



**NDIS Quality
and Safeguards
Commission**

WA provider information session webinars

Questions and Answers

Background

From 1 December 2020, the NDIS Quality and Safeguards Commission (NDIS Commission) will start managing quality and safeguards in Western Australia.

Prior to transition, Graeme Head, the NDIS Quality and Safeguards Commissioner (NDIS Commissioner), introduced and provided an overview of the NDIS Commission's role and function, outlined the quality and safeguarding arrangements, and explained how these will affect providers of NDIS funded services and supports in Western Australia following transition.

This document contains the most common questions and answers from these sessions, as well as those received from other providers through other channels.

Background	1
WA Quality and Safeguarding transition	3
Deferral of transition to 1 December 2020	3
Release of transitional arrangements.....	3
Next steps for Providers	3
Registration.....	4
Registration process and timeframes.....	4
Auditing requirements.....	7
Auditing costs.....	10
Registration in other states and territories	12
Conflicts of interest.....	13
Consultancy services.....	13
NDIS Code of Conduct.....	14
Unregistered providers.....	14
Self-managing participants	14
Complaints	15
Resources and information for NDIS Participants	15
Reportable Incidents.....	15
Reporting requirements	15
Behaviour Support	17
Behaviour Support Plans.....	17
Restrictive practices.....	18
Worker Screening	20
Transition of screening arrangements.....	20
Compliance and Enforcement	22
Investigation powers.....	23
Other	23
COVID-19.....	23
Personal Protective Equipment	24
Access to slides and recording.....	24
Relationship between NDIS, NDIA and NDIS Commission.....	24
Provider pricing.....	25
Finding service providers	25
Worker Orientation Module.....	25

WA Quality and Safeguarding transition

Deferral of transition to 1 December 2020

Will the NDIS Commission consider moving the transition date for WA taking into account current issues and challenges organisations are facing?

The full, national rollout of the NDIS regulatory arrangements are on track with preparations underway for the WA transition. A standard approach to transition is being used which mirrors processes used for the transition of the other states and territories over the last two years.

On 21 May 2020, the [Western Australian government announced](#) that Western Australia will delay the transition of NDIS quality and safeguarding functions to the NDIS Commission from the planned date of 1 July 2020 until 1 December 2020.

This means that until 1 December 2020, the Western Australian government will remain responsible for quality and safeguarding for NDIS participants in Western Australia.

The NDIS Commission will not be responsible for the registration or regulation of NDIS providers in Western Australia until 1 December 2020.

Release of transitional arrangements

When can we expect the release of 'Transitional arrangement rules' for WA across various provider rules and obligations?

The *National Disability Insurance Scheme Act 2013* (NDIS Act 2013) and Rules are already in effect and are available on the [NDIS Commission](#) website.

Next steps for Providers

I would really like to have a good understanding of what changes, actions or steps are required by providers from 1 December

On 7 October and again on 10 November 2020, the NDIS Quality and Safeguards Commissioner wrote to all registered NDIS providers in WA outlining key information about the NDIS Commission and registration requirements. A link to [the letters](#) is available on the [Western Australia](#) webpage of the NDIS Commission website.

The NDIS Commission website contains information to assist providers of NDIS supports and services in Western Australia to understand their obligations from 1 December 2020. For example, we have developed a ['Then and now' fact sheet for providers in WA](#), which summarises several changes you should be aware of, and a ['Then and now – reportable incidents and complaints' fact sheet](#), which provides guidance on reporting incidents and complaints in Western Australia before, and from, 1 December 2020.

For more general information, please see our [Provider information packs](#), and the [Provider](#) section of the NDIS Commission website.

As we approach 1 December 2020, communication will increase to ensure sector and participant readiness including in November an information letter from the NDIS Commissioner to WA providers, and additional function-specific webinars.

Registration

Registration process and timeframes

How soon will providers receive certificates of registration from the NDIS Commission to allow them to continue providing services?

NDIS providers that are registered with the NDIA at transition time will have their details transferred to the NDIS Commission and will receive a certificate of registration which details the period for which their registration will continue to be in force. Certificates will be issued on 1 December 2020, to registered NDIS providers via email and post.

What will be the period for registration renewal in WA from 1 December 2020?

The registration renewal date for registered NDIS providers in WA will be included on the certificate of registration. This date will be between 4 and 12 months after 1 December 2020, depending on the registration groups you currently have and other factors.

If you are an existing registered NDIS provider with the NDIS Commission, you can begin the process of applying to renew your registration with the NDIS Commission if it is six months or less from the renewal date on your certificate of registration.

You must apply to renew registration before the end of the period of registration specified on your certificate of registration to ensure your registration has not ceased to be in force.

To apply to renew your registration, you will need to complete the online application process via the [NDIS Commission Portal](#). The [Renewal Quick Reference Guide](#) is a useful resource to help you. You can also ask us for guidance to complete your renewal by contacting the NDIS Commission Registration Team on 1800 035 544.

Upon transition how long will you give already state-registered NDIS providers (i.e. grace period) before registration renewal is required to take place?

An NDIS provider can be a person, business or organisation who delivers NDIS services and supports, and can include state government providers.

The process and timeframes for registration renewal for NDIS providers registered with the NDIA in WA, including state government agencies, will depend on the registration renewal date, which will be included on the certificate of registration provided by the NDIS Commission.

Are we able to access the provider checklist prior to putting in a request for registration renewal?

Yes, a [provider application pack](#) is available on the NDIS Commission website, which includes information on the [NDIS Practice Standards and Quality Indicators](#), and a [process guide](#) for providers who wish to apply to become a registered NDIS provider, or to renew registration.

The [process guide](#) contains a high-level checklist of the information to be included in your NDIS provider registration application. **Note:** the checklist is not exhaustive and is intended to be used as a guide only.

Where do we get information to start the re-registration process once we get the certificate of registration?

