Commissioner may require the provider to give the information required by subsection (2) of this section to the Commissioner, within 60 business days after the notification is given under subsection 20(4) or section 21, or a longer period specified by the Commissioner.
- (2) The information required is as follows:
 - (a) details of any internal or external investigation or assessment that has been undertaken in relation to the incident, including:
 - (i) the name and position of the person who undertook the investigation; and
 - (ii) when the investigation was undertaken; and
 - (iii) details of any findings made; and
 - (iv) details of any corrective or other action taken after the investigation;
 - (b) a copy of any report of the investigation or assessment;
 - (c) whether persons with disability affected by the incident (or their representative) have been kept informed of the progress, findings and actions relating to the investigation or assessment;
 - (d) any other information required by the Commissioner.
- (3) The information must be given in writing.
- (4) The Commissioner must approve a form for the purposes of giving information under this section.

25 Record keeping

- (1) If a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider, the provider must keep a record of the incident.
- (2) The record must be kept for 7 years from the day that notification of the reportable incident is given under subsection 20(2), paragraph 21(2)(b) or subsection 23(2) (as the case requires).

Note: A registered NDIS provider may be required to comply with other Commonwealth, State or Territory laws in relation to the retention of records.
- (3) It is sufficient compliance with this section if the provider keeps the record of the reportable incident required to be made under section 12.

26 Action by the Commissioner in relation to reportable incidents

- (1) The Commissioner may, upon receiving notification that a reportable incident has occurred in connection with the provision of supports or services by a registered NDIS provider, do one or more of the following:
 - (a) refer the incident to another person or body with responsibility in relation to the incident (such as a State or Territory agency responsible for child protection);
 - (b) require or request the provider to undertake specified remedial action in relation to the incident within a specified period, including remedial action to ensure the health, safety and wellbeing of persons with disability affected by the incident;
 - (c) require the provider to carry out an internal investigation in relation to the incident, in the manner and within the timeframe specified in by the Commissioner, and to provide a report on the investigation to the Commissioner;
 - (d) require the provider to engage an appropriately qualified and independent expert, at the expense of the provider, to carry out an investigation in relation to the incident, in the manner and within the timeframe specified in by the Commissioner, and to provide a report on the investigation to the Commissioner;
 - (e) carry out an inquiry in relation to the incident in accordance with section 27;
 - (f) take any other action that the Commissioner considers reasonable in the circumstances.
- Note: The Commissioner may also share information in relation to a reportable incident in accordance with section 67E of the Act and the *National Disability Insurance Scheme (Protection and Disclosure of Information—Commissioner) Rules 2018*.
- (2) If an investigation is carried out under paragraph (1)(c) or (d) in relation to a reportable incident, the Commissioner may take any action that the Commissioner considers appropriate.
- (3) Without limiting subsection (2), the Commissioner may provide, or require the registered NDIS provider to provide, information on the progress or outcome of the investigation to:
 - (a) the person with disability involved in the incident (or a representative of the person); and
 - (b) with the consent of the person with disability (or a representative of the person)—any other person.

Part 4 Inquiries by the CommissionerSection 27

Part 4—Inquiries by the Commissioner**27 Inquiries by the Commissioner in relation to reportable incidents**

- (1) This section is made for the purposes of section 73Z of the Act.
- (2) The Commissioner may authorise an inquiry in relation to a reportable incident that has occurred in connection with the provision of supports or services by a registered NDIS provider.
- (3) The Commissioner may authorise an inquiry in relation to a series of reportable incidents that have occurred in connection with the provision of supports or services by one or more registered NDIS providers.
- (4) An inquiry may be carried out whether or not notification of the reportable incident or reportable incidents has been received under section 20 or 21.
- (5) An inquiry may be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.
- (6) Without limiting subsection (5), the Commissioner may:
 - (a) consult with other persons, organisations and governments on matters relating to the inquiry; or
 - (b) request information that is relevant to the inquiry from any person; or
 - (c) provide opportunities for people with disability to participate in the inquiry.
- (7) The Commissioner may prepare and publish a report setting out his or her findings in relation to the inquiry.

Part 5—Other matters

28 Commissioner must comply with procedural fairness rules

The Commissioner must, in taking action in relation to a reportable incident, have due regard to the rules of procedural fairness.

Note: The Commissioner may make guidelines for the purposes of dealing with reportable incidents, including in relation to matters of procedural fairness (see subsection 181D(2) of the Act).

29 Commissioner may take action under the Act

Nothing in this instrument prevents the Commissioner from taking action under Division 8 of Part 3A of the Act in relation to:

- (a) an incident, including a reportable incident, that occurs in connection with providing supports or services to a person with disability; or
- (b) information received by the Commissioner under this instrument.



National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018

I, Graeme Head, as delegate of the Minister for Social Services, make the following rules.

Dated 17 May 2018

Graeme Head
Commissioner of the NDIS Quality and Safeguards Commission

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Preamble

The National Disability Insurance Scheme (NDIS) represents a fundamental change to how supports for people with disability are funded and delivered across Australia. The NDIS is designed to produce major benefits for people with disability, their families and the broader community.

The NDIS Quality and Safeguards Commission is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market. The Commission will build the capability of NDIS participants and providers to uphold the rights of people with disability and realise the benefits of the NDIS. The legislation underpinning the NDIS is intended to support participants to be informed purchasers and consumers of NDIS supports and services and to live free from abuse, neglect, violence and exploitation.

Registered NDIS providers are required to have complaints management arrangements in place and support people with disability to understand how to make a complaint to the provider and to the NDIS Commissioner.

The NDIS Quality and Safeguards Commissioner will be responsible for supporting the resolution of complaints about the provision of supports and services by all NDIS providers.

In addition to addressing specific issues, complaints can enable systemic issues to be identified and drive improvements in the quality of NDIS supports and services.

The Commission will build the capability of people with disability to pursue complaints and build NDIS provider capability to respond to complaints.

These rules will ensure providers are responsive to the needs of people with disability through the timely resolution of issues and will promote continuous improvement.

