

# Participant Safeguarding Policy

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## 1. Acknowledgements

The National Disability Insurance Agency (NDIA) acknowledges the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, sea, and community. We pay our respects to their Elders, past, present, and emerging.

The NDIA is grateful for the time and expertise that National Disability Insurance Scheme (NDIS) participants (participants), families, carers, disability sector and providers have shared with us through the development of the Participant Safeguarding Policy (Policy).

The NDIA acknowledges the work of the Participant Safety Co-design Steering Committee, the co-design workshop groups, the Participant Reference Group, the NDIS Mental Health Sector Reference Group, the Independent Advisory Council and Disability Representative and Carer Organisations (DRCOs).

The NDIA would also like to acknowledge the NDIS Quality and Safeguards Commission (NDIS Commission) for its collaboration and support in the development of this Policy. The NDIA and the NDIS Commission work side by side to safeguard NDIS participants throughout their NDIS experience. Both the NDIA and the NDIS Commission will adopt the co-designed participant safeguarding principles outlined in this NDIA Policy which will be applied to joint operational activities relevant to each agency's role.

## 2. Foreword from the NDIA CEO and the NDIS Quality and Safeguards Commissioner

Everyone has the right to live a safe life, free from harm. We recognise that people with disability are at a much greater risk than others of experiencing violence, abuse, neglect and exploitation.

We are committed to supporting and working with people with disability who engage with the NDIS to take steps to protect their right to be safe, while respecting individual's rights to make decisions about risk.

We are pleased to introduce the NDIA's Participant Safeguarding Policy that will guide the way the NDIA works with NDIS participants to identify and manage risks and take steps to develop safeguards in their lives.

Many people contributed their valuable time and expertise to the development of this Policy, including participants, families and carers, service providers, members of the disability sector and staff from the NDIA and the NDIS Commission. In particular, we would like to acknowledge the work of the Participant Safety Steering Committee, and the many people involved in the co-design workshops.

There are shared obligations and responsibilities across the NDIS service and support system when it comes to supporting people with disability, including participants, to be safe. In keeping with our commitment in the [Joint Statement on the Approach to Supporting NDIS Participants at Risk](#), the NDIA and the NDIS Commission will continue to work in partnership to support NDIS participants throughout their NDIS experience.

The six principles articulated in this Policy will guide the way our staff work with and support people with disability to make informed decisions about their own safety and safeguards in their life. In addition, we will work together to roll out a range of actions to implement this Policy.

We are deeply committed to improving the way we work with people with disability to reduce the risk of violence, abuse, neglect and exploitation. We will continue to talk with participants so we can build on and deliver an NDIS that upholds participants' rights to be safe.

### 3. Introduction

Research demonstrates that people with disability are more likely than others to experience violence, abuse, neglect, and exploitation. The evidence shows that this cohort is 1.8 times more at risk of all types of violence in comparison to people without disability<sup>1</sup>.

Any form of violence, abuse, neglect, and exploitation of people with disability is unacceptable. The Australian, state and territory governments are committed to minimising the risk of people with disability from experiencing harm through improved safeguards and supports. This includes improved access to and better coordinated supports across service systems. The commitments and the roles and responsibilities of mainstream services are reflected in Australia's Disability Strategy Safety Targeted Action Plan 2021-23 (Safety TAP).

The NDIS Independent Advisory Council's (the Council) paper '*choice and control to safely live a good life of belonging and citizenship*' recognises the system-wide focus on improving supports for people with disability who are at risk of harm. In response to this paper, the NDIA committed to developing a NDIA Participant Safeguarding Policy (Policy) to guide and enhance the way the NDIA works with NDIS participants and people with disability.

The NDIA recognises that when an individual is at risk of experiencing harm, a proactive approach to building or enhancing formal and informal safeguards can protect their rights, decision making, choice and control, safety and wellbeing, citizenship, and quality of life<sup>2</sup>. This Policy outlines a shift to a stronger focus on proactive identification, assessment, and management of risk to minimise the likelihood of harm occurring.

The NDIA also recognises there are shared obligations and responsibilities across the NDIS service and support system when it comes to supporting people with disability, including participants, to be safe. The challenges faced for people with disability in accessing essential supports must be acknowledged, and the complexities of working across service systems to protect the safety of people with disability requires careful coordination.