The NDIS Commission website contains information about the process to apply for [renewal of your registration](#) as a registered NDIS provider.

We have also developed a [quick reference guide](#) to assist with the renewal of a registration.

For further information, refer to the [Provider Information Pack](#) which includes useful information including a [registration renewal fact sheet](#).

What about providers who are not currently registered with the NDIS Commission. How long does it take to receive registration approval after the auditor report is sent to the NDIS Commission?

Providers in WA can apply for registration with the NDIS Commission from 1 December 2020.

Once an audit is complete, the auditor will submit the outcome of the audit to the NDIS Commission through the [NDIS Commission Portal](#). In assessing your registration application, we will consider the outcomes of the audit report and conduct a [suitability assessment](#) of your organisation and key personnel.

The NDIS Commission will then make a decision and contact you to let you know if your application has been successful and the reasons why or why not.

Some applications take longer to process than others. The timeframe depends on various factors, including the size and scale of your organisation, as well as the complexity and range of the supports and services you deliver.

With state registration for providers now being closed in WA, is there a way for prospective providers to become registered to provide supports and services from 1 December under the NDIS Commission?

The NDIS Commission will be responsible for the registration and regulation of NDIS providers in Western Australia from 1 December 2020. The NDIA remains responsible for the registration of providers in Western Australia until that time and will continue to assess provider registration applications as they are received.

Information about registering as a [registered NDIS provider in WA](#) until 1 December is on the National Disability Insurance Scheme (NDIS) [website](#).

Is it true that there will be skill descriptors or capability frameworks for all registration groups soon? How can WA providers best prepare?

The NDIS Commission is leading the development of a national NDIS Workforce Capability Framework to support consistency in practice and delivery of quality disability services across Australia. Further information about the [NDIS Workforce Capability Framework](#) is available on our [website](#).

What are some simple tips for a successful registration?

- Be prepared – read the information on our [website](#) about the registration process.
- Give yourself time – engage with your approved quality auditor early to ensure there is time for the audit and any follow up required. Your audit will provide valuable information about the quality of supports and services you deliver and how they can be improved.
- Be aware of your business requirements – every provider is different and the registration process you undertake depends on your business and what your business will be offering.
- Contact the NDIS Commission if you have questions.
- We do not require you to use consultants. This is your business decision and cost. The best source of information on registration is the NDIS Commission’s website.
- Familiarise yourself with the [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#) and the [NDIS \(Quality Indicators\) Guidelines 2018](#).
- Find out more about the responsibilities of approved quality auditors by reading the [National Disability Insurance Scheme \(Approved Quality Auditors Scheme\) Guidelines 2018](#).

Where do I go to make sure our provider details are up to date?

Organisations have until 20 November 2020 to check their organisation’s details and registration groups in the NDIA’s provider portal are accurate and up to date. This will ensure that the information that is transferred to the NDIS Commission on 1 December 2020 is correct. NDIS providers in WA that transition to the jurisdiction of the NDIS Commission on 1 December 2020 can also check their details in the [NDIS Commission Portal](#) after 1 December 2020.

Why were practice standards developed that are different from the Indicators of Practice under the six National Standards for Disability Services?

The NDIS Practice Standards specifically relate to NDIS provider registration. Together with the NDIS Code of Conduct, the NDIS Practice Standards enable people with disability participating in the NDIS to be aware of what quality service provision they should expect from registered NDIS providers.

A [provider application pack](#) is available on the NDIS Commission website, which includes information on the [NDIS Practice Standards and Quality Indicators](#), and a [process guide](#) for providers who wish to apply to become a registered provider.

Auditing requirements

How do providers access information on auditing requirements, the NDIS Practice Standards and Quality Indicators? Will there be an evidence guide for the Practice Standards in the future?

The National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018 (NDIS Practice Standards) specify the quality standards that registered NDIS providers must meet to provide supports and services to NDIS participants. Together with the [NDIS Code of Conduct](#), the NDIS Practice Standards build NDIS participants' awareness of what quality service provision they should expect from registered NDIS providers. The National Disability Insurance Scheme (Quality Indicators) Guidelines 2018 list the outcomes of the NDIS Practice Standards and also the associated quality indicators registered NDIS providers can use to demonstrate conformity with the outcomes.

During your application for registration renewal, we will advise you of the NDIS Practice Standards that apply to your organisation and the type of quality audit you require. This is based on your registration group(s). The Application Pack – [registration requirements by supports and services guide](#) includes a table that shows the NDIS Practice Standard modules that applies to registration class/groups. We will guide and support you in understanding and meeting the requirements of registration.

A [provider application pack](#) is available on the NDIS Commission website, which includes information on the [NDIS Practice Standards and Quality Indicators](#), and a [process guide](#) for providers who wish to apply to become a registered NDIS provider.

What or how is the scope of the audit decided upon (e.g. the number of the registration groups or the amount of provider activity)?

Once you have submitted your application for registration (either to become a registered NDIS provider or to renew your registration) with the NDIS Commission, you will receive an email confirmation once your application has been made. Our system will also generate an 'initial scope of audit' document based on the information provided on your application. This document will assist you to engage an approved quality auditor to assess your organisation against the relevant modules, or parts of the modules of the NDIS Practice Standards. Once the audit is complete, your auditor will report the audit outcomes to us.

Is there a guideline which defines which activities are simple or complex in nature to decide which kind of audit will apply to a provider? Or will the NDIS Commission decide during audit scope?

When submitting an application for registration (to become a registered NDIS provider or renew registration) with the NDIS Commission, all providers undergo an audit against the [NDIS Practice Standards](#).

Your organisation will undergo either a 'verification' or 'certification' quality audit. We will advise you of the type of audit you require, which is based on your registration group(s). The Application Pack -

[registration requirements by supports and services guide](#) includes a table that shows the NDIS Practice Standard modules that applies to registration class/groups.

