



**NDIS Quality
and Safeguards
Commission**

Western Australia: Provider information session

Webinar

Wednesday 18 November 2020, 10:00am to 1:00pm AWST

Agenda



- **Provider responsibilities (includes Q&A):** Samantha Taylor, Registrar
- **Behaviour Support:** Tracey Harkness, National Director – Behaviour Support
- **Complaints and Reportable Incidents:** Robert Griew, Complaints Commissioner and Laura Dorahy, National Director – Complaints and Reportable Incidents
- **Panel Q&A on Behaviour Support and Reportable Incidents:** Tracey Harkness, Robert Griew, Laura Dorahy
- **Local WA team introductions:** Samantha Jenkinson, State Director



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Provider responsibilities

Samantha Taylor PSM, Registrar

How do we work with providers?



We work with providers to improve the quality and safety of NDIS supports and services



The NDIS Commission oversees:

-  Registration and regulation of providers
-  Compliance with the Practice Standards and Code of Conduct
-  Complaints about NDIS services and supports
-  Reportable incidents, including abuse and neglect of a participant
-  Use of restrictive practices
-  Nationally consistent NDIS worker screening

NDIS Code of Conduct



 **NDIS Code of Conduct**

The NDIS Code of Conduct sets expectations for appropriate and ethical conduct in delivery of supports and services.

 Providers are expected to support workers to understand and apply the Code of Conduct in their organisation.

-  **Respect Individual rights**
-  **Respect self-determination**
-  **Respect privacy**
-  **Act with Integrity, honesty and transparency**
-  **Deliver services competently**
-  **Ensure quality and safety**
-  **Prevent and respond to violence, neglect, abuse, and exploitation**

All providers must follow the NDIS Code of Conduct which is available at www.ndiscommission.gov.au

Worker Orientation Module ‘Quality Safety and You’

www.ndiscommission.gov.au/trainingcourse

Who needs to be registered?



Providers must be registered with the NDIS Commission if you deliver one or more of the following:

- Services and supports to NDIS participants who have their plan managed by the NDIA
- Specialist activities: SDA and Behaviour Support
- Implement restrictive practices as part of the supports and services to participants
- Providers delivering supports to people under the Commonwealth Continuity of Support program

There are benefits to providers in being registered

What does registration involve?



There are three components to registration:

- assesses the **provider and its key personnel** for **suitability** to participate in the NDIS market, and
- Independent assessment (audit) of against relevant **NDIS Practice Standards**, then
- sets **conditions** of registration depending on what services and supports you are registering to provide

Provider registration



Conditions of registration:

- Compliance with Commonwealth, state and territory laws
- NDIS Practice Standards
- NDIS Code of Conduct
- Complaints management and resolution requirements
- Incident management and Reportable Incident requirements
- Behaviour Support requirements (if applicable)
- Worker screening.





What are the NDIS Practice Standards?

Requirements that **set the standard of service you must deliver** to be a registered NDIS provider

Benchmark for providers to **assess performance and demonstrate high quality and safe supports** for participants

Each Practice Standard is built from a **high-level participant outcome**, supported by **quality indicators**.



Practice Standards Audit – Verification



Baseline quality expectations of less complex supports and services for NDIS participants, usually with other regulatory oversight

Verification module includes:

- Complaints management
- Incident management
- Risk management
- Human resource management.

Plus:

- General requirements including qualifications and experience



Baseline quality expectations of more complex supports and services for NDIS participants

Core module includes:

- Rights and Responsibilities
- Governance and Operational Management
- Provision of Supports, and
- Support Provision Environment.

Supplementary modules (for more complex supports):

- High intensity daily personal activities
- Specialist behaviour support
- Implementing behaviour support plans
- Early childhood supports
- Specialised support coordination
- Specialised disability accommodation.





