



**NDIS Quality
and Safeguards
Commission**

NDIS Quality and Safeguards Commission

**Effective Complaint Handling
Guidelines for NDIS Providers**

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Good practice guide and self audit tool: Developing an effective person centred complaints resolution culture and process, Second edition 2013, ISBN: 978-0-646-50802-3. © Copyright State of Victoria, Disability Services Commissioner, 2013.

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Definitions

Act	Means the <i>National Disability Insurance Scheme Act 2013</i> .
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 their families and carers.
NDIS Commission	Means the National Disability Insurance Scheme Quality and Safeguards Commission.
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	Means a person or entity registered under s 73E of the Act, to provide supports and services to NDIS participants.
Rules	<i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i>
Worker	Includes employees, contractors and people otherwise engaged for example, on a volunteer basis by an NDIS provider and people contracted by this provider.

About this guidance

This guidance is for:

- All NDIS providers, registered or unregistered, to provide information about key principles and good practices for effective complaints management.
- Registered NDIS providers to provide guidance about complaints management systems and related policies as required by the *National Disability Insurance Scheme Act 2013* (the Act) and *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (the Rules).

All NDIS providers have a responsibility to ensure that they are delivering safe and quality supports and services to people with a disability. All providers – registered and unregistered – must comply with the [NDIS Code of Conduct](#).

Part 1 – Introduction

It is a guiding principle of the *National Disability Insurance Scheme Act 2013* (NDIS Act) that people with disability have the same right as other members of Australian society to pursue any grievance.

The general principles guiding actions under the NDIS Act also describe the rights of people with disability to:

- Realise their potential for physical, social, emotional and intellectual development.
- Be supported to participate in and contribute to social and economic life to the extent of their ability.
- Be supported to exercise choice including in relation to taking reasonable risks in pursuit of their goals and the planning and delivery of their supports.
- Be respected for their worth and dignity and to live free from abuse, neglect and exploitation.
- Be able to determine their own best interests including the right to exercise choice and control and to engage as equal partners in decisions that will affect their lives to the full extent of their capacity.
- Have their privacy and dignity respected.
- Have the role of families, carers and other significant persons in their lives acknowledged and respected.
- Have access to advocates and supports which promote innovation, quality, continuous improvement, contemporary best practice and effectiveness.¹

What is a complaint?

Broadly speaking, a complaint is an expression of dissatisfaction with an NDIS support or service, including how a previous complaint was handled, for which a response or resolution is explicitly or implicitly expected.

A **complaint** is someone letting you know that your service is not 'hitting the mark'.

A person does not necessarily have to expressly state that they wish to make a complaint to have an issue or concern dealt with as a complaint. Regardless of whether it is a big or small issue, if it is treated seriously, it demonstrates to the person that their input is valued to improve the services being delivered.

¹ *National Disability Insurance Scheme Act 2013*, s 4.

A complaint can be about a wide range of issues. Too often, what has been considered to be of concern to people with a disability has not been informed by their own views and experiences.

The resolution of complaints needs to be consistent with a rights-based principle that has been presented by the disability rights movement – ‘nothing about us, without us’ – which is also fundamental to the United Nations Convention on the Rights of Persons with Disabilities.² Complaints can be an important sign that people are exercising their fundamental right to express their views about what is, and what is not, working with their NDIS supports. Also, everyone acknowledges that mistakes can and do happen. What matters is how an NDIS provider responds when concerns are raised. A well-handled complaint signals to the person that their opinion is valued and their feedback has been taken seriously. This interaction can actually improve the relationship between an NDIS provider and a person with disability.

A commitment to a positive complaints culture, from the highest levels of management to frontline staff, provides the foundation on which all other components of a quality complaints management and resolution framework can be built.

Complaints are also one of the best ways to identify problems with service delivery and how they can be fixed. Fostering an organisational culture that values and learns from complaints is one of the most important ways NDIS providers can meet people’s needs and continuously improve their services, whether or not they are registered.

Empowering people to speak up goes to the very heart of people feeling valued and respected as equal citizens in their community. Further information for both registered and unregistered NDIS providers about how to develop a culture that values complaints is set out in Part 3 of this guide.

² Disability Services Commission (Victoria), *Good practice guide and self-audit tool: Developing an effective person centred complaints resolution culture and process*, p 2.

Part 2 – Complaints management and resolution

All NDIS providers have a responsibility to ensure that they are delivering safe and quality services to people with disability. Feedback from people with disability is an important indicator of whether this responsibility is being fulfilled.

It is a condition of registration that registered NDIS providers have a complaints management and resolution system, which complies with the requirements set out in Part 2 of the Rules.

A complaints management and resolution system should be appropriate for the size of the provider and the types of supports and services it provides.