As part of the application for registration, it is your responsibility to engage an [approved quality auditor](#) to assess your organisation's compliance with the NDIS Practice Standards. Auditors will undertake their activities in a way that takes into account your organisation's size, scope, and service delivery risk.

How will small NDIS providers be audited in comparison with larger NDIS providers? For example, is there a difference between the registration of a sole trader and a company?

Registration requirements and the NDIS Practice Standards apply in proportion to the size, scale and type of supports and services your organisation delivers. Auditors will make sure that the way you demonstrate how you meet each standard will be appropriate to your size, scale and the supports you deliver.

Providers that deliver relatively lower-risk supports and services, including many sole traders and partnerships, will undertake a verification audit. Many providers requiring a verification audit are already subject to professional regulation as a requirement of doing business, e.g. through the Australian Health Practitioner Regulation Agency (AHPRA) and other professional bodies.

Professional regulation means a practitioner must already meet set standards set by their profession and be subject to ongoing monitoring of their competence to practise, including through continuing professional development. Because of these existing obligations, and the less complex support types delivered, these providers will engage an approved quality auditor to complete a desktop review of the required documentary evidence.

All providers that deliver higher-risk supports and services must undertake a full certification audit.

The NDIS Commission has guidelines for auditors that set out how an audit is conducted based on the types of supports and services being delivered and the size and scale of the provider. The [National Disability Insurance Scheme \(Approved Quality Auditors Scheme\) Guidelines 2018](#) include guidelines around the:

- minimum duration of an on-site audit where required;
- number of auditors in an audit team and circumstances where remote auditing may be appropriate, including where:
 - a provider operates in remote areas of Australia;
 - a provider operates from a virtual site; or
 - the provider delivers services involving limited interaction with participants.

After the initial audit, how frequently will providers need to undertake audits? How will they know it's time for a new audit?

Registration once approved is generally for every three years. You will need to make an application to renew your registration before the end of your registration period, if you wish to continue to be registered. If you deliver supports and services that require you to undergo a certification audit, you will usually also undergo a mid-term monitoring audit, 18 months after your registration is approved.

Registration renewal dates are recorded on your certificate of registration and in the NDIS Commission Portal.

How do audits affect providers who deliver to self-managed participants?

Self-managed NDIS participants can access services from registered or [unregistered NDIS providers](#) (except for the specific high risk services and supports that require registration with the NDIS Commission) if they:

- self-manage the supports and services in their plan;
- have someone else to do it for them (a plan nominee); or
- use a registered plan manager.

Not all NDIS providers need to register with the NDIS Commission to deliver to self-managing participants and therefore undergo an audit against the NDIS Practice Standards. The exception is where the NDIS provider is delivering specialist disability accommodation under a participant's plan, will use regulated restrictive practices in the course of delivering supports or services, or where a NDIS provider is developing a behaviour support plan. Providers must be registered with the NDIS Commission to provide these high-risk supports and services for any NDIS participant.

In addition, providers who deliver services and supports to NDIS participants who have their NDIS plan managed by the National Disability Insurance Agency (NDIA) (known as Agency Managed) must be registered with the NDIS Commission.

We have undertaken part one of our audit in Tasmania with part two due mid-December. Are we able to provide evidence from both states in part two to complete the audit for the whole organisation including WA?

Information for providers who are a registered NDIS providers in other states as well as registered in WA can be found in the [Registration Renewal fact sheet](#).

Providers requiring tailored advice on registration across multiple states and territories should contact the NDIS Commission Registration team on 1800 035 544.

Has consideration been given to looking at auditing for other accreditation requirements being mapped to NDIS registration so there is minimal duplication?

The NDIS Commission's registration process recognises other existing regulatory arrangements. This includes the setting of professional standards and ongoing monitoring of an individual's competence to practise their profession, through continuing professional development required by the Australian Health Practitioner Regulation Agency and other professional bodies that provide regulatory oversight. However, those systems do not consider the unique factors involved in the provision of supports to people with disability in the NDIS. Audits required as part of the NDIS Commission's registration process consider the practice of providers in delivering supports and services to NDIS participants.

Has there been any change to the audit process as a result of the COVID-19 pandemic?

We recognise that NDIS providers will be focused on managing infection risk to participants and workers, and undertaking business continuity planning to ensure continuity of support and services to participants during the COVID-19 pandemic. This focus may affect some providers' readiness and capacity to engage with any registration renewal audits, particularly on-site activities where state and territory based Health authorities have imposed restrictions.

As a result, the NDIS Commission has advised approved auditors to:

- review their audit practices to ensure they are provided in a way that minimises the risk of exposure to COVID-19 for participants, providers and auditors;
- where audits are scheduled to occur, engage with providers to confirm their availability to continue where practicable to do so; and
- delay or reschedule audit dates where providers are not in a position to proceed with these (for example in the case of an outbreak).

The NDIS Commission is providing targeted advice to registered NDIS providers, including arrangements for varying conditions of registration, where necessary, to allow an extended period of time to complete the registration process, including audits where providers are directly affected by COVID-19.. A similar approach may be used for transitioning providers in WA, if required due to the COVID-19 pandemic.

Auditing costs

Do all registered providers need to be audited? Who incurs the cost?

To apply for or renew registration with the NDIS Commission, all providers must undergo an audit against the [NDIS Practice Standards](#). An independent approved quality auditor will assess your organisation against the components of the NDIS Practice Standards that are relevant to the services and supports you deliver. Auditors will also undertake their activities in a way that takes your organisation's size, scope, and service delivery risk into consideration.

Making an application to become a registered NDIS provider is free. However, you will be responsible for the cost of procuring an audit against the applicable NDIS Practice Standards. The requirements of the audit, including its cost, will be proportionate to your organisation's size and scale, and the complexity of the services and supports you provide.