Standard Example: Core Module: Rights and responsibilities

- **Person-centred supports**
- Individual values and beliefs respected
- Privacy and dignity upheld
- Independence and informed choice
- [Free from] violence, abuse, neglect, exploitation and discrimination.

Person centred supports

Outcome: Each participant accesses supports that promote, uphold and respect their legal and human rights and is enabled to exercise informed choice and control. The provision of supports promotes, upholds and respects individual rights to freedom of expression, self-determination and decision-making.

To achieve this outcome, the following **quality indicators** should be demonstrated:

- ✓ Each participant's legal and human rights are understood and incorporated into everyday practice.
- ✓ Communication with each participant about the provision of supports is responsive to their needs and is provided in the language, mode of communication and terms that the participant is most likely to understand.
- ✓ Each participant is supported to engage with their family, friends and chosen community as directed by the participant.

Worker screening



New national worker screening system and database coming

It will **replace existing arrangements** and set a single, **national standard for all workers**

When in place, **all registered NDIS providers must ensure workers have a valid clearance**

Until in place, **existing arrangements continue to apply**

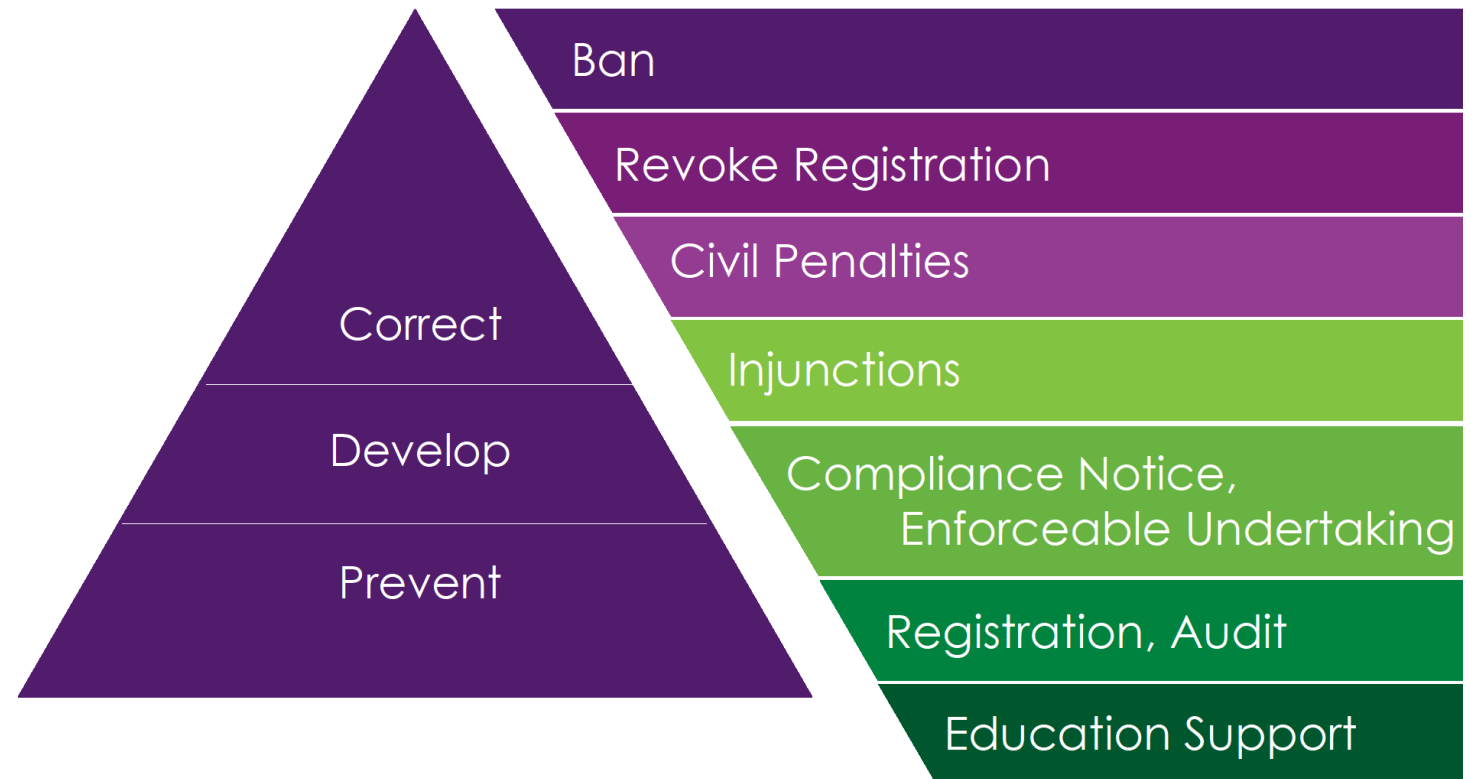
Workers will be subject to ongoing monitoring nationally.

