



**NDIS Quality  
and Safeguards  
Commission**

## Compliance Priorities 2023-24

The NDIS Commission sets regulatory priorities at the commencement of the financial year to enable us to target our effort and resources towards identified areas of heightened risk.

These priorities are not the only areas where we will take compliance and enforcement action. We monitor and respond to time-critical and emerging areas of risk through our ongoing core regulatory functions, campaigns, and targeted regulatory action.

**The NDIS Commission retains the discretion to pursue other matters, in accordance with our [Regulatory Approach](#).**

**Underlying following compliance priorities, is a priority focus on unregistered providers.**

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| <b>Outcome 1</b>  | <b>The use of unauthorised restrictive practices is reduced or eliminated through the development and implementation of high quality positive behaviour support plans.</b>  |   |
| <b>Priority</b>   | <b>Intent Statement</b>   | <b>Risk Summary</b>   |
| <b>Issues and risks for participants through the use of unauthorised restrictive practices (URPs)</b> | <p>We will be targeting compliance and enforcement action where we identify providers are not complying with obligations to take all reasonable steps to facilitate the development of interim and comprehensive behaviour support plans and to obtain state or territory authorisation (where required) where there is, or is likely to be, ongoing use of regulated restricted practices, with participants.</p> <p>This will reduce risks for participants by ensuring that prohibited practices are not used and the use of regulated restrictive practices is appropriately authorised as part of a behaviour support plan developed by a suitable practitioner and subject to monitoring and oversight.</p> | <p>The NDIS Commission regulates NDIS providers' use of regulated restrictive practices in relation to persons with disability for the purposes of reducing and eliminating the use of restrictive practices.</p> <p>A restrictive practice means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability. Under the <i>National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018</i> (Restrictive Practices and Behaviour Support Rules) certain restrictive practices are subject to regulation. A restrictive practice is a regulated restrictive practice if it is or involves seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint.</p> <p>The use of a restrictive practice is 'unauthorised' if its use has not been authorised in accordance with any applicable state or territory requirements for authorisation and/or it is not used in accordance with a behaviour support plan for the participant. Providers must report every instance of a restrictive practice, including each individual use, until evidence of authorisation (if required) and the behaviour support plan are lodged with the NDIS Commission.</p> |
| <b>Impact on participants of poor behaviour support plan quality</b>                                  | <p>We will be targeting compliance and enforcement action where we identify providers of specialist behaviour support services are not meeting their obligations for the development of behaviour support plans about NDIS participants in consultation with the participants.</p> <p>This will improve the experience of people with disability through being directly involved in the</p>   | <p>Restrictive practices not only infringe on the rights or freedom of movement on the person subject to them but they result in negative consequences on the safety and well-being of the person. Research on the quality of behaviour support plans show that a good quality plan can lead to a reduction in the use of restrictive practices. The quality of behaviour support plans also provide an insight into the clinical governance of providers and the clinical performance of practitioners. A national review conducted on more than 2,700 behaviour support plans show that the quality of plan is weak and, disappointingly, only 32% of practitioners provided evidence that they had consulted the participant in the development of the behaviour support plan. Hence, there is an urgent need to secure</p>  |

| Priority | Intent Statement   | Risk Summary   |
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|          | development of quality behaviour support plans that support their participation and wellbeing. | the compliance of behaviour support providers with their obligations for plan development. |

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| <b>Outcome 2</b>  | <b>Unscrupulous and ineffective operators are exited from the market</b>  |   |
| <b>Priority</b>   | <b>Intent Statement</b>   | <b>Risk Summary</b>   |
| <p><b>Reducing and preventing fraud in the NDIS and risks to participants</b></p> | <p>We will be targeting compliance and enforcement action where we identify providers may not be complying with their obligations to act with honesty, integrity and transparency in providing supports and services to people with disability.</p> <p>This will support cross-government efforts to identify, respond to and prevent NDIS and ensure that unscrupulous providers are removed from, and prevented from entering, the NDIS market.</p> | <p>The Fraud Fusion Taskforce (“the Taskforce”) commenced on 1 November 2022. The Taskforce is co-chaired by the National Disability Insurance Agency and Services Australia and supersedes the NDIS Fraud Taskforce and Taskforce Integrity. The NDIS Commission is a member of the Taskforce.</p> <p>The Taskforce will focus in the first 12 months on establishment of intelligence capability and information-sharing amongst Taskforce members, as well as a focus on NDIS-related fraud. The NDIS Commission is playing a key role, as part of the Taskforce, in taking action to mitigate risks to NDIS participants, including quality and safety risks associated with issues of fraud. This includes acting swiftly on identified non-compliance as well as disrupting and preventing fraud related misconduct through our broader regulatory functions.</p> |

