

# Incident Management Policy

## 1. PURPOSE

The purpose of this policy is to provide for the safety and wellbeing of members, employees, volunteers, and visitors and provides an effective and coordinated response to critical incidents.

Related documents	
<p>Related policies and procedures, how-to task lists, forms, registers, or other organisational documents of The Junction</p>	<ul style="list-style-type: none"> <li>• Work Health and Safety Policy, HTTLs and Forms</li> <li>• Risk Management Policy, HTTLs and Forms</li> <li>• Manage Incidents HTTL</li> <li>• Complaints by Members Policy and Form</li> <li>• Grievance/Dispute Resolution Policy and Form</li> <li>• Code of Conduct Policy</li> <li>• Asbestos Management Policy</li> </ul>
<p>Other standards</p>	<ul style="list-style-type: none"> <li>• National Mental Health Standards</li> <li>• NDIS Practice Standards</li> <li>• Human Services Quality Standards</li> </ul>
<p>Legislation or other requirements</p>	<ul style="list-style-type: none"> <li>• Human Rights Act 2019 (QLD)</li> <li>• Work Health and Safety Act 2011</li> <li>• Work Health and Safety Regulation 2011</li> <li>• National Disability Insurance Scheme Act 2013</li> <li>• National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 - refer to p6 Addendum to this Policy</li> </ul>
<p>Definitions</p>	<p><b>Incidents:</b> are acts, omissions, events or circumstances that occur or could occur during, or in relation to, the provision of supports, or the alteration or withdrawal of supports, that cause harm, either physically or emotionally to an employee, member, or other stakeholder. Incidents also include acts, omissions, events, or circumstances that have caused or could cause damage to property, the environment, material or cause public alarm.</p> <p><b>Critical Incidents:</b> are any event or series of events that are sudden, traumatic, overwhelming, threatening or protracted. They may cause extreme stress, fear, or injury.</p>

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	<p>Critical incidents may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Serious injury, illness, or death</li> <li>• Severe verbal or psychological aggression</li> <li>• Physical assault</li> <li>• Staff witnessing a serious accident or incidence of violence</li> <li>• Natural disaster e.g., earthquake, flood, windstorm, hailstorm, or extremes of: <ul style="list-style-type: none"> <li>○ Temperature</li> <li>○ Fire, bomb threat, explosion, gas, or chemical hazard</li> <li>○ Pandemic</li> </ul> </li> <li>• Social issues e.g., sexual assault, drug use, alcohol abuse, domestic or family violence</li> </ul> <p><b>Reportable Incidents:</b> refer to incidents, or alleged incidents, of severity that must be reported to an external agency. These include but are not limited to:</p> <ul style="list-style-type: none"> <li>• The death of a member</li> <li>• Serious injury to a member</li> <li>• Abuse or neglect of a member</li> <li>• Sexual misconduct towards a member</li> <li>• Unauthorised restrictive practises used on a member</li> </ul>
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### 2. Scope

This policy applies to all employees, members contractors, volunteers, and visitors involved in the operation of The Junction.

### 3. Policy Statement

The Junction is committed to protecting the safety and wellbeing of members, and to ensure that employees, members, contractors, volunteers, and visitors are aware of the way in which an incident should be handled. It promotes a culture of open reporting and ensures that all employees and volunteers know that they are supported to report any incident or alleged incident, and that there will be no negative consequences for doing so.

Specifically, we will:

- Set down clear procedures to follow in the event of an incident, to minimise the likelihood of injury

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- Ensure employees and volunteers are familiar with The Junction's incident management system, understand the definition of a reportable incident and the procedures they must follow for reporting all incidents to The Junction and an external body e.g., NDIS Quality and Safeguards Commission (if required)
- Have processes to inform employee practice and monitor our incident procedures, including debriefing of those involved after an incident
- Continuously review work health and safety practices to ensure that they comply with all relevant state workplace health and safety legislation

## 4. Procedures

### 4.1 Designated officer

The designated officer is the Director of Operations or delegate in his/her absence.