What happens when things don't go well



The NDIS Commission will respond **appropriately** to issues that arise, and identify opportunities to prevent them occurring again.

- Early resolution
- Conciliation
- Compliance action



How the NDIS Commission will support you



We are working with states and territories to build local relationships, and with the NDIA

Providers have received information from the NDIA on transition arrangements

We've sent you a series of resources/information

Visit our updated website

Contact us if you can't find what you need.



Questions about provider responsibilities?



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Behaviour Support

Tracey Harkness, National Director – Behaviour Support

Behaviour Support: Our role



- Raising the bar of positive behaviour support that should focus on:
 - Safeguarding the dignity of the person and improving their quality of life
 - Contemporary evidence-based practice
 - Constructively reducing behaviours that may lead to harm of self or others
 - Work towards the reduction and elimination of restrictive practices

How we will reduce/eliminate restrictive practices



- Building the capacity and assessing suitability of Behaviour Support Practitioners
- Developing policy and guidance materials, education and advice
- Monitoring/analysing use of restrictive practices
- Assisting states and territories in developing nationally consistent restrictive practice definitions and principles for authorisation.

Regulated restrictive practices



Restrictive practice: Any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability
(*NDIS Act 2013 s9*)

Regulated restrictive practices [*NDIS (Restrictive Practices and Behaviour Support) Rules 2018*]:

- Seclusion
- Chemical restraint
- Mechanical restraint
- Physical restraint
- Environmental restraint.