Part 1 Preliminary

Section 1

Part 1—Preliminary**1 Name**

This instrument is the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 9 of the Act.

In this instrument:

Act means the *National Disability Insurance Scheme Act 2013*.

complainant means a person who makes a complaint to the Commissioner under section 15.

Part 2—Complaints management and resolution system for registered NDIS providers

5 Simplified outline of this Part

This Part requires all registered NDIS providers to implement and maintain a system to manage and resolve complaints about the supports and services they provide.

The complaints management and resolution system must make sure that people can easily make a complaint and that all complaints are dealt with fairly and quickly.

Providers must make available information about how to make a complaint to the provider and to the Commissioner, and must keep records about complaints that they receive.

6 Purpose of this Part

- (1) This Part is made for the purposes of paragraph 73W(b) of the Act.
- (2) It sets out what must be included in the complaints management and resolution systems of registered NDIS providers.

Note 1: Failure by a registered NDIS provider to comply with the requirements of this Part is a breach of condition of registration (see paragraph 73F(2)(e) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

Note 2: A registered NDIS provider also has obligations in relation to incident management systems and reportable incidents that may apply to a complaint if it raises an issue that is an incident or a reportable incident (see sections 73Y and 73Z of the Act and the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*).

7 Complaints management and resolution system must comply with this Part

A registered NDIS provider must implement and maintain a complaints management and resolution system that complies with the requirements set out in this Part.

Note: The complaints management and resolution system must also be appropriate for the provider's size and classes of supports or services provided and make provision in relation to advocates and other representatives of persons with disability (see paragraphs 73W(a), (aa) and (ab) of the Act).

8 Complaints management and resolution system requirements

- (1) The complaints management and resolution system of a registered NDIS provider must:

Part 2 Complaints management and resolution system for registered NDIS providers**Section 8**

- (a) enable any person to make a complaint (including an anonymous complaint) to the registered NDIS provider about the supports or services provided by the provider; and
 - (b) provide for an easy and accessible process for making and resolving complaints; and
 - (c) ensure appropriate support and assistance is provided to any person who wishes to make, or has made, a complaint.
- (2) The process provided for in the system may vary, depending on the nature of the complaint.
- (3) The system must require that:
 - (a) complaints are acknowledged, assessed and resolved in a fair, efficient and timely manner; and
 - (b) appropriate action is taken in relation to issues raised in complaints; and
 - (c) reasonable steps are taken to ensure that any person who makes a complaint to the provider, and each person with disability affected by an issue raised in such a complaint, is advised how that complaint or issue may be raised with the Commissioner; and
 - (d) appropriate support and assistance in contacting the Commissioner in relation to a complaint is provided to any person who makes a complaint and each person with disability affected by an issue raised in a complaint.
- (4) The system must also require that reasonable steps are taken to ensure that:
 - (a) a person who makes a complaint, or a person with disability affected by an issue raised in a complaint, is not adversely affected as a result of the making of the complaint; and
 - (b) information provided in a complaint is kept confidential and only disclosed if required by law or if the disclosure is otherwise appropriate in the circumstances.
- (5) The system must provide that persons making a complaint:
 - (a) are appropriately involved in the resolution of the complaint; and
 - (b) are kept informed of the progress of the complaint, including any action taken, the reasons for any decisions made and options for review of decisions in relation to the complaint.
- (6) The system must provide that a person with disability affected by an issue raised in a complaint:
 - (a) is kept appropriately informed of the progress of the complaint, including any action taken, the reasons for any decisions made and options for review of decisions; and
 - (b) is kept appropriately involved in the resolution of the complaint.
- (7) The system must provide for the following details to be readily available and accessible to the public:
 - (a) how a complaint about the registered NDIS provider can be made to the provider;
 - (b) how a complaint about the registered NDIS provider can be made to the Commissioner.

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- (8) The system must also provide for the periodic review of the system to ensure its effectiveness.

9 System must afford procedural fairness

- (1) The complaints management and resolution system of a registered NDIS provider must require that people are afforded procedural fairness when a complaint is dealt with by the provider.
- (2) The Commissioner may, by notifiable instrument, make guidelines relating to procedural fairness for the purposes of subsection (1).

10 Documentation, record keeping and statistics

- (1) The registered NDIS provider must:
- (a) document the complaints management and resolution system; and
 - (b) provide copies of the documented system, and the information required by subsection 8(7), in a form that is accessible to the following persons:
 - (i) persons with disability receiving supports or services from the registered NDIS provider, and their families, carers and advocates;
 - (ii) each person employed or otherwise engaged by the registered NDIS provider; and
 - (c) assist persons referred to in paragraph (b) to understand how the documented system operates.

Note: The documentation required by this subsection must relate only to the complaints management and resolution system itself, as information provided in individual complaints must generally be kept confidential (see paragraph 8(4)(b)).

- (2) The system must provide that appropriate records of complaints received by the registered NDIS provider are kept by the provider, including the following, where appropriate:
- (a) information about complaints;
 - (b) any action taken to resolve complaints;
 - (c) the outcome of any action taken.

- (3) A record made for the purposes of subsection (2) must be kept for 7 years from the day the record is made.

Note: A registered NDIS provider may be required to comply with other Commonwealth, State or Territory laws in relation to the retention of records.

- (4) The system must provide for the collection of statistical and other information relating to complaints made to the provider to enable the provider to:
- (a) review issues raised in complaints; and
 - (b) identify and address systemic issues raised through the complaints management and resolution process; and
 - (c) report information relating to complaints to the Commissioner, if requested to do so by the Commissioner.

Part 2 Complaints management and resolution system for registered NDIS providers**Section 11**

11 Roles, responsibilities, compliance and training of workers

- (1) The complaints management and resolution system of a registered NDIS provider must set out the roles and responsibilities of any persons employed or otherwise engaged by the registered NDIS provider in relation to the receipt, management and resolution of complaints made to the provider.
- (2) Without limiting subsection (1), the system must provide that each person employed or otherwise engaged by the registered NDIS provider must comply with the system.
- (3) The system must include requirements relating to the provision of training to any persons employed or otherwise engaged by the registered NDIS provider in the use of, and compliance with, the system.