After making your application, you will receive an 'initial scope of audit' document from us, which summarises the registration requirements that apply to your organisation and describes the form your audit will take. The scope of audit will assist you to engage an approved quality auditor to assess your organisation against the relevant modules, or parts of the modules of the NDIS Practice Standards.

There are two audit pathways to registration: certification or verification. We will advise you of the type of audit you require, which is based on your registration group(s).

Certification audits are for NDIS providers that provide more complex or higher risk supports and services. Verification audits are for NDIS providers that deliver lower risk/lower complexity services and supports.

Our website has more information about [registered provider requirements](#).

Is there, or will there be a price guide for auditing costs?

Auditors are subject to Australian consumer law and accredited by the Joint Accreditation Scheme for Australia and New Zealand (JAS-ANZ), an internationally recognised agency that accredits auditing firms. Auditor behaviour is regulated through JAS-ANZ, and through the NDIS Commissioner's Auditor Guidelines, including a Code of Conduct for auditors. The NDIS Commission meets regularly with JAS-ANZ and with approved auditor bodies to discuss audit expectations, experiences and any feedback we get from providers.

We also constantly monitor how auditors are performing, listen to concerns and make subsequent improvements. For example, an issue was identified whereby providers of low-risk services that were structured as a company were automatically being channelled into certification audits. Based on feedback, we modified that element of the registration rules without diminishing quality and safeguarding arrangements for participants.

We require auditors to apply proportionality in how they work with providers; if you do not think that is happening, please discuss with your auditor, consider seeking a revision to their quote, or contact us.

Are there grants or financial assistance available to NDIS providers to supplement the cost of audits?

In the 2018–19 Budget, the Australian Government invested \$17.6 million over four years in a new NDIS [Support for NDIS Providers Program](#). The Program funded the development and delivery of tools and resources that will be available to all NDIS providers. These large-scale projects focused on supporting providers to meet their responsibilities to provide safe and quality services to NDIS participants.

Taking into account the expected 20,000 providers migrating to the NDIS Commission jurisdiction over the life of the Program, financial assistance to individual providers for direct costs of transition will not be included in the Program.

We do not provide grants to assist organisations with audit costs; however, we work both with JAS-ANZ and auditors to generate the scope of audit from our system. This is given to providers to use as a tool to assist with planning and preparing for the audit.

Has the NDIS Commission set limits on the auditing cost?

We are carefully monitoring information about audit costs, and have guidelines in place that tell auditors how to conduct an audit so that it reflects the size and scale of each provider. We require auditors to apply proportionality in how they work with providers; if you do not think that is happening, please discuss with your auditor, consider seeking a revision to the quote, or advise us.

Here are some tips to help your organisation get the best value for your audit:

- Make sure you have an NDIS Commission Portal-generated 'Initial scope of audit' document before you contact an auditor. You will receive this document when you submit an application for registration or to renew registration.
- Contact a number of auditors from the list of approved quality auditors published on our website, once you have your initial scope of audit.
- Take time to do the self-assessment - it will help your chosen auditor, and will speed up the process if you have information from your last audit, your qualifications and other information about how you meet the standards.
- Count only the participants you are currently delivering supports and services to.
- If you have been registered for services and supports you have not yet provided, consider removing these from your registration.
- Be accurate about the full-time equivalent numbers of staff you employ.
- Ask auditors to schedule your audit together with others they might be doing in your area.
- Consider talking with other providers in your area about using the same audit firm and sharing any costs for travel and accommodation, for instance.
- If you are an individual trader, consider registration as a person rather than a business.
- The audit firms approved by the NDIS Commission have locations throughout Australia and many of them operate nationally. We continue to work to grow the number of auditors so there is more choice for providers.
- We do not regulate or set prices for audits, so you should shop around to get the best value for your audit.

Registration in other states and territories

Although only small, we are often asked to deliver services for participants in other states and territories. Will this process mean that it will be more streamlined to be registered to supply in other states?

Providers holding the same provider registrations with the NDIA and the NDIS Commission will come together under a single registration. Registration with the NDIS Commission is a national registration.

[The Quick Reference Guide: Add or manage service areas](#) provides guidance on adding outlets in the NDIS Commission portal.

If you require specific advice on delivering services in multiple jurisdictions, contact our Registration team by calling 1800 035 544.

What if I am already registered in other states and territories? Does this carry over to other states and will there be only one registration date for all states and territories in which organisations provide services?

As the NDIS Commission will operate nationally from 1 December 2020, a single registration applies to a provider delivering in other states and territories.

If you require specific advice on delivering services in multiple jurisdictions, contact our Registration team by calling 1800 035 544.

Conflicts of interest

Will there be more stringent measures put in place for providers that deliver coordination of supports as well as services? This is quite common in WA.

NDIS providers should disclose to people with disability they support, or who are seeking support, any potential or real conflicts of interest that may affect how they deliver supports and services to that person. This may include conflicts of a financial, business or personal nature.

The [NDIS Code of Conduct Guidance for Providers](#) provides guidance to NDIS providers, including NDIA community partners, about complying with the NDIS Code of Conduct. The guidance provides information and examples about what the Code of Conduct means in practice.

Consultancy services

Consultancy services have been advertising that they can help with the set up and organisation of our provider registrations and meeting the requirements. Is that part of the NDIA or NDIS Commission? Can we use these services?

The NDIS Commission is aware of consulting services offering assistance to providers. They are commercial services which are not part of or endorsed by the NDIA or the NDIS Commission. Consultants are not required to be engaged by a provider to be registered with the NDIS Commission. It is a matter for individual organisations as to whether they wish to engage with those services. Everything that a provider needs to make an application for registration can be found on the NDIS Commission website. Providers can also contact the NDIS Commission directly if they have questions by calling 1800 035 544.

We will generate the initial scope of audit for providers at the time of submitting an application for registration or renewal of registration, which can be a useful tool to use when preparing for an audit. The audit process is designed to help you understand what is going well and what is not. Some organisations may feel they may benefit from external consultancy services to do that, some organisations will not.

