

Reporting abuse and neglect to the NSW Ombudsman

Since 3 December 2014 reports must be made to the NSW Ombudsman about serious incidents of abuse or neglect of people with disability living in supported group accommodation¹. This is called the Disability Reportable Incidents Scheme.

Which services must report incidents?

Incidents of abuse or neglect must be reported by all supported group accommodation services, including centre-based respite services that are operated or funded by Family and Community Services (FACS) to provide disability services. FACS funded providers of centre-based day programs operated or funded by FACS which provide services to people with disability living in supported group accommodation must also report incidents of abuse and neglect. This requirement applies even where the funded provider of the day program does not provide supported group accommodation to the person with disability involved.

Supported group accommodation is defined as premises in which:

- two or more people with disability live in a shared living arrangement, but not a family household (where one of the people with disability has their guardian or family member living onsite and providing support for them); and
- paid disability support is provided onsite, noting that centre-based respite care is included even where it is provided at no cost to the resident or family.

Premises are not supported group accommodation if:

- The premises are not under the control, direction or management of the disability service provider (for example, the residents or their family may own the premises, or rent from a private landlord or social housing provider which chooses residents and sets the rules); and
- The onsite support provided by the disability service provider is controlled, directed or managed by:
 - one or more of the residents; or
 - a guardian or family member responsible for the care of a resident.

¹ Part 3C *Ombudsman Act 1974* (NSW)

The aim of this is to exclude living arrangements where disability service providers are providing support to people with disability who are living together relatively independently in the community, but whose day-to-day lives are not under the substantial control of disability service providers.

What is a reportable incident?

A reportable incident is an incident that involves a person with disability in a FACS operated or FACS funded supported group accommodation service (including disability respite centres), where:

1. an employee (including agency staff, volunteers and contractors) of FACS, or a FACS funded supported group accommodation service or centre-based day program, has engaged in any of the following:
 - a sexual offence against the person with disability;
 - sexual misconduct, including grooming the person with disability for sexual activity;
 - an assault of the person with disability;
 - a deception or fraud related offence against the person with disability under the *Crimes Act 1900*; or
 - mistreatment or neglect of the person with disability.
2. a resident assaults another person with disability in the same accommodation service that:
 - is a sexual offence; or
 - causes serious injury, e.g. a fracture, burns, deep cuts, extensive bruising, or concussion; or
 - involves the use of a weapon; or
 - is part of a pattern of abuse;
3. there is a breach of an apprehended violence order (AVO) taken out to protect a person with disability; or
4. an unexplained serious injury occurs to a person with disability.

How do incidents need to be reported?

FACS and FACS funded disability service providers must ensure staff are aware of their obligation to notify the head of the organisation about an incident as soon as the staff member becomes aware of it.

The head of the organisation – the Secretary of FACS, or the CEO of a FACS accommodation or centre-based day program provider – must notify the Ombudsman within 30 days of becoming aware of the incident.

The NSW Ombudsman has published guidelines to assist service providers to understand their obligations under the reporting system. Anyone who wants more information should check the website of the NSW Ombudsman

www.facs.nsw.gov.au

This is fact sheet 5 of 5 on the *Disability Inclusion Act 2014*.
Visit www.facs.nsw.gov.au/dia to access all fact sheets on the Act.

www.ombo.nsw.gov.au, or call the NSW Ombudsman Reportable Incidents Division on (02) 9286 1000.

Powers of Ombudsman

The Ombudsman can monitor the way FACS or a FACS funded disability provider manages a particular incident. The Ombudsman can also investigate and report on individual incidents, and on the systems that a provider has in place to prevent, handle, and respond to, reportable incidents.

What happens when the National Disability Insurance Scheme (NDIS) is in place?

NDIS registered providers of supported accommodation, centre-based respite services and centre-based day programs operating in the Hunter NDIS trial site must also report incidents under the Disability Reportable Incidents Scheme by virtue of the Quality Assurance and Safeguards Working Arrangements.²

National safeguards against the abuse or neglect of people with disability receiving funding from the NDIS or via the NDIS are currently being developed by the NSW Government with the Commonwealth Government and the other states and territories in Australia to apply from full scheme.

Other safeguards against violence and abuse

Other safeguards and complaints mechanisms are available to people accessing all types of disability supports and services:

- the NSW Police Force can investigate all crimes, including assault, theft and fraud;
- the NSW Ombudsman can receive complaints and investigate incidents relating to disability service providers under the *Community Services (Complaints, Reviews and Monitoring) Act 1993* – phone (02) 9286 1000, www.ombo.nsw.gov.au;
- the National Disability Abuse and Neglect Hotline can also receive complaints – phone 1800 880 052, www.disabilityhotline.net.au;
- the Australian Human Rights Commission can hear cases where a person with disability believes they have been discriminated against – phone (02) 9284 9600, www.humanrights.gov.au; and
- the Health Care Complaints Commission can receive complaints about most health professionals – phone 1800 043 159, www.hccc.nsw.gov.au.

² Quality Assurance and Safeguards Working Arrangements for the Trial of the NDIS in the Hunter Area and Early Transition to the NDIS for Children and Young People in the Nepean Blue Mountains



This fact sheet is available in a range of other languages and in an Easy Read format. To access these resources and find out more about the *Disability Inclusion Act 2014* visit www.facs.nsw.gov.au/dia, email disabilityinclusionact@facs.nsw.gov.au, or call phone 1800 446 470. If you would like to speak to us through an interpreter, call TIS on 131 450.

www.facs.nsw.gov.au

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