

Incident Investigation and Closure - NDIS

Document Type:	Procedure	Department:	Quality, Risk and Strategy
Date of Last Review:	11.01.2021	Due for Review:	11.01.2023

1. Purpose

The purpose of this procedure is to guide the investigation and management of incidents, limiting their impact and making the necessary recommendations to prevent a recurrence where possible. An important part of the response to certain incidents is an investigation that can inform subsequent response and improvement.

2. Scope

This procedure applies to Team Leaders, Coordinator, Community Services Manager and members of the Quality, Risk and Strategy team.

3. Definitions

Advocate means a person who publicly supports another person. An advocate can be a relative, carer, friend, neighbour or from an advocacy service. An advocate is someone who:

- Acts on a client's instructions.
- Supports and encourages the client.
- Speaks on the client's behalf to promote the client's ideas and interests.

Harm includes all harmful conduct and, in particular includes conduct which causes:

- Physical harm.
- Psychological harm for example causing fear, alarm or distress.
- Unlawful conduct which appropriates or adversely affects property, rights or interests for example theft, fraud, embezzlement or extortion.
- Self-harm.

Incident means an event or circumstance which could have, or did lead to unintended and / or unnecessary harm to a person, and / or a complaint, loss or damage. Incident under the *NDIS* (Incident Management and Reportable Incidents) Rules 2018 means:

- Acts, omissions, events or circumstances that occur in connection with providing NDIS supports or services to a person with disability and have, or could have, caused harm to the person with a disability.
- Acts by a person with a disability that occur in connection with providing NDIS supports and / or services to the person with disability and which have caused serious harm, or a risk of serious harm, to another person. Another person may include a person with disability, a worker or a member of the general public.

Incident Management means the identification, reporting, management and analysis of incidents, hazards and / or near misses. Health and Safety incidents or hazards should be reported in accordance with the Health and Safety Policy.

Nominee is someone of significance to the client who assists them for example in decision making and formal processes such as the negotiation of a Service Agreement. A nominee may be family, kin, legal guardian, an advocate or other person of significance to the client.

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Procedural Fairness (also known as natural justice) means fairness in the procedures followed when arriving at a decision. Procedural fairness is concerned with the procedures used by a decision maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision.

Reportable Incidents are certain incidents that happen, or are alleged to have happened, in connection with the provision of supports and / or services by registered NDIS providers, known as reportable incidents. These incidents include:

- The death of a person with disability;
- Serious injury or harm of a person with disability;
- Abuse or neglect of a person with disability;
- Unlawful sexual or physical contact or assault of a person with disability;
- Sexual misconduct committed against or in the presence of a person with disability, including the grooming of the person for sexual activity; or
- The unauthorised use of restrictive practices in relation to an NDIS client.

4. Procedure

4.1 Preliminary Assessment

Upon receiving an incident notification, the Coordinator will perform a preliminary assessment to:

1. Establish a specific and accurate account of the incident;
2. Identify potential witnesses;
3. Remove any immediate risk;
4. Identify if the incident is a reportable incident (refer to Reportable Incidents Procedure); and
5. Forward the Incident Report to the Community Services Manager.

The Community Services Manager will then decide whether further investigation or action is required. Determination of the need for an investigation should take into account the following:

- A risk assessment of the incident, for example likelihood of recurrence and / or outcome;
- Any incident that is reportable;
- Critical incidents such as assault, threats, severe injury, death, fire or a bomb threat;
- Breaches of policy or procedure.

Where it is determined that an investigation should be undertaken, the Community Services Manager will:

1. Set the purpose and scope of the internal investigation; and
2. Consider appointing an external investigator where incidents involve:
 - A worker assaulting a client;
 - Serious unexplained injuries; and / or

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- Potential criminal conduct.

Where an incident does not require investigation, the incident closure procedures detailed at 4.6 should be followed.

4.2 Plan the Investigation

The Community Services Manager will coordinate the investigation. Anyone appointed to investigate should be:

1. Separate from the team supporting involved clients; and
2. Have training in incident investigation and understand the key elements of investigations, including for example:
 - Principles of procedural fairness;
 - Appropriate interview techniques;
 - How to frame questions (i.e., not asking leading questions);
 - Identification of evidence that is relevant to the facts at issue; and
 - Appropriate recording of interviews and findings.

If the matter has been reported to the police for possible criminal charges, the investigator will first check with the police before commencing the internal investigation. An internal investigation must not interfere with police inquiries and an investigation by or on behalf of Samarinda may need to be delayed if required.

The Community Services Manager will:

1. Develop plans for communicating with relevant parties (clients, nominees, staff) so that they are involved in the management and resolution of the incident and kept informed of progress throughout the investigation.
2. Review the preliminary assessment including incident reports, all known details, circumstances and timeframes.
3. Determine who is to be interviewed and the order of the interviews.

4.3 Conduct the Investigation

The person investigating will:

1. Understand key elements of investigations.
2. Interview any clients involved in the incident in a way that they can understand and with a support person of their choice (for example an advocate, nominee and / or translator).

Interviews will be undertaken with the following considerations:

1. Explain why the discussion is taking place.
2. Explain that the interviewee has the right to ask for a break or end the discussion at any time.
3. Regularly check in whether the person wants a break.
4. Use open ended questions and ask clear and brief questions.

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5. Allow sufficient time for the person to answer.
6. Break down complicated concepts into smaller chunks.

The investigator will consider witness' views including:

1. Whether the incident could have been prevented.
2. How the incident was managed and reviewed.
3. Remedial action to prevent further occurrences or minimise the impact.