NDIS Code of Conduct

Unregistered providers

Does the NDIS Code of Conduct apply to non-endorsed providers (better known as unregistered providers) e.g. employed directly by individual or family?

The [NDIS Code of Conduct](#) applies to all NDIS providers, including unregistered providers, and to all people employed or otherwise engaged by NDIS providers. The NDIS Code of Conduct doesn't apply to family carers in their normal family roles.

The NDIS Commission can take a complaint from anyone about a provider, whether registered or unregistered. The NDIS Commission has a range of regulatory mechanisms that can be applied to unregistered providers, including preventing them from delivering supports that require registration, issuing warning letters or if circumstances warrant, banning them from providing services in the NDIS market.

Are there any penalties for unregistered providers if they do not comply with the practice standards or authorised use of restrictive practices?

The NDIS Code of Conduct applies to all NDIS providers including unregistered providers, and to all people employed or otherwise engaged by NDIS providers.

Only registered NDIS providers are required to comply with the NDIS Practice Standards and can provide supports and services around the use of regulated restrictive practices (provided they are registered to do so). The use of regulated restrictive practices by unregistered NDIS providers is a contravention of section 73B of the *National Disability Insurance Scheme Act 2013*.

The NDIS Commission's Compliance and Enforcement Policy outlines a range of regulatory powers and compliance tools available. With respect to unregistered NDIS providers, the NDIS Commission may issue banning orders, infringement notices, compliance notices and commence civil penalty proceedings.

Self-managing participants

How will the hiring of staff or contractors be regulated for self-managed NDIS participants?

NDIS participants who self-manage the supports and services in their plan, have someone else do it for them (a plan nominee), or use a registered plan manager, can access services from unregistered providers. This may include hiring their own staff or contractors.

Where a self-managed NDIS participant is using unregistered providers or hiring contractors, the NDIS Commission will support them in the same way it supports any person with a disability across the scheme. It's important for that person to tell the providers they are using that they have obligations under the NDIS arrangements. Self-managed participants can also request from an unregistered

provider that the worker who provides supports and service to them has a NDIS Worker Screening Check.

Complaints

Resources and information for NDIS Participants

How will the information on how to make a complaint be relayed to NDIS Participants?

The NDIS Commission is here to ensure that the rights of people with disability in the NDIS are upheld and that they are supported to exercise choice and control in the planning and delivery of reasonable and necessary supports. We are committed to making our complaints processes available for all people with disability who have concerns relating to the NDIS supports and services they receive.

The NDIS Commission has developed a series of [resources](#) in consultation with people with disability, designed to empower people with disability to ‘speak up’ if they need to about the quality and safety of their NDIS funded supports and services.

A [Participant Welcome Pack](#) is available on our website which provides information about participant’s rights, the role of the NDIS Commission, choosing quality and safe supports and a fact sheet on how to make a complaint, [Making a complaint about your NDIS provider](#). The Participant Welcome Pack is available in [Standard format](#), [Easy read format](#) and [Auslan](#). Braille versions are available through the [online order form](#).

Anyone can make a complaint about a provider if they have concerns about the quality or safety of their NDIS services or supports. Complaints can be made by phoning 1800 035 544 (free call from landlines) or TTY 133 677, or by completing a complaint contact form which is available on the NDIS Commission website at www.ndiscommission.gov.au

Reportable Incidents

Reporting requirements

The reporting burden for large national organisations is considerable, especially with restrictive practices. Apart from the interim plans, any consideration of other relief?

Registered NDIS providers are required to report the use of unauthorised restrictive practices to the NDIS Commission. Unauthorised restrictive practices are reportable incidents and must be reported within 5 days of the provider becoming aware that the reportable incident occurred.

The [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](#) require every use of an unauthorised restrictive practice to be reported and providers must work to have these practices authorised, and to develop a positive behaviour support plan for participants who are subject to restrictive practices.

We recognise the work involved with reporting each use of an unauthorised restrictive practice. However, this must be balanced against the negative impact such practices can have on people with

disability that are subject to them. We have established a process to approve weekly reporting of some chemical, environmental or mechanical restraints where they are being used regularly for a person with disability.

What are the timeframes for reporting an incident e.g. what is meant by 24 hours to report? Is it the next business day? What happens if an incident occurs on Friday evening?

Section 20 of the [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](#) requires that certain reportable incidents be notified to the NDIS Quality & Safeguards Commissioner (NDIS Commissioner) within 24 hours of the provider becoming aware of the incident (or alleged incident). Key personnel or the person who is responsible for reporting reportable incidents have the duty of taking 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 NDIS Commissioner. Registered NDIS providers are also required to notify the Commissioner of certain information within 5 business days after the provider became aware that the incident occurred.

Key personnel is defined in s11A of the [National Disability Insurance Scheme Act 2013](#) as being a member of the group responsible for executive decisions, or who has authority or responsibility for planning, directing or controlling activities of the person or entity.

More information about the reporting obligations of registered NDIS providers can be found on the [NDIS Commission website](#).

Is it a reportable incident if an NDIS participant is sexually grooming another person?

Reportable incidents or alleged reportable incidents are those that occur in connection with the provision of NDIS supports or services. Section 73Z(4) of the [National Disability Insurance Scheme Act 2013](#) provides that a reportable incident means:

- (a) the death of a person with disability; or
- serious injury of a person with disability; or
- abuse or neglect of a person with disability; or
- unlawful sexual or physical contact with, or assault of, a person with disability; or
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; or
- 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 the State or Territory in relation to the person.

An incident where an NDIS participant is sexually grooming another person (irrespective of whether the person has a disability or not) may therefore constitute a reportable incident, provided the incident had occurred in connection with the provision of NDIS supports or services.