It is good practice for all NDIS providers to have an appropriate and effective complaints management and resolution system in place, including training for staff to know how to respond to complaints. Unregistered NDIS providers may also find this guidance useful in meeting the standards expected under the NDIS Code of Conduct.

If a registered NDIS provider does not meet their obligations to implement and maintain a complaint and resolution system, sanctions may apply including compliance notices, conditions of registration and in more serious cases, civil penalties. A registered NDIS provider also has obligations in relation to incident management systems and reportable incidents that may apply to a complaint if it relates to an incident or allegation.

Supporting people with disability at the centre of complaints management

The guiding principles that people with disability have a right to have a say about and be involved in decisions affecting their lives must inform the approach to complaints management and resolution. The person making the complaint, and any person with disability affected by issues raised in a complaint, should be included throughout the process to the extent possible. All NDIS providers should reinforce their commitment to people being supported to speak up and provide feedback, and acknowledge when supports or services have not met the expectations or applicable standards.

A person with disability may be affected by an issue raised in a complaint, but may not necessarily be the person making the complaint directly to the NDIS provider. To ensure that the needs of people with disability are addressed in relation to complaints or issues that affect them, registered NDIS providers must ensure that both the person involved in the complaint and any affected person with a disability are:

- appropriately involved in the resolution of the complaint, and
- kept informed of the progress of the complaint, including:

- any action taken,
- the reasons for decisions made, and
- options to have decisions reviewed.³

If a person with disability affected by an issue raised in a complaint has a decision maker, advocate or substituted or informal decision maker, these people may need to be included and recognised in the complaints management and resolution process, depending on their role in the life of the person with disability.

NDIS providers must ensure that the involvement of the person making the complaint, and any person with disability affected by issues raised in a complaint, are communicated throughout the complaint management and resolution process in an appropriate way that meets their needs.

Complaints management systems

A positive attitude towards complainants and a commitment to resolving complaints will create a noticeable improvement in client satisfaction. Timely resolution of a complaint with the NDIS provider reduces the number of issues being raised with the NDIS Commission unnecessarily.

Having a transparent and accessible complaint handling process is essential and should:

- include a clear documented process to receive and resolve complaints;
- enable people with a disability who are using services know how to make a complaint to the service provider and to the NDIS Commission ;
- include reasonable steps being taken for example through staff training and written information available for people about complaints, to ensure that no person is adversely affected because of making a complaint or assisting the NDIS Commission in relation to a complaint.

A registered NDIS provider's complaints management and resolution system must:⁴

- Enable any person to make a complaint, including anonymously lodging a complaint about supports or services provided. Complaints should be dealt with directly and quickly at the point of service, unless the complaint requires further investigation.
- Provide for an easy and accessible process for making and resolving complaints. As well as simple and accessible documentation about how to make a complaint. All NDIS providers should have a designated complaints manager. In smaller organisation or sole traders, this person may also have other responsibilities. This person is responsible for coordinating the handling of complaints and ensuring the complaint is properly managed.
- Ensure that appropriate support and assistance is provided to any person who wishes to make, or has made a complaint. Reminding people that it's okay to have support when making a complaint and offering support can increase their confidence and reduce anxiety. It can also help for a person with disability, who is a service user, to feel that raising their concern is not a

³ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 8(5) and (6).

⁴ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 8.

confrontation. Sometime a person might need support from staff, family of an advocacy service to make a complaint or during the complaints handling process.

- Complaint management require that:
 - complaints are acknowledged, assessed and resolved in a fair, efficient and timely manner,
 - appropriate action is taken in relation to issues raised in complaints,
 - reasonable steps are taken to ensure that any person who makes a complaint, and any affected person with disability, is advised how to make a complaint to the NDIS Commission, and
 - appropriate support and assistance in contacting the NDIS Commission in relation to a complaint is provided to any person making a complaint, and any affected person with disability.

A registered NDIS provider has the flexibility to develop a system which meets its obligations in a way which fits with its business. This might mean, for example, that the system has different processes for different kinds of complaints. The NDIS Commission expects that an assessment of risk, including the risk to the safety, health and wellbeing of people with disability, will be a key part of determining appropriate, proportionate complaints processes.

NDIS providers are generally bound by privacy legislation and must manage complaints in a way that respects the privacy and confidentiality rights of people making a complaint and participants affected by the issues raised in a complaint.

Reviewing and improving the complaints management and resolution system

The complaints management and resolution system of a registered NDIS provider must enable the provider to review issues raised in complaints, and identify and address systematic issues and actions identified through the complaints process⁵.

The system must also provide for the periodic review of the system to ensure it is effective⁶. It is recommended that this periodic review be conducted (at least) annually. An effective review would include the identification and resolution of systemic issues raised through the complaints management and resolution process.

