



**NDIS Quality  
and Safeguards  
Commission**

# **NDIS Quality and Safeguards Commission**

## **Supplementary Submission**

**September 2021**

Joint Standing Committee on the  
National Disability Insurance Scheme

*Inquiry into the NDIS Quality and Safeguards Commission*

## Introduction

1. The former National Disability Insurance Scheme (NDIS) Quality and Safeguards Commissioner (NDIS Commissioner), Mr Graeme Head AO, suggested that the Joint Standing Committee on the NDIS (the Committee) might be assisted by obtaining further input from the NDIS Quality and Safeguards Commission (NDIS Commission) in relation to some issues raised in the submissions or evidence at public hearings given by other parties.
2. This submission pertains to the Committee's inquiry into the NDIS Commission, examining systemic and ongoing issues about the operations and framework of the NDIS Commission (the inquiry).
3. To assist the Committee with its inquiry, at the request of the Committee, this supplementary submission addresses the following matters:
  - the management of complaints by the NDIS Commission;
  - the use of compliance and enforcement powers by the NDIS Commission;
  - engagement and education activities being undertaken by the NDIS Commission; and
  - registration timeframes for providers seeking to enter the NDIS market.

## Prior submissions to this Inquiry

4. The NDIS Commission's primary submission to this inquiry (Submission 42) includes information about the context in which the office of the NDIS Commissioner and the NDIS Commission were established and the NDIS Commission's regulatory approach. It also describes the NDIS Commissioner's functions and powers under the *National Disability Insurance Scheme Act 2013* (NDIS Act).
5. In May 2021, the NDIS Commission provided a supplementary submission at the Committee's request (Submission 42.1) concerning people with disability who are 'detained under forensic orders'.
6. In his 30 June 2021 letter to the Chair of the Joint Standing Committee, the Hon Kevin Andrews MP, the former NDIS Commissioner suggested that the Committee might wish to seek a further submission from the NDIS Commission on a number of issues that have arisen in submissions and public hearings.

## Improvements to complaint handling processes

7. At the May 2021 public hearing of the Committee, the former NDIS Commissioner briefly referred to work the NDIS Commission has been undertaking in respect of improvements to complaint handling processes that give effect to the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (the Complaints Rules). This work is intended to make significant improvements to this key function of the NDIS Commissioner.
8. In short, there are six key elements of the changes to complaints management, a number of which also apply to how the NDIS Commission oversees providers' responses to reportable incidents, as follows:
  - significantly increased staffing (as a result of budget increases announced in the 2020-21 Budget);
  - significantly revised policies and procedures;
  - a revised approach to intake assessment and streaming of complaints received by the NDIS Commission;
  - intensive training of staff on the new policies, procedures and changes to the intake model;
  - a new internal quality assurance process; and
  - a new external assurance and advisory mechanism.

Each of these elements is described in more detail below.

9. **Significantly increased staffing (as a result of budget increases announced in the 2020-21 Budget):** The NDIS Commission allocated funding from its budget enhancement to recruit an additional 67 reportable incidents and complaints officers across its state and territory offices (excluding the six officers initially allocated to the Western Australian office, which commenced operating on 1 December 2020). Since the budget increase, the NDIS Commission has engaged 61 of these reportable incidents and complaints officers, with recruitment activity ongoing to fill the remaining vacancies.