12 Referring complaints

The complaints management and resolution system of a registered NDIS provider must require a complaint to be referred or notified to any other bodies in accordance with any requirements under relevant Commonwealth, State or Territory laws.

Part 3—Complaints to, and inquiries by, the Commissioner**Division 1—Introduction****13 Simplified outline of this Part**

A person can make a complaint to the Commissioner about any issue connected with supports or services provided by an NDIS provider. Complaints can be made orally, in writing or by any other appropriate means, and can be made anonymously. A complaint can be withdrawn at any time.

If a person makes a complaint, the Commissioner must decide what to do. The Commissioner may decide to:

- (a) take no action, or defer taking action, in some cases (for example, if the complaint was not made in good faith or there is not enough information to continue); or
- (b) help the complainant and other affected people to work with the NDIS provider to resolve the complaint; or
- (c) undertake a resolution process.

In some cases, the Commissioner must give written notice of the decision and the Commissioner can be asked to reconsider the decision.

If the Commissioner decides to undertake a resolution process, the Commissioner can take certain action such as requiring the NDIS provider to attempt to resolve the complaint, or request the affected people to take part in a conciliation process. Information about the outcome of the resolution process must generally be provided to the people involved in the complaint.

The Commissioner has the power to authorise inquiries into issues connected with complaints, or into a series of complaints, about supports or services provided by NDIS providers. An inquiry can be carried out even if a complaint has not been made to the Commissioner.

The Commissioner can publish a report setting out his or her findings in relation to an inquiry.

14 Purposes of this Part

- (1) This Part is made for the purposes of subsection 73X(1) of the Act.
- (2) It prescribes arrangements relating to the management and resolution of complaints arising out of, or in connection with, the provision of supports or services provided by NDIS providers.

Note: Failure by a registered NDIS provider to comply with the requirements of this Part is a breach of condition of registration (see paragraph 73F(2)(f) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

Part 3 Complaints to, and inquiries by, the Commissioner**Division 2** Complaints to the Commissioner**Section 15**

Division 2—Complaints to the Commissioner**Subdivision A—Complaints****15 Making a complaint to the Commissioner**

- (1) A person may make a complaint to the Commissioner in relation to an issue arising out of, or in connection with, the provision of supports or services provided by an NDIS provider.
- (2) A complaint:
 - (a) may be made orally, in writing or by any other means which is appropriate in the circumstances; and
 - (b) may be made anonymously.
- (3) The complainant may ask the Commissioner to keep any of the following information confidential:
 - (a) the identity of the complainant;
 - (b) the identity of a person identified in the complaint;
 - (c) any other details included in the complaint.
- (4) The Commissioner must take reasonable steps to ensure that:
 - (a) appropriate support and assistance is provided to any person who wishes to make a complaint; and
 - (b) a person making a complaint, and persons with disability affected by a complaint, are provided with information about accessing an independent advocate.

16 Dealing with a complaint

- (1) If the Commissioner receives a complaint under section 15, the Commissioner must acknowledge receipt of the complaint.

Note: Notices, forms and information given under the Act, the regulations or this instrument to a person with disability must be explained by the giver of the notice, form or information to the maximum extent possible to the person in the language, mode of communication and terms which that person is most likely to understand (see section 7 of the Act).
- (2) However, subsection (1) does not apply if:
 - (a) the complaint was received anonymously; or
 - (b) the contact details of the complainant were not provided.
- (3) The Commissioner must, in relation to each issue raised in the complaint, decide to do one of the following:
 - (a) take no further action, or defer taking action, on the issue on the basis that section 17 applies to the issue;
 - (b) give assistance and advice to the complainant, a person with disability affected by the issue and the NDIS provider to which the issue relates;
 - (c) undertake a resolution process.

Complaints to, and inquiries by, the Commissioner **Part 3**
 Complaints to the Commissioner **Division 2**

Section 17

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- (4) Before making a decision under subsection (3), the Commissioner may do one or more of the following:
- (a) review documents provided to the Commissioner;
 - (b) visit the location at which the supports or services are provided by the NDIS provider, or the offices of the NDIS provider;
 - (c) discuss the issues raised in the complaint with the complainant, a person with disability affected by an issue raised in the complaint, the NDIS provider or any other person;
 - (d) work with the complainant, a person with disability affected by an issue raised in the complaint, the NDIS provider or a person employed or otherwise engaged by the NDIS provider to:
 - (i) provide advice and assistance; and
 - (ii) where possible and appropriate, assist the persons involved in the complaint to come to a mutually agreed resolution;
 - (e) request information relating to the issues raised in the complaint from any person;
 - (f) take any other action that the Commissioner considers is appropriate in the circumstances.
- (5) In dealing with the complaint, the Commissioner must:
- (a) consider the views of any person with disability affected by the complaint, if the Commissioner considers it is reasonable and appropriate to do so; and
 - (b) take action under this Division with due regard to procedural fairness, including by allowing a person employed or otherwise engaged by an NDIS provider reasonable opportunity to comment on any proposed adverse finding in relation to the person; and
 - (c) seek to resolve the complaint as quickly, and with as little formality, as a proper consideration of the issues raised in the complaint allows.

Note: The Commissioner must also comply with the rules of procedural fairness when dealing with complaints (see section 30).

