

# NDIS Commission Information Kit for MHCC Members

August 2018

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## 1. About this kit

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This kit provides information about the new Commonwealth government agency called the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission (NDIS Commission).

The NDIS Commission started in NSW and South Australia on 1 July 2018.

By 1 July 2020, the NDIS Commission will be available in all states and territories.

The NDIS commission developed an information kit to explain key aspects of their work, and provide you with materials and messages to share with your staff, NDIS participants, and families and carers.

### About MHCC

The Mental Health Coordinating Council (MHCC) is the peak body for community mental health organisations in NSW. Since 1983 we have worked to build the capacity of community organisations to support people on their recovery journeys. Informed through consultation with the sector, MHCC advocates for policy development and legislative reform and best practice approaches, and supports innovation and the value of the sector. MHCC also offers responsive and highly flexible mental health training and professional development opportunities grounded in recovery-oriented and trauma-informed practice. Our work stems from the belief that people with lived experience are drivers of positive change in all mental health services.

### Who is this kit for?

The NDIS Commission provided an information kit to a range of stakeholders including peak bodies like the MHCC to distribute to their members. MHCC members are community sector organisations in NSW that assist people living with mental health conditions including psychosocial disability. These community managed organisations (CMOs) provide a range of psychosocial rehabilitation and recovery support services.

The NDIS Commission is also distributing tailored information kits to:

- NDIS participants and self-managed participants, and their families and carers, in NSW
- Local Area Coordinators, planners and Early Childhood Early Intervention partners in NSW
- Relevant government departments, agencies and regulatory bodies, MPs and Senators, and Ministers.



## 2. Information about the NDIS Commission

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The NDIS Quality and Safeguards Commission (NDIS Commission) is a new independent Commonwealth agency that will help improve the quality and safety of NDIS supports and services.

The NDIS Commission is now available in New South Wales (NSW) and South Australia. By 1 July 2020, the NDIS Commission will be available in all states and territories.

The NDIS Commission, when fully rolled out, will promote quality and safe services for all NDIS participants no matter where they live.

### What does the NDIS Commission mean for NDIS participants?

A strong, nationally consistent quality and safeguards system is now in place in NSW and South Australia.

The NDIS Commission can help NDIS participants and their families and carers, resolve concerns or complaints about NDIS supports and services.

All disability providers and workers in NSW must follow a new NDIS Code of Conduct: <https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/NDIS%20Commission%20-%20Conduct.pdf>

The code sets out the standards of quality and safety required for NDIS services and supports. The NDIS Commission has the power to take action if a provider or worker does not meet the new NDIS Code of Conduct.

Governments are developing an improved worker-screening system and this will soon be in place in NSW. Until the new system is in place, existing worker screening and police check requirements in NSW will continue.

Over time, the NDIS Commission will identify improvements to the NDIS that will benefit everyone.

A copy of the Code of Conduct is over page.



**NDIS Quality  
and Safeguards  
Commission**

## The NDIS Code of Conduct

The NDIS Code of Conduct applies to all NDIS providers, registered and unregistered, and all persons employed or otherwise engaged by an NDIS provider.

### **In providing supports or services to people with disability, a person covered by the Code must:**

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

**Anyone can raise a complaint with the NDIS Quality and Safeguards Commission about providers or workers who breach the NDIS Code of Conduct.**

### **Find out more**

To find out more about the Code of Conduct or to report a breach:

- go to [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au)
- email [feedback@ndiscommission.gov.au](mailto:feedback@ndiscommission.gov.au)
- call 1800 035 544

## What does the NDIS Commission mean for providers and workers?

All NDIS providers (registered and unregistered) and workers in NSW need to:

- provide participants with safe, quality supports and services
- uphold participants' right to be free from harm
- follow the new NDIS Code of Conduct.

In addition, the NDIS Commission requires all NDIS registered providers in NSW to:

- have a complaints system in place
- meet the new NDIS Practice Standards
- report certain types of incidents to the NDIS

Commission, including incidents or allegations of abuse and neglect

- report their use of restrictive practices and behaviour support plans, with the aim of reducing and eliminating such practices.