### 4.2 Assessing the situation

- If an employee, volunteer, or member observes an incident then they must report it to the designated officer, (or if the situation warrants it, they must contact emergency services immediately)
- Where the designated officer considers an incident to be apparent or likely to be critical, he/she must proceed to the steps below
- The designated officer will assess the situation and consider any apparent risks to his/her own safety

### 4.3 Immediate Steps

- Contact emergency services if necessary
- Ensure the safety of all present, including activating evacuation procedures if required
- Ensure the provision of first aid if required
- Provided there is no threat to personal safety in doing so, the designated officer is to take steps to minimise further damage or injury. This may involve organising willing bystanders to provide support

### 4.4 Reporting

- If the incident is critical or serious, the designated officer is responsible for notifying families, guardians, and advocates of the person affected
- As soon as practical the designated officer is to complete an incident form outlining the following details:
  - The type of incident i.e., critical/non-critical etc
  - The exact location and details of any person or persons who might be injured, in distress, or at risk
- The designated officer will review the situation, set priorities, allocate tasks and responsibilities and coordinate an immediate response including communications to relevant individuals

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- The designated officer will evaluate response procedures and make recommendations for handling future critical incidents
- The designated officer will make notifications of serious injury or illness or a dangerous incident to Workplace Health and Safety Queensland (WHSQ) and to the NDIS Commission and/or funding bodies required
- If reporting to the NDIS Commissioner, use the *My Reportable Incidents page on the NDIS Commission Provider Portal*
- The above does not negate the obligation to report an incident if it is a crime to the police.

### 4.5 Supporting persons affected – de-brief and follow up

- Provide reassurance and clear, ongoing communication with persons affected
- Changes to regular supports if necessary
- The designated officer will organise ongoing response/follow up (including member/employee/volunteer briefing, counselling, review, and reporting)
  - Debriefing by trained employee/s or external professionals should be conducted within three to seven days of the critical incident
  - The designated officer will organise counselling and critical incident stress management on a one-off or continuing basis as necessary for affected employees
- The designated officer will prepare advice for The Junction Board outlining steps required to prevent future related critical incidents

### 4.6 Assessment and investigation

The designated officer is responsible for creating an initial assessment of any incident, to determine the severity of an incident and to establish the need for, and scope of an investigation. If an incident is a reportable incident, an internal investigation will take place. All investigations will be undertaken and conducted in accordance with principles of natural justice and procedural fairness.

Incidents involving criminal allegations will always be reported to the police, who will receive full support of The Junction in their investigations.

Whenever an investigation into an incident is conducted, it should establish:

- The cause of the incident
- The effect of the incident
- Any organisational processes that contributed to or did not function in preventing an incident
- Changes The Junction can make in order to prevent further incidents from occurring

Information related to incident investigations, including records of phone conversations, emails, documents and, where possible, records of face-to-face interviews will be kept in strict confidence.

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### 4.7 Incident resolution

Based on the delegated officer's assessment, the organisation may undertake corrective action proportionate to the severity of the incident.

The organisation will inform and involve members, family, guardians, and advocates in the process of incident management and resolution.

### 4.8 Incident register and review

The organisation keeps an accurate register of all incidents that occur in relation to the provision of services. The entry for each incident shall be a summary of the details on the incident form.

**NB – refer to addendum below commencing page 6.**

## ADDENDUM TO POLICY:

# National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018

I, Graeme Head, as delegate of the Minister for Social Services, make the following rules.

Dated 17 May 2018

Graeme Head  
Commissioner of the NDIS Quality and Safeguards Commission

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## Preamble

The National Disability Insurance Scheme (NDIS) represents a fundamental change to how supports for people with disability are funded and delivered across Australia. The NDIS is designed to produce major benefits for people with disability, their families and the broader community.

The NDIS Quality and Safeguards Commission is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market. The Commission will build the capability of NDIS participants and providers to uphold the rights of people with disability and realise the benefits of the NDIS. The legislation underpinning the NDIS is intended to support participants to be informed purchasers and consumers of NDIS supports and services and to live free from abuse, neglect, violence and exploitation.

Registered NDIS providers must establish incident management arrangements to enable the identification of systemic issues and drive improvements in the quality of the supports they deliver. Providers must also notify, investigate and respond to reportable incidents.

The NDIS Quality and Safeguards Commissioner will receive notifications of reportable incidents and oversee providers’ responses to these incidents.

The Commissioner will work with providers to build their capability to respond appropriately to incidents and improve their systems to prevent incidents from occurring and minimise their impact on people with disability when they do occur.