17 No further action, or deferring action, in relation to a complaint

Decision to take no further action

- (1) The Commissioner may decide to take no further action in relation to a complaint, or an issue raised in a complaint, if the Commissioner is satisfied that one or more of the following apply:
- (a) the complaint or issue was not raised in good faith;
 - (b) the complaint or issue has been, or is being, dealt with under this instrument;
 - (c) the complaint has been withdrawn under section 18;
 - (d) a person with disability affected by an issue raised in the complaint does not wish the issue to be considered by the Commissioner;
 - (e) the complaint or issue is better dealt with by another person or body;
 - (f) there is insufficient information about the complaint, the issue or the complainant to take any further action;

Part 3 Complaints to, and inquiries by, the Commissioner**Division 2** Complaints to the Commissioner**Section 18**

- (g) having regard to all the circumstances, further action in relation to the complaint or issue is not appropriate or warranted.
- (2) In deciding whether to take no further action in accordance with paragraph (1)(d), the Commissioner must consider:
 - (a) whether the health, safety or welfare of any person with disability affected by an issue raised in the complaint will be negatively impacted by a decision to take no further action; and
 - (b) whether the person with disability referred to in paragraph (1)(d) has been subject to victimisation, coercion or duress in deciding that the person does not wish the issue to be considered.
- (3) The Commissioner may decide to take no further action in relation to a complaint, or an issue raised in a complaint, if the complaint or issue:
 - (a) is, or has been, the subject of a legal proceeding; or
 - (b) is, or has been, the subject of a coronial inquiry;
 and the Commissioner is satisfied that that complaint or issue is being, or has been, adequately dealt with.

Decision to defer taking action

- (4) The Commissioner may decide to defer taking action in relation to a complaint or an issue raised in a complaint if the complaint or issue is the subject of a legal proceeding or a coronial inquiry.
- (5) The Commissioner may decide to defer taking action in relation to a complaint or an issue raised in a complaint to enable the complainant or a person with disability affected by the complaint or issue to deal directly with the NDIS provider in relation to the complaint or issue.
- (6) The Commissioner may provide advice and assistance to the complainant, the person with disability or any other person for the purposes of subsection (5).

18 Withdrawal of a complaint

- (1) A complainant may withdraw his or her complaint at any time by advising the Commissioner orally, in writing or by any other means which is appropriate in the circumstances.
- (2) The Commissioner must acknowledge, in writing, receipt of the withdrawal of the complaint.
- (3) Despite the withdrawal of a complaint, the Commissioner may deal, or continue to deal, with the complaint.
- (4) In deciding whether to deal, or continue to deal, with the complaint under subsection (3), the Commissioner may consider the following matters:
 - (a) the wishes of the person or persons with disability affected by an issue raised in the complaint;
 - (b) the health, safety or welfare of any person with disability affected by an issue raised in the complaint;

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Section 19

- (c) whether the complaint may have been withdrawn on the basis of victimisation, coercion or duress.

Note: The Commissioner is not required to give notice of the outcome of a complaints process to a complainant if the complainant withdraws his or her complaint (see Subdivision C).

19 Confidentiality

- (1) The Commissioner must take reasonable steps to ensure that a request for confidentiality under subsection 15(3) is complied with.
- (2) However, the Commissioner may decide not to comply with the confidentiality request if the Commissioner considers that doing so will, or is likely to, place at risk the safety, health or wellbeing of any of the following persons:
 - (a) the complainant;
 - (b) a person with disability affected by an issue raised in the complaint;
 - (c) any other person.
- (3) The Commissioner must take all reasonable steps to notify the complainant before deciding not to keep information confidential that the complainant has requested be kept confidential.

Subdivision B—Resolution process

20 Resolution process

- (1) If the Commissioner decides to undertake a resolution process in relation to a complaint or an issue raised in a complaint, the Commissioner may:
 - (a) require the NDIS provider to which the complaint or issue relates to examine and attempt to resolve the complaint or issue and report back to the Commissioner; or
 - (b) request the complainant, the NDIS provider and any other person to participate in a conciliation process; or
 - (c) provide advice to the NDIS provider in relation to the complaint or issue; or
 - (d) require the NDIS provider to undertake remedial action in relation to the complaint or issue and report back to the Commissioner; or
 - (e) take any other action the Commissioner considers appropriate in the circumstances.
- (2) In taking action under subsection (1), the Commissioner may do one or more of the following:
 - (a) review documents;
 - (b) visit the location at which the supports or services are provided by the NDIS provider;
 - (c) visit the offices of the NDIS provider;
 - (d) discuss the complaint or issue with the complainant, the person with disability affected by the issue, the NDIS provider or any other person;

Part 3 Complaints to, and inquiries by, the Commissioner**Division 2** Complaints to the Commissioner**Section 21**

- (e) request information relating to the issues raised by the complaint from any person.
- (3) Evidence of anything said or done by a person in the course of the conciliation of a complaint under this section is not admissible in any legal proceedings relating to the complaint.
- (4) Subsection (3) does not apply in relation to any proceedings commenced under, or in connection with, the Act.

21 Notifying NDIS provider

- (1) If the Commissioner decides to undertake a resolution process in relation to a complaint or an issue arising out of a complaint, the Commissioner must notify the NDIS provider to which the complaint or issue relates about the issue as soon as practicable.
- (2) Subsection (1) does not apply if the Commissioner considers that the notification will, or is likely to:
 - (a) impede the resolution of the complaint or issue; or
 - (b) place the safety, health or wellbeing of the complainant, a person with disability or any other person at risk; or
 - (c) place the complainant or a person with disability at risk of victimisation, intimidation or harassment.

22 Ending the resolution process

- (1) The Commissioner may decide to end a resolution process in relation to a complaint, or an issue raised in a complaint, if one or more of the following circumstances apply:
 - (a) the complaint or issue has been resolved because the complainant, and the NDIS provider to which the complaint or issue relates, have agreed on an outcome;
 - (b) the NDIS provider has addressed the complaint or issue to the satisfaction of the Commissioner;
 - (c) the Commissioner has required the NDIS provider to undertake remedial action within a specified period in relation to the complaint or issue;
 - (d) the Commissioner has initiated action under Division 8 of Part 3A of the Act which relates to the complaint or issue;
 - (e) the complaint has been withdrawn under section 18;
 - (f) the complaint or issue is better dealt with by another person or body;
 - (g) continuation of the resolution process is not appropriate or warranted because the Commissioner is satisfied that:
 - (i) despite reasonable inquiry by the Commissioner, the circumstances giving rise to the complaint or issue cannot be determined; or
 - (ii) information given by the complainant was not given in good faith; or
 - (iii) the complaint or issue has already been, or is already being, dealt with under this instrument; or

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- (iv) a person with disability affected by an issue raised in the complaint does not wish the resolution process to continue;
- (h) the Commissioner is satisfied that, because the complaint or issue is, or has been, the subject of a legal proceeding or a coronial inquiry, the complaint or issue has been, or will be, adequately dealt with;
- (i) having regard to all the circumstances, continuation of the resolution process is not appropriate or warranted.