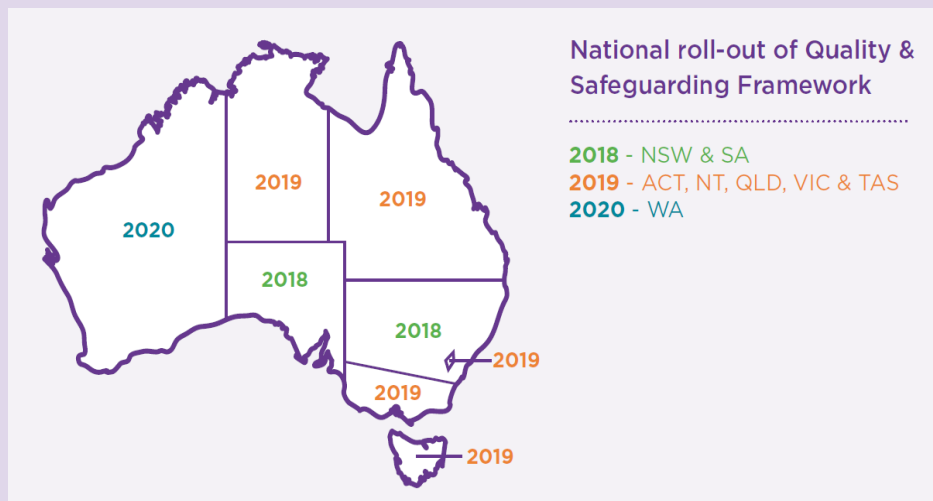
We will support and educate providers and workers to ensure they meet their responsibilities.

## When is the NDIS Commission available in other states and territories?

The NDIS Commission starts on:

- 1 July 2018 in NSW and South Australia
- 1 July 2019 in the Australian Capital Territory, Northern Territory, Queensland, Tasmania and Victoria
- 1 July 2020 in Western Australia.

State and territory existing quality and safeguards systems cover NDIS participants covered under until the NDIS Commission is available.



## Does the NDIS Commission replace the NDIA?

No. The NDIS Commission **does not replace** the National Disability Insurance Agency (NDIA).

The NDIA will continue to:

- deliver the NDIS
- provide individualised plans and support people with disability
- coordinate service bookings, payments and access to plans for providers
- handle complaints about the NDIA itself, eligibility funding and participant plans.

The NDIA will share news and information with participants about the NDIS Commission through the *myplace* participant portal, NDIS newsletters and NDIS participant information sessions.

## 3. Information about complaints

### If a participant feels unsafe or unhappy with their NDIS services

Participants have the right to be safe and receive quality services from the providers and workers they choose to support them under the NDIS.

If a participant feels unsafe or unhappy with their NDIS services, they have the right to complain. Families, carers, advocates, workers or someone else can also complain on behalf of the participant.

If a participant has a concern, we encourage them to talk to their provider first. They can ask someone they trust or an independent advocate to help them.

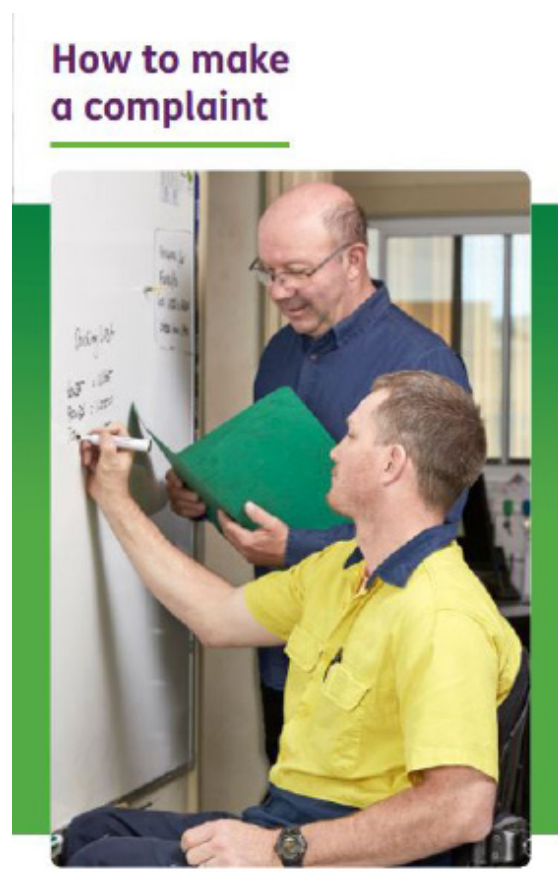
If the participant doesn't want to talk to the provider or if they are unhappy with the provider's response, they can contact the NDIS Commission. The NDIS Commission's contact details are over page.