Following the investigation, the investigator will complete an investigation report within 5 working days. The report should include:

1. Description of the matter investigated.
2. Details of the allegation (if any).
3. How the investigation was conducted (witnesses interviewed, questions asked, responses).
4. Key conclusions and findings, for example:
 - Root cause for the incident;
 - Underlying reasons for the incident;
 - Determination of the impact of the incident;
 - How well the incident was managed;
 - Whether the incident could have been prevented;
 - Identification of operational issues that may have contributed to the occurrence;
 - Immediate actions required to fix the cause of the incident;
 - Recommendations of corrective actions; and
 - Preventative actions required for the future.
5. Any decisions made, both during and after the investigation, including their rationale, the position and name of the person making the decision and the date the decision was made.

The Community Services Manager will ensure that the incident register includes that the investigation has occurred.

4.4 Corrective Actions Arising From Incidents

A corrective action should be identified where:

- An incident may have been prevented (or the severity lessened) by some action (or inaction) by Samarinda or a worker;
- There is an ongoing risk to clients;
- Action by Samarinda may prevent or minimise the risk of a reoccurrence.

Examples of corrective actions include:

- Re-training or further training of staff.
- Practice improvements including developing or enhancing policies and procedures.
- Changes to the environment in which supports or services are provided.

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- Changes to the way in which supports and / or services are provided.

Where a corrective action has been recommended the Community Services Manager will work with the Quality, Risk and Strategy team to determine the corrective action, responsibilities and timeframes. The corrective action should be added to the improvement register and monitored until it is closed out. Closure of a corrective action should also be cross referenced in the incident register.

The Community Services Manager will work with staff to implement corrective actions or improvements arising from the investigation.

Each corrective action or improvement will be subsequently evaluated to check the effectiveness of the action (i.e. the plan, do, check and act improvement cycle).

4.5 Informing Parties of the Outcome

The Community Services Manager or their delegate will inform clients, their nominee, advocate and relevant parties, including staff involved in the incident, of the outcome of the incident investigation. Communication of the information shall take into account a client's preferred communication method and needs and may for example be in writing or verbally.

A file note will be made in the investigation record that notification has occurred and whether the client has been provided with any reports or findings regarding the incident.

4.6 Incident Closure

The Community Services Manager must ensure that all reported incidents are marked as closed on the incident register:

- Where an incident has been reported and immediately resolved with no further action, corrective action or investigation required;
- Where arising actions (including corrective actions) have been completed; and
- Where an investigation and any arising actions have been completed.

Any changes to services arising from the incident / investigation should be recorded in the appropriate place (for example on the client record, noted in the incident register).

4.7 Record Keeping Requirements

Samarinda's privacy and confidentiality policies and procedures must be adhered to as part of incident management. Records must be kept secure when transmitted (either internally, or to other parties such as police or the NDIS Commission) so that privacy and confidentiality is maintained.

Records should be kept of all personal contact, discussions or emails with others about the incident, including witnesses and other parties. These records should note the details of the corresponding individual's position and organisation and where appropriate, the reason for the contact.

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Records of incidents should be stored centrally in a secure location. Records must be kept for 7 years from the date the record was made.

The Human Resources Manager will be responsible for providing safe storage of information and records relating to allegations against employees. During any investigation of an incident, records of a worker who is the subject of an allegation should be kept on a file that is separate to their personnel file, to ensure no privacy or confidentiality requirements are breached. Information relating to the assessment, or investigation if one is conducted, that is pertinent to supporting a person with disability (including where they are the impacted person, or the subject of an allegation) or management of a worker, will be copied to their respective personnel or client record for future reference.

The Quality, Risk and Strategy team will keep and maintain appropriate records of all incidents received. All records relating to a specific incident will be kept together to ensure all information is easily available. This will include:

- Information about the incident;
- Correspondence / documentation relating to the assessment, or potential investigation, of an incident;
- Any actions taken to remediate and resolve the incident;
- Whether an investigation was required and completed; and
- Outcomes of any action taken.

4.8 Incident Analysis

All incidents will be reviewed and analysed quarterly by the Quality, Risk and Strategy team and the Community Services Manager to identify systemic issues and drive improvements in the quality of supports. Actions arising from incident analysis will include:

1. Noting and reporting on any trends to the Clinical Governance Committee.
2. Report on action plans related to specific incidents / trends to the Clinical Governance Committee.
3. Depending on the level / nature of risk relating to an incident or trend, add it to the risk register.
4. Record continuous improvement related to incident analysis on the continuous improvement register, including for example the establishment / review of policies or procedures.
5. Consider any education and training needs of staff.

5. Custodian

Community Services Manager

6. Related Documents

Incident Management – NDIS Policy
 Incident Response and Reporting - NDIS Procedure
 Reportable Incidents – NDIS Procedure

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Undertaking Workplace Investigations Procedure

NDIS Practice Standards:

C2.2 Risk Management

C2.3 Quality Management

C2.6 Incident Management

7. References

Australian Government. 2018, *National Disability Insurance Scheme (Incident Management and Reportable Incident) Rules 2018*, last viewed 6th January 2021, <https://www.legislation.gov.au/Details/F2018L00633>

NDIS Quality and Safeguards Commission. 2018, *National Practice Standards and Quality Indicators 2020*, last viewed 29th December 2020, <https://www.ndiscommission.gov.au/sites/default/files/documents/2019-12/ndis-practice-standards-and-quality-indicators.pdf>

NDIS Quality and Safeguards Commission. 2018, *Incident Management Systems: Detailed Guidance for Registered NDIS Providers, June 2019*, last viewed 29th December 2020, <https://www.ndiscommission.gov.au/sites/default/files/documents/2019-06/detailed-guidance-incident-management-systems-detailed-guidance-regi.pdf>