

**Standing Committee on Community Affairs
Legislation Committee**

Public Hearing – 2 August 2021
ANSWER TO QUESTION ON NOTICE

Social Services Portfolio

Topic: Inquiry into the National Disability Insurance Scheme Amendment (Improving Supports for At Risk Participants) Bill 2021

Question reference number: IQ21-000063

Senator: Jordon Steele-John

Type of Question: Written. **Hansard Page/s:**

Date set by the Committee for the return of answer: 4 August 2021

Question:

Privacy and Information

Item 1 - substitutes the definition of protected Commission information with protected Commission information means information about a person (including a deceased person) that is or was held in the records of the Commission, but does not include the following:

- (a) if there is publication of the NDIS Provider Register in whole or part as mentioned in paragraph 73ZS(7)(b)—information covered by that publication;
- (b) if there is publication of specified information entered on that Register as mentioned in that paragraph—that information.

Under the new definition, information to the effect that there is no information about a person held in the records of the Commission and information published in the Provider Register will not be protected Commission information. However, the scope of protected Commission information is extended to include information about a deceased person. As a consequence of the new definition, the Commission is not required under the NDIS (Protection and Disclosure of Information - Commissioner) Rules 2018 to 4 consult with a person about whether they object to the Commission disclosing that it has no information about that person. This will avoid delays in communicating that fact and implementing safeguarding measures such as NDIS worker screening checks to ensure the safety of participants receiving NDIS supports.

1. Can you explain, in simple terms, what this will mean in practice? And what it means for participant information?

Answer:

1. The practical impacts of this amendment are:
 - a. Information contained on the NDIS Provider Register about compliance action taken against providers and workers would no longer be protected NDIS

Commission information as it is already public. Note the NDIS Provider Register contains no information about participants.

- b. Where the NDIS Commission holds no information on a person, the fact that it holds no information is not itself protected information. This means the NDIS Commission can disclose when it has no information on a person without the need to consult and gain permission from the person.

In practice this is most likely to be in relation to providers and workers as this is the NDIS Commission's primary regulatory site of action. For example, where a person may be seeking a worker screening check, the NDIS Commission would be able to inform a state -based worker screening unit it has no information relating to a worker relevant to the check.

To the extent the NDIS Commission has no information about a participant, it would also be able to disclose this information if it deemed it appropriate.