The NDIS Commission will help try to resolve any concerns.

They will work with participants, and with providers and workers, to improve the quality and safety of NDIS supports - for them and other participants.

If they can't help they will help people find the right organisation.

Their brochure *How to make a complaint* has more information: <https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/NDIS%20Commission%20-%20Complaint.pdf>



### How to make a complaint

Call the NDIS Commission on **1800 035 544**.

You can submit a complaint online at <https://www.ndiscommission.gov.au/>

You can send an email to [complaints@ndiscommission.gov.au](mailto:complaints@ndiscommission.gov.au)

### If a participant is unhappy with the NDIA

The NDIS Commission does not handle complaints about the NDIA. If a participant is unhappy with the NDIA and wants to make a complaint, they need to contact the NDIA:

- Phone 1800 800 110
- Visit an NDIA office
- Complete a complaints form and:
  - email it to [feedback@ndis.gov.au](mailto:feedback@ndis.gov.au)
  - post it to National Disability Insurance Agency, GPO Box 700, Canberra ACT 2601
  - drop the form off at an NDIA office.

If the participant is not satisfied with the NDIA's response to their complaint, they can contact the Commonwealth Ombudsman Phone 1300 362 072.

People can also ask the Administrative Appeals Tribunal (AAT) to review a decision made by the NDIA about a complaint that you don't agree with: Phone 1800 228 333.

For the complaints form and a list of NDIA offices, visit <https://www.ndis.gov.au/>

There are National Disability Advocacy Program organisations that can help people with complaints and AAT reviews.



## 4. How you can help

MHCC encourages member organisations to inform NDIS participants, families and carers, providers and their NDIS workers about the role of the NDIS Commission, and help them engage with them. Some key messages follow.

### Supporting NDIS participants, families and carers

- Read the information in this kit.
- Ensure NDIS participants, families and carers understand that it is OK to complain. Raising a concern can help them and other people with disability.
- During conversations with a NDIS participant, family member or carer, ask them about any concerns they may have about the quality or safety of NDIS supports and services.
- Provide NDIS participants, families and carers with information about the NDIS Commission. Ensure they understand the role and responsibilities of the NDIS Commission, what it does, and how it can help.
- Support NDIS participants, families and carers to raise any concerns with the provider or NDIS Commission.
- Provide NDIS participants, families and carers with the NDIS Commission publications. For example:
  - Overview of the NDIS Quality and Safeguards Commission
  - How to make a complaint.

### About the NDIS Quality and Safeguards Commission



- Hold information sessions or workshops with NDIS participants, families and carers about how they can raise and resolve concerns about NDIS supports and services. Provide information about the NDIS Commission, and provide the publications mentioned above.
- Include an article about the NDIS Commission in your organisation's newsletter.
- Visit the NDIS Commission website [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au) to find out more.