Registered NDIS providers are required to keep appropriate records relating to complaints and to provide statistical and other information about complaints to the Commissioner, on request.

As part of ensuring that complaints are resolved in a fair way, an NDIS provider may need to consider and specify in their complaints management and resolution system how complaints about the Chief Executive Officer (CEO) of the NDIS provider will be managed. A person who wishes to make a complaint may not wish to complain about a CEO or raise the complaint directly with them. Perhaps they might be dissatisfied with the CEO's response to a previous complaint. The system needs to be clear about how people can correspond directly with the board or how the NDIS Commission will ensure that complaints can reach the board without going through the CEO,

⁵ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 10(4).

⁶ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 8(8).

including the need to consider appointing an external person or body to handle complaints about CEOs.

Documenting the complaints management and resolution system

The complaints management and resolution system must be documented. Accessible forms of the documented system must be available for and provided to:⁷

- persons with disability receiving supports or services from the registered NDIS provider
- the families, carers and advocates of those persons with disability
- each person employed or otherwise engaged by the registered NDIS provider.

Making the complaints management system accessible means the process for making a complaint and investigating it should be easy to access and understand. Information about the process should be available in a variety of forms of communications, formats and languages appropriate to the needs of people with disability who receive supports and services from a provider. This could include:

- Make websites accessible to people using screen readers and, if necessary, make publications and correspondence available in Braille, large print or audio formats for people with sight impairment.
- Ensure offices are accessible for wheelchairs and to people with mobility impairment.
- Ask people if they have any special requirements for access or communications.
- Offer assistance to help complainants with reading or writing difficulties to formulate and lodge complaints.
- Accept complaints on behalf of people with intellectual impairment from representatives.
- Provide a text telephone (TTY) service for people with a hearing impairment.

The documented system is provided to a person if the NDIS provider draws the existence of it to their attention, and provides them with the information they need to access it. For example, an NDIS provider might produce a leaflet, which talks about how to make a complaint, and gives the address for a website where the documented system can be accessed (or the location of the hard copy folder in the foyer) and what support is available to access it.

The complaints management and resolution system must have information that is available and accessible to the public about how a complaint can be made to a registered NDIS provider, and to the NDIS Commissioner about the registered NDIS provider.

Record keeping requirements

A registered NDIS provider must keep and maintain appropriate records of all complaints received by the provider. This will include, where appropriate:

- information about the complaint
- any action taken to remediate or resolve complaints, and

⁷ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 10(1).

- the outcome of any action taken.⁸

Records must be kept for 7 years from the date the record was made.⁹

This requirement is fundamental to the proper functioning of complaints management and resolution system as it ensures that persons with disability and their families and carers are aware of their rights and can advocate for their needs and safety where appropriate.

It is also crucial that each person employed or otherwise engaged by the registered NDIS provider understands and is able to utilise the complaints management and resolution system. This ensures that such people know how to make a complaint if they become aware of issues or have concerns with the provider.

The requirement to document the system relates only to the system itself, as information provided in individual complaints must generally be kept confidential.

It is necessary for NDIS providers to keep accurate records to enable them to identify any systemic issues and to be able to provide those records to the Commissioner or quality auditor when required.

Procedural fairness

The rules relating to the complaints management and resolution system of a registered NDIS provider include an obligation to give people procedural fairness when dealing with a complaint.¹⁰ The NDIS Commission has developed guidelines on procedural fairness, which are available here: [NDIS \(Procedural Fairness Guidelines\) 2018](#)

Responsibilities of NDIS providers and workers

A registered NDIS provider must ensure that the roles and responsibilities of all their workers¹¹ are set out in its complaints management and resolution system. This system must also ensure that workers understand and comply with the system, and are trained in how to receive, manage and resolve complaints.¹² All NDIS providers and workers are also bound by the NDIS Code of Conduct.

Referring complaints

The complaints management and resolution system must ensure that complaints are referred or notified to any other bodies if required by law¹³. For example, a complaint may raise an issue that concerns the possible commitment of a criminal offence and, in such a case, it must be referred to the appropriate law enforcement. It is the responsibility of each NDIS provider to understand and

⁸ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 10(2).

⁹ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 9(1).

¹⁰ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 9(1).

¹¹ A worker is a person who is employed or otherwise engaged by an NDIS provider, including a volunteer.

¹² *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 11.

¹³ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 12.

comply with any relevant mandatory reporting or other obligation it has under the Australian law for example, work health and safety laws.

Part 3 – Effective Complaint Handling

Throughout the complaints process, whether you are a registered or unregistered NDIS provider, the system needs to give proper weight to including the person making the complaint and any affected person with disability.

It is important to remember that complaints may be raised at any level of an organisation and complaints should be dealt with directly and quickly at the point of service, unless the complaint requires further investigation or escalation.