10. Currently, the NDIS Commission also has 75 additional reportable incidents and complaints officers engaged temporarily under labour hire arrangements, in part to cover while the current recruitment activity is completed and in part because otherwise unspent funds permitted a short-term increase in capacity to allow for the elimination of backlogs built up prior to the staffing uplift and enhanced processes. These temporary staff numbers will reduce as current recruitment activity concludes and available funds are spent.
11. **Significantly revised policies and procedures:** Guidance material developed for complaints officers and reportable incidents officers since the commencement of the NDIS Commission's operations has been consolidated and presented as a cohesive whole, in a way that better emphasises:
  - the purpose of the complaints functions;
  - the legal underpinnings for the various decisions and actions; and
  - the critical decision points in the complaints process and the tools that can assist officers to make those decisions.
12. The consolidated guidance was released to staff in May 2021 in the form of a complaints manual and a reportable incidents manual.
13. In addition, new guidance was prepared to address some additional issues that have been identified by staff and on which guidance could usefully be provided. This was released in late August 2021.
14. **A revised approach to intake assessment and streaming of complaints received by the NDIS Commission:** The NDIS Commission has introduced new intake assessment, streaming, and handling systems for both complaints and reportable incidents designed on the basis of experience to date. These changes came into effect in May 2021.
15. The new intake and streaming model is designed to ensure that, after any immediate safeguarding concerns are addressed, a complaint or reportable incident can be assessed early and handled according to an assessment of risk to individual participants and the impact on quality and safeguarding generally.
16. The streaming of complaints is intended to enable NDIS Commission complaints officers to respond more quickly to complaints by making earlier decisions about the types of actions that are most likely to be effective in resolving the relevant complaint. Key benefits of the model in relation to complaints include greater use of early resolution techniques, if appropriate, and appropriate and timely referrals to other bodies.
17. **Intensive training of staff on the new policies, procedures and changes to the intake model:** In light of the number of new staff, the consolidated guidance material and the new intake and streaming model, the NDIS Commission undertook a comprehensive program of training and technical support for reportable incidents and complaints staff in May 2021. In March 2021, a number of complaints officers undertook external accredited training in mediation skills and further external accredited training is scheduled in relation to conciliation skills. The NDIS Commission intends to continue training its complaints officers in these skills so that they are better equipped to deal with complaints that would best be resolved earlier and more effectively by conciliation and other resolution processes.

18. **A new internal quality assurance process:** Again in light of the number of new staff, the consolidated guidance material and the new intake and streaming model, the NDIS Commission has developed a more formal quality assurance process to ensure that its responses to reportable incidents and complaints are as effective as possible.
19. A Quality Assurance Framework (the Framework) for complaints handling has been adopted and is being implemented. The Framework will oversee and improve the effectiveness of the NDIS Commission's handling of complaints through a structured, consistent and multi-pronged approach. The Framework provides for peer, inter-office and senior officer review of samples of complaints handled in each team. As well as improving the quality of the NDIS Commission's handling of complaints, the Framework will assist the NDIS Commission to assess the success of the new intake, triage and streaming models outlined above.
20. **A new external assurance and advisory mechanism:** The NDIS Commission has established a Complaints Function Advisory Committee (Advisory Committee) to provide feedback to the Complaints Commissioner on all aspects of the complaints function, with the aim of improving the experience and outcomes achieved for complainants (including people with disability who make complaints), people with disability affected by issues raised in complaints, and their support networks.
21. Advisory Committee members will provide input, guidance and recommendations on:
- the efficacy of the NDIS Commission's complaints function;
  - ways to improve the handling and resolution of complaints in accordance with the NDIS Act and the Complaints Rules;
  - the removal of barriers which impact on the ability of a person to raise a complaint;
  - systemic data gathered through the complaints function; and
  - ways to enhance outcomes being achieved through having a national complaints mechanism.

The NDIS Commission will ensure that the Advisory Committee includes members with lived experience of disability, strong experience in advocacy and a contemporary understanding of disability-related issues and effective approaches to complaints about the quality and safety of supports and services.

## The use of regulatory powers, compliance and enforcement

22. The NDIS Commission outlined its compliance and enforcement powers and its approach to compliance and enforcement in its primary submission to the inquiry (Submission 42). A copy of the NDIS Commission's Compliance and Enforcement Policy was also provided with that submission.