## Supporting providers

- Read the information in this kit.
- Ensure NDIS providers understand what the NDIS Commission means for them and their staff, including the new Code of Conduct.
- Ensure providers understand that the NDIS Commission is currently operating only in NSW and South Australia. Providers in other states and territories are not affected at this stage, and their current state or territory quality and safeguards systems continue to apply.
- Ensure registered NDIS providers in NSW understand that their registration will automatically transfer from the NDIA to the NDIS Commission, and that they don't need to do anything until their registration is due for renewal.
- Encourage unregistered providers in NSW to find out whether or not they need to register with the NDIS Commission.
- Encourage NDIS providers to tell their staff about the NDIS Commission, the role and responsibilities of the NDIS Commission, what it does, and what it means for workers.
- Encourage providers to ask NDIS participants, families and carers for feedback about NDIS supports and services and encourage providers to proactively resolve any concerns.
- Share copies of NDIS Commission publications with providers and workers in NSW. For example:
  - What's changed for NSW providers?  
<https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/NDIS%20Commission%20-%20Then%20and%20Now%20NSW.pdf>



- Encourage providers in NSW to register for NDIS Commission provider information sessions. The details are on the NDIS Commission website <https://www.ndiscommission.gov.au/>
- Include an article about the NDIS Commission in your organisation's newsletter/s.
- Visit the NDIS Commission website <https://www.ndiscommission.gov.au/> to find out more.

## 5. Key messages about the NDIS Commission

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MHCC encourages you to use these messages provided by the NDIS Commission when you are communicating with NDIS participants, families and carers from 1 July 2018. Your staff will also benefit from this information.

### Information for all audiences

- The NDIS Quality and Safeguards Commission is a new independent Commonwealth agency established to improve the quality and safety of NDIS supports and services.
- The NDIS Commission will register and regulate NDIS providers, provide national consistency, promote safety and quality and response to concerns and complaints about NDIS supports and services.
- The NDIS Commission started in NSW and South Australia on 1 July 2018.
- In NSW and South Australia, this means:
  - a new NDIS Code of Conduct now applies to providers and workers
  - registered providers need to meet new

NDIS Practice Standards, report certain types of incidents, report restrictive practices, and have a strong complaints system in place

- participants can contact the NDIS Commission to raise a concern or make a complaint.
- The NDIS Commission will start in the Australian Capital Territory, Northern Territory, Queensland, Tasmania and Victoria on 1 July 2019; and in Western Australia on 1 July 2020.
- Until the NDIS Commission starts operating in these areas, current state or territory requirements for quality and safeguards continue to apply.
- The NDIS Commission, when fully rolled out, will promote quality and safe services and supports for all NDIS participants no matter where they live.
- For more information, visit the NDIS Commission website <https://www.ndiscommission.gov.au/>

### The NDIS Commission's responsibilities

#### The NDIS Commission:

- responds to concerns, complaints and reportable incidents, including abuse and neglect of NDIS participants
- promotes the NDIS principles of choice and control, and works to empower participants to exercise their rights to access quality services as informed, protected consumers
- requires NDIS providers to uphold participants' rights to be free from harm
- registers and regulates NDIS providers, and oversees the new NDIS Code of Conduct and

### Practice Standards:

- provides guidance and best practice information to NDIS providers on how to comply with their registration responsibilities, including how to provide culturally responsive and appropriate disability supports
- monitors compliance against the NDIS Code of Conduct and Practice Standards, including undertaking investigations and taking enforcement action
- monitors the use of restrictive practices within the NDIS, with the aim of reducing and eliminating such practices
- leads collaboration with states and territories to design and implement nationally consistent NDIS worker screening
- focuses on education, capacity building and development for people with disability, NDIS providers and workers
- facilitates information sharing with the National Disability Insurance Agency (NDIA), state and territory authorities, and other Commonwealth regulatory bodies.