| Outcome 3   | Providers recognise the rights of participants and support their choice and control of the NDIS services they access   |  |
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| Priority  | Intent Statement   | Risk Summary   |
| <p><b>Participant choice and control in supported accommodation</b></p> | <p>We will be targeting compliance and enforcement action where we identify providers of supported accommodation services are not complying with their obligations under the NDIS Code of Conduct and conditions of registration where relevant, to ensure each participant receives transparent, factual advice about their support options that promote choice and control.</p> <p>We will be focusing on providers registered to deliver specialist disability accommodation (SDA) as well as providers delivering support for activities of daily living in group or shared accommodation, whether they are registered or unregistered.</p> <p>This will support the rights of participants accessing SDA and/or supports in a group living arrangement as well as improving transparency and choice for participants of the supports they access.</p> | <p>Our Own Motion Inquiry into Aspects of Supported Accommodation made a number of findings around issues impacting the ability for participants in supported accommodation to make changes to their living arrangements and exercise less choice and control over their NDIS supports.</p> <p>We have also received concerning information about practices engaged in amongst supported disability accommodation (SDA) providers, which may have the effect of limiting the independence, choice and control of NDIS participants residing in SDA. These practices include SDA providers:</p> <ul style="list-style-type: none"> <li>• entering into commercial arrangements with other NDIS providers to provide other NDIS supports and services exclusively within the SDA dwellings they operate, in the absence of freely given agreement by participants;</li> <li>• specifying who may provide other NDIS supports and services within an SDA dwelling, including requiring participants to engage the SDA provider to provide all NDIS supports and services within an SDA dwelling, in the absence of freely given agreement by participants; and</li> <li>• charging fees to NDIS participants and/or other NDIS providers to deliver supports and services within an SDA dwelling in the absence of transparent service agreements that allow an NDIS participant to make an informed decision about their supports and services.</li> </ul> |
| <p><b>Participants living in supported boarding houses</b></p>          | <p>Our compliance and enforcement action will be targeting NDIS providers who are also proprietors of state-regulated supported boarding house style accommodation, or are associated with such services, who we identify are not complying with obligations to act with respect for individual participant rights, provide</p>  | <p>We have been working with other government agencies on a range of matters associated with the quality and safety of supports provided to NDIS participants living in supported boarding house style accommodation that is regulated by state government authorities. Complaints we have received, information we have received through our engagement with regulators and advocates and our own compliance activities, have identified a range of risks for participants living in supported boarding houses where proprietors are also receiving NDIS funds from those participants. We will be increasing the use of our</p>  |

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|  | <p>supports and services in a safe and competent manner, and to act with honesty, integrity and transparency in providing supports and services to people with disability.</p> <p>This will help to increase NDIS participants' and providers' knowledge and awareness of the rights of NDIS participants living in supported boarding house to exercise choice over their NDIS funded supports and services and accountability for the quality and transparency of supports being paid for from participants' NDIS plans.</p> | <p>regulatory powers to enhance protections for residents of supported boarding houses where they are receiving NDIS supports and services. This includes expanding our education and engagement activities with supported boarding house proprietors to clarify their obligations where they are supporting NDIS participants.</p> <p>There are supported boarding house style arrangements in a number of states and territories. We will focus initially on the Supported Residential Services (SRS) market in Victoria where there is a significant proportion of this accommodation market compared with other states, and a significant proportion of residents living in SRS are NDIS participants.</p> <p>We will extend this approach more broadly, informed by its application in the Victorian context, and consideration of the risks to participants residing in similar accommodation arrangements in other jurisdictions.</p> |
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## Enduring Priorities

### **Prevention of harm to participants**

Targeting compliance and enforcement action on providers and workers alleged to have caused harm to NDIS participants, including violence, neglect, abuse, exploitation and sexual misconduct, unauthorised restrictive practices and preventing further potential harm. This enduring priority incorporates a proactive approach to harm prevention, including through each of the compliance priorities.

### **COVID-19 and other emergency management and response**

Targeting compliance and enforcement action where providers are not complying with obligations to manage risk, ensure continuity of supports, and mitigate impacts on the health and wellbeing of NDIS participants as a result of the COVID-19 pandemic and other emergencies and disasters. This enduring priority incorporates a proactive approach to monitoring the impact of COVID and other significant events on participants and providers. People with disability are at increased risk of serious illness and death from COVID-19 and providers have key obligations for supporting participant safety, including through effective infection prevention and control and supporting participants to access vaccinations.

### **Incident management and response**

Monitoring providers' compliance with obligations to report and effectively respond to incidents, with an emphasis on provider engagement with participants in the prevention and mitigation of incidents, and targeting compliance and enforcement action where providers are identified as non-compliant.