

NDIS Incident Management and Reportable System Policy and Procedures (the Policy)

Now We're Talking Speech Pathology and Psychology

Document prepared May 2020 by Olivia O'Hare

NDIS Incident Management and Reportable System Policy and Procedures (the Policy)

Made in response to the National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 (the Rules).

Plain English summary: What is this all about?

Sometimes, bad things can happen and people get hurt. Accidents and other bad things can happen even when we've tried hard to make things safe for everyone we work with.

If bad things happen to you when we are working with you, our senior staff will work with you to try to make things better. We will also try to learn from any bad things that happen to you by:

- looking into what happened;
- speaking with you, our staff; and other people affected;
- making changes to what we do to make it less likely that bad things will happen again to you, or to anyone else; and
- keeping good records about what happened, your views, and what we did together to try to make things better for you and others.

We work hard to make sure you are safe with us. If something very serious happens when we are working with you - like a big accident or if someone breaks the law and hurts you - our senior staff will look into it urgently and will also tell the NDIS Commissioner so the NDIA can look into what happened and help you.

If a bad thing happens to you when you are working with us, you can speak to Olivia O'Hare, Director of *Now We're Talking –Speech Pathology and Psychology*

You can:

- come in and meet with us;
- send us an email at nowweretalkingspeech@gmail.com
- call us on the phone (0417 246 867) ;
- communicate with your preferred augmentative and alternative communication device or method; or
- have a friend or carer contact us for you.

If any bad thing happen while we are working together, we will work with you to get to the bottom of what happened. We will work hard to try to help you.

You will not get into any trouble for contacting us about a bad thing that has happened to you. Contacting us about a bad thing will not affect your services - except if we need to make changes to help make you feel safer.

Why is this Policy so long?

The rest of this document is very long and complicated! The NDIS Rules say that:

- we need to think very hard about what we will do if a bad thing happens to someone we are working with;
- we have to have this Policy to write down what we will do if a bad thing happens; and

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- we have to have lots of rules about what happens if something very bad happens, to make sure the NDIA knows about it.

It is our job to make sure you understand this Policy.

If a bad thing happens to you while we are working together, we will work together to try to make things better.

Policy

Act	Means the National Disability Insurance Scheme Act 2013.
NDIS Commission	Means the National Disability Insurance Scheme Quality and Safeguards Commission.
Engaged	A person is engaged, including volunteers, by an NDIS provider when both the involved person and the organisation have agreed that the person will provide supports or services for people with disability who receives funding under the NDIS or the Commonwealth Continuity of Support Programme relating to Specialist Disability Services for Older People.
Incident	Means acts, omissions, events or circumstances that occur in connection with providing supports or services to a person with disability; and that have, or could have, caused harm to a person with disability.
Key personnel	A member of the group of persons who is responsible for the executive decisions of the registered provider; or any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the person or entity. See s 11A of the Act.
NDIA	National Disability Insurance Agency, whose role is to implement the National Disability Insurance Scheme (NDIS).
NDIS	National Disability Insurance Scheme, which is a new way to support a better life for hundreds of thousands of Australians with a significant and permanent disability and Means a person or entity registered under s 73E of the Act, to provide supports and services to NDIS participants.

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NDIS provider	A person (other than the NDIA) who receives: <ul style="list-style-type: none"> • funding under the arrangements set out in Chapter 2 of the Act; or • NDIS amounts (other than as a participant); or a person or entity who provides supports or services to people with disability other than under the NDIS; and who is prescribed by the NDIS rules as an NDIS provider. See s 9 of the Act.
Participant	A person with disability who receives supports or services from an NDIS provider. In this guidance we generally refer to NDIS participants
Registered NDIS Provider	A person with disability who receives supports or services from an NDIS provider. In this guidance we generally refer to NDIS participants. Means a person or entity registered under s 73E of the Act, to provide supports and services to NDIS participants.
Worker	Includes employees, contractors and people otherwise engaged for example, on a volunteer basis by an NDIS provider and people contracted by this provider.