Note: Requirements to provide a notice relating to a decision under this section to end a resolution process are in Subdivision C.

- (2) In deciding whether to end a resolution process in accordance with subparagraph (1)(g)(iv), the Commissioner must consider:
 - (a) whether the health, safety or welfare of any person with disability affected by an issue raised in the complaint will be negatively impacted by the decision; and
 - (b) whether the complaint may have been withdrawn on the basis of victimisation, coercion or duress.

Subdivision C—Notices relating to outcome of resolution processes

23 Notice of decision to take no further action

- (1) If the Commissioner decides to take no further action in relation to a complaint or an issue arising out of a complaint under paragraph 16(3)(a), the Commissioner must, as soon as practicable, give the complainant:
 - (a) the reasons for the Commissioner's decision to take no further action and any appropriate feedback for the complainant in relation to that decision; and
 - (b) information about how the complainant may apply for reconsideration of the decision by the Commissioner.
- (2) However, the Commissioner is not required to comply with subsection (1) if:
 - (a) the complaint was made anonymously; or
 - (b) the complaint was withdrawn under section 18.
- (3) In complying with subsection (1), the Commissioner may, on request from a person with disability affected by an issue raised in the complaint, exclude information.
- (4) The Commissioner may exclude information under subsection (3) only if the Commissioner is satisfied that such an exclusion will not materially affect the complainant's ability to seek reconsideration of the decision or be afforded procedural fairness.

24 Notice of outcome of resolution process

- (1) This section applies if the Commissioner decides to end a resolution process in relation to a complaint or an issue raised in a complaint under section 22.
- (2) The Commissioner must, as soon as practicable, give the complainant, each person with disability affected by an issue raised in the complaint, the relevant

Part 3 Complaints to, and inquiries by, the Commissioner**Division 2** Complaints to the Commissioner**Section 25**

NDIS provider and any person employed or otherwise engaged by the provider who may have adverse findings made against the person, the following information, in writing:

- (a) notice of the outcome of the resolution process including:
 - (i) any key findings or outcomes of the resolution process; and
 - (ii) any actions agreed to be taken by an NDIS provider or complainant in relation to the issue; and
 - (iii) any remedial action in relation to the complaint or issue that the Commissioner requires the NDIS provider to undertake within a specified period; and
 - (iv) the Commissioner's decision to end the resolution process and the reasons for that decision;
 - (b) information about how the complainant or the NDIS provider may apply for reconsideration of the Commissioner's decision;
 - (c) any other information the Commissioner considers relevant.
- (3) However, the Commissioner is not required to comply with subsection (2) in relation to the complainant if:
- (a) the complaint was made anonymously; or
 - (b) the complaint was withdrawn under section 18.
- (4) In complying with subsection (2), the Commissioner may, on request from a person with disability affected by an issue raised in the complaint, exclude information.
- (5) The Commissioner may exclude information under subsection (4) only if the Commissioner is satisfied that such an exclusion will not materially affect the complainant's ability to seek reconsideration of the decision.
- (6) The Commissioner may include different information in a notice given under this section to the complainant, a person with disability affected by an issue raised in the complaint, the NDIS provider and a person employed or otherwise engaged by the provider.

25 Provision of information to other persons

The Commissioner may give information, including about action taken in relation to an issue raised in a complaint, to any person or body that the Commissioner considers has a sufficient interest in the matter.

Subdivision D—Reconsideration of decisions**26 Application for reconsideration by the Commissioner***Reconsideration of a decision to take no further action*

- (1) A complainant, or a person with disability affected by an issue raised by a complaint, may apply to the Commissioner for reconsideration of a decision by the Commissioner under paragraph 16(3)(a) to take no further action on the complaint or an issue raised in the complaint.

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Section 27

- (2) However, an application cannot be made under subsection (1) if the decision was made because of the circumstance mentioned in paragraph 17(1)(c) (complaint has been withdrawn).

Reconsideration of a decision made to end a resolution process

- (3) If the Commissioner makes a decision under section 22 to end a resolution process in relation to a complaint or an issue, any of the following persons may apply to the Commissioner for reconsideration of the decision:
- (a) the complainant;
 - (b) a person with disability affected by the issue;
 - (c) the NDIS provider to which the complaint or issue relates;
 - (d) a person employed or otherwise engaged by the NDIS provider who may have an adverse finding made against the person.
- (4) However, an application cannot be made under subsection (3) if:
- (a) the decision was made in the circumstances mentioned in paragraph 22(1)(f) (issue better dealt with by another person or body); or
 - (b) the decision was made after a reconsideration decision under paragraph 27(1)(b) and one or more of the circumstances in section 22 applies.

Applications

- (5) A person making an application under subsection (1) or (3) for reconsideration of a decision must:
- (a) state the reasons why reconsideration is sought; and
 - (b) unless subsection (6) applies—make the application within 42 days of the person being notified of the decision.
- (6) The Commissioner may extend the period under paragraph (5)(b) if the Commissioner is satisfied it is appropriate to do so.
- (7) An application under subsection (1) or (3) may be made orally, in writing or by any other means which is appropriate in the circumstances.
- (8) If satisfied it is reasonable in all the circumstances to do so, the Commissioner may:
- (a) notify any other person of an application made under subsection (1) or (3); and
 - (b) provide any other person with a copy of the application; and
 - (c) provide an opportunity for any other person to provide comments on the application within the period specified by the Commissioner.