Regulated restrictive practices



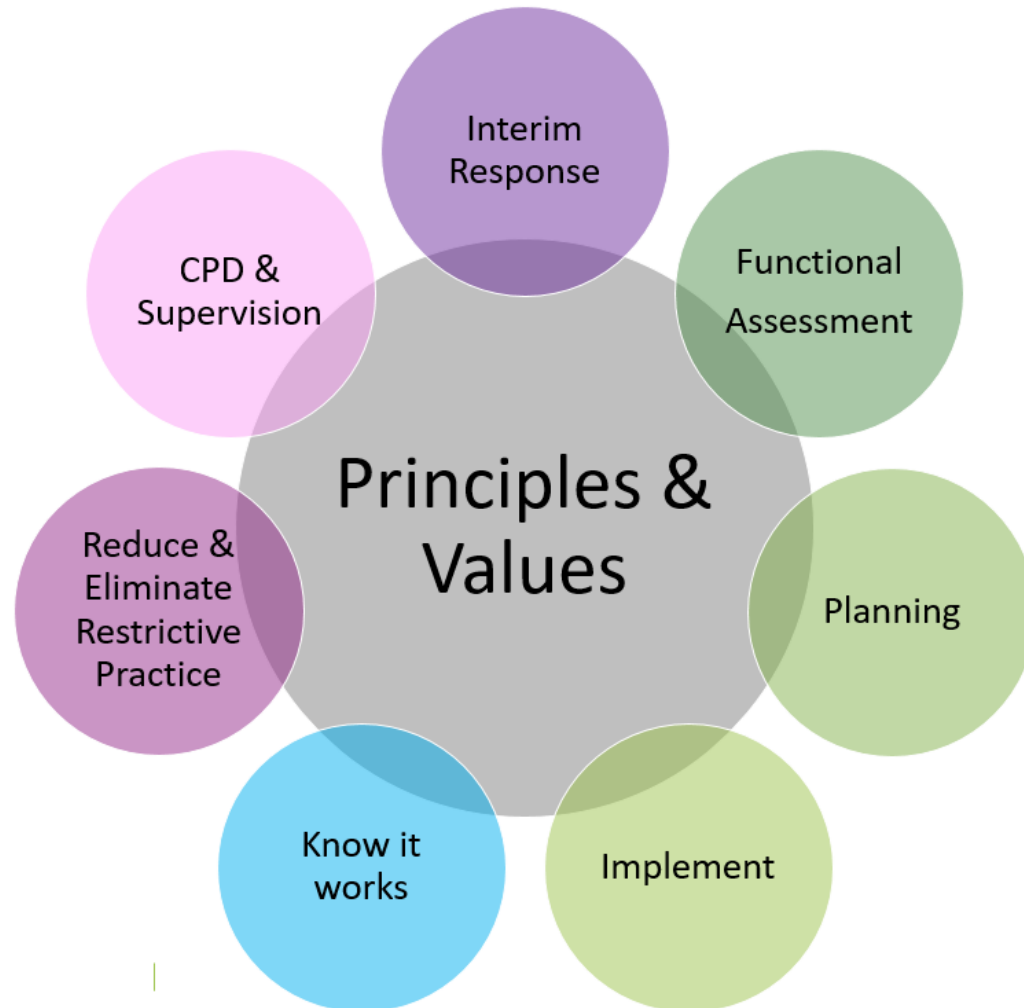
Regulated restrictive practices can only be used in the context of:

- Reducing the risk of harm to the self or others
- Only being used as a last resort and the least restrictive response available
- Being proportionate to the potential harm to self or others
- Being used for the shortest possible time
- The NDIS participant being given opportunities to develop new skills that have the potential to avoid the need for a restrictive practice.
- Clearly being identified in a Behaviour Support Plan
- Authorisation (however described) by the State/Territory where required

Behaviour Support: Provider requirements



- Providers must be registered for specialist behaviour support (or be a registered sole trader)
- Specialist Behaviour Support Providers must engage an NDIS behaviour support practitioner to deliver services
- Practitioners must be considered suitable as an NDIS behaviour support practitioner to undertake assessments and develop behaviour support plans
 - Positive Behaviour Support Capability Framework
 - “provisional suitability”.



Assessment Resource Toolkit for the PBS Capability Framework

STEP 1

- Practitioner self-assessment
- Supervisor or provider validation

STEP 2

Practitioner and supervisor evidence

STEP 3

NDIS Commission

- Verifies evidence
- Determines suitability

Developing a behaviour support plan



For plans written after 1 December 2020 that include regulated restrictive practices, the NDIS behaviour support practitioner must develop:

- An interim Behaviour Support Plan within 1 month
- A comprehensive Behaviour Support Plan within 6 months, including a functional behaviour assessment
- Interim and comprehensive behaviour support plans must be lodged with the NDIS Commission.



Implementing provider requirements



Providers must:

- Keep records on the use of restrictive practices
- Report monthly to NDIS Commission on the use of regulated restrictive practices
- Obtain authorisation using existing state or territory legislation
- Comply with reportable incident requirements if using unauthorised restrictive practices
- Engage an NDIS behaviour support practitioner to develop behaviour support plans
- Work with a NDIS Behaviour Support practitioner to implement positive behaviour support strategies and monitor outcomes for the person with disability
- Support staff to receive appropriate training.