### Compliance and enforcement actions

23. The 2020-21 financial year has seen a significant level of compliance and enforcement action by the NDIS Commission in respect of NDIS providers and individuals they employ or otherwise engage:
- 22 banning orders were issued against NDIS providers and workers;
  - 159 decisions were made to suspend, revoke or refuse the registration of registered NDIS providers or applicants for registration as NDIS providers;

- 19 infringement notices were issued to NDIS providers;
  - 9 compliance notices were issued to NDIS providers;
  - 121 warning letters were issued to NDIS providers;
  - 189 remedial action instructions were issued to NDIS providers; and
  - 1,023 educative responses were issued to NDIS providers.
24. In addition, during the 2020-21 financial year, the NDIS Commission had 1,952 compliance activities and 448 investigations underway, relating to more than 2,700 NDIS providers.
25. Cumulatively, since the NDIS Commission started operations in New South Wales and South Australia and up to 30 June 2021, the NDIS Commission has taken the following actions:
- 44 banning orders were issued against NDIS providers and workers;
  - 179 decisions were made to suspend, revoke or refuse the registration of registered NDIS providers or applicants for registration as NDIS providers;
  - 24 infringement notices were issued to NDIS providers;
  - 12 compliance notices were issued to NDIS providers;
  - 150 warning letters were issued to NDIS providers;
  - 192 remedial action instructions were issued to NDIS providers; and
  - 1,079 educative responses were issued to NDIS providers.
26. Further, since 1 July 2018 and as at 30 June 2021, the NDIS Commission has commenced 2,153 compliance activities and 501 investigations.

### Compliance and enforcement priorities for 2020-21

27. The NDIS Commission publishes its compliance and enforcement priorities each financial year to inform NDIS providers, participants and other interested persons about the key quality and safeguarding issues the NDIS Commission will focus on in its compliance and enforcement activities during that year. The published compliance and enforcement priorities do not preclude the NDIS Commission pursuing other matters, in accordance with its Compliance and Enforcement policy.
28. The NDIS Commission's compliance and enforcement priorities for 2020-21 were:
- **Prevention of harm:** Targeting compliance and enforcement action on providers and workers, alleged to have caused harm to NDIS participants, including violence, neglect, abuse, exploitation and sexual misconduct;
  - **Incident management and reporting:** Monitoring providers' compliance with obligations to manage, respond to and report serious incidents, with an emphasis on prevention and mitigation of incidents;
  - **Unauthorised restrictive practices:** Monitoring providers' compliance with obligations to take all reasonable steps to facilitate the development of interim and comprehensive behaviour support plans where there is ongoing use of regulated restrictive practices;

- **Quality management:** Monitoring providers' compliance with obligations to raise and act on concerns that affect the quality of disability supports and, implement quality management systems that promote continuous improvement of support delivery;
- **COVID-19 preparedness and response:** Educating and monitoring providers' compliance with obligations to manage risk, ensure continuity of supports and mitigate impacts on the health and wellbeing of NDIS participants as a result of the COVID-19 pandemic; and
- **Assistance to NDIS participants in their homes:** Monitoring providers' compliance with obligations to ensure, on a continuing basis, that participants provided with 'assistance with daily personal activities' in their home can access the supports free from violence, abuse, neglect and exploitation or discrimination.

29. Specifically in relation to these compliance priorities, the NDIS Commission initiated the following compliance activity in the 2020-21 financial year:

- The NDIS Commission assessed compliance with obligations imposed on registered NDIS providers under the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018* by requiring 509 registered NDIS providers that were reporting the repeated unauthorised use of restrictive practices to provide information and demonstrate compliance with the Rules. The information obtained is continuing to inform the NDIS Commission's compliance activity in relation to unauthorised uses of restrictive practice. As at 30 June 2021, this activity has resulted in the issuing of:
  - five compliance notices;
  - four infringement notices;
  - 42 remedial action instructions;
  - 30 education letters; and
  - 91 warning letters.
- The NDIS Commission educated registered NDIS providers and assessed their compliance with their obligations under the *National Disability Insurance Scheme (Incident Management and Reportable Incident) Rules 2018*. As at 30 June 2021, this activity has resulted in the issuing of:
  - more than 1,700 educative letters; and
  - 24 remedial action instructions.
- The NDIS Commission assessed the compliance of 410 registered NDIS providers with their obligations under various NDIS Practice Standards, and subsequently a condition of registration to ensure the safety and wellbeing of NDIS participants who receive personal care support in their home from a single worker. The NDIS Commission has imposed an additional condition of registration on more than 2,500 registered NDIS providers registered to provide 'assistance with daily personal activities'.