Oversight, combined with effective provider practice, can reduce preventable deaths, serious injuries and other serious incidents through early intervention and capacity-building.

## Part 1—Preliminary

### 1 Name

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This instrument is the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

## 4 Definitions

Note: A number of expressions used in this instrument are defined in section 9 of the Act, including the following:

- (a) key personnel;
- (b) registered NDIS provider;
- (c) reportable incident.

In this instrument:

*Act* means the *National Disability Insurance Scheme Act 2013*.

# Part 2—Incident management systems for registered NDIS providers

## Division 1—Introduction

### 5 Simplified outline of this Part

This Part requires all registered NDIS providers to implement and maintain a system to record and manage certain incidents that happen in connection with providing supports or services to people with disability.

The incidents that must be recorded and managed are:

- (a) incidents that have, or could have, caused harm to a person with disability receiving supports or services; and



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- (b) acts by a person with disability that happen in connection with the provision of supports or services and that have caused serious harm, or a risk of serious harm, to another person; and
- (c) reportable incidents that are alleged to have occurred in connection with the provision of supports or services.

The incident management system must set up procedures for identifying, assessing, managing and resolving such incidents. These procedures must specify things such as the people to whom incidents must be reported, how people with disability affected by an incident will be supported and involved in resolving the incident and when corrective action is required.

Registered NDIS providers must keep records about incidents, and must document their incident management system. Copies of the documented system must be available to certain people, including workers and persons with disability receiving supports or services from the provider.

### 6 Purpose of this Part

- (1) This Part is made for the purposes of paragraph 73Y(b) of the Act.
- (2) It sets out what must be included in the incident management systems of registered NDIS providers.

Note 1: Failure by a registered NDIS provider to comply with the requirements of this Part constitutes a breach of condition of registration (see paragraph 73F(2)(g) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

Note 2: A registered NDIS provider has additional obligations if an incident is the subject of a complaint (see sections 73W and 73X of the Act and the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*).

### 7 Incidents that are also reportable incidents

The requirements of this Part and the requirements of Part 3 must be complied with in relation to an incident if the incident is both:

- (a) of a kind that is required to be covered by an incident management system; and
- (b) a reportable incident.

Note: For the kinds of incidents required to be covered by an incident management system, see section 9 of this instrument. For the meaning of *reportable incident*, see subsection 73Z(4) of the Act and section 16 of this instrument.

## Division 2—Incident management system requirements

### 8 System must comply with this Division

A registered NDIS provider must implement and maintain an incident management system that complies with the requirements set out in this Division.

Note: The incident management system must also be appropriate for the size of the provider and for the classes of supports or services provided (see paragraph 73Y(a) of the Act).

### 9 Incidents that must be covered

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- (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.
- (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.

### 10 Incident management system procedures

- (1) The incident management system of a registered NDIS provider must establish procedures to be followed in identifying, managing and resolving incidents, including procedures that specify the following:
  - (a) how incidents are identified, recorded and reported;
  - (b) to whom incidents must be reported;
  - (c) the person who is responsible for reporting incidents that are reportable incidents to the Commissioner;
  - (d) how the registered NDIS provider will provide support and assistance to persons with disability affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety and wellbeing;
  - (e) how persons with disability affected by an incident will be involved in the management and resolution of the incident;
  - (f) when an investigation by the registered NDIS provider is required to establish the causes of a particular incident, its effect and any operational issues that may have contributed to the incident occurring, and the nature of that investigation;
  - (g) when corrective action is required and the nature of that action.
- (2) The procedures may vary, depending on the seriousness of the incident.
- (3) The incident management system must require all incidents to be assessed in relation to the following, with the assessment considering the views of persons with disability affected by the incident:
  - (a) whether the incident could have been prevented;
  - (b) how well the incident was managed and resolved;
  - (c) what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact;
  - (d) whether other persons or bodies need to be notified of the incident.
- (4) The incident management system must set out procedures for ensuring that the requirements of subsection (3) are complied with.
- (5) The incident management system must provide that, if the incident is a reportable incident, the incident must also be notified and managed in accordance with Part 3.

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- (6) The incident management system must also provide for the periodic review of the system to ensure its effectiveness.

