



Joint Standing Committee on the NDIS
Inquiry into the NDIS Quality and Safeguards Commission
Answer to Question on Notice

Reference: SQ20-000049

Number of entities banned

Question:

How many entities in total have been banned by the NDIS Quality and Safeguards Commission since it was established, including a breakdown by:

- a. State or territory location
- b. Type of recipient
- c. Nature of breach

Answer:

During the period 1 July 2018 to 30 June 2020, the NDIS Quality and Safeguards Commission (NDIS Commission) banned a total of 23 entities in accordance with section 73ZN of the *National Disability Insurance Scheme Act 2013* (NDIS Act). Two of the banning orders were subsequently withdrawn due to a change of information upon which the banning orders were made.

Banned entities by state or territory location:

State	Total
NSW	13
QLD	5
SA	4
VIC	1
TOTAL	23

Banned entities by type of recipient:

Type of recipient	Total
Individual	22
Provider	1
TOTAL	23

Banned entities by nature of breach:

Nature of breach	Total
Banning order issued based on the revocation of registration of the provider in accordance with 73ZN(1)(a) of the NDIS Act.	3
Banning order issued based on suitability of the provider in accordance with 73ZN(1)(b)(iii) of the NDIS Act.	2
Banning order issued based on a contravention of the NDIS Act by the person in accordance with 73ZN(2)(a)(i) of the NDIS Act.	3
Banning order issued based on suitability of the person in accordance with 73ZN(2)(a)(iii) of the NDIS Act.	15
TOTAL	23



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Reference: SQ20-000050

Complaints received and resolved

Question:

1. How many complaints has the NDIS Quality and Safeguards Commission received since it was established?
 - a. Please provide a breakdown per complaint type.
2. How many complaints has the NDIS Quality and Safeguards Commission resolved since it was established?
 - a. What were the outcomes of these complaints?

Answer:

The National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018 (Complaints Rules) set out how the NDIS Quality and Safeguards Commission (NDIS Commission) may deal with a complaint, including working with the complainant, a person with disability affected by an issue raised in a complaint, the NDIS provider or a person employed or otherwise engaged by the NDIS provider to:

- provide advice and assistance in relation to the complaint or issue;
 - where possible and appropriate, assist the persons involved in the complaint to come to a mutually agreed resolution;
 - require the NDIS provider to which the complaint or issue relates to examine and attempt to resolve the complaint or issue and report back to the Commission;
 - request the complainant, the NDIS provider and any other person to participate in a conciliation process;
 - require the NDIS provider to undertake remedial action in relation to the complaint or issue and report back to the Commissioner; and
 - take any other action that the Commissioner considers is appropriate in the circumstances.
1. The NDIS Commission received 5,784 complaints that came within the NDIS Commissioner's complaint-handling functions under the Complaints Rules ('in-scope' complaints) over the period 1 July 2018 to 30 June 2020. The issues they raised were categorised by the NDIS Commission as follows:

Table: Complaint issue by category

Issue category	Number / %	
Provider practice	4,239	52%
Provider policies and procedures	1,594	20%
Worker conduct or capability	1,311	16%
Alleged abuse and neglect	1,024	12%
Total	8,168	100.00%

The total number of complaint issues enumerated against categories is greater than the total number of in-scope complaints, as an individual complaint can raise more than one issue.

Complaints about issues that do not arise out of, or in connection with, the provision of NDIS supports and services by an NDIS provider are 'out of scope' of the NDIS Commissioner's complaint-handling functions under the Complaints Rules and are therefore not included in this total. The NDIS Commission responds to such complaints by providing information and through referral to other agencies or bodies, where appropriate.

2. As at 30 June 2020, the status of the 5,784 'in scope' complaints received over the period 1 July 2018 to 30 June 2020 was as follows:

Table: Complaints open v closed

Status	Total	
Open	1,360	24%
Closed	4,424	76%
Total	5,784	100%

In the first 12 months of the NDIS Commission's operation, the reason for closure of a complaint was recorded against each individual complaint. Upon the NDIS Commission's establishment in an additional five jurisdictions, the NDIS Commission enhanced its system functionality to be able to report aggregate data on the reasons for closure of a complaint. Of the 5,225 complaint issues from the second year of operation, in seven jurisdictions, recorded outcomes are recorded in the table below.