27 Reconsideration by the Commissioner on application

- (1) Within 28 days of receiving an application under section 26 to reconsider a decision, the Commissioner must:
- (a) confirm the decision in relation to which reconsideration has been sought; or

Part 3 Complaints to, and inquiries by, the Commissioner**Division 2** Complaints to the Commissioner**Section 28**

- (b) decide to undertake a new resolution process.
- (2) If the Commissioner is satisfied that the application for reconsideration raises an issue that was not part of, or not related to, the original complaint, the Commissioner may treat the application as a fresh complaint.
- (3) If the Commissioner confirms the original decision under paragraph (1)(a), the Commissioner must notify the following, in writing, of the Commissioner's decision:
 - (a) the applicant;
 - (b) a person with disability affected by an issue raised in the complaint.
- (4) If the Commissioner decides to undertake a new resolution process in relation to a complaint or an issue under paragraph (1)(b):
 - (a) the Commissioner must notify the following, in writing, of the Commissioner's decision:
 - (i) the complainant;
 - (ii) unless the Commissioner is satisfied it would be inappropriate to do so—a person with disability affected by the issue;
 - (iii) the NDIS provider to which the complaint or issue relates;
 - (iv) a person employed or otherwise engaged by the NDIS provider who may have an adverse finding made against the person; and
 - (b) the Commissioner must complete the new resolution process:
 - (i) in accordance with Subdivisions B and C; and
 - (ii) within 90 days of receiving the application under section 26 to reconsider the decision.
- (5) The Commissioner may, before the end of the period referred to in subparagraph (4)(b)(ii), extend the period by up to 14 days.
- (6) If the Commissioner decides to extend the period under subsection (5), the Commissioner must notify the following of the decision, including reasons for the decision:
 - (a) the complainant;
 - (b) a person with disability affected by an issue raised in the complaint;
 - (c) the NDIS provider to which the issue relates;
 - (d) any person employed or otherwise engaged by the NDIS provider who may have an adverse finding made against the person.

28 Reconsideration by the Commissioner on own motion

- (1) The Commissioner may reconsider a decision (the *original decision*) made by the Commissioner in relation to a complaint if the Commissioner becomes aware of new information that, had the Commissioner been aware of it at the time the original decision was made, may have affected the original decision.
- (2) In exercising the power under subsection (1), the Commissioner must have regard to the following matters:
 - (a) the time period that has elapsed since the original decision was made;

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Section 28

- (b) the effect a reconsideration of the original decision would have on any relevant party, including the complainant, a person with disability affected by an issue raised in the complaint, the NDIS provider or a person employed or otherwise engaged by the NDIS provider;
 - (c) any other matter the Commissioner considers relevant.
- (3) If the Commissioner decides to reconsider the original decision, the Commissioner:
 - (a) must give written notice of the decision to each person who was provided with notice in relation to the original decision; and
 - (b) must undertake a new resolution process.

Part 3 Complaints to, and inquiries by, the Commissioner**Division 3** Inquiries by the Commissioner**Section 29**

Division 3—Inquiries by the Commissioner**29 Inquiries by the Commissioner in relation to complaints**

- (1) The Commissioner may, on his or her own initiative, authorise an inquiry in relation to an issue arising out of, or connected with, a complaint about the provision of supports or services by an NDIS provider.
- (2) The Commissioner may, on his or her own initiative, authorise an inquiry in relation to a series of complaints that have occurred in connection with the provision of supports or services by one or more NDIS providers.
- (3) An inquiry may be carried out whether or not a complaint has been received under section 15.
- (4) An inquiry may be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.
- (5) Without limiting subsection (4), the Commissioner may:
 - (a) consult with other persons, bodies and governments on matters relating to the inquiry; or
 - (b) request information that is relevant to the inquiry from any person; or
 - (c) provide opportunities for people with disability to participate in the inquiry.
- (6) The Commissioner may prepare and publish a report setting out his or her findings in relation to the inquiry.

Division 4—Other matters**30 Commissioner must comply with procedural fairness rules**

In dealing with a complaint, the Commissioner must have due regard to the rules of procedural fairness.

Note: The Commissioner may make guidelines for the purposes of dealing with complaints, including in relation to matters of procedural fairness (see subsection 181D(2) of the Act).

31 Referral to other organisations

- (1) Nothing in this instrument prevents the Commissioner from referring an issue raised in a complaint to the Minister, the Agency, or any other person or body.
- (2) The Commissioner may continue to deal with an issue raised in a complaint even if the Commissioner has referred the issue under subsection (1).

32 Commissioner may take action under the Act

Nothing in this instrument prevents the Commissioner from taking action under Division 8 of Part 3A of the Act in relation to an issue raised in a complaint or an issue raised in information received by the Commissioner.



National Disability Insurance Scheme (Code of Conduct) Rules 2018

I, Graeme Head, as delegate of the Minister for Social Services, make the following rules.

Dated 17 May 2018

Graeme Head
Commissioner of the NDIS Quality and Safeguards Commission

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Preamble

- (1) The National Disability Insurance Scheme (NDIS) represents a fundamental change to how supports for people with disability are funded and delivered across Australia. The NDIS has potential to produce major benefits for people with disability, their families and the broader community.
- (2) The NDIS Quality and Safeguards Commission is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market. The Commission will build the capability of NDIS participants and providers to uphold the rights of people with disability and realise the benefits of the NDIS. The rules are intended to support participants to be informed purchasers and consumers of NDIS supports and services and to live free from abuse, neglect, violence and exploitation.
- (3) The *National Disability Insurance Scheme (Code of Conduct) Rules 2018* set out the NDIS Code of Conduct, which applies to all NDIS providers and persons employed or otherwise engaged by them, regardless of whether they are registered. The NDIS Code of Conduct supports the rights of people with disability in the National Disability Insurance Scheme to have access to safe and ethical supports, and reflects the core values and principles set out in the National Standards for Disability Services, the National Mental Health Standards and the *National Disability Insurance Scheme Act 2013*.
- (4) To ensure the safety and quality of supports within the emerging NDIS market, the NDIS Code of Conduct sets minimum expectations, shapes the behaviour and culture of NDIS providers and persons employed or otherwise engaged by NDIS providers, and empowers consumers in relation to their rights.
- (5) Anyone can raise a complaint about potential breaches of the NDIS Code of Conduct. When NDIS providers, or persons employed or otherwise engaged by NDIS providers, are found to have breached the NDIS Code of Conduct, the Commissioner is able to take a range of actions as appropriate, including education, compliance and enforcement action or prohibiting them from operating in the NDIS market.