### 11 System must afford procedural fairness

- (1) The incident management system of a registered NDIS provider must require that people are afforded procedural fairness when an incident is dealt with by the provider.
- (2) The Commissioner may, by notifiable instrument, make guidelines relating to procedural fairness for the purposes of subsection (1).

### 12 Documentation, record keeping and statistics

- (1) A registered NDIS provider must:
  - (a) document its incident management system; and
  - (b) provide copies of the documented system, in an accessible form, to the following persons:
    - (i) persons with disability receiving supports or services from the registered NDIS provider;
    - (ii) each person employed or otherwise engaged by the registered NDIS provider;
    - (iii) the family members, carers, independent advocates and significant others of persons with disability receiving supports or services from the registered NDIS provider; and
  - (c) assist persons referred to in paragraph (b) to understand how the documented system operates.
- (2) The incident management system of a registered NDIS provider must provide for the following details, as a minimum, to be recorded in relation to each incident that occurs:
  - (a) a description of the incident, including the impact on, or harm caused to, any person with disability affected by the incident;
  - (b) whether the incident is a reportable incident;
  - (c) if known—the time, date and place at which the incident occurred;
  - (d) if paragraph (c) does not apply—the time and date the incident was first identified;
  - (e) the names and contact details of the persons involved in the incident;
  - (f) the names and contact details of any witnesses to the incident;
  - (g) details of the assessment undertaken in accordance with the requirements of subsection 10(3);
  - (h) the actions taken in response to the incident, including actions taken to support or assist persons with disability affected by the incident;
  - (i) any consultations undertaken with the persons with disability affected by the incident;
  - (j) whether persons with disability affected by the incident have been provided with any reports or findings regarding the incident;
  - (k) if an investigation is undertaken by the provider in relation to the incident—the details and outcomes of the investigation;
  - (l) the name and contact details of the person making the record of the incident.
- (3) The incident management system must provide for the following details, as a minimum, to be recorded in relation to each reportable incident that is alleged to have occurred:
  - (a) a description of the alleged incident;
  - (b) if known—the time, date and place at which the incident is alleged to have occurred;
  - (c) the names and contact details of the persons involved in the alleged incident;

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- (d) the names and contact details of any witnesses to the alleged incident;
  - (e) details of the assessment undertaken in accordance with the requirements of subsection 10(3);
  - (f) the actions taken in response to the alleged incident, including actions taken to support or assist persons with disability affected by the incident;
  - (g) any consultations undertaken with the persons with disability affected by the alleged incident;
  - (h) whether persons with disability affected by the incident have been provided with any reports or findings regarding the alleged incident;
  - (i) if an investigation is undertaken by the provider in relation to the alleged incident—the details and outcomes of the investigation;
  - (j) the name and contact details of the person making the record of the alleged incident.
- (4) A record made for the purposes of subsection (2) or (3) must be kept for 7 years from the day the record is made.

Note: A registered NDIS provider may be required to comply with other Commonwealth, State or Territory laws in relation to the retention of records.

- (5) The incident management system must provide for the collection of statistical and other information relating to incidents to enable the registered NDIS provider 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.
- (6) This section does not limit paragraph 10(1)(a).

### 13 Roles, responsibilities, compliance and training of workers

- (1) The incident management system of a registered NDIS provider must set out the roles and responsibilities of any persons employed or otherwise engaged by the registered NDIS provider in identifying, managing and resolving incidents and in preventing incidents from occurring.
- (2) Without limiting subsection (1), the incident management system must provide that each person employed or otherwise engaged by the registered NDIS provider must comply with the incident management system.
- (3) The incident management system must include requirements relating to the provision of training to any persons employed or otherwise engaged by the registered NDIS provider in the use of, and compliance with, the incident management system.

## Part 3—Reportable incidents

### 14 Simplified outline of this Part

Certain incidents that happen, or are alleged to have happened, in connection with the provision of supports or services by registered NDIS providers are known as **reportable incidents**. These incidents include the death, serious injury, abuse or neglect of a person with disability and the use of restrictive practices in particular circumstances.

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If a reportable incident occurs, or is alleged to have occurred, the registered NDIS provider must give details about the incident to the Commissioner. Details of certain incidents (such as the death of a person with disability) must be notified within 24 hours, while others must be notified within 5 business days.

Registered NDIS providers must keep records about reportable incidents.