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Complaints and Reportable Incidents

Robert Griew, Complaints Commissioner

Laura Dorahy, National Director – Complaints and Reportable Incidents



Complaints

Complaints



All providers are expected to act fairly on concerns about matters that may impact the quality and safety of services and supports.

Every registered NDIS provider must have a complaints management and resolution system.

The NDIS Commission handles complaints about NDIS providers.



- All complaints are taken seriously and assessed
- We seek to resolve complaints quickly, fairly and with as little formality as the issues permit

Complaints and feedback are an opportunity to improve services.

Who can make a complaint



Anyone can raise a complaint about the provision of supports and services by an NDIS provider, including:

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

Complaints we action



The NDIS Commission can take complaints about NDIS supports and services, including:

- whether they have been **provided in a safe and respectful way**
- whether they have been delivered to an **appropriate standard**
- **how an NDIS provider has dealt with a complaint** about services or supports provided to an NDIS participant
- **how an NDIS provider has dealt with an advocate or carer** of an NDIS participant.

Complaints others may action



Other bodies are responsible for taking complaints for matters such as:

- actions taken by the National Disability Insurance Agency (NDIA), including decisions about eligibility, funding or a participant's plan
- services or supports provided by an organisation which is not an NDIS provider (for example, health, education or transport services)
- decisions of courts, tribunals or coroners.

Complaints about the NDIA can be made to the NDIA or to the Commonwealth Ombudsman.

We can help connect a complainant with the right organisation.

Complaints process



We will assess the issues raised in each complaint to determine how best to deal with it.

The process may include:

- **speaking** with the complainant and the provider
- **seeking the views** of people with disability affected by the issues raised
- **educating** a provider about their obligations
- facilitating **meetings** or offering **conciliation**
- **asking** for information and explanations
- **requiring** providers to take specific action



In some cases, we may investigate or take compliance action



Reportable Incidents

Reportable Incidents



All registered providers must have an incident management system in place to records and manage incidents

Providers are required to **notify us of reportable incidents** that occur in connection with the delivery of NDIS supports and services

This does not replace **existing obligations to report suspected crimes to the police** and other relevant authorities.



www.ndiscommission.gov.au/providers/reportable-incidents

What is a Reportable Incident?



A serious incident or allegation which results in harm to an NDIS participant and occurs in connection with NDIS supports and services, including:

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

Timeframe to report incidents



Most Reportable Incidents **must be notified to us within 24 hours** of a provider's key personnel being made aware of it.

A **more detailed report** about the incident and actions taken in response to it must be provided **within 5 business days**.

The **unauthorised use of restrictive practice must be notified to us within 5 business days** of a provider's key personnel being made aware of it.

If there is **harm to a participant**, it **must be reported within 24 hours**.

Action we can take



If a Reportable Incident raises a serious compliance issue, we have powers to take action, which may include:

- requiring the provider to undertake specified remedial action
- carrying out an internal investigation about the incident
- engaging an independent expert to investigate and report on the incident
- give information to police or refer to another body e.g. child protection authorities.

Registered providers must make their records available to auditors as part of their quality assurance process, and contribute to our investigations relating to incidents.

How to report an incident



Use the [NDIS Commission Portal](#) 'My Reportable Incidents' page to notify and manage all reportable incidents.

'Authorised Reportable Incidents Approver' is the person you want to have the authority to review and be responsible for submission to the NDIS Commission. This could be the person specified in your incident management system who is responsible for reporting incidents to the NDIS Commission.

'Authorised Reportable Incidents Notifier' is a supporting team member who can assist the 'Authorised Reportable Incidents Approver' to collate and report the required information. The authorised 'Notifier' will have the ability to create new Reportable Incident notifications to be saved as a draft for review and submission by the authorised 'Approver'.

Questions about

- behaviour support

- complaints or

- reportable incidents?



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Western Australia team

Samantha Jenkinson, State Director

Further information



For more information visit:

www.ndiscommission.gov.au

Or contact: **1800 035 544**

This is a free call from landlines

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