



NDIS participants in Residential Aged Care

What do you need to know?

On 1 December 2020, residential aged care (RAC) providers delivering services to NDIS participants in their facilities automatically became registered NDIS providers. This means that as of 1 December 2020, RAC providers supporting NDIS participants are required to meet the obligations of the National Disability Insurance Scheme Act 2013 (NDIS Act) and the NDIS (Provider Registration and Practice Standards) Rules 2018, in relation to the NDIS participants they support.¹



Key Changes

- Residential Aged Care (RAC) providers supporting NDIS Participants are now NDIS Registered Providers
- Registered RAC Providers have been automatically registered to the class of support (registration group) 0115, also known as Assistance with daily life tasks in a group or shared living environment
- Registered RAC providers will have received a Certificate of Registration detailing the period of registration, their registration renewal date and any conditions of registration that apply
- Registered RAC Providers will need to meet required obligations under National Disability Insurance Scheme (NDIS) Act 2013, complying with the NDIS Rules, policies and guidelines, including the NDIS Practice Standards
- Registered RAC providers and those seeking registration to NDIS will be required to undergo a third party audit, conducted by an NDIS Approved Quality Auditor
- Transitional arrangements have commenced for provider registration, worker screening and positive behaviour support and will be implemented in accordance with NDIS Legislation Amendment (Transitioning Aged Care Providers) Rule 2020
- Worker screening obligations apply to all NDIS Registered Providers as a condition of registration
- Specific timeframes of reporting i.e an unauthorised restrictive practice needs to be reported to the NDIS Commission as a reportable incident within 5 business days in addition to any state/territory requirements under aged care legislative reporting obligations



Transitional Arrangements

The transitional arrangements that are now being implemented as residential aged care providers move to regulation by the NDIS Commission are set out in the National Disability Insurance Scheme Legislation Amendment (Transitioning Aged Care Providers) Rule 2020 (the Transition Rule). Transitional arrangements are in place for:

- Registration of residential aged care providers as registered NDIS providers
- NDIS Worker Screening; and
- Positive Behaviour Support



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¹ <https://www.ndiscommission.gov.au/providers/participants-residential-aged-care>

These arrangements are further outlined below:

Provider Registration and Renewal Requirements

RAC providers with NDIS participants at 1 December 2020 have been automatically registered as NDIS providers under the class of support (also known as registration group) 0115 - Assistance with daily life tasks in a group or shared living arrangement.

Registered RAC providers and any seeking new registration will be required as a condition of registration, to undergo a third party audit conducted by an NDIS Approved Quality Auditor against the relevant NDIS Practice Standards. This audit must be completed by their nominated registration renewal date.

The arrangements for audit against the NDIS Practice Standards will take account alignments with the Aged Care Quality Standards and minimise regulatory burden on providers, without reducing safeguards for NDIS participants.

Worker Screening

For the period from 1 December 2020 to 1 February 2021, registered RAC providers are required to ensure that workers (staff members and volunteers) in risk assessed roles have an acceptable aged care provider check ('aged care check') in accordance with the requirements of the Accountability Principles 2014.

From 1 December 2020, dual providers can satisfy their condition of registration obligations under the Worker Screening Rules by ensuring that a worker engaging in a risk assessed role holds:

- an acceptable aged care provider check; OR
- an acceptable check in accordance with state and territory transitional arrangements; OR
- an NDIS Worker Screening Check clearance (when it commences across Australia from 1 February 2021).

Behaviour Support

There are significant differences between the behaviour support requirements in aged care and those in the NDIS.

Transitioned providers will need to:

- by 1 January 2021, notify the NDIS Commission regarding the use of a regulated restrictive practice for an NDIS participant (this does not replace the requirement of providers to report the use of an unauthorised restrictive practice as a reportable incident).
- where no positive behaviour support plan exists for the NDIS participant:
 - by 1 March 2021, take all reasonable steps to obtain an interim behaviour support plan, and obtain authorisation for the use of the regulated restrictive practice from state and territory bodies.
 - by 1 June 2021, take all reasonable steps to obtain a comprehensive behaviour support plan and obtain authorisation for the use of the regulated restrictive practice from state and territory bodies.

Comprehensive positive behaviour support plans for NDIS participants who need one will need to be in place by 1 December 2021.

Any use of a regulated restrictive practice not authorised (however described, by the state/territory) and not in accordance with a behaviour support plan is an unauthorised restrictive practice and needs to be reported to the NDIS Commission as a reportable incident within 5 business days.



Other important Requirements RAC Providers need to know

Two further areas which are distinct within the NDIS are the rules governing complaints management and incident management. Specific legislative instruments have been developed to define the exact processes that must be followed.

For incidents, the rules include the conditions under which an incident must be reported, what defines a reportable incident and also sets out a detailed list of what must be addressed in a provider's incident management system procedures.

For complaints, the rules include requirements for an accessible complaints management system, and a similarly rigorous set of mandatory procedural elements. In addition, Procedural Fairness Guidelines outline further requirements when managing complaints. These Guidelines explain the principles and approach to procedural fairness that must be developed and implemented by an NDIS Registered Provider within their complaints management system.



Would an RAC provider's existing policies and systems suffice?

There are some main areas of similarity between the Aged Care Quality Standards and the NDIS Practice Standards, including:

- Individual Values and Beliefs
- Privacy and Dignity
- Violence, Abuse, Neglect, Exploitation and Discrimination
- Information Management
- Continuity of Supports
- Access to Supports
- Support Planning

For these key areas, which pertain to participant rights and service access, it is likely that the RAC provider already has many policies and procedures in place that will align, in full or at least partially, with the requirements of the NDIS Practice Standards.

Gaps between the standards

Although RAC providers will have most of these areas covered under existing policies and systems, there are some gaps between the two standards, and these are areas that an RAC provider may need to focus on, in addition to any transitional requirements and NDIS Rules to be further complied with:

- Transitions to or from the Provider
- Safe Environment
- Participant Money and Property
- Management of Medication
- Management of Waste



What should RAC providers do now?

- ensure they have received a Certificate of Registration from the NDIS Commission which details their period of registration, the renewal date, and any conditions of registration
- review the transitional requirements, identifying whether there are any gaps in processes and systems and outline what measures will be implemented during the transition
- understand their obligations and conditions of registration as an NDIS Registered Provider, including the rules, legislation, policies and guidelines in place under the Scheme
- perform a gap review of their existing policies, procedures and systems against the NDIS Practice Standards and applicable Rules, identifying current level of compliance and any new requirements to be met
- develop and/or update policies, procedures and systems to meet the new requirements
- engage an NDIS Approved Quality Auditor for their audit at least 6 months prior to the registration renewal date to allow for time for scheduling of the audit and the conduct of both a stage 1 (desktop review type audit) and stage 2 (on site) audit
- communicate with their workforce to ensure they are aware of the changes and how any measures will be implemented, including the need to complete the Mandatory NDIS Worker Orientation module



How can PwC Certification Services assist?

PwC's NDIS Certification team have extensive knowledge, qualifications and expertise related to NDIS and ISO auditing, with over 500 active clients since becoming an NDIS Approved Quality Auditor.

We have qualified auditors ready to deploy across metropolitan and regional Australia, with experience in disability, aged care, clinical, behaviour support and restrictive practice, and supported disability accommodation.

Please contact one of our team members today, if you would like to learn more about how we can help your clients. We will be happy to help with any client conversations if any of your clients are affected by this change.

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