This Policy aligns to the objects and principles set out in the:

- United Nations Convention on the Rights of Persons with Disabilities
- United Nations Convention on the Rights of the Child
- [National Disability Insurance Scheme Act 2013](#) (the NDIS Act)
- NDIS Quality and Safeguarding Framework (the NQS Framework)
- the Safety TAP
- NDIA's Participant Service Charter
- NDIS Code of Conduct
- NDIS Practice Standards
- other applicable acts and instruments.

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<sup>1</sup> Australia's Disability Strategy 2021 – 2031

<sup>2</sup> Disability Services Commission (2018) Position Paper Individual Safeguarding, January 2021 (as cited in Independent Advisory Council to the NDIS, Choice, and Control to safely live a good life of belonging and citizenship, June 2021).

This Policy has been informed by research, consultation, and co-design with people with disability and the disability sector.

For the purposes of this Policy, reference to 'risk of harm' relates to different forms of violence, abuse, neglect, or exploitation.

## **4. Policy Statement**

The NDIA is committed to working positively with, and supporting, all people with disability who engage with the NDIS to take steps to help them be safe. The NDIA will work proactively with people with disability to build a shared understanding of individual risks and develop preventative safeguards against harm.

This commitment will be embedded in the NDIA's leadership, governance, processes, practice and culture through targeted implementation strategies, the development of its workforce, and a program of continuous improvement.

This Policy outlines four focus areas that are guided by safeguarding principles, informed by evidence, and aligned to the NDIA's role and responsibilities under the NDIS Act:

1. Proactive and individualised approach to identifying, assessing, and managing risks
2. Developing the workforce and capability of people with disability
3. Working with people with disability to proactively develop safeguards
4. Effective corrective measures in response to incidents.

## 5. Purpose

This Policy aims to:

- improve the way the NDIA works with people with disability who engage with the NDIS, participants, and their support networks to identify, assess and manage risk of harm and take steps to establish or enhance formal and informal safeguards in their lives
- provide clarity on the role and responsibility of the NDIA in safeguarding people with disability including how the NDIA works with others in the NDIS service and support system
- align and enhance existing internal resources that guide and support NDIA and Partner staff to identify and manage risks for people with disability
- provide a foundation for existing resources to be improved over time.

This Policy does not cover:

- emergency and disaster management
- NDIA and Partner staff work, health, and safety
- All safety matters that may impact participants (this policy focuses on the risk of violence, abuse, neglect and exploitation)
- specific safeguarding strategies for cohorts or types of risks, for example, family and domestic violence.

The target audience for this Policy is NDIA and Partner staff, people with disability who engage with the NDIS, participants, and their support networks.

This Policy is also intended to guide funded intermediary providers such as Support Coordinators and Psychosocial Disability Recovery Coaches and inform mainstream state and territory government services that work with the NDIA.

## 6. Principles

This Policy includes six principles that guide the way the NDIA and Partners work with and support people with disability to make informed decisions about their own safety and safeguards in their life. These principles are supported by specific actions outlined in the Implementation Plan.

These principles are:

**Principle 1: Safety culture:** Safety and wellbeing of people with disability is embedded in organisational leadership, governance, processes, practice, and culture to promote responsibility and accountability within the NDIA and Partner organisations.

**Principle 2: Empowerment:** Individuals are supported to gain or enhance their knowledge and skills about personal safety to identify, assess and manage risk of harm.

**Principle 3: Individualised:** Individual circumstances are recognised and respected when working with people with disability. A person-centred and strengths-based approach is taken to understand each person's experience to develop appropriate safeguarding strategies.

**Principle 4: Proactive:** Individuals are proactively supported to establish or improve preventative safeguards to reduce the likelihood and consequence of harm occurring.

**Principle 5: Dignity of risk and informed decision making:** Dignity of risk is respected, and individuals are supported to have a central role in making informed decisions about safeguards in their lives.

**Principle 6: Informal support networks:** Individuals are supported to develop and strengthen their network of informal supports and community connections to help create strong safeguards.



## 7. Understanding safety, safeguarding and dignity of risk

### Participant safety and safeguarding

In the context of this Policy, **safety** means people are safe from violence, abuse, neglect, and exploitation. **Safeguards** are the actions and measures designed to respond to risk and protect people from violence, abuse, neglect, and exploitation.