Table: Recorded outcome per complaint issue – closed complaint

Closure Reason	Total	
s16(3)(a) – take no further action	2,473	47.3%
s16(3)(b) – give assistance	2,194	42%
s16(3)(c) – undertake a resolution process	558	10.7%
Total	5,225	100.00%

Of the 558 matters where a resolution process was undertaken, 85 per cent were resolved. The remaining 15 per cent were closed for other reasons, including that the complaint was referred to another person or body, the complainant withdrew the complaint, or the NDIS Commission initiated compliance action.

Where a complaint is closed under section 16(3)(a), there are a variety of reasons for taking no further action, including that the complainant either withdraws the complaint or provides insufficient information for the NDIS Commission to take any further action.

Where a complaint is closed under section 16(3)(b), the NDIS Commission must give advice and assistance to the complainant, the person with disability affected by the issue and the NDIS provider to which the issue relates.

Where a complainant – or NDIS participant who is not a complainant but is affected by the issues raised in a complaint – is not satisfied with the NDIS Commission's decision to take no further action or to end a resolution process, they can ask the NDIS Commission to reconsider its decision.

This may result in the matter being re-opened and a resolution process being conducted, or the original decision being affirmed. Reasons for the reconsideration decision are provided to the person requesting the reconsideration, together with information about how they can contact the Commonwealth Ombudsman if they remain unsatisfied with the decision.



NDIS Quality
and Safeguards
Commission

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Answer to Question on Notice

Reference: SQ20-000052

Use of powers under the Regulatory Powers (Standard Provisions) Act 2014

Question:

On how many occasions has the NDIS Quality and Safeguards Commission exercised its powers in the Regulatory Powers (Standard Provisions) Act 2014?

a. Please provide a breakdown of the outcomes following the exercise of powers under the Regulatory Powers (Standard Provisions) Act 2014.

Answer:

The *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act) provides a standard suite of provisions in relation to monitoring and investigation powers, civil penalties, infringement notices, enforceable undertakings and injunctions that apply to Commonwealth Acts where expressly referenced.

The regulatory powers and functions of the NDIS Quality and Safeguards Commission (NDIS Commission) are set out in the *National Disability Insurance Scheme Act 2013* (NDIS Act) and associated Rules. Where the provisions in the NDIS Act expressly reference the Regulatory Powers Act, the NDIS Commission can exercise the relevant provisions in the Regulatory Powers Act to support and enforce its regulatory powers and functions, including investigation and monitoring activities, civil penalties, injunctions and infringement notices.

During the period 1 July 2018 to 30 June 2020, the NDIS Commission exercised the following powers in the Regulatory Powers Act:

Power in Regulatory Powers Act	Number of times power exercised	Outcome of exercise of power
Monitoring powers (Part 2)	2 under warrant 7 by consent	Monitoring warrants executed which enabled authorised persons to inspect records and undertake interviews with relevant persons. Consent was granted for authorised officers to enter premises and obtain information and documents.
Infringement notices (Part 5)	1	Infringement notice paid in full.



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Reference: SQ20-000053

Travel expenditure

Question:

How much in total has the NDIS Quality and Safeguards Commission spent on travel entitlements since it was established?

a. Please itemise travel expenses according to the purpose of travel.

Answer:

All NDIS Quality and Safeguards Commission (NDIS Commission) travel is undertaken for official purposes only.

Travel Expenditure Type	2018-19*	2019-20 [#]
Air travel (domestic and international)	\$263,495	\$233,820
Ground transport (vehicle hire, taxi, public transport)	\$132,631	\$168,897
Accommodation	\$131,404	\$168,058
Meals and incidentals (travel allowance)	\$160,824	\$158,992
Airline Lounge Membership	\$1,577	\$1,225
Other (Travel costs of non-APS workforce, such as contractors and labour hire resources)	\$3,145	\$84,109
Financial year total	\$693,076	\$815,101
Total travel expenditure as at 30 June 2020	\$1,508,177	

All figures are GST exclusive

* The NDIS Commission was established on 1 July 2018, with jurisdiction in South Australia and New South Wales.