Policy Status

This Policy documents our incident management system for the purposes of the Rules, and as required by the Rules.

Purpose

As a registered NDIS provider, we must have an incident management system to help:

- identify, record and manage incidents; and
- notify, investigate and respond to reportable incidents (more serious incidents); and
- identify systemic issues and drive improvements in the quality of the supports we deliver.

The NDIS Quality and Safeguards Commissioner (Commissioner) oversees notifications of reportable incidents and our responses to these incidents. This oversight, combined with our compliance with this Policy, can reduce preventable deaths, serious injuries and other serious incidents through early intervention and capacity- building.

What is an “incident”?

1) The incident management system of a registered NDIS provider must cover incidents that consist of acts, omissions, events or circumstances that:

- (a) occur in connection with providing supports or services to a person with disability; and
- (b) have, or could have, caused harm to the person with disability.

2) The incident management system must also cover incidents that consist of acts by a person with disability that:

- (a) occur in connection with providing supports or services to the person with disability; and
- (b) have caused serious harm, or a risk of serious harm, to another person.

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3) The incident management system must also cover reportable incidents that are alleged to have occurred in connection with providing supports or services to a person with disability.

A reportable incident is:

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

Incident Management System Procedures

All of our staff (including, without limitation, directors, managers, employees, volunteers and contractors, must follow this Policy and the following procedures to identify, manage and resolve incidents,

(a) To whom must incidents be reported?

Director of Now We're Talking – Speech Pathology and Psychology
Olivia O'Hare
0417 246 867
nowweretalking@gmail.com

(b) Incident Reports: How are incidents identified, recorded and reported?

(i) If, at any time, a Staff member becomes aware of an incident (including, for the avoidance of doubt, any alleged incident), he or she must:

1. notify the Incidents Officer as soon as practicable, and in any event within one business day of becoming aware of the incident; and
2. complete Part A of the "Incident Notification" in the form set out in Appendix 1.

(ii) The requirement of Staff to notify the Director about an incident is mandatory and does not depend on whether the people involved make a formal complaint or allegation. Failure to notify the Director about an incident within the expected timeframe will be treated seriously, and may result in disciplinary action against the Staff member(s) involved.

(iii) Upon receipt of an Incident Notification, the Director will take action. The specific action taken by the Director will depend on all the facts and circumstances surrounding the incident, including the seriousness of the incident. In the normal course, the Director will:

- communicate promptly with the Staff member(s) who made the notification;
- use reasonable efforts to communicate with the people affected, including (if relevant) the person or people with disability who are affected or involved;
- investigate the incident, including the causes of the incident, its effect, and any operational issues that may have contributed to the incident occurring;
- assess each incident according to the incident Investigation principles set out below (the Incident Investigation Principles);

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- take the appropriate action. This may include a range of responses depending on the facts and circumstances, including no further action, an apology, or attempts to remedy or mitigate the effects of the incident;
- report in writing on the key outcomes of the investigation to the Managing Director. The Director may also make recommendations to senior management with a view to reducing the occurrence of similar incidents in the future; and
- complete the Incident Notification for the incident and file it in the Incidents Register (as defined below).

Incident Investigation Principles

All incidents must be assessed by the Director. In assessing an incident, the Director must consider the following factors:

- (a) the views of persons with disability affected by the incident;
- (b) whether the incident could have been prevented;
- (c) how well the incident was managed and resolved;
- (d) what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact; and
- (e) whether other persons or bodies need to be notified of the incident.

Support and assistance. As a provider, we will provide reasonable support and assistance to persons with disability affected by an incident. As part of this process, we will include information about access to advocates such as independent advocates, to ensure their health, safety and wellbeing.

Involvement of person with a disability. We are committed to ensuring that persons with disability affected by an incident are involved in the management and resolution of the incident.