### Information for participants in NSW

- You have the right to be safe and to receive quality services from the providers and workers you choose to support you under the NDIS.
- A strong and consistent quality and safeguards system is now in place in NSW and South Australia.
- The NDIS Commission can help you resolve concerns or complaints about NDIS supports and services.
- All disability providers and workers in NSW must follow a new NDIS Code of Conduct. The code sets out the standards of quality and safety required for NDIS services and supports.
- The NDIS Commission has the power to take action if a provider or worker does not meet the new NDIS Code of Conduct.
- A new national worker screening system is being developed and will soon be in place in NSW. Worker screening is a way to check that people who wish to work with NDIS participants can be trusted to work with people with disability. Until the new system is in place, existing worker screening and police check requirements in your state will continue.
- The NDIS Commission expects all NDIS providers and workers in NSW to:
  - provide you with safe, quality supports and services
  - uphold your right to be free from harm
  - follow the new NDIS Code of Conduct.
- In addition, the NDIS Commission requires all registered providers in NSW to:
  - have a complaints system in place, and manage the complaints they receive
  - meet the new NDIS Practice Standards
  - report certain types of incidents to the NDIS Commission, including incidents or allegations of abuse and neglect
  - report the use of restrictive practices and behaviour support plans, with the aim of reducing and eliminating restrictive practices.

### Information for participants about making a complaint

- If you feel unsafe or unhappy with your NDIS services, you have the right to complain.
- It's OK to complain. Speaking up can help improve services for you and others.
- If you have a concern, try talking to your provider first. You can ask someone you trust, or an independent advocate, to help you.
- If you don't want to talk to your provider, or you are unhappy with their response, contact the NDIS Commission.
- The NDIS Commission will help try to resolve your concerns.
- The NDIS Commission will work with you, providers and workers, to improve the quality and safety of NDIS supports – for you and other participants.
- If you're not sure who to contact, the NDIS Commission will help you contact the right organisation.
- To make a complaint or to find out more about your options, call the NDIS Commission on 1800 035 544 or visit the website <https://www.ndiscommission.gov.au/>

### Information for providers in NSW

What are the changes?

- From 1 July 2018, all providers and workers in NSW who are supporting NDIS participants will be expected to:
  - deliver safe, quality supports and services to NDIS participants
  - uphold NDIS participants' right to be free from harm
  - follow the new NDIS Code of Conduct.
- In addition, registered providers in NSW must:
  - have a complaints system in place
  - meet the new NDIS Practice Standards
  - report certain types of incidents to the NDIS Commission, including incidents or allegations of abuse and neglect
  - report the use of restrictive practices and behaviour support plans, with the aim of reducing and eliminating such practices.
- A new national worker screening system is being developed and will soon be in place in NSW. Until the new system is in place, existing worker screening and police check requirements in each state and territory will continue.

## Incidents and Restrictive Practice

MHCC understands that in sharing these key messages you might be asked:

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### What are reportable incidents?

The following incidents (including allegations) arising in the context of NDIS supports or services must be reported to the NDIS Commission:

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

### What is a restrictive practice?

'Restrictive practice' means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability, with the primary purpose of protecting the person or others from harm.

There are five categories of regulated restrictive practices that the NDIS Commission will monitor:

- **Seclusion** - the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.
- **Chemical restraint** - the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition.
- **Mechanical restraint** - the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing a person's behaviour but does not include the use of devices for therapeutic or non-behavioural purposes.
- **Physical restraint** - 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.
- **Environmental restraint** - which restrict a person's free access to all parts of their environment, including items or activities.

## Benefits

- The expectations for how supports and services are to be delivered to NDIS participants will be clear to both providers and people with disability.
- The NDIS Commission will build the capability of NDIS participants and providers to uphold the rights of people with disability, and realise the benefits of the NDIS.
- These arrangements will support NDIS participants to be informed users of NDIS supports and services, and to live free from abuse, neglect, violence and exploitation.
- It will be easy to make a complaint about an NDIS support or service, and a nationally consistent approach to working with NDIS providers and people with disability to resolve complaints.
- The NDIS Commission will support providers to meet these new responsibilities, and deliver quality NDIS supports and services to NDIS participants.
- The new, nationally consistent approach to quality and safeguards will progressively replace existing state and territory arrangements. From July 2020 there will be a single system right across Australia.
- A single registration and regulatory system will reduce duplication and inconsistency, and help providers meet the required standards.
- There will be a responsive and proportionate approach to regulation that reflects the scale and scope of the NDIS providers.
- Nationally consistent NDIS worker screening, together with the single registration and regulatory system, will make it easier for providers to operate in multiple jurisdictions.
- The NDIS Commission will educate providers about behaviour support strategies that reduce and eliminate restrictive practices.
- The NDIS Commission will share information that supports capacity building.