If the Commissioner is notified about a reportable incident, the Commissioner may take certain action, including requiring the provider to undertake specified remedial action, carry out an internal investigation about the incident or engage an independent expert to investigate and report on the incident.

The Commissioner has the power to authorise inquiries in relation to reportable incidents. An inquiry can be carried out even if a reportable incident has not been notified to the Commissioner.

The Commissioner can publish a report setting out his or her findings in relation to an inquiry.

### 15 Purpose of this Part

- (1) This Part is made for the purposes of section 73Z of the Act.
- (2) It is about reportable incidents that occur in connection with the provision of supports or services by registered NDIS providers.

Note 1: This Part covers reportable incidents that are alleged to have occurred, as well as reportable incidents that have actually occurred (see section 17).

Note 2: For the meaning of *reportable incident*, see subsection 73Z(4) of the Act and section 16 of this instrument.

- (3) These reportable incidents must be notified and managed in accordance with this Part.

Note: Failure by a registered NDIS provider to comply with the requirements of this Part constitutes a breach of condition of registration (see paragraph 73F(2)(h) of the Act) and may lead to compliance and enforcement action under Division 8 of Part 3A of the Act.

### 16 What is a *reportable incident*?

- (1) This section is made for the purposes of subsection 73Z(5) of the Act.

Note 1: Subsection 73Z(4) of the Act provides that *reportable incident* means:

- (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
- (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.

Note 2: Subsection 73Z(5) of the Act allows this instrument to provide that specified acts, omissions or events are, or are not, reportable incidents. This instrument can override subsection 73Z(4) of the Act in this regard.

- (2) An act specified in paragraph 73Z(4)(d) of the Act that occurs in relation to a person with disability is not a *reportable incident* if:
  - (a) the act is unlawful physical contact with a person with disability; and
  - (b) the contact with, and impact on, the person with disability is negligible.

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- (3) Despite paragraph 73Z(4)(f) of the Act, the use of a restrictive practice in relation to a person with disability where the use is in accordance with an authorisation (however described) of a State or Territory is a **reportable incident** if the use is not in accordance with a behaviour support plan for the person with disability.

Note: See also subsection 73Z(4) of the Act, which sets out the definition of **reportable incidents**.

- (4) Despite paragraph 73Z(4)(f) of the Act, the use of a restrictive practice in relation to a person with disability where the use is not in accordance with an authorisation (however described) of a State or Territory is not a **reportable incident** if:
- (a) the use is in accordance with a behaviour support plan for the person with disability; and
  - (b) the State or Territory in which the restrictive practice is used does not have authorisation process in relation to the use of the restrictive practice.

### 17 Reportable incidents include alleged reportable incidents

A reference in this Part to a reportable incident that has occurred includes a reference to a reportable incident that is alleged to have occurred.

### 18 Duty of key personnel of registered NDIS providers in relation to reportable incidents

The following must take all reasonable steps to ensure that reportable incidents that occur in connection with the provision of supports or services by a registered NDIS provider are notified to the Commissioner:

- (a) members of the key personnel of the provider;
- (b) the person specified for the purposes of paragraph 10(1)(c) for the provider.

### 19 Duty of workers to notify registered NDIS provider of reportable incidents

If a person employed or otherwise engaged by a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider, the person must notify one of the following of that fact as soon as possible:

- (a) a member of the provider's key personnel;
- (b) a supervisor or manager of the person;
- (c) the person specified for the purposes of paragraph 10(1)(c) for the provider.

### 20 Certain reportable incidents must be notified to the Commissioner within 24 hours

- (1) This section applies if:
- (a) a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider; and
  - (b) the reportable incident is:
    - (i) the death of a person with disability; or
    - (ii) the serious injury of a person with disability; or
    - (iii) the abuse or neglect of a person with disability; or
    - (iv) the unlawful sexual or physical contact with, or assault of, a person with disability; or
    - (v) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity.

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Note: For the purposes of subparagraph (b)(iv), certain physical contact is not a reportable incident and so is not covered by the requirements of this section (see subsection 16(2)).

- (2) Subject to subsection (3), the registered NDIS provider must notify the Commissioner of the following information within 24 hours:
- (a) the name and contact details of the registered NDIS provider;
  - (b) a description of the reportable incident;
  - (c) except for a reportable incident of a kind covered by subparagraph (1)(b)(i)—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;
  - (h) any other information required by the Commissioner.

