

## The NDIS Code of Conduct — consultation draft

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A consultation draft of the NDIS Code of Conduct was released on 10 May 2017. The consultation period remains open until 21 June 2017.

### A new NDIS Quality and Safeguards Commission

A new, independent NDIS Quality and Safeguards Commission will oversee the delivery of quality and safe services for all participants of the National Disability Insurance Scheme (NDIS).

The Commission will be established in early 2018. It will commence operations in each State and Territory as each reaches the full scheme.

- July 2018: New South Wales and South Australia.
- July 2019: Australian Capital Territory, Queensland, Northern Territory, Tasmania, Victoria.
- July 2020: Western Australia.

The Commission will be responsible for supporting NDIS participants to exercise choice and control, ensuring appropriate safeguards are in place, and establishing expectations for providers and their staff to deliver quality support.

It will also have preventative and corrective powers to ensure appropriate responses to issues that arise, as well as identifying opportunities to prevent them in the future, either through a regulatory response or education and capacity-building.

The Government has noted that:

The work of the Commission will reflect the National Standards for Disability Services and the National Standards for Mental Health Services and will provide consistent approaches to support the NDIS.

### NDIS Code of Conduct

As part of the Framework, there will be a national Code of Conduct. This will outline the expectations for people delivering NDIS supports and services.

The Code of Conduct will be overseen by the Commission, which will have the ability to apply penalties for breaches of the Code.

### Who will the Code of Conduct apply to?

The Code will apply to **all providers and workers doing work that is funded under the NDIS**, whether the provider is an NDIS registered provider or an unregistered provider delivering services to a self-managed NDIS participant.

This includes sole traders, providers of Information, Linkages and Capacity Building (ILC) services, and Commonwealth Continuity of Support (CoS) Programme services **and all of their workers**.

## What are the obligations under the draft Code?

The draft Code that has been circulated for consultation reflects the core values of the National Standards for Disability Services.

There are nine requirements for workers and providers delivering NDIS supports.

### 1. Promote individual rights to freedom of expression, self-determination, and decision-making.

This includes the following expectations.

- Always treat people with disability with dignity and respect, and value their contribution to society.
- Adhere to the rights, standards, and principles underpinning the NDIS, and the *United Nations Convention on the Rights of Persons with Disabilities*.
- Communicate in a form, language, and manner that enables people with disability (and their carer, where required) to understand the information provided, and make known their feelings and preferences.
- Take into account the expressed needs, values, and beliefs of people with disability, including those relating to culture, religion, ethnicity, gender, identity, age, and disability.

### 2. Actively prevent all forms of violence, exploitation, neglect, and abuse.

Obligations include the following.

- Providers and workers must be committed to eliminating violence, exploitation, neglect, and abuse against people with disability, including through their own actions.
- Providers should have policies that define violence, exploitation, abuse, and neglect, and workers should familiarise themselves with such guidelines.
- Providers and workers need to ensure appropriate systems and procedures are in place and followed to prevent violence, exploitation, neglect, and abuse from occurring.
- Providers need to ensure their staff have appropriate supervision and training to make sure workers are able to identify, monitor, and act when situations arise which could lead to harmful incidents.
- Providers and workers must report incidents of violence, exploitation, neglect, and abuse to the Commission and/or any other authorities, including the police, as appropriate.

### **3. Act with integrity, honesty, and transparency.**

Obligations include the following.

- Providers and workers must only recommend and provide supports and services that meet the needs of a person with disability.
- A worker must provide truthful information as to his or her qualifications, training or professional affiliations.
- A worker must not use his or her possession of a particular qualification to mislead or deceive people with disability or the public regarding his or her competence in a field of practice or ability to provide supports.
- Providers and workers must not make false claims about the efficacy of their supports, services, or products.
- Providers and workers must not ask for, accept, or provide any inducement, gift, or hospitality that may affect, or be seen to affect, the way NDIS supports or services are provided. This includes as part of referral arrangements with other providers.

### **4. Provide supports in a safe and ethical manner with care and skill.**

Obligations include the following.

- A provider or worker must maintain the necessary competence in the types of supports and services they provide.
- A provider must offer reasonable supervision and take reasonable steps to ensure workers are competent and supported to perform their role.
- A provider must ensure workers have access to all equipment and resources appropriate to safely deliver supports or services.
- A provider or worker must not provide supports of a type that is outside his or her expertise or training, or provide supports or services that he or she is not qualified to provide.
- A worker must not provide supports or services to people with disability while under the influence of alcohol or drugs.

### **5. Raise and act on concerns about matters that may impact on the quality and safety of supports provided to people with disability.**

Providers and workers who are concerned about the quality or safety of NDIS supports and services must contact the Commission with their concerns. This includes any incident involving violence, exploitation, neglect, and abuse.

Workers should raise concerns with their employer in the first instance and are encouraged to contact the Commission if their concerns are not adequately addressed. Workers who contact the Commission with concerns will be protected by whistle-blower provisions in the legislation establishing the Commission.



**6. Respect the privacy of people with disability.**

Providers and workers must comply with Commonwealth, State, and Territory privacy laws to protect the confidentiality of personal information gathered during the course of providing NDIS supports or services.

Providers and workers must not disclose any personal details about a person with disability without consent. This includes referring to participants, their disability, or the support they are receiving in any marketing or communication products without consent.

**7. Not engage in sexual misconduct.**

All forms of sexual misconduct constitute a breach of the high degree of trust that is fundamental to the support relationship between a worker and a participant, and will be a breach of the Code of Conduct.

Sexual misconduct is a broad term that includes physical and verbal actions committed without consent or by force, intimidation, coercion, or manipulation. It covers sexual, personal, or erotic comments or jokes, and any requests of a sexual nature, as well as any other unwelcomed behaviour of a sexual nature. It includes sexual violence and exploitation but is not limited to actions which constitute a criminal offence.

**8. Keep appropriate records**

Providers and workers must maintain accurate, legible, and up-to-date records of NDIS supports and services provided. They must also ensure that these are held securely and not subject to unauthorised access.

**9. Maintain adequate personal and professional liability insurance appropriate to the risks associated with the supports provided.**

Both registered and unregistered providers are required to hold appropriate and adequate indemnity insurance. Workers providing NDIS supports and services would be expected to be covered by their employer's insurance arrangements.

Independent providers (including the self-employed and sole traders) would be expected to hold insurance in their own name and to ensure that their level of cover is adequate for the type of services they provide and the associated level of risk.



### Where can I access a full copy of the draft Code of Conduct?

A full copy of the draft Code of Conduct is available here: <https://engage.dss.gov.au/ndis-code-of-conduct-consultation/ndis-code-of-conduct-consultation-discussion-paper/>

If you are interested in providing feedback during the consultation period, the closing date for completing surveys and uploading submissions is **5pm (AEST) on 21 June 2017**.

### Get ready for NDIS with Standards & Performance Pathways

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SPP will carry all the essential NDIS requirements as released, including the Terms of Business, Code of Conduct, and Practice Standards.

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