This Policy focuses on how the NDIA can support people with disability who engage with the NDIS to establish or enhance safeguards to improve their safety. When the NDIA talks about safeguards in the lives of people with disability, it is talking about its role in working and supporting them to manage risks of harm that may be present in their lives.

While the NDIA may not know about all risks that exist in a person's life, the NDIA will strive to understand issues that may increase risk of harm through its interactions with people with disability, participants, and their support networks. This includes being aware of the individual's life stage, life transitions and recognising the unique experience of cohorts. For example, children as they develop their capability and capacity to make informed decisions to be safe.

The NDIA also recognises that safeguards can be informal (such as family, friends, neighbours, and the community), and formal (such as organisational policies, processes and behaviours that support staff to respond appropriately).

### Dignity of risk and obligations to safety

Taking risks is an essential part of life. Dignity of risk means exploring new opportunities and extending a person's choice<sup>3</sup>. The right of people with a disability to dignity of risk and to express their will and preference is acknowledged and respected by the NDIA.

Under the NDIS Act, the functions of the NDIA include:

- ensuring that the decisions and preferences of people with disability are respected and given appropriate priority; and
- ensuring that reasonable balance is achieved between safety and the right of people with disability to choose to participate in activities involving risk<sup>4</sup>.

Supported decision making will support participants to make informed decisions and help ensure the balance between dignity of risk and participant safety.

In limited circumstances, a participant's decisions may put them at unreasonable risk; this includes serious, imminent risk of physical, financial or legal harm to themselves or others. When responding to these situations, if a participant's will and preference conflicts with the NDIA's obligations to protect their safety, the NDIA may take action to prioritise the

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<sup>3</sup> NDIS Supported Decision Making Policy, 2023.

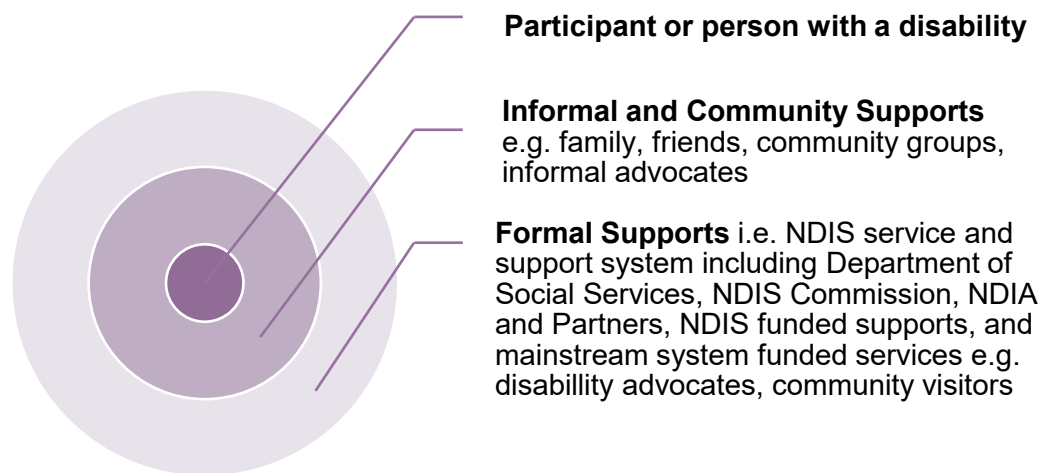
<sup>4</sup> NDIS Act 2013, Section 118(1)(a)(iii)(v)

participant's wellbeing and the wellbeing of others. For example, if there is a risk of death, serious injury or harm, NDIA or Partner staff are required to call emergency services (Police, Fire or Ambulance) or initiate a police welfare check even if the participant does not want this to occur.

## 8. Roles and responsibilities

The obligation to protect the right of participants and people with disability to live safely is a shared responsibility across the NDIS service and support system, and mainstream services.

Figure 1 demonstrates the layers of informal and formal supports that may be available to individuals to safeguard them from harm.



**Figure 1: Layers of formal and informal supports for NDIS participants.** (Please see Attachment C for an accessible description of this figure.)

The NDIA Supported Decision Making Policy recognises participants and people with disability as the decision-maker in their lives. By supporting participants to be at the centre of all decisions wherever possible, we can maximise individual empowerment and place the least possible restriction on the person.

To support individuals to make decisions about the safeguards in their lives, the NDIA works closely with their informal network of supports including their families, friends, community, and broader formal system supports such as state and territory public guardians.