Part 1 PreliminarySection 1

Part 1—Preliminary**1 Name**

This instrument is the *National Disability Insurance Scheme (Code of Conduct) Rules 2018*.

2 Commencement

This instrument commences on 1 July 2018.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) National Disability Insurance Scheme;
- (b) NDIS Code of Conduct;
- (c) NDIS provider.

In this instrument:

Act means the *National Disability Insurance Scheme Act 2013*.

Code-covered person has the meaning given under subsection 5(2) of this instrument.

Part 2—NDIS Code of Conduct

5 Persons covered by the NDIS Code of Conduct

- (1) This Part is made for the purposes of section 73V of the Act.
- (2) Each of the following persons is a ***Code-covered person*** for the purposes of this instrument:
 - (a) NDIS providers;
 - (b) all persons employed or otherwise engaged by an NDIS provider.
- (3) Code-covered persons must comply with the NDIS Code of Conduct set out in section 6 of this instrument.

Note: Compliance with the NDIS Code of Conduct is a civil penalty provision (see section 73V of the Act). A civil penalty provision can be enforced by obtaining an order for a person to pay a pecuniary penalty.

6 NDIS Code of Conduct

In providing supports or services to people with disability, a Code-covered person must:

- (a) act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions; and
- (b) respect the privacy of people with disability; and
- (c) provide supports and services in a safe and competent manner, with care and skill; and
- (d) act with integrity, honesty and transparency; and
- (e) promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability; and
- (f) take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability; and
- (g) take all reasonable steps to prevent and respond to sexual misconduct.

ndis

Participant Service Charter



1 Our Participant Service Charter

We know the National Disability Insurance Scheme (NDIS) is making a difference to participants' lives.

We are focused on improving how we serve NDIS participants, in line with our **Purpose**:

Support individuals with a significant and permanent disability (participants) to be more independent, and engage more socially and economically, while delivering a financially sustainable NDIS that builds genuinely connected and engaged communities and stakeholders.

Our **Participant Service Charter** sets out what you can expect from us at the National Disability Insurance Agency (NDIA) and our Partners in the Community organisations.

It provides overall principles for our interactions with you, and clear service standards and timeframes. These are included in the proposed **Participant Service Guarantee**.

The Participant Service Charter is also underpinned by the specific tangible actions listed in the **Participant Service Improvement Plan 2020-21**.

The Participant Service Guarantee and Participant Service Improvement Plan provide us with a clear direction to improve your experience with the NDIS.

Improving your experience with us is part of how the NDIS can deliver on its wider promise. That promise is to support you to achieve your goals, so you can get on and do the things you want to do.

We want you to have greater independence, and be part of more inclusive communities. And for this to happen, we need to improve what we do and how we do it with you.

We want to support you to make your own decisions to the greatest extent possible.

Half of NDIS participants are less than 18 years old, and we want to support and promote your voice in your plans and supports where possible, so you can take control of your NDIS. This includes children in out of home care too.

We also want to adopt family-centred practices respecting that families and carers also give voice to their children's needs and support their development.

The Participant Service Charter is current as at 30 June 2020. It will be updated to ensure it remains a live document. Updates will be available on the NDIS website.



2 How we will work with you

The Participant Service Charter is based on five principles for our engagement with you:



Transparent



Responsive



Respectful








Empowering



Connected



The examples in the table come from the Participant Service Improvement Plan.

How we will work with you	What this means for you	What you can expect from us
 Transparent	We will make it easy to access and understand our information and decisions.	We will: <ul style="list-style-type: none"> • keep you informed • communicate in your preferred format • explain the decisions we make and your appeal rights • make sure we have answers to your questions.
 Responsive	We will respond to individual needs and circumstances.	We will: <ul style="list-style-type: none"> • make quality decisions in line with the Participant Service Guarantee time standards • provide you with a staff member to contact so you only need to tell us information once • provide you with options so that when your circumstances change, we can work together to find an appropriate solution.
 Respectful	We will recognise your individual experience and acknowledge you are an expert in your own life.	We will: <ul style="list-style-type: none"> • listen to you so we can understand your experience • work together so the NDIS can support you within the requirements of the Act • make sure our staff are trained to understand the impact of different disabilities on people's lives • listen to your feedback and use this to find better ways of doing things.
 Empowering	We will make it easy to access information and be supported by the NDIS to lead your life.	We will: <ul style="list-style-type: none"> • make our processes simple and easy to use • update our information so it's easier to understand and useful when making decisions • inform you of your rights with the NDIS or providers • support and promote your voice so you have control of your plan • include people with disability and the community to help us develop and test our processes.
 Connected	We will support you to access the services and supports you need.	We will: <ul style="list-style-type: none"> • provide options so you can choose how you connect with us • help you to use your plan and locate supports and services • build community awareness and understanding of the NDIS • connect with participants in different settings and communities, especially in Aboriginal and Torres Strait Islander, culturally and linguistically diverse communities, and LGBTQIA+ communities.

3 The service standards you can expect

The Commonwealth Government's response to the Tune Review has been delayed due to the COVID-19 pandemic. The NDIA plans to start measuring itself where possible against the proposed Participant Service Guarantee timeframes from 1 July 2020, ahead of the anticipated legislative change.