30. Further, the NDIS Commission has used its regulatory powers to assist in the management of the COVID-19 pandemic in the NDIS. This has included monitoring and addressing registered NDIS providers' compliance with outbreak preparedness and response, including in relation to:

- mitigating the risks of infection transmission;

- ensuring the continuity of critical supports to the people that they support;
- developing and implementing workforce contingency plans;
- communication and engagement with NDIS participants; and
- notifying the NDIS Commission of relevant changes and events in accordance with obligations under section 13A of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

### Own motion inquiry

31. The former NDIS Commissioner began a process to establish the NDIS Commission's first own motion inquiry. The Commissioner may authorise an 'own motion inquiry' in relation to issues arising from:
- a complaint, or a series of complaints, that have occurred in connection with the provision of supports or services by one or more NDIS providers, under the Complaints Rules; and
  - a reportable incident, or a series of reportable incidents, that have occurred in connection with the provision of supports or services by one or more NDIS providers, under the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Reportable Incidents Rules).
32. In addition to being used to examine particular complaints or reportable incidents or series of complaints or reportable incidents, an own motion inquiry might be used to examine matters (complaints or reportable incidents) that raise systemic issues, whether at the individual provider level or at the NDIS market level or both.
33. The Acting NDIS Commissioner has now established this own motion inquiry into aspects of supported accommodation in the NDIS. It is the first use of these own motion inquiry powers by the NDIS Commission. It is effectively two separate own motion inquiries because it involves examining both a series of complaints and a series of reportable incidents.
34. The purpose of the inquiry is to enable the NDIS Commission to identify:
- from reportable incidents and complaints it has received in relation to supported accommodation provided by seven NDIS providers that are large providers of supported accommodation:
    - the issues and incidents that are occurring in supported accommodation;
    - any trends in those issues and incidents; and
    - the underlying factors that are causing or contributing to those issues and incidents;
  - models of best practice in supported accommodation that could help to eliminate or address those issues and incidents; and
  - how best to promote the continuous improvement amongst NDIS providers of supported accommodation and the delivery of higher standards of supports and services in supported accommodation.
35. The NDIS Commission has published information about own motion inquiries in general, and the terms of reference for the inquiry into aspects of support accommodation, on its website.



## Engagement and education

36. Since its establishment, the NDIS Commission has undertaken a wide range of activities which have been designed to ensure that:

- people with disability and their friends, families and wider networks are aware of the role of the NDIS Commission and how to contact it;
- providers are aware of their obligations, including to raise any relevant concerns with the NDIS Commission;
- workers are aware of their obligations, including to raise any relevant concerns with the NDIS Commission; and
- peak organisations (advocacy, those representing people with disability, and industry bodies) are aware of the work of the NDIS Commission and are appropriately consulted on issues.

37. Some of the participant-facing work includes:

- the establishment of a new National Engagement Team in October 2020;
- the release, in December 2020, of the first issue of SAFEGuard, the NDIS Commission's quarterly e-newsletter for participants; and
- the ongoing distribution of Participant Information Packs to existing and new participants in the NDIS, including the publication in 2021 of a Participant Information Pack and an Easy Read Participant Welcome Pack created specifically for Aboriginal and Torres Strait Islander people.