## Registration

- NSW providers' existing registration details have automatically transferred across from the NDIA to the NDIS Commission. Providers don't need to do anything until their registration is due for renewal.
- NSW providers must register with the NDIS Commission if they want to claim payments from the NDIA, or if they deliver specialist disability accommodation, use restrictive practices, or develop behaviour support plans.
  - How to register as an NDIS service provider  
<https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/NDIS%20Commission%20-%20Register.pdf>
- Providers in NSW applying for registration with the NDIS Commission must demonstrate they meet the new NDIS Practice Standards.

## NDIS Practice Standards

- The NDIS Practice Standards create an important benchmark for NDIS providers to assess their performance, and to demonstrate how they provide high quality and safe supports and services to NDIS participants.

- NDIS providers must comply with the NDIS Practice Standards relevant to the supports and services they deliver, to become and remain registered as an NDIS provider with the NDIS Commission.
- Some parts of the NDIS Practice Standards apply to all registered NDIS providers.
- Other parts apply only to providers delivering more complex supports such as behaviour support, early childhood supports, specialist support coordination, and specialist disability accommodation.
- The NDIS Practice Standards consists of a series of high-level, participant-focused outcomes, each with a number of quality indicators.
- Providers will self-assess against the relevant NDIS Practice Standards.
- An independent auditor will use the quality indicators to assess a provider's compliance with the NDIS Practice Standards.

## 6. Contacting the NSW Commission and learning more

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### Contact the NDIS Commission

#### Call

Phone the NDIS Commission on **1800 035 544**.

We are available Monday to Friday, 9 am to 5 pm.

It is free to phone from a landline telephone. Calling from a mobile phone may incur a charge.

#### National Relay Service

Visit [www.relayservice.gov.au](http://www.relayservice.gov.au) then

Voice: **1800 555 660**

TTY: **1800 555 630**

#### Translating and Interpreting Service

Phone: 131 450

Email: [feedback@ndiscommission.gov.au](mailto:feedback@ndiscommission.gov.au)

#### Visit the NDIS Commission website

Visit our website <https://www.ndiscommission.gov.au/> for information about:

- how to raise a concern or make a complaint
- start dates for the NDIS Commission
- information about NDIS Commissioner Mr Graeme Head and staff
- the NDIS Code of Conduct for all providers and workers
- guidance for providers about registration, the NDIS Practice Standards, reporting and managing incidents, reporting restrictive practices and behaviour support plans
- legislation, rules and policies.



### Legislation

#### NDIS Commission Legislation

*[National Disability Insurance Scheme Amendment \(Quality and Safeguards Commission and Other Measures\) Act 2017](#)*

#### NDIS Commission Rules

- Summary of the NDIS Rules: [www.ndiscommission.gov.au/document/551](http://www.ndiscommission.gov.au/document/551)
- [Code of Conduct](#)
- [Registration and Practice Standards](#)
- [Quality Indicators](#)
- [Restrictive practices and behaviour support](#)
- [Specialist disability accommodation conditions](#)
- [Specialist disability accommodation - participating jurisdictions](#)
- [Transitional rules](#)
- [Incident management and reportable incidents](#)
- [Complaints management and resolution](#)
- [Provider definition](#)
- [Protection and disclosure of information](#)

#### NDIS Commission Policy

The [NDIS Quality and Safeguarding Framework](#) promotes high-quality supports and safe environments for all NDIS participants.



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PO Box 668  
Rozelle NSW 2039

For further information please contact:

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Tel: (02) 9555 8388