Note: The information required by paragraphs (b), (c), (f) and (g) may not need to be given in certain circumstances (see section 22).

- (3) If, within 24 hours after the provider became aware that the incident occurred, insufficient information is available to comply with subsection (2), the provider must:
- (a) provide the information mentioned in paragraphs (2)(a) to (e) within the 24 hour period; and
  - (b) provide the remaining information required by that subsection within 5 business days after the provider became aware that the incident occurred.
- (4) The registered NDIS provider must notify the Commissioner of the following information within 5 business days after the provider became aware that the incident occurred:
- (a) the names and contact details of any witnesses to the reportable incident;
  - (b) any further actions proposed to be taken in response to the reportable incident.
- (5) A notification in accordance with subsection (2) may be given by telephone or in writing.
- (6) A notification given in accordance with paragraph (3)(a) or (b) or subsection (4) must be given in writing.
- (7) If a notification is given in writing, the Commissioner must acknowledge its receipt within 24 hours.
- (8) The Commissioner must approve a form for the purposes of giving notifications in writing under this section.

### **21 Other reportable incidents must be notified to the Commissioner within 5 business days**

- (1) A registered NDIS provider must notify the Commissioner in accordance with this section if:
- (a) the registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider; and
  - (b) the reportable incident is not of a kind covered by paragraph 20(1)(b).
- (2) The notification must:

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- (a) be given in writing; and
  - (b) be given within 5 business days after the provider became aware that the reportable incident occurred; and
  - (c) include all of the information required by subsection (3).
- (3) The information required is as follows:
- (a) the name and contact details of the registered NDIS provider;
  - (b) a description of the reportable incident, including the impact on, or harm caused to, the person with disability;
  - (c) if known—the time, date and place at which the reportable incident occurred;
  - (d) the names and contact details of the persons involved in the reportable incident;
  - (e) the names and contact details of any witnesses to the reportable incident;
  - (f) 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;
  - (g) any further actions proposed to be taken in response to the reportable incident;
  - (h) the name and contact details of the person making the notification;
  - (i) any other information required by the Commissioner.

Note: The information required by paragraphs (b) to (e) may not need to be given in certain circumstances (see section 22).

- (4) The Commissioner must acknowledge receipt of the notification within 24 hours after receiving it.
- (5) The Commissioner must approve a form for the purposes of giving notifications under this section.

### **22 Circumstances in which certain information relating to reportable incidents need not be obtained or notified**

A registered NDIS provider is not required to obtain, or notify the Commissioner of, the information mentioned in paragraph 20(2)(b), (c), (f) or (g), 20(4)(a) or 21(3)(b), (c), (d) or (e) 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.

### **23 Keeping the Commissioner updated**

- (1) This section applies if:
  - (a) a registered NDIS provider gives notification of a reportable incident under section 20 or 21 at a particular time; and
  - (b) the provider becomes aware of significant new information in relation to the incident after that time; and
  - (c) the significant new information:
    - (i) is or relates to a change in the kind of reportable incident; or
    - (ii) is a further reportable incident.
- (2) The provider must notify the Commissioner of the significant new information as soon as reasonably practicable after becoming aware of the information.



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- (3) The notification must be given in writing.
- (4) If notification is given under this section of a further reportable incident, the registered NDIS provider is taken to have complied with section 20 or 21 (as the case requires).
- (5) The Commissioner may approve a form for the purposes of giving notifications in writing under this section.

### 24 Providing the Commissioner with a final report

- (1) If a registered NDIS provider gives notification of a reportable incident under subsection 20(4) or section 21, the Commissioner may require the provider to give the information required by subsection (2) of this section to the Commissioner, within 60 business days after the notification is given under subsection 20(4) or section 21, or a longer period specified by the Commissioner.
- (2) The information required is as follows:
  - (a) details of any internal or external investigation or assessment that has been undertaken in relation to the incident, including:
    - (i) the name and position of the person who undertook the investigation; and
    - (ii) when the investigation was undertaken; and
    - (iii) details of any findings made; and
    - (iv) details of any corrective or other action taken after the investigation;
  - (b) a copy of any report of the investigation or assessment;
  - (c) whether persons with disability affected by the incident (or their representative) have been kept informed of the progress, findings and actions relating to the investigation or assessment;
  - (d) any other information required by the Commissioner.
- (3) The information must be given in writing.
- (4) The Commissioner must approve a form for the purposes of giving information under this section.