The [Reportable Incidents Guidance](#) document is a useful resource to support registered NDIS providers in identifying and notifying reportable incidents to the NDIS Commission.

Further guidance for registered NDIS providers is available on the NDIS Commission website, including detailed guidance about required incident management systems and the roles of workers providing services in responding to incidents.

Are reportable incidents only reported to the NDIS Commission if they are directly connected to me as a service provider? What about incidents that are not connected with our service but we become aware of (e.g. abuse or neglect by others)?

For an incident to be reportable, a certain act or event needs to have happened (or be alleged to have happened) in connection with the provision of supports or services.

Where a registered NDIS provider becomes aware of an incident that is not connected with the provision of supports and services, it is expected that the provider will take the necessary steps to report the matter to the appropriate person or body, including the police.

Where a registered NDIS provider becomes aware of an allegation of abuse or neglect by another provider, they can make a complaint to the NDIS Commission. This complaint can be made on a confidential basis.

Behaviour Support

Behaviour Support Plans

Who can develop a behaviour support plan?

Specialist behaviour support services are to be provided, and plans are to be developed by NDIS behaviour support practitioners. NDIS behaviour support practitioners are practitioners the Commissioner of the NDIS Quality and Safeguards Commission considers is suitable to undertake behaviour support assessments (including functional behavioural assessments) and to develop behaviour support plans that may contain the use of restrictive practices.

Who can develop a behaviour support plan containing a regulated restrictive practice?

The registration of a specialist behaviour support provider is subject to the condition that a behaviour support plan for a person with disability that contains a regulated restrictive practice must be developed by:

- an NDIS behaviour support practitioner engaged by the provider; or
- if the provider is an NDIS behaviour support practitioner - that person.

Can an unregistered provider develop Behaviour Support Plans via self-managed funding arrangements?

No. While self-managed participants may choose to access unregistered providers for some supports and services, where the service involves the use of a regulated restrictive practice (including where a provider is developing a behaviour support plan) a registered NDIS provider must be used.

Restrictive practices

What is the definition of a restrictive practice?

A restrictive practice is defined in the NDIS Act as any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability. The use of restrictive practices contained in a behaviour support plan must, amongst other things, be the least restrictive response possible in the circumstances and must only be used as a last resort in response to a risk of harm to the person with disability or others.

Under the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#) (Behaviour Support Rules), the following restrictive practices are regulated restrictive practices:

- seclusion;
- chemical restraint;
- mechanical restraint;
- physical restraint; and
- environmental restraint.

Further information on NDIS provider requirements including the types, authorisation and reporting of restrictive practices can be found in the [Behaviour Support Rules](#) and the [Behaviour support and restrictive practices](#) fact sheet.

What is the unauthorised use of a restrictive practice?

The use or alleged 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, or in accordance with a behaviour support plan, must be notified to the NDIS Commission as a reportable incident. This includes the emergency use of a restrictive practice.

The use of a restrictive practice in relation to a person with a disability is a reportable incident where:

- the use is not in accordance with a behaviour support plan for the person with disability; and/or
- the state or territory in which the restrictive practice is used has an authorisation process but the use of the restrictive practice on the person with disability has not been authorised in accordance with this process

To be clear, if the state or territory in which the restrictive practice is used does not have an authorisation process for that type of practice, the use will only constitute an unauthorised restrictive practice if its use is not in accordance with a behaviour support plan.

Whenever the use of a restrictive practice, whether or not authorised, results in serious injury to a person, this is a reportable incident requiring notification to the NDIS Commission as would be the case for any other incident resulting in serious injury to a person with disability.

Are there any resources or information available on restrictive practices in relation to children?

The [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#) are applicable for NDIS participants who have restrictive practices as part of their delivered supports, regardless of age. The NDIS Commission is finalising a practice guide for working with children and young people that will be published on the website in due course.

Is supporting a participant physically on a horse considered a regulated restrictive practice?

Whether physically supporting an NDIS participant on a horse would be considered a regulated restrictive practice (namely, physical restraint) will depend on the nature and purpose of the physical support being provided. Section 6(d) of the Behaviour Support Rules defines physical restraint as being:

'...the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person.'

Supporting a participant physically on a horse with the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury is not likely to constitute a regulated restrictive practice (physical restraint) if the physical support is consistent with what could reasonable be considered the exercise of care towards a person. However, if physical force is being used to prevent, restrict or subdue movement of a person's body, or part of their body for the primary purpose of influencing their behaviour, then this is likely physical restraint and is therefore a regulated restrictive practice.

Will the NDIS Commission be working with peak bodies and other organisations to help educate medical professionals about participant rights to query their prescribed medication?

In addition to oversight of the unauthorised use of restrictive practices, the NDIS Commission also aims to reduce and eliminate the use of restrictive practices in the NDIS.

The NDIS Commission engages with many organisations including peak bodies, government agencies and other regulatory bodies to support the safeguarding of people with disability and to improve the quality and safety of NDIS supports and services.

Who pays for the assessment and decision of the panel who authorises the use of restrictive practices?

States and Territories have a role in authorising the use of restrictive practices that are included in a person with disability's behaviour support plan. The WA Government [Authorisation of Restrictive Practices Policy](#) comes in to effect on 1 December 2020 and establishes the requirements for authorisation of restrictive practices in relation to people who are receiving disability services funded through the NDIS or by the State Government.

For information relating to this interim Policy and its application, contact WA [Department of Communities](#).

Worker Screening

Transition of screening arrangements

What will happen to an employee (support worker) who has been working under existing WA arrangements and after transition does not meet the new worker screening standards?

The new NDIS Worker Screening Check arrangements involve a nationally consistent approach to screening NDIS workers by requiring a worker screening check. These arrangements also apply new standards to how registered NDIS providers ensure that relevant workers are screened.