Service type	Description of the service being guaranteed	Service Guarantee
General	Explanation of a previous decision, after a request for explanation is received ¹ .	28 days
Access	Make an access decision, or request for more information, after an access request has been received.	21 days
	Allow sufficient time for prospective participants to provide information, after NDIA has requested further information.	90 days
	Make an access decision, after the final information has been provided.	14 days
Planning	Commence facilitating the preparation of a plan, after an access decision has been made.	21 days
	Approve a participant's plan, after an access decision has been made.	70 days
	Approve a plan for ECEI participants, after an access decision has been made.	90 days
Implementation	Offer to hold a plan implementation meeting, after the plan is approved.	As soon as reasonably practical
	If the participant accepts the offer, hold a plan implementation meeting.	28 days
	Provide a copy of the plan to a participant, after the plan is approved.	7 days
Plan review	Commence facilitating a scheduled plan review, prior to the scheduled review date.	56 days
	Decide whether to undertake a participant requested plan review, after the request is received.	21 days
	Complete a participant requested review, after the decision to accept the request was made.	42 days

¹ If reasons are provided with the original decision, it should not be necessary to request reasons for a previous decision at all.

Service type	Description of the service being guaranteed	Service Guarantee
Plan variations	Vary a plan, after the receipt of information that triggers the plan amendment process.	28 days
	Vary a plan, after receipt of information relating to a complex quote that triggers a plan amendment process.	50 days
	Provide a copy of the plan to a participant, after the plan is amended.	7 days
Reviewable decisions	Complete an internal review of a reviewable decision, after a request is received.	90 days
	Implement an AAT decision to vary a plan, after receiving notification of the AAT decision.	28 days
Nominee	Cancel participant requested nominee.	14 days
	Cancel CEO initiated nominee.	14 days

Service standards for the National Contact Centre

Service type	Description of the service being guaranteed
National Contact Centre	Our National Contact Centre will answer 80% of calls within 60 seconds.

Service standards for complaints

Service type	Description of the service being guaranteed	Service Guarantee
Complaints	Acknowledge a complaint after we receive it.	1 day
	Make contact after we receive a complaint.	2 days
	Resolve 90% of complaints after we receive it. More complex complaints may take longer to address.	21 days

4 How you will know if we are delivering against the Participant Service Charter

- 1 We will do things with you and for you **on time** – as set by the **Participant Service Guarantee** time standards. This will be checked by the Commonwealth Ombudsman.
- 2 You will experience a service that is **transparent, responsive, respectful, empowering and connected**, as measured in the quarterly Participant Satisfaction survey. We will aim to reach 90 per cent for all stages of your engagement with us. This will be overseen by the Independent Advisory Council.
- 3 It will be easier for you to **meet your goals** around which your support plan was built. The goals should reflect your hopes and dreams; for example that the NDIS has helped me to live independently.
- 4 You will see continued improvements in measures of **family, social, community, and economic** outcomes from the NDIS.
- 5 You will be supported by a **financially sustainable** NDIS that you can rely on into the future.
- 6 The **general community** will also value the NDIS, as measured by sentiment survey scores improving over time. This will also be overseen by the Independent Advisory Council.
- 7 We also know that **you will hold us to account** by providing your feedback, compliments, complaints and suggestions. We will use this feedback to improve the NDIS.



5 Contacting us

If you have questions or need NDIS advice or support, you can contact us.

There are many ways you can do this, including:

- **by phone** – calling 1800 800 110
- **using webchat** on the NDIS website
- **email:** enquiries@ndis.gov.au
- **in person** at your local NDIS, Local Area Coordinator or Early Childhood Early Intervention office in your area. Search your local area
- **in writing** – our mailing address is:
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601

You can also contact us using accessibility services, including:

- translating and interpreting – For a free of charge translator or interpreter you can phone **131 450**
- if you have communication access needs, you can use: TTY: **1800 555 677** or Speak and Listen: **1800 555 727**
- **National Relay Service:** Visit the [National Relay Service](#) website or phone **1800 555 727** then ask for **1800 800 110**.

How you can provide feedback, compliments, suggestions and complaints

We respect and value feedback and encourage you to share your concerns, compliments and suggestions with us.

You can have your say by:

- completing the **feedback form** on the [NDIS website](#)
- emailing us at feedback@ndis.gov.au
- **calling us** on **1800 800 110**.

Our goal is to understand and resolve concerns as quickly as possible, long before they become a formal complaint.

How we will respond to a complaint

We will respond to your complaint by:

- keeping you informed about the progress of your complaint at every stage, using your preferred communication method
- talking with you or your representative about your complaint to better understand it
- taking immediate action if a participant appears to be at risk of harm, neglect or abuse.

You can find more information about our service standards for complaints and feedback in the **service standards you can expect** section of this document.

If you are unhappy about the outcome or how we handled your complaint

If you're unhappy with our resolution process, you can ask for a supervisor or manager to review your complaint and how it was handled.

You may also choose to contact the Commonwealth Ombudsman:

- **visit:** [Ombudsman website](#)
- **phone:** 1300 362 072

If you do not agree with a decision we have made

If you believe the NDIA has made the wrong decision, you can choose to have it reviewed.

Requests for a decision review must be made within three months of a decision.

For more information, please visit our [website](#).

If you are unhappy with the outcome of a decision review

If you believe the NDIA has made the wrong decision in relation to your decision review request, you may choose to lodge an external review request through the Administrative Appeals Tribunal (AAT).

A request for review through the AAT needs to be made within 30 days of an NDIA decision being made.

The AAT is independent of the NDIA.

We follow the requirements of the Commonwealth's Model Litigant obligations. Further information can be found under Appendix B of the [Legal Services Directions 2017](#). We may appeal a decision of the AAT. We will promptly implement the final decision of the tribunal or court.

For more information about external reviews through the AAT:

- visit our [website](#)
- **phone:** 1800 228 333
- **visit:** [AAT website](#).





For more information about this plan, please contact:

National Disability Insurance Agency


 Telephone 1800 800 110

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[ndis.gov.au](https://www.ndis.gov.au)

For people who need help with English

 TIS: 131 450

For people who are Deaf or hard of hearing

 TTY: 1800 555 677

 Speak and Listen: 1800 555 727

 Internet relay: National Relay Service
relayservice.gov.au