### 25 Record keeping

- (1) If a registered NDIS provider becomes aware that a reportable incident has occurred in connection with the provision of supports or services by the provider, the provider must keep a record of the incident.
- (2) The record must be kept for 7 years from the day that notification of the reportable incident is given under subsection 20(2), paragraph 21(2)(b) or subsection 23(2) (as the case requires).

Note: A registered NDIS provider may be required to comply with other Commonwealth, State or Territory laws in relation to the retention of records.

- (3) It is sufficient compliance with this section if the provider keeps the record of the reportable incident required to be made under section 12.

### 26 Action by the Commissioner in relation to reportable incidents

## Incident Management Policy

- (1) The Commissioner may, upon receiving notification that a reportable incident has occurred in connection with the provision of supports or services by a registered NDIS provider, do one or more of the following:
  - (a) refer the incident to another person or body with responsibility in relation to the incident (such as a State or Territory agency responsible for child protection);
  - (b) require or request the provider to undertake specified remedial action in relation to the incident within a specified period, including remedial action to ensure the health, safety and wellbeing of persons with disability affected by the incident;
  - (c) require the provider to carry out an internal investigation in relation to the incident, in the manner and within the timeframe specified in by the Commissioner, and to provide a report on the investigation to the Commissioner;
  - (d) require the provider to engage an appropriately qualified and independent expert, at the expense of the provider, to carry out an investigation in relation to the incident, in the manner and within the timeframe specified in by the Commissioner, and to provide a report on the investigation to the Commissioner;
  - (e) carry out an inquiry in relation to the incident in accordance with section 27;
  - (f) take any other action that the Commissioner considers reasonable in the circumstances.

Note: The Commissioner may also share information in relation to a reportable incident in accordance with section 67E of the Act and the *National Disability Insurance Scheme (Protection and Disclosure of Information—Commissioner) Rules 2018*.

- (2) If an investigation is carried out under paragraph (1)(c) or (d) in relation to a reportable incident, the Commissioner may take any action that the Commissioner considers appropriate.
- (3) Without limiting subsection (2), the Commissioner may provide, or require the registered NDIS provider to provide, information on the progress or outcome of the investigation to:
  - (a) the person with disability involved in the incident (or a representative of the person); and
  - (b) with the consent of the person with disability (or a representative of the person)—any other person.

## Part 4—Inquiries by the Commissioner

### 27 Inquiries by the Commissioner in relation to reportable incidents

- (1) This section is made for the purposes of section 73Z of the Act.
- (2) The Commissioner may authorise an inquiry in relation to a reportable incident that has occurred in connection with the provision of supports or services by a registered NDIS provider.
- (3) The Commissioner may authorise an inquiry in relation to a series of reportable incidents that have occurred in connection with the provision of supports or services by one or more registered NDIS providers.
- (4) An inquiry may be carried out whether or not notification of the reportable incident or reportable incidents has been received under section 20 or 21.

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- (5) An inquiry may be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.
- (6) Without limiting subsection (5), the Commissioner may:
  - (a) consult with other persons, organisations and governments on matters relating to the inquiry; or
  - (b) request information that is relevant to the inquiry from any person; or
  - (c) provide opportunities for people with disability to participate in the inquiry.
- (7) The Commissioner may prepare and publish a report setting out his or her findings in relation to the inquiry.

### Part 5—Other matters

#### 28 Commissioner must comply with procedural fairness rules

The Commissioner must, in taking action in relation to a reportable incident, have due regard to the rules of procedural fairness.

Note: The Commissioner may make guidelines for the purposes of dealing with reportable incidents, including in relation to matters of procedural fairness (see subsection 181D(2) of the Act).

#### 29 Commissioner may take action under the Act

Nothing in this instrument prevents the Commissioner from taking action under Division 8 of Part 3A of the Act in relation to:

- (a) an incident, including a reportable incident, that occurs in connection with providing supports or services to a person with disability; or
- (b) information received by the Commissioner under this instrument.

The Junction Clubhouse Cairns Ltd (The Junction) – Incident Management Policy		
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