All registered NDIS providers must ensure that their employees undertaking work in risk-assessed roles have the appropriate clearance. A risk-assessed role includes key personnel, a role for which the normal duties include the direct delivery of specified supports and services to a person with disability, or a role for which the normal duties include more than incidental contact with a person with disability.

Workers who are not in risk-assessed roles do not require a clearance, but an employer can request the individual to undertake an NDIS Worker Screening Check. The registered NDIS provider can undertake their own risk assessment and employment process in relation to employing workers without a clearance in a non-risk assessed role.

Will workers with a noted criminal record on a police clearance be excluded from accessing a worker screening clearance?

Depending on the offence and assessment by the relevant state/territory worker screening units, an applicant who has been convicted of certain serious offences (or categories of offence) will be issued an exclusion by the Worker Screening Unit (provided they were 18 years of age at the time of the offence) with no right of appeal. These kinds of offences include murder, and serious assault against a child or a vulnerable person. Other serious crimes may result in exclusion unless there are exceptional circumstances – for example, manslaughter. Crimes categorised as posing less risk will be considered as part of a broader risk assessment process. Worker Screening Units will take into account all other relevant criminal, disciplinary or misconduct information considered relevant in assessing a person's eligibility for an NDIS Worker Screening Check clearance.

If staff work across multiple states, is their check done in their state of residence and valid across all states?

Workers get screened in the state or territory they reside in and, once cleared, will be able to work across Australia with an NDIS Worker Screening Check. The check will replace existing state and territory screening arrangements for working with NDIS participants (it should be noted it does not replace Working with Children Checks).

What do registered providers need to do to meet worker screening check requirements?

Registered NDIS providers must ensure that particular workers have an appropriate check as a requirement of NDIS provider registration. This guarantees that key personnel and workers in roles delivering specified NDIS supports or specified NDIS services, or with more than incidental contact with people with disability, do not pose an unacceptable risk to the safety and wellbeing of NDIS participants.

Until the NDIS Worker Screening Unit is operational in your state, registered NDIS providers must ensure your workers in risk-assessed positions meet the acceptable check requirements in the state or territory in which the worker is operating. These interim checks are not portable. This means your workers delivering NDIS services and supports to people with disability must have an acceptable check in each state and/or territory in which they work.

If you have new workers in risk-assessed positions who have no check, or workers whose check has expired, they must be screened in accordance with the [interim screening arrangements](#) in the state or territory until further notice.

Do all NDIS workers get placed on the NDIS Worker Screening data base? Is this compulsory and what are the requirements?

On 1 February 2021, states and territories will start implementing new NDIS worker screening arrangements as part of a national approach to worker screening. Once the new national worker screening arrangements have commenced, registered NDIS providers will be required to only engage workers in risk assessed roles who have an NDIS worker screening clearance.

A person will have an acceptable check when they meet the requirements of the transitional and special arrangements that apply to the state or territory where they provide NDIS supports and services to people with disabilities. At this stage there are no such arrangements for Western Australia because the [National Disability Insurance Scheme \(Practice Standards—Worker Screening\) Rules 2018](#) will not apply to providers in that state until 1 December 2020.

Will participants have access to the NDIS Worker Screening database if they employ unregistered providers?

The NDIS Worker Screening Database will support the NDIS Worker Screening Check. The NDIS Commission is responsible for establishing, operating and maintaining the database.

The NDIS Worker Screening Database will commence operation when the NDIS Worker Screening Check commences in a state or territory.

NDIS providers and individuals, including self-managed participants (or their representatives), will need to apply to the NDIS Commission to access information stored on the database. Information about how to access and use the NDIS Worker Screening Database will be available closer to commencement of its operation.

Further information about NDIS Worker Screening is available on our [Worker Screening overview page](#).

Will the NDIS Worker Screening arrangements clearly outline if an NDIS provider requires other checks for example a Police clearance or working with children check?

Registered NDIS providers are responsible for identifying which roles are risk assessed roles, and ensuring all workers in these roles have an NDIS Worker Screening clearance or an acceptable check under the transitional and special arrangements.

Registered NDIS providers will not be required to ensure that workers who do not work in risk assessed roles have an NDIS Worker Screening clearance or an acceptable check under the transitional and special arrangements. However, an NDIS provider or self-managed participant may, as a safety measure, choose to request a worker has an NDIS worker screening clearance, or an acceptable check under the transitional and special arrangements, prior to engaging that worker in a role that is not a risk assessed role.

I manage very remote Aboriginal communities with a 'thin market'. I hope to draw upon suitable, willing and able local people as support workers who may have a criminal history. If I develop a risk management plan around their employment - can they be employed or will the new NDIS worker screening arrangements rules them out?

Depending on the offence and assessment by the relevant state/territory worker screening units, an applicant who has been convicted of certain serious offences (or categories of offence) will be issued an exclusion by the Worker Screening Unit (provided they were 18 years of age at the time of the offence) with no right of appeal.

These kinds of offences include murder, and serious assault against a child or a vulnerable person. Other serious crimes may result in exclusion unless there are exceptional circumstances – for example, manslaughter. Crimes categorised as posing less risk will be considered as part of a broader risk assessment process. Worker Screening Units will take into account all other relevant criminal, disciplinary or misconduct information considered relevant in assessing a person's eligibility for an NDIS Worker Screening Check clearance.

Compliance and Enforcement

Investigation powers

Does the NDIS Commissioner have investigative powers or will the NDIS Commission rely on self-reports, self-evaluation and evaluators' reports?

One of the NDIS Commissioner's core functions is to secure compliance with the *National Disability Insurance Scheme Act 2013* (NDIS Act) through effective compliance and enforcement arrangements, including through the monitoring and investigations functions conferred on the Commissioner.

The NDIS Commission may use a range of compliance and investigative tools to prevent and address contraventions of the NDIS Act including education, compelling the provision of documents, executing monitoring and investigation warrants and working closely with other complaints and regulatory bodies. The NDIS Act also provides us with a range of compliance and enforcement powers, including the power to make banning orders, issue compliance notices, infringement notices and commence civil penalty proceedings.