This policy must be provided to all clients and others

The Director (or his/her delegate) must provide copies of this Policy, in an accessible form, to the following persons:

- (i) persons with disability receiving supports or services from us at the point that the person is “onboarded” as a client;
- (iii) the family members, carers, independent advocates and significant others of persons with disability receiving supports or services from us at the point that the person with disability is “onboarded” as a client; and
- (ii) each person employed or otherwise engaged by us at the point the person joins us as a Staff member.

The Director (and/or delegate) must assist each of the people referred to immediately above so that they understand how the system operates.

“Reportable incident reports” - for serious incidents

In this section “key personnel” means our Director, Olivia O’Hare

The Rules define “reportable incident”. In simplified terms, “reportable incident” means serious incidents, like:

- (a) the death of a person with disability; or
- (b) serious injury of a person with disability; or
- (c) abuse or neglect of a person with disability; or

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- (d) unlawful sexual or physical contact with, or assault of, a person with disability; or
- (e) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; or
- (f) 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 a State or Territory in relation to the person.

If an incident (including an alleged incident) is a reportable incident (as defined in the Rules), the Director must notify the Commissioner as a high priority, within the very tight timelines set out in the Rules.

If a reportable incident occurs (including the receipt of an allegation of a reportable incident), the Director and each of our key personnel must take all reasonable steps to ensure that the reportable incident is notified to the Commissioner:

- within the required timeframes; and
- in mode and forms required by the Rules.

If a member of Staff becomes aware that a reportable incident has occurred in connection with the provision of our supports or services, the Staff member must notify the following people as soon as possible:

- (a) the key personnel;
- (b) their immediate senior clinician or manager; and
- (c) the Director.

The Director is primarily responsible for reporting all reportable incidents to the Commissioner in accordance with the Rules but all Staff must do all reasonable things to assist the Director to comply with the Rules.

If a reportable incident occurs, the Director must notify the Commissioner of the following information within the periods set out in the Rules. The time lines are very tight: most are within 24 hours or 5 days of the relevant event, depending on the circumstances.

If a reportable incident occurs, the Director must notify the Commissioner in the form required by the Rules. Among other things, the notification must include:

- (a) our name and contact details;
- (b) a description of the reportable incident;
- (c) unless the person with disability has died - a description of the impact on, or harm caused to, the person with disability;
- (d) the immediate actions taken in response to the reportable incident, including actions taken to ensure the health, safety and wellbeing of persons with disability affected by the incident and whether the incident has been reported to police or any other body;
- (e) the name and contact details of the person making the notification;
- (f) if known - the time, date and place at which the reportable incident occurred;
- (g) the names and contact details of the persons involved in the reportable incident; and
- (h) any other information required by the Commissioner.

The Director should give notice to the Commissioner in both written form and by telephone and, in any event, as required by the Rules.

There are some - very narrow - exceptions to these notification rules. For example, we may not be required to obtain, or notify the Commissioner of, certain information if obtaining the information would, or could reasonably be expected to:

- (a) prejudice the conduct of a criminal investigation; or
- (b) expose a person with disability to a risk of harm.

It is essential for the Director, in consultation with the key personnel, to seek urgent legal advice if unsure whether he or she is under an obligation to provide the Commissioner with particular information about a reportable incident.

Keeping the Commissioner updated on significant new information about reportable incidents

If, after a reportable incident occurs, any member of Staff becomes aware of significant new information in relation to the reportable incident after we have made an initial report, and the significant new information:

- (i) is or relates to a change in the kind of reportable incident; or
- (ii) is a further reportable incident,

The Staff member must immediately notify senior clinician/manager, the Director and the key personnel. We must notify the Commissioner of the significant new information as soon as reasonably practicable after becoming aware of the information and must give such notification in writing as set out in the Rules.

Final report requests

The Commissioner may require written reports from us about reportable incidents. If the Commissioner requires such a report, we must abide by the direction in compliance with the Rules. The Director will oversee this process, but all staff must do everything reasonable to support us to comply with the rules.