[#] On 1 July 2019, the NDIS Commission commenced in a further five jurisdictions (Australian Capital Territory, Northern Territory, Queensland, Tasmania and Queensland).



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Answer to Question on Notice

Reference: SQ20-000054

Deaths reported to the NDIS Commission

Question:

How many deaths have been reported by providers to the NDIS Quality and Safeguards Commission since it was established?

a. How many of these were in breach of reporting requirements, e.g. not within 24 hours?

Answer:

The NDIS Quality and Safeguards Commission (NDIS Commission) received 1,176 notifications of the death of a person with disability in the period 1 July 2018 to 30 June 2020.

It is mandatory for registered NDIS providers in all states and territories (except Western Australia, which has not yet come within the NDIS Commission's jurisdiction) to report the expected or unexpected death of NDIS participants, where the death occurs in connection with the provision of NDIS supports and services. This notification must be made within 24 hours of the key personnel becoming aware of the death.

Death of PWD Notifications	Total	
Within 24 Hours	745	63%
24 hours to 5 days	216	18%
5 days or more	215	18%
Total	1,176	100%

* The above data was determined by calculating the number of days between the date the NDIS Commission received the notification, and the date the provider indicated they became aware of the death. Percentages do not total 100% due to rounding.

In some instances, the NDIS Commission receives multiple notifications for the same participant. In some cases, further information reveals that the death of the person with disability did not occur in connection with the provision of NDIS supports and services.



NDIS Quality
and Safeguards
Commission

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Reference: SQ20-000055

Penalties issued to providers

Question:

Please provide data on all penalties issued to providers since the NDIS Quality and Safeguards Commission's establishment, including:

- a. Breach type
- b. Penalty units
- c. The penalty in dollars
- d. Average, minimum and maximum penalties.

Answer:

During the period 1 July 2018 to 31 July 2020, the NDIS Quality and Safeguards Commission (NDIS Commission) has issued one penalty:

- a. An infringement notice was issued to a registered NDIS provider based on the provider having contravened section 73J of the *National Disability Insurance Scheme Act 2013* (NDIS Act), which requires that registered NDIS providers must comply with conditions of registration. The infringement notice was issued on the basis that the provider breached conditions of registration under section 73F(2)(h) of the NDIS Act by not complying with all applicable requirements relating to reportable incidents.
- b. 60
- c. \$12,600
- d. \$12,600



NDIS Quality
and Safeguards
Commission

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Reference: SQ20-000056

NDIS Commission staffing

Question:

Please provide a staff profile of the NDIS Quality and Safeguards Commission, including:

- a. Numbers of employees by office location in each state and territory
- b. Position title
- c. Department or team.

Answer:

As at 30 June 2020, the NDIS Quality and Safeguards Commission had a workforce of 300, comprising 221 employees and 79 contractors. A breakdown is provided at [Attachment A](#).

Each state and territory office has a representation of key functions, including complaints and reportable incidents. Larger states include behaviour support practitioners, investigators and compliance officers. Three states and territory's host National Office roles; these are also shown in [Attachment A](#).

Responsibility for specialist advice is provided from relevant functions organised in national office. National office also accommodates the NDIS Commissioner, the Senior Practitioner, the Complaints Commissioner, the Registrar and corporate functions.

Table - NDIS Commission staffing

	Location										
	SA	NT	QLD		TAS	ACT		VIC	NSW		Total
				National Role^			National Role^			National Office	
Commissioner	-	-	-	-	-	-	-	-	-	1	1
SESB2	-	-	-	-	-	-	1	-	-	3	4
SESB1	-	-	-	-	-	-	1	-	-	2	3
EL2	2	1	5	1	-	-	2	5	4	18*	38
EL1	5	-	9	1	1	-	2	9	7	25 [#]	59
APS6	4	1	6	-	1	-	2	5	10	22	51
APS5	7	2	9	-	4	4	-	6	5	7	44
APS4	3	-	1	-	-	1	1	1	2	8	17
APS3	-	-	-	-	-	-	-	-	-	4	4
Contractor	3	1	3	-	1	-	1	4	12	54	79
Total	24	5	33	2	7	5	10	30	40	144	300

* including Principal Legal Officer classification

including Senior Legal Officer classification

^ National Office role hosted in a state or territory office