

Changes to safeguarding arrangements in relation to the NDIS in NSW

The NDIS Quality and Safeguards Commission starts in NSW and SA on 1 July 2018. From that date, some of the NSW Ombudsman's functions in relation to services and supports for people with disability will move to the NDIS Commission.

Complaints about NDIS providers

The NSW Ombudsman currently handles complaints about registered and unregistered NDIS providers. From 1 July, the NDIS Commission will take over this function. From Monday 2 July, any person who wishes to make a complaint or raise concerns about an NDIS provider should contact the NDIS Commission.

Where people contact us to make a complaint about an NDIS provider after 1 July, we will provide the relevant contact details for the NDIS Commission. However, the Commission and the Ombudsman's office will work together to make sure there is 'no wrong door' for making a complaint. Where appropriate, we will provide assistance to the complainant to complain to the NDIS Commission, such as through making a 'warm referral' (where we provide the key details to the Commission on the complainant's behalf, with their consent).

The NSW Ombudsman will continue to handle and seek to resolve any complaints that we received before the start of the NDIS Commission. Depending on the matter, we may provide information to the Commission

to inform its work with NDIS providers – for example, where the matter raises significant quality issues.

Complaints about NSW community services

Under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, the Ombudsman's office will continue to handle complaints about other community services – including services operated, funded or licensed by the Department of Family and Community Services.

Reportable incidents

The NSW Ombudsman currently operates the Disability Reportable Incidents scheme, which requires FACS and funded providers to notify our office of certain allegations involving people with disability living in supported group accommodation.

From 1 July 2018, registered providers in NSW and SA will be required to notify the NDIS Commission of the following incidents

(including allegations) affecting NDIS participants in connection with the provision of NDIS supports and services, when these occur after 1 July 2018.

Reportable incidents include:

- 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.

The requirement to report to the NDIS Commission does not replace existing obligations on your organisation to report to other relevant authorities, including child protection agencies or police.

Information about incidents that are reportable and how to report incidents will be available on the NDIS Commission's website: www.ndiscommission.gov.au.

The NSW Ombudsman will continue to oversee and handle any disability reportable incidents that occurred before the start of the NDIS Commission. Depending on the matter, we may provide information to the Commission to inform its work with NDIS providers – for example, where the matter raises significant quality issues.

Note: Under Part 3C of the *Ombudsman Act 1974*, the Ombudsman's office will continue to oversee and handle disability reportable

incidents involving people with disability living in supported group accommodation that continues to be operated or funded by the Department of Family and Community Services.

Deaths of people with disability in residential care

The NSW Ombudsman currently reviews the deaths of all people with disability who were living in (or temporarily absent from) residential care.

From 1 July, the deaths of people with disability that occur in connection with the provision of supports or services by registered NDIS providers will be 'reportable incidents' that are required to be reported to the NDIS Commission. This includes deaths that occur while a support or service is being provided (for example, in residential care).

The NSW Ombudsman will continue to review the deaths of people with disability in residential care operated, funded or licensed by the Department of Family and Community Services (including assisted boarding houses).

The NSW Ombudsman will also continue to review the deaths of people with disability in residential care provided by registered NDIS providers, with a focus on the involvement of NSW service systems, such as the health and justice systems.

Depending on the matter, we may provide information to the NDIS Commission to inform its work with NDIS providers – for example, where the matter raises significant quality issues, or raises concerns about the conduct of an NDIS provider.

Official Community Visitors

The NSW Ombudsman coordinates the Official Community Visitor (OCV) scheme. OCVs are appointed by the Ministers for Disability Services, Ageing, and Family and Community Services to visit accommodation services for children and young people in residential out-of-home care (OOHC), people in assisted boarding houses, and people with disability in residential care. The Visitors are independent from the Ombudsman's office and from the services they visit.

At this time, there is no change to the OCV scheme. Visitors will continue to visit people with disability and children and young people living in residential care in NSW, and raise issues directly with the accommodation providers and, when needed, with the Ombudsman's office and relevant Ministers. The Ombudsman's office will continue to coordinate the scheme, and work with the NDIS Commission in relation to issues with NDIS funded accommodation providers.

A national review of community visitor schemes is expected to be conducted in 2018; the outcomes of the review will inform the future operation of the NSW OCV scheme in relation to people with disability.

Abuse, neglect and exploitation of adults with disability in community settings

The NSW Ombudsman currently receives and responds to allegations of abuse, neglect and/or exploitation of adults with disability living in community settings (such as the family home). We take a range of actions in response to

these matters, including obtaining information about current or recent risks to the person; making inquiries with any current or recent services involved with the person and/or their family; and working with agencies to enable appropriate supports and/or protections to be provided.

At this time, there is no change in relation to this work. The Ombudsman's office will continue to receive and respond to these matters. Depending on the matter, we may provide information to the NDIS Commission to inform its work with NDIS providers – for example, where the matter raises concerns about the response of a provider to indicators of abuse.

Reportable conduct

The NSW Ombudsman operates the reportable conduct scheme under Part 3A of the Ombudsman Act, which requires designated agencies to notify our office of certain child protection allegations against employees.¹

There is no change in relation to this work. Designated agencies are still required to notify our office of employment-related child protection allegations. In a small number of cases, there may be a cross-over between our office and the NDIS Commission in relation to matters involving child protection allegations against employees of NDIS registered providers. We will work with the Commission to develop an approach that seeks to avoid duplication in reporting by providers.

1 See NSW Ombudsman fact sheet, *Child Protection: Notifying and identifying reportable conduct* (https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0006/40992/FS11-Notifying-and-identifying-reportable-conduct-170210.pdf)

Contact us for more information

Our business hours are: Monday to Friday, 9am–5pm (*Inquiries section closes at 4pm*).

If you wish to visit us, we prefer you make an appointment. Please call us first to ensure your complaint is within our jurisdiction and our staff are available to see you.

Level 24, 580 George Street
Sydney NSW 2000

Email

nswombo@ombo.nsw.gov.au

Web

www.ombo.nsw.gov.au

General inquiries 02 9286 1000
Facsimile 02 9283 2911

Toll free (outside Sydney metro)
1800 451 524

National Relay Service (NRS)
133 677

Telephone Interpreter Service
(TIS): 131 450
We can arrange an interpreter
through TIS or you can contact
TIS yourself before speaking to us.