Commissioner action

The Commissioner may take a number of actions pursuant to the Rules in respect of a reportable incident. The Director and the key personnel are responsible for ensuring that we satisfy our obligations under the Rules. Again, we may need to seek legal advice in respect of our rights and obligations under the Rules in this situation.

Incident records must be kept for statistical purposes

All incident reports, reportable incident reports and other documents relating to incidents or reportable incidents must be kept for at least 7 years from the day the record is made, and may be retained for longer than 7 years if required by law. No information relating to an incident or reportable incident should be destroyed or disposed of without the prior written approval of the Director .

The Director must collect statistical and other information relating to incidents to enable us to:

- (a) review issues raised by the occurrence of incidents; and
- (b) identify and address systemic issues; and
- (c) report information relating to complaints to the Commissioner, if requested to do so by the Commissioner.

Procedural fairness

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This Incident Management System requires that people are afforded procedural fairness when an incident or reportable incident is dealt with by the provider in accordance with the Rules.

All staff responsible for compliance and for completing mandatory training.

The Director has the primary role and responsibility to oversee this Policy and to identify, manage and resolve incidents and to work with staff to prevent incidents from occurring. All staff must abide by this policy. The Director reports to the key personnel, who retain ultimate responsibility for overseeing compliance with this Policy.

Each person employed or otherwise engaged by us must comply with this Policy. Each person employed or otherwise engaged by us must complete training in the use of, and compliance with, this Policy and the rules.

Review of this Policy

Periodically, and at least annually, the key personnel and the Director must review the incident management system to ensure its effectiveness.

Appendix 1: Form of Incident Report to be filed, when completed in the Incident Register, and forming part of the incident management System

PART A - To be completed by the Staff members with actual knowledge of the Incident:

1. If known, the time, date and place at which the incident occurred:
2. If the time, date and/or place of the incident is not known, the time and date on which the incident was first identified by us:
3. Description of the incident, including the impact on, or harm caused to, any person with disability affected by the incident:
4. The names and contact details of the persons involved in the incident:
5. The names and contact details of any witnesses to the incident:

PART B - To be completed by the Director after communicating with the Staff, and any person with disability and other person affected

1. Is the incident a reportable incident?
2. Details of the assessment undertaken in accordance with the Incident Investigation Principles:
3. Actions taken in response to the incident, including actions taken to support or assist persons with disability affected by the incident:
4. Any consultations undertaken with the persons with disability affected by the incident:
5. Whether persons with disability affected by the incident have been provided with any reports or findings regarding the incident:
6. If an investigation was undertaken by the provider in relation to the incident - the details and outcomes of the investigation:
7. Director: the name and contact details of the person making the record of the incident.

Appendix 2:

Link to quick reference guide about the NDIS form that must be filled out by the Director, with support from Staff with actual knowledge of the reportable incident:

[https://www.ndiscommission.gov.au/sites/default/files/documents/2019-07/quick-reference-guide-immediate- notificationfinal-july-2019.pdf](https://www.ndiscommission.gov.au/sites/default/files/documents/2019-07/quick-reference-guide-immediate-notificationfinal-july-2019.pdf)

Minimum contents of Reportable Incident Report

N o.	Information required	Response
1.	A description of the alleged incident	
2.	If known - the time, date and place at which the incident is alleged to have occurred	
3.	The names and contact details of the persons involved in the alleged incident	
4.	The names and contact details of any witnesses to the alleged incident	
5.	Details of the assessment undertaken in accordance with the requirements of subsection 10(3) of the Rules	
6.	The actions taken in response to the alleged incident, including actions taken to support or assist persons with disability affected by the incident	
7.	Any consultations undertaken with the persons with disability affected by the alleged incident	
8.	Whether persons with disability affected by the incident have been provided with any reports or findings regarding the alleged incident	
9.	If an investigation is undertaken by the provider in relation to the alleged incident - the details and outcomes of the investigation	
10.	Director: The name and contact details of the person making the record of the alleged incident	