38. The National Engagement team was established in October 2020 to focus on engaging with NDIS participants, their supporters and representatives, Aboriginal and Torres Strait Islander communities and disability advocates. The National Engagement Team's activities are designed to build the awareness, understanding and confidence of participants about the role and functions of the NDIS Commission. The NDIS Commission has developed a National Engagement Plan 2021 and an Aboriginal and Torres Strait Islander Engagement Plan 2021 to set out its approaches, priorities and messages to participants and their representatives.

39. While the COVID-19 pandemic has affected the NDIS Commission's ability to meet in person with participants, most engagement to date has taken place through teleconferences and virtual meetings with disability representative organisations and advocacy bodies. Since its commencement in October 2020, the National Engagement Team has completed 133 significant engagements with more than 76 disability-related networks and organisations, including 31 presentations reaching over 606 community leaders, participants and their representatives. Throughout In 2020-21, including the National Engagement Team's engagements, the NDIS Commission conducted 1,059 external stakeholder engagement activities across Australia, involving 23,616 attendees.

40. In December 2020, the NDIS Commission published the first issue of SAFEGuard, its new quarterly e-newsletter for participants. This quarterly e-newsletter is intended to help explain what the NDIS Commission, and others, are doing to make sure the supports and services participants rely on are safe and of good quality. The NDIS Commission has now published four issues of SAFEGuard. One issue was a special edition published in May 2020 to explain safeguarding in relation to sole carer arrangements. A number of issues have included invitations to participants to complete short surveys, including seeking feedback and suggestions for improving the newsletter. The most recent issue focused on the NDIS Code of Conduct and how to make complaints.
41. SAFEGuard is available to view on the NDIS Commission's website, and the website also offers a subscription option. SAFEGuard is also available in Easy Read, Auslan and other languages. The NDIS Commission also sends SAFEGuard to all registered NDIS providers, and asks them to distribute it to the people with disability to whom they provide supports. The NDIS Commission promotes SAFEGuard on its social media channels, and shares it via the National Disability Insurance Agency's (NDIA's) stakeholder communication channels.
42. In 2019, the NDIS Commission prepared and distributed 'Participant Welcome Packs' (now known as Participant Information Packs) to NDIS participants in jurisdictions which transitioned to the jurisdiction of the NDIS Commission in 2019. Participants in New South Wales and South Australia, which transitioned to the jurisdiction of the NDIS Commission in 2018 were sent letters containing introductory information and key contacts for the NDIS Commission. The Participant Information Pack is also available to download from the NDIS Commission website. It gives NDIS participants information about their rights, the role of the NDIS Commission, how to choose quality and safe supports, and how to make a complaint. The pack is available in Braille, Easy Read and Auslan versions. The Participant Information Pack was also sent to participants in Western Australia when it transitioned to the NDIS Commission on 1 December 2020.
43. In January 2021, the NDIS Commission published a version of the Easy Read Participant Information Pack that was created specifically for Aboriginal and Torres Strait Islander people. In August 2021, the NDIS Commission also published a version of the standard Participant Information Pack that was created specifically for Aboriginal and Torres Strait Islander people. These publications are available to download from the NDIS Commission website and printed copies can also be ordered from the website.
44. The NDIS Commission works with the NDIA to promote awareness of our role and improve confidence of participants to approach us. The NDIS Commission presents at events and networks convened by the NDIA including NDIS Provider Forums, regional community engagement networks, partners forums and relevant specific team and branch meetings. The NDIS Commission is increasingly partnering with the NDIA on visits to remote or isolated communities, as well as Specialist Disability Accommodation (SDA) and Specialist Independent Living (SIL) Forums to improve engagement with participants who are hard to reach.
45. The NDIS Commission also undertakes engagement and education activities directed at NDIS providers and workers. Some of the provider and worker-facing work includes:

- **Provider alerts:** The NDIS Commission publishes regular provider alerts on a wide range of issues affecting the provision of supports. Many alerts in 2020 and 2021 related to COVID-19. In addition, the NDIS Commission published a number of provider practice alerts about issues identified in the *Scoping review of causes and contributors to deaths of people with disability in Australia*, which the NDIS Commission commissioned and published in February 2020;
- **Worker Orientation Module:** The Worker Orientation Module is an interactive online course developed by the NDIS Commission which registered NDIS providers are required to embed within their worker induction and learning programs. It is available through the NDIS Commission website and is available to all NDIS workers including those who work with NDIS providers that are not registered. The NDIS Commission continues to encourage uptake of the Worker Orientation Module. More than 480,000 people had completed the Worker Orientation Module as at 2 August 2021;
- **New Worker program:** The NDIS Commission developed the 'New Worker - NDIS Induction' e-learning program to support providers to induct new staff who may have been unfamiliar with the disability sector. It was launched in October 2020 specifically to respond to new workers joining the disability sector during the COVID-19 pandemic. More than 26,000 people had completed the New Worker program as at 2 August 2021; and
- **New Modules:** The NDIS Commission is developing new modules to sit alongside the Worker Orientation Module, to address issues identified in the *Scoping review of causes and contributors to deaths of people with disability in Australia*. One module under development focuses on supporting safe and enjoyable meals and the other module under development focuses on supporting effective communication. Subject to the impact on filming of COVID-19 lockdowns and other restrictions, these new modules should be available later in 2021 and early 2022.

### Consultative Committees

46. The NDIS Commission convenes two consultative committees of key stakeholders to provide high-level evidence-based advice to the NDIS Commissioner on national issues which influence the delivery of quality and safe NDIS supports and services. They provide an opportunity for two-way engagement between the NDIS Commission and key stakeholders on a wide range of matters.
47. The Disability Sector Consultative Committee brings together 14 key leaders from the disability sector to canvass the perspectives and raise issues of importance to NDIS participants and their support networks. The agenda covers matters that impact on systems level interventions, issues raised by other key stakeholders including advocates, the NDIS Independent Advisory Council and the NDIA CEO Forum, emerging and complex issues relevant to the NDIS market, and continuous improvement and the NDIS Commission's operations as a regulator.
48. The Industry Consultative Committee brings together 11 key peak provider representative organisations and networks to provide advice to the NDIS Commissioner on emerging issues and risks, trends in service delivery, issues affecting quality service provision in the NDIS market, impacts on system level interventions, and continuous improvement and issues relevant to the NDIS Commission as a regulatory authority.

49. The NDIS Commission convenes meetings of each Consultative Committee every quarter. The Consultative Committees have met quarterly since the NDIS Commission established them in November 2019. They met most recently in July 2021.

### Disability Advocacy Forums

50. The NDIS Commission convened Disability Advocacy Forums in 2018, 2019 and 2021 for representatives of disability advocacy and peak organisations to discuss quality and safeguarding issues of importance to the disability sector. Advocates were provided with relevant NDIS Commission information and updates and were able to raise and discuss issues of concern to participants involving quality and safety, and mechanisms for bringing issues and complaints to the NDIS Commission.

### Social Media

51. The NDIS Commission uses its established social media accounts to engage with key stakeholders. Facebook is used to reach participants, their families and friends as well as social networks and advocates. As at 3 August 2021, the NDIS Commission had 5,971 Facebook followers. LinkedIn is used to reach NDIS providers and to share up-to-date information relevant to their registration, as well as information for the wider sector including employment opportunities. As at 3 August 2021, the NDIS Commission had 22,781 LinkedIn followers.

### Website

52. The NDIS Commission website is the central communication channel where NDIS Commission resources and information are available for people with disability, NDIS providers, advocates and the general public. The website is currently being redeveloped, to ensure it better meets the needs of users in terms of relevance, usability and accessibility. The new website is expected to be launched in early 2022.
53. The NDIS Commission has also worked with the NDIA to update its Feedback and Complaints webpage to better explain which complaints the NDIS Commission handles, and to more clearly differentiate the NDIS Commission's complaints process from the NDIA's process.