It is critical that all workers understand the complaints processes, how to respectfully acknowledge the person's concerns and if necessary, refer the matter to an appropriate person to manage.

What to do when you receive a complaint

All organisations that deal with customers must be open to receiving feedback and complaints. Feedback and complaints are a valuable tool for organisations about how they can improve the quality of their services. Encouraging feedback about your service is an important way to empower people to speak up. Paying attention to what they are saying, and how you have learnt from their feedback, without becoming upset or defensive that a complaint was received, sends a strong message that speaking up is worthwhile.

How you respond to the complaint is just as important as whether or not the complaint is resolved.

Even if you cannot fully resolve the complaint, it is critical that the person who made the complaint feels that they have been listened to; that their opinion was valued; and that you did everything you could to address their concerns. The process really is as important as the outcome, and is critical to building and strengthening relationships between participants and NDIS providers.

How to respond to a complaint

In responding to a complaint, the Four A's of successful resolution is a useful approach developed by the Victorian Disability Services Commissioner in their booklet 'Everything you wanted to know about complaints...':

http://www.odsc.vic.gov.au/wp-content/uploads/Booklet_everything_youwantedtoknow_.pdf

The approach recognises that people who make a complaint are generally seeking one or more of these four outcomes:

- Acknowledgment
- Answers
- Action
- Apology

Acknowledgement

In many ways this is the most important step as it sets the tone for the rest of the process. Making a complaint can be difficult for people. It is important that people feel that their concerns have been understood and that the impact on them is recognised.

Acknowledgment can include:

- genuinely listening to the person without interrupting
- empathising
- making sure the person feels comfortable talking to you, and being aware of whether you are feeling defensive and how this may be perceived
- acknowledging how the situation has affected the person
- rectifying by asking the person what a good outcome would look like for them, and
- notifying the person regularly and promptly of the steps that will be taken in response to their complaint, ensuring commitments aren't made that can't be fulfilled.

Answers

People want to know why something has or has not happened, or why a decision was made. People need to understand what has happened in order to better understand how they can move on to resolving their concern. Answers should include a clear explanation that is relevant to the concern raised but ONLY if you know the facts.

Actions

People want you to fix or take steps to address their concerns. This may be in relation to their specific complaint, or more broadly around systems to ensure that similar issues won't occur for other people. Sometimes you won't be able to fix the issue raised, but you can initiate actions to prevent it from happening again. Taking action to prevent recurrence may validate the concern for the person making the complaint. A good way to approach actions is to use an action plan, which includes:

- what will be done
- who will do it
- when it will be done by
- how the progress of the complaint and outcomes will be communicated to the person making the complaint and the participant, and
- how the progress of the complaint actions and implementation will be oversighted.

The action plan may be formulated with the person who raised the complaint and any participant affected by an issue raised in the complaint. It is really important to follow up with the person who made the complaint, and any affected participant, to make sure they are satisfied with the actions being undertaken, and that the actions relate appropriately to their concerns. This is also a good opportunity to seek their feedback on the complaints resolution process.

Apology

An apology may be part of, or the sole outcome a person is seeking when they make a complaint.

It is important to consider who should provide the apology and the form of the apology. A genuine apology can be a meaningful step, however a poorly provided apology can make the situation worse. An apology should often come from the person complained about, as well as a more senior member of the organisation, in order for the person complaining to be satisfied that their concerns were taken seriously.

When providing an apology, it is helpful to consider:

- timeliness
- sincerity
- being specific and to the point
- accepting responsibility for what occurred and the impacts caused
- explaining the circumstances and causes (without making excuses), and
- summarising key actions agreed to as a result of the complaint.

A genuine and timely apology is a powerful healing force and a way to separate the past from the future, to put things to rest and get on with any agreed new arrangements.

After a complaint has been dealt with

It is important that you have systems in place to allow the organisation to reflect on the complaints process and any outcomes. This includes ensuring that you are checking in with the person who made the complaint for feedback around the finalisation of their complaint, and their response to any follow up or implementation of actions.

Things to consider:

- What was the complaint about? What service, policy or procedure did it call into question?
- What was the experience for the person who made the complaint, or for any affected participant? Were the issues resolved for them?
- What information did the complaint provide that will allow you to identify and improve those services, policies and procedures and your organisation as a whole?
- How effectively did you communicate with the person who made the complaint, any affected participants, affected staff and other stakeholders?
- Do people using your services, their families, carers and friends require more or improved information about their rights and the complaints process? Does the person who made the complaint feel more comfortable about speaking up in the future?
- Does anything need to change in your complaints handling system or approach to dealing with complaints?
- Do staff require further training?
- Did the handling of the complaint reflect your stated values and expectations for complaint handling? Or, was the complaint perceived as something negative that needed to be dealt with as quickly as possible?