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Mawson Lakes Physiotherapy

Incident Management

## What is an incident?

This incident management system covers the following incidents:[[1]](#footnote-1)

* acts, omissions, events or circumstances that occur in connection with providing supports or services to a person with disability and which have, or could have, caused harm to the person with disability
* acts by a person with disability that occur in connection with providing supports or services to the person with disability and which have caused serious harm, or a risk of serious harm, to another person, and
* reportable incidents that have or are alleged to have occurred in connection with providing supports or services to a person with disability.

A reportable incident is:[[2]](#footnote-2)

* 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.

**Death of a Person with a Disability**

* It goes without saying that this is the most upsetting outcome for NDIS participants and service providers alike. If a connection between the provision of NDIS support services and the death of a participant is confirmed, then NDIS incident management protocols stipulate that the NDIS Commission must be immediately informed.
* Whether or not the person with a disability died of natural or unnatural causes does not alter the fact that the death becomes a reportable incident.

**Injuries To a Person with a Disability**

* Injuries such as broken bones, deep cuts, burns, significant bruising, and head trauma resulting in concussion or unconsciousness are all considered to be NDIS reportable incidents under the NDIS incident management rules.
* The NDIS Commission must be notified upon the instance of a person with a disability being admitted to hospital due to significant injury. However, not all hospital admissions are reportable incidents, only ones that come as a result of serious injury.

**Abuse & Neglect of a Person With a Disability**

* Circumstances whereby a person with a disability is either abused or neglected are considered NDIS reportable incidents. The abuse or neglect may originate from workers, others with a disability, or from anyone else.
* Once it has been established that the incident occurred in connection with the provision of NDIS support services an incident report to the NDIS Commission is mandatory.
* When it comes to the abuse or suspected abuse of a person with a disability, there are several different criteria which must be considered.
* To be an NDIS reportable incident the abuse must be:
* Physical – non-accidental actions that cause harm
* Psychological or emotional – treatment that causes mental suffering
* Financial – improper use of money and assets (including NDIS funding)
* Systemic abuse – failing to provide services appropriate to a person’s age, gender, culture, and/or disability
* Neglect of a person with a disability is also an NDIS reportable incident.
* Under the NDIS incident management rules, neglect is defined as the omission of care or failure to act by a NDIS provider or employee thereof.
* Neglect can take the form of:
* Providing inadequate care
* Not allowing access to medical care
* Failing to properly supervise
* Recklessness
* Failing to protect (from abuse)

**Unlawful Physical Assault**

* This type of NDIS reportable incident is defined as using intentional physical force against a person with a disability with the intention to cause harm or fear.
* Unlawful physical contact may take the form of:
* Hitting
* Slapping
* Shoving
* Throwing things
* Threatening physical harm
* It’s important to make an NDIS incident report whenever such incidents occur, or when a person with a disability discloses such information.
* Never wait for a police report to be finalised.

**Sexual Assault or Misconduct**

* According to [research](https://www.afdo.org.au/about-australians-with-disability/abuse-of-people-with-disability/), people with a disability are more likely to experience incidents of sexual assault than those without a disability.
* The wording used to describe different sexual assault offences varies from state to state.
* However, the sexual assault (i.e. non-consenual sex or indecent assualt) is always an NDIS reportable incident. If you would like more information, you can consult the website of the [**Australian Institute of Family Studies (AIFS)**](https://aifs.gov.au/publications/sexual-assault-laws-australia).
* The term ‘sexual misconduct’ refers to behaviour in the form of:
* Making sexually explicit comments
* Behaving in an overtly sexual manner
* Sexual grooming
* All of these are serious offenses and can lead to legal repercussions, including the complete shutdown of an NDIS business, if not reported within 24 hours.

**Unauthorised Restrictions**

* The unauthorised restriction of the rights or freedom of movement of a person with a disability is prohibited under the NDIS Guidelines. This can include the use of restraints or keeping someone secluded and isolated.
* Some restrictions may be authorised as part of a behaviour management plan. When the use of a restriction causes serious injury, an NDIS incident report must be made.

If an incident is a *reportable incident*, registered NDIS providers have an additional requirement to notify the NDIS Commission of the incident and keep them informed of any investigation or actions arising from the incident.[[3]](#footnote-3) The NDIS Commission will oversight registered providers’ responses to *reportable incidents*. The NDIS Commission has published separate guidance for registered providers with information about reportable incidents.

### What does the phrase ‘in connection with’ mean?

In relation to incidents covered by the incident management system, the phrase *‘in connection with’* is intended to be broad. It covers incidents that may have occurred during the course of supports or services being provided, altered or withdrawn. An incident does not necessarily have to occur *during* the provision of supports or services to be connected with the support or service being provided. For example, while not exhaustive, the type of incidents that will be considered to have occurred *in connection with* the provision of supports or services include:

* when a person with disability is receiving a support or service (for example, where a person with disability is receiving care from a worker)
* when a person with disability attends the premises of an NDIS provider, or where the support or service is ‘off-site’, and an incident occurs at the location where those supports or services were provided
* when the person is receiving funded supports in the home, or
* where a person with disability is in residential care.

If the incident did not occur in connection with the provision of supports or services, it is not required to be recorded in the incident management system or, in the case of a reportable incident, reported to the NDIS Commission.

### What does the phrase ‘harm to a person with disability’ mean?

Harm to a person with disability includes an actual or potential adverse or negative impact on the physical or psychological well-being of that person. The level of harm caused is not a determining factor in deciding whether the incident is one which must be managed under the incident management system. Incidents where there is no harm caused but the incident could have resulted in harm to a person with disability must still be managed under the incident management system.

**Timeframes for notifying the NDIS Commission about reportable incidents**

When a reportable incident occurs, or is alleged to have occurred in connection with the NDIS supports or services you deliver, you must notify the NDIS using the [NDIS Commission Portal](https://www.ndiscommission.gov.au/providers/ndis-commission-portal) within the required timeframes (set out below). The timeframes are calculated from when a registered NDIS provider became aware that the incident occurred or was alleged to have occurred.

|  |  |
| --- | --- |
| **Reportable incident Required timeframe** | **Required timeframe** |
| death of a person with disability | **24 hours** |
| serious injury of a person with disability | **24 hours** |
| abuse or neglect of a person with disability | **24 hours** |
| unlawful sexual or physical contact with, or assault of, a person with disability | **24 hours** |
| sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity | **24 hours** |
| the use of a restrictive practice in relation to a person with disability if the use is not in accordance with a required state or territory authorisation and/or not in accordance with a behaviour support plan. | **Five business days** |
|  |  |

Reporting is required even when you have acted and responded to incidents in accordance with the Mawson Lakes Physiotherapy incident management system. Failure to report within the statutory timeframes is a contravention of the NDIS Act and could lead to infringement notices or other compliance actions.

**How to notify the NDIS Commission about a reportable incident**

Registered NDIS providers should use the NDIS Commission Portal 'My Reportable Incidents' page to notify and manage all reportable incidents.

Incidents may also be reportable to SafeWork SA, Child Protection, SA Police, and ReturnToWork SA.

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1. NDIS (Incident Management and Reportable Incidents) Rules, s 9. [↑](#footnote-ref-1)
2. *National Disability Insurance Scheme Act 2013,* s 73Z(4) and s 16 of the NDIS (Incident Management and Reportable Incident) Rules. [↑](#footnote-ref-2)
3. NDIS (Incident Management and Reportable Incidents) Rules, s10(5). [↑](#footnote-ref-3)