



Conflict of interest – what you need to know

As an NDIS provider, proactively managing and avoiding actual or potential conflict of interest is pivotal to success.

All registered and unregistered NDIS providers and workers are required to follow the [NDIS \(Code of Conduct\) Rules 2018](#), which sets out clear expectations, promoting safe and ethical services to people with disability.

Element 4 of the [NDIS Code of Conduct – Guidance for Providers](#) requires workers and providers delivering NDIS supports to 'act with integrity, honest and transparency', and to 'maintain integrity by declaring and avoiding any real or perceived conflicts of interest'.

What is conflict of interest?

Conflict of interest, in this context, is defined as:

'a person or business that derives real or apparent benefit from actions or decisions made in their official capacity'.

Conflicts may be actual, potential, or perceived. They may also be direct or indirect; financial, business, or personal. Regardless of the type of conflict, all conflicts should be declared so that they may be managed appropriately.

Conflicts arise in numerous circumstances. Some directly affect participants, while others have an indirect impact by undermining the integrity of the service provider. Some examples include:

- conflict of loyalty, where an employee may work for two competing companies
- a direct financial gain, where a support coordinator recommends internal services to a participant, without providing adequate alternatives for the participant to exercise full choice and control
- a worker accepting a gift or incentive from a participant, or giving one – this may reflect a lack of professional boundary, biased professional judgement, or cause the participant to think that providing gifts is necessary to obtain services they are already entitled to receive
- an organisation offering commission for referrals from another provider
- a worker entering in a personal relationship with a participant
- a manager influencing the recruitment, selection, appointment, or promotion of employees, for reasons of personal gain.



Who is affected by conflict of interest and what are the consequences?

Conflict of interest affects everyone involved in providing NDIS services, including:

- board members
- organisational employees at all levels
- external stakeholders
- participants.

If conflicts are not managed, there can be serious consequences, such as:

- harm to participants
- poor organisational integrity and reputation
- revocation of NDIS registration
- loss of business
- fines
- legal action.

How should conflicts be managed?

The NDIS Act 2013 and NDIS (Quality Indicators) Guidelines 2018 require providers and workers to proactively manage actual and perceived conflicts of interest by:

- remaining up to date with, and adhering to, relevant NDIA legislation and guidelines
- putting in place (and following) policies and processes to manage, document and report conflicts of interest and exchanging of gifts
- putting in place (and following) policies and practices that promote and support participant choice and control
- ensuring open disclosure to participants and NDIS providers when there is a conflict of interest – potential or real – that may impact on their delivery of supports and services.

There are additional responsibilities for providers of support coordination and specialist disability accommodation (SDA). We talk about this in more detail below. Our [conflict of interest policy and procedure template](#) also details some of the ways providers can manage these requirements.

Full details of provider and worker responsibilities can be found in the NDIS (Quality Indicators) Guidelines 2018. Further information can also be found on the NDIS Commission's website [NDIS Practice Standards and Quality Indicators Guidance](#), and the [NDIS Code of Conduct – Guidance for Providers](#).

You can also find links to all the up to date legislation, rules and guidelines on the [NDIS Quality and Safeguards Commission \(the NDIS Commission\) website](#).

Support coordination and conflict of interest

Support coordinators need to be particularly mindful of conflict of interest when making recommendations to NDIS participants. Organisations providing multiple NDIS services (e.g. support coordination and core supports) need to have robust structures and policies to manage conflict of interest, and ensure participants have choice and control. Our [template conflict of interest policy and procedure](#) provides detailed information of how providers, including those working in rural and remote areas, can structure their support coordination services to effectively manage conflict of interest.



SDA and conflict of interest

Providers offering supported independent living services and other NDIS services have additional obligations to manage conflict of interest. You can find more information in [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#) and the [National Disability Insurance Scheme \(Specialist Disability Accommodation Conditions\) Rules 2018](#). We have also included these requirements in our [template conflict of interest policy and procedure](#).

What do I do if I think there is a conflict of interest?

If you have an actual or potential conflict of interest, you should follow your organisation's policies and guidance for declaring conflicts of interest.

If you need to report an actual or potential conflict of interest *involving someone else* providing NDIS services, your organisation's policies and guidance for declaring conflicts of interest should explain to you how to proceed; however, you could also refer to your organisation's whistleblowing policy, which should protect your confidentiality.

If you don't feel your complaint has been resolved, you can contact the [NDIS Commission](#):

- Call 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged.
- Contact the [National Relay Service](#) and ask for 1800 035 544.
- Complete a [complaint contact form](#).

How does the NDIS govern conflict of interest?

The NDIS has several means by which it regulates and manages conflicts of interest – it is a good idea to familiarise yourself with these mechanisms. These include:

- The [NDIS Commission](#) – who work with providers to improve the quality and safety of NDIS services and supports. They oversee:
 - registration and regulation of providers
 - compliance with the Practice Standards and Code of Conduct
 - complaints about NDIS services and supports
 - reportable incidents, including abuse and neglect of a participant
 - use of restrictive practices
 - nationally consistent NDIS worker screening.
- NDIS code of conduct ([for NDIS providers](#) and [for workers](#)) – sets expectations for appropriate and ethical conduct in delivery of supports and services. All providers and workers must follow the NDIS Code of Conduct.
- [NDIA Provider Payment Assurance Program](#) – a mechanism to confirm the accuracy of payment requests submitted by registered providers. Providers must keep full and accurate records of supports delivered to a participant. At a minimum, records must include:
 - participant's name and reference number (previously NDIS number)
 - date(s), location and total hours or quantity of the support delivered
 - support type

Depending on the nature of the support being delivered, additional documentation guidelines may apply. Failure to do so may result in monies having to be repaid to the NDIA.



Where to go for further information

We've included throughout this article several useful documents and places to go for further information; however, there are a few other resources that you may find useful in learning about conflicts of interest.

[The NDIS Commission website](#), provides a wealth of information and resources on all provider and worker responsibilities in delivering NDIS supports.

The Transition Support Project has developed a suite of conflict of interest templates, which may be a useful starting point for developing your organisation's policies:

- [Conflict of Interest Policy and Procedure](#)
- [Conflict of Interest Declaration Form](#)
- [Conflict of Interest Register](#)

Disclaimer: The Transition Support Project believes that the information contained in this publication is correct at the time of creation (July 2020); however, the Transition Support Project reserves the right to vary any of this publication without further notice. The information provided in this document should not be relied on instead of other legal, medical, financial, or professional advice.