### Information campaign

54. The NDIS Commission is building on the 'If you need to speak up, speak to us' information campaign of 2019-20, developing the next iteration of this information campaign. The NDIS Commission has commissioned a suite of creative materials – such as videos, still imagery, infographics, animations, quick reference guides, posters and social media content – to help ensure people with disability and NDIS workers know what good and bad service and support looks like, based on the NDIS Code of Conduct.
55. The project will also develop creative materials in relation to issues identified in the *Scoping review of causes and contributors to deaths of people with disability in Australia*, and will help to educate participants, providers and workers on best practice service delivery to avoid preventable harm and death of people with disability.
56. The NDIS Commission required that this project be led by research and co-design – undertaken with people with disability, providers and workers – and it will feature people with disability. The materials produced will form the basis of a new information campaign, which the NDIS Commission will launch in early 2022.

## Registration timeframes

57. Registration is a key function of the NDIS Commission. During the establishment of the NDIS Commission over the past three years, this has involved:

- transitioning providers who had previously been registered by the NDIA to the NDIS Commission;
- taking over the quality and safeguarding regulation of those providers from the states and territories in which they operate; and
- registered new entrants to the market.

## Registration process

58. The registration process is detailed in the NDIS Commission's initial submission to the inquiry (Submission 42). In summary:

- Providers applying to become a registered NDIS provider, or applying to renew registration, must be independently assessed by an audit body approved by the NDIS Commissioner against relevant NDIS Practice Standards. The audit process is proportionate to risk, based on the complexity and range of supports to be delivered and the size and scale of the provider.
- In addition to being assessed as meeting the relevant NDIS Practice Standards, the NDIS Commission must assess the applicant provider as suitable to provide supports and services to people with disability and each of the provider's key personnel as suitable to be involved in the provision of supports and services to people with disability.
- Suitability assessments consider whether the provider or its key personnel have had any past convictions, been insolvent under administration, had adverse findings or enforcement actions taken by other regulators or authorities, been the subject of finding or judgement in relation to fraud, misrepresentation or dishonesty, or been disqualified from managing corporations, as well as other information available to the NDIS Commission.

59. The NDIS Commission registration process is required of both new providers seeking to enter the registered NDIS provider market and those that transitioned to the jurisdiction of the NDIS Commission having been formerly registered by the NDIA, with states and territories previously responsible for quality and safeguarding. Further:

- Transitioned providers are required to apply to renew their registration with the NDIS Commission, including completing an audit against the NDIS Practice Standards as a condition of registration, within the timeframes recommended by the states and territories.
- This timeframe was established based on factors such as risk arising from previous performance in their jurisdiction, or how recent a previous audit processes had been undertaken within their jurisdiction.

60. The timeframe for providers to complete the registration process depends on a range of factors, including the size and scale of the organisation and the complexity and range of supports and services delivered.

61. Registration application processing times by the NDIS Commission are also dependent on a number of factors, including the volume of applications submitted to the NDIS Commission, factors that rely on the actions of providers and auditors, and any issues arising from the provider's audit or suitability assessment of the provider or its key personnel. These factors can extend processing times.
62. Where applications are incomplete in respect of the key personnel of the provider, the outlets where supports are proposed to be delivered, or other information about the supports proposed to be delivered, the NDIS Commission is required to follow up with providers to obtain information necessary to complete an assessment of an application. The timeframes associated with this step are dependent on the provider, and the volume and complexity of the information involved.
63. The NDIS Commission may also be required to follow up with providers and auditors where issues are raised through the audit or through the suitability assessment.
64. Section 73C(4) of the NDIS Act enables the NDIS Commissioner, by written notice, to require an applicant to give further information or documentation in relation to an application. The issuance of a notice under section 73C(4) requiring further information is determined as the NDIS Commission assesses each application. Examples include where the provider has not disclosed matters in their application that are identified through the suitability assessment, such as bankruptcy or adverse findings of other regulators, and where limited information is available through the initial audit of a provider who is new to the NDIS market and not yet commenced delivering supports and services to NDIS participants.
65. The NDIS Commission may also hold the assessment of an application for registration where it is aware that another regulatory body may be considering action against a provider or its key personnel that would also influence the NDIS Commission's consideration of the provider's suitability.
66. Under section 73K of the NDIS Act, registered NDIS providers who apply to renew registration before the end date of their current registration continue to be registered until the NDIS Commissioner makes a decision on the application.