The NDIS Commission will take a risk-responsive and proportionate approach to regulation, applying the strongest actions to the most serious non-compliance.

For further information, refer to the [NDIS Commission Compliance and Enforcement Policy](#).

Other

COVID-19

What is the role of the NDIS Commission during the COVID-19 pandemic?

During the COVID-19 pandemic, the NDIS Commission has continued to perform its functions which include being responsible for the registration of providers, handling complaints, and having oversight of reportable incidents.

In response to the pandemic, we have been working closely with the NDIA, State and Territory public health authorities, and other Commonwealth agencies to ensure continuity of supports for participants and access to PPE through the National Medical Stockpile (NMS) where other avenues have been exhausted. We are also closely monitoring the impact of the pandemic on providers through the Notification of event – COVID-19 (registered provider) forms submitted to the NDIS Commission.

The role of the NDIS Commission has been to continue to regulate all NDIS supports and services and assist the NDIS Quality & Safeguards Commissioner in performing all of their functions as set out under the *National Disability Insurance Scheme Act 2013*. We have supported providers to understand their continued obligations to ensure the quality and safety of supports to NDIS participants. This has included communicating public health directions and advice relevant to NDIS providers, and reinforcing provider obligations to provide supports to NDIS participants in a safe and competent manner. These obligations include managing and mitigating risks to NDIS participants and making any changes to supports and services that are necessary to avoid risks.

We have been publishing regular provider alerts, factsheets, and links to relevant government advice and training, which can be accessed from the [COVID-19 webpage](#). We have also published a dedicated

COVID-19 webpage for participants with information on what they can expect from their providers during this time, and links to accessible information.

We have ensured providers provide us with information about changes to supports and services as a result of the pandemic, so we can monitor changes in the market and potential risks to people with disability. This includes reporting suspected or confirmed infections of NDIS participants and workers, so we can work with the NDIA to respond to any support required by a person as a result of COVID-19.

Where providers are found to be in breach of their obligations, a proportionate regulatory approach is being applied consistent with our Compliance and Enforcement Policy, concentrating on supporting providers to be agile and resourceful in meeting their obligations, and to continue to uphold the rights of NDIS participants and their need for continuity of supports and services to keep them safe and healthy.

Personal Protective Equipment

How do providers access Personal Protective Equipment (PPE)?

We published an updated [fact sheet](#) on our website in July 2020 with information on how to access PPE, when it should be used, how requests for PPE are prioritised and update on current availability of PPE in Australia.

As the COVID-19 pandemic continues in Australia, some states and territories have updated their advice about when you should use PPE when providing supports and services for people with disability. Please stay updated with the latest advice from your [state or territory's public health unit](#) to ensure you and your workers are complying with local guidance.

NDIS providers and self-managing participants who can no longer access PPE supplies through usual means can contact the National Medical Stockpile (NMS) by emailing NDISCOVIDPPE@health.gov.au.

Our [provider alerts](#) also contain updates on guidance for PPE including a [PPE Buyers Guide](#).

We recommend you keep up to date with our COVID-19 [webpage](#) as it contains regular updates and important information for providers.

Access to slides and recording

Will the slides be available after this webinar? Can we get the recording of the session?

The recording of the webinar (which includes the presentation slides) is now available on the [Western Australia](#) webpage of the NDIS Commission website.

Relationship between NDIS, NDIA and NDIS Commission

What is the relationship between the NDIS, NDIA and the NDIS Commission?

The NDIS is the National Disability Insurance Scheme to provide funding and support to people with disability to access services and supports.

The National Disability Insurance Agency (NDIA) implements and administers the NDIS, including assisting participants to access the NDIS, manage planning, payments and pricing and detect and investigate allegations of fraud.

The NDIS Commission regulates NDIS providers and works to improve the quality and safety of NDIS supports and services by monitoring and securing compliance with the *National Disability Insurance Act 2013* and associated Rules.

Provider pricing

Will the rates that providers charge be impacted?

The NDIA sets price limits for some supports. Pricing related information including the NDIS Price Guide 2020-21 is available on the [NDIA website](#).

The NDIS Commission is independent of the NDIA and provides a nationally consistent approach to quality and safeguards in the NDIS. The role of the NDIS Commission is to promote the rights of participants, and to work with providers in providing safe and high-quality supports and services to people with disability.

Finding service providers

How do I find service providers that can deliver specialist supports such as Occupational Therapy or Speech Therapy?

A provider's registration details can be found by entering their business or legal name on the [NDIS Provider Register](#) which can be found on the [NDIS Commission website](#)

Worker Orientation Module

Our services are largely provided with volunteer support i.e. supporting participants physically on a horse. Are all of our volunteers required to undertake the NDIS orientation module?

The Worker Orientation Module 'Quality, Safety and You' is an interactive online course that explains the obligations of workers under the NDIS Code of Conduct – from the perspective of NDIS participants. It was developed in consultation with the sector, including NDIS providers and people with a disability. All registered NDIS providers should include the module in their induction process for workers, and encourage existing workers to undertake the module over time, as part of their ongoing learning and to support compliance with the [NDIS Code of Conduct](#).

The Worker Orientation Module is a free resource available to all NDIS providers and their employees to support a consistent understanding of the expectations of working in the NDIS. It takes approximately 90 minutes to complete the four modules that can be completed in parts. Once completed, workers will receive a Certificate of Completion.

Is it mandatory for directors to complete the worker orientation training module?

We have developed a [Worker Orientation Module](#) called 'Quality, Safety and You' to assist all NDIS workers to better support people with disability.

While the training is not mandatory, all registered NDIS providers should include the module within their induction process for workers, and encourage existing workers to undertake the module over time, as part of their ongoing learning and to support compliance with the [NDIS Code of Conduct](#).