Together these supports provide a range of formal and informal safeguards to protect people with disability from harm.

## Informal and community supports

The NDIA recognises the important role of families, carers, friends, and advocates (formal and informal) in safeguarding people with disability from harm.

When these supports are independent of a participant's disability services and have a supportive personal relationship with a participant, they tend to have greater opportunity to witness and recognise risks and incidences of harm that may not otherwise have been identified or reported by the person with disability.

## Department of Social Services

The Department of Social Services (DSS) leads policy and legislative work in relation to the delivery of the NDIS. This includes the development of the [NDIS Quality and Safeguarding Framework \(NQS Framework\)](#), and national work that commits all governments to working together to improve the lives of people with disability through [Australia's Disability Strategy \(2021–2031\)](#).

## NDIA and Partner roles and responsibilities

The NDIA is a funding body and does not provide services directly to participants. The NDIA is responsible for:

- decisions regarding NDIS funding
- working with participants to develop their NDIS plan.

The NDIA also funds community-based Partner organisations that help deliver the NDIS in many parts of Australia.

In line with the NQS Framework, the key role of the NDIA and Partners is to empower and support participants to identify and implement safeguards, primarily through developmental and preventative safeguards.

NDIA and Partner staff work with participants and people with disability to identify and respond to risk throughout the NDIS pathway. **Attachment A** outlines the roles and responsibilities of NDIA and Partner staff, as well as other formal supports that may be involved in identifying, assessing and managing risks for all people with disability who engage with the NDIS.

## The NDIS Commission roles and responsibilities

The NDIS Commission works at the developmental level to build the capacity of people with disability to understand and advocate for their rights. The NDIS Commission also provides training and practice guidance for providers to assist them to meet regulatory requirements

and build capacity in identifying and managing risk. These are protective factors for people with disability against the risk of harm.

As a preventative measure, the [NDIS Code of Conduct](#) upholds the rights of participants to safe and quality supports through setting out expectations for the conduct of registered and unregistered NDIS providers and workers.

The NDIS Commission monitors compliance against the NDIS Code of Conduct, as well as other provider and worker requirements under the NDIS quality and safeguarding legislation, such as the NDIS Practice Standards. This includes responding to concerns, complaints, reportable incidents including abuse and neglect of participants, monitoring the use of restrictive practices within the NDIS, and working directly with participants who have made complaints about providers and workers.

The NDIA and the NDIS Commission have related but different roles to minimising risk of harm for participants and people with disability. The two agencies work in partnership through collaborative organisational actions outlined in the NDIA and NDIS Commission joint protocols and the Participant Safeguarding Policy Implementation Plan and other joint initiatives.

### **Mainstream service system roles and responsibilities**

The Safety TAP includes commitments to improve access to, and better coordinate supports across, service systems and reflects the roles and responsibilities of mainstream services.

Access to mainstream services is important to support participants and people with disability to live safely. Mainstream services work alongside the NDIS in a range of settings in a person's local community, or their own home, and have a key role supporting all people with disability who are at risk of harm.

People with disability who engage with the NDIS will be supported to access a range of mainstream supports such as health, housing, education, employment, family and sexual violence, child protection, and justice services.

Under the NDIS Act, the NDIA must work with mainstream services where there is a shared responsibility to mitigate the risk of harm to a participant. However, the NDIA cannot fund a support if it is more appropriately funded or provided by one of these other services.

The NDIA and state and territory governments have agreed processes in place that enable NDIA and Partner staff to refer and escalate urgent matters where access to related mainstream services and supports is needed.

## 9. NDIA safeguarding approaches

The NDIA's approach to working with people with disability regarding their safety includes a commitment for NDIA and Partner staff to:

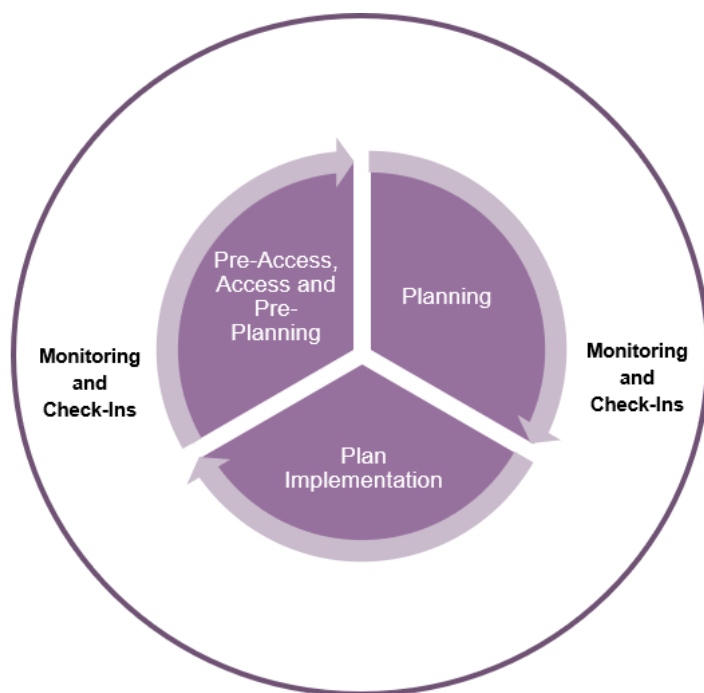
- respect individual's right to dignity of risk while upholding obligations to safety.
- recognise the importance of supporting individuals to have a voice and to be heard. In doing so, create an environment where individuals feel comfortable and have the means to communicate their personal safety concerns.
- recognise the rights of individuals in identifying the risks and determining the risk and types of safeguards in their own lives.
- acknowledge that individuals have the right to make their own decisions. If needed, the NDIA will support the participant to make informed decisions about their safety, with or without their support networks.
- value and respect the relationship of an individual and their support network. We acknowledge these informal supports are not always available to or chosen by all participants.
- acknowledge risk and safety is unique to each person, their circumstances and environment. Identifying risks includes consideration of their personal context including their identity, life stage and developmental milestones, and life transitions.
- understand and consider the importance of relationships and social connections when working with participants to identify risks and develop safeguards.
- be sensitive to, and respectful of, the demographic factors that may influence a participant's experience of safety and choices about safeguarding including the intersection of gender, First Nations identity, cultural and linguistic background, and Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual + identity.
- acknowledge that training is needed to support NDIA and Partner staff to work with cohorts at higher risk of harm including violence, abuse, neglect, and exploitation.
- acknowledge that safety is a shared responsibility, and all have a role to play in ensuring the safety of participants.

The following four focus areas outline how the NDIA will support and work with participants to think about their safety and take steps to protect their right to be safe.

## Focus Area 1 – Proactive and individualised approach to identifying, assessing, and managing risks

Identifying, assessing, and responding to risk is an ongoing process that NDIA and Partner staff manage with people with disability, participants, and their support networks at multiple points of connection with the NDIS.

The individualised identification, assessment and management of risk can occur from pre-access through to plan development and implementation. Risks will continue to be monitored as participants utilise their plan over time (Figure 2).



**Figure 2: Cycle of identifying, assessing, and responding to risk.** (Please see Attachment C for an accessible description of this figure.)

The process of identifying, assessing, and managing risks of harm to people with disability at multiple NDIS connection points is outlined in **Attachment B**.

### **Proactive and individualised risk identification, assessment, and management**

Risks are assessed against likelihood and consequence.

The NDIA recognises that every participant will have unique risk factors that may indicate a need for more or less support from the NDIA at a point in time. Individual participant circumstances and risk indicators, including cohort-specific risks, intersectionality, disability type, and individual protective factors, will be assessed to determine their overall risk status.

The availability of this information will enable the NDIA to implement a range of proactive and tailored responses including informal discussions, a Check-In, a plan reassessment,

a welfare check or referral to mainstream services such as to family or sexual violence services. These types of responses may be provided by:

- a Local Area Coordinator or Early Childhood Partner
- a NDIA Planner, or Complex Support Needs Planner
- a NDIA Access Delegate
- a NDIA Participant Support Officer
- a funded intermediary (e.g., Support Coordinator, Psychosocial Disability Recovery Coach or Plan Manager)
- a NDIA Health Liaison Officer or Justice Liaison Officer
- an Aboriginal Disability Liaison Officer
- a Remote Community Connector.

NDIA and Partner staff will be supported by targeted training, operational guidance, protocols, and resources to ensure they:

- understand their obligation to apply the principles and approaches in this Policy
- identify, assess, and manage risks in a structured, person-centred, and consistent manner
- take actions that are respectful of, and considered within, the context of the person's cultural heritage and beliefs with a focus on cultural safety
- seek guidance and advice from managers or specialist teams when required.

### **Understanding intersectionality and multiple risk factors**

The NDIA recognises the role that intersectionality and diversity play in understanding risks in an individual's life. The intersectional nature of discrimination and disadvantage can result in an increased risk of harm. For example, research shows:

- women from Aboriginal and Torres Strait Islander communities may be at greater risk of harm based on both race and gender
- young people with disability (aged 18-29) experience high levels of violence
- women living with psychological and cognitive disability experience very high rates of all types of violence<sup>5</sup>.

Specific experiences of violence, abuse, neglect, and exploitation of people with disability are multilayered and influenced by factors including:

- age
- sex
- intersex status
- gender
- gender identity

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<sup>5</sup> Australia's Disability Strategy 2021 – 2031.

- sexual orientation
- ethnic origin
- race, including:
  - Aboriginal and Torres Strait Islander people
  - people from culturally and linguistically diverse communities<sup>6</sup>.

The NDIA will build its understanding of intersectionality and safeguarding actions that can mitigate multiple risk factors. This includes supporting participants to draw on existing protective factors such as supportive family members.

The NDIA will do this through the development of tailored strategies for working with participants from specific groups, such as children and young people, and women.

### **Enhanced identification and detection of risk**

In response to the COVID-19 pandemic, the NDIA and the NDIS Commission developed risk indicators to guide vulnerable participant check-ins.

To further enhance the NDIA and NDIS Commission's ability to identify participants at risk of harm, these indicators have been expanded to include cohort-specific risks, acknowledging the added impact of multiple overlapping risks and intersectionality.

Based on current experience and data, participant risk factors may fall into the following categories:

- housing instability
- history of, or susceptibility to financial abuse
- extent of informal and family and community support networks – for example, independent trusted people to consult with including those who may advocate on their behalf
- at risk of family and domestic violence or abuse, including any evidence of prior experience of violence, abuse, neglect, or exploitation
- at risk of non-domestic violence or abuse (e.g., carer abuse)
- living alone
- having a sole provider
- low plan utilisation or an inability to effectively use their NDIS plan (including thin market issues).

The current list of risk indicators is not exhaustive and does not encompass all risk factors.

These risk indicators will support the NDIA to identify when to proactively change the frequency and nature of participant check-ins and other proactive responses.

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<sup>6</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Commonwealth Letters Patent (Terms of Reference).



Evidence-informed research findings on factors that increase risk of harm including data from the Safety TAP and data shared between the NDIA and NDIS Commission, will be used to continually refine and update risk indicators.

Related policies and guidance material that are developed in response to the system-wide focus on improving participant safety will also be used to refine and improve the proactive responses to identified risks. This includes, for example, recommendations from the Royal Commission into violence, abuse, neglect, and exploitation of people with disability and joint protocols between the NDIA and the NDIS Commission.

## **Focus Area 2 – Developing the workforce and capability of people with disability**

The NDIA recognises individual, organisational and system level factors impact workforce effectiveness. The NDIA will implement a range of strategies to develop the capability of NDIA and Partner staff to work with people with disability to identify, assess and manage risk through effective safeguards.

### **Education, training and guidance for NDIA and partner staff**

Education and training strategies will be developed to further build NDIA and Partner staff knowledge, skills, capability, and confidence in identifying and assessing risks and considering safeguards in partnership with participants and people with disability.

This will include:

- understanding safety and safeguarding concepts such as dignity of risk, supported decision making
- working effectively with participants, people with disability, and their support networks through a strength-based, trauma-informed, and culturally sensitive approach
- how to ensure NDIS plans include sufficient and relevant funded supports to build or enhance networks of support (formal and informal) and safeguards
- how to ensure participants and people with disability are connected to appropriate mainstream services
- understanding NDIA protocols in relation to what action to take when a risk or incident is identified
- how the NDIS Commission works with participants to uphold their rights to safe and quality supports.

Safeguarding training will be mandatory for NDIA and Partner staff. It will ensure staff are supported to understand, implement, and comply with safeguarding policies, protocols, and standard operating procedures.

### **Education and training for participants and their support networks**

The NDIA acknowledges the importance of supporting participants to build