### **Registration timeframes**

67. Registration timeframes have been affected by a number of matters since the establishment of the NDIS Commission, including the transition to new registration requirements and processes, the impact of the COVID-19 pandemic and the ongoing higher than anticipated volume of new providers entering the market.
68. The NDIS Commission routinely monitors application processing times. There was an increase in processing times during 2020 for a number of reasons. This was mainly due to a substantial increase in the volume of applications received, alongside a high volume of applications for variations to existing registrations.

69. One of the reasons for the increased volumes of applicants were changes to the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Provider Registration Rules) that came into effect on 1 January 2020. These changes included provisions that all providers delivering only lower risk, less complex supports now undergo a verification audit; a streamlined desk top assessment of policies and systems and validation of professional qualifications where relevant. The Provider Registration Rules had previously required providers delivering lower risk supports to undergo a full certification audit if they were body corporates. These changes made it more attractive for providers of lower risk supports to apply for registration.
70. While the Provider Registration Rules were being amended in late 2019, around 2,500 affected transitioning providers were advised not to commence a renewal process until the amendments were made, so as to avoid the need for them to take steps in their registration application that would shortly become unnecessary. Following the Rule change, in addition to providers who had delayed applying to renew registration, there has been an influx of new providers seeking to be registered to deliver lower risk supports under the streamlined registration process.
71. With the advent of the COVID-19 pandemic, the NDIS Commission recognised that providers would need to wholly focus on planning to manage the impact of the pandemic and prevent infection. Amongst a range of actions taken by the NDIS Commission in response to the pandemic, the NDIS Commission provided advice to auditors about conducting audits in line with public health restrictions including rescheduling or delaying audits where required.
- The NDIS Commission also extended the time for providers to apply to renew registration and/or to complete their audit, where required. This contributed to a further increase in completed applications submitted to the NDIS Commission with an audit report in the latter part of 2020.
72. The NDIS Commission has taken a range of actions to support timely assessment of applications, including adjustments to assessment processes in order to increase the volume of applications being processed and reduce processing times, where these are not dependent on further information from an applicant. The changes in process will not compromise robust, high quality assessment of applicants seeking to enter or remain in the NDIS market.
73. The NDIS Commission has employed additional staff to supplement the core registration team, and in April 2021 engaged an external provider to provide intensive support to process a backlog of around 2,500 delayed applications.
74. The NDIS Commission released an enhanced online application form in June 2021, which better guides applicants to provide required information and documents at the time of applying for registration. Further enhancements to the NDIS Commission's operating system are in development for release later in 2021, which will increase efficiency in the processing of information as part of the application process.
75. Between 1 July 2018 and 30 June 2021, the NDIS Commission received 17,302 applications for registration, not all of which have been completed by providers, but of which:
- 7,204 were from new providers seeking to enter the NDIS market; and
  - 10,098 were from NDIS providers that transitioned under the jurisdiction of the NDIS Commission and are seeking to renew their registration. These are in various stages of completion by a provider.

76. As at 30 June 2021, the NDIS Commission had determined 9,038 registrations, with a further 289 on hand ready for determination.
77. In addition, during the period 1 January 2020 to 30 June 2021, the NDIS Commission received 1,848 applications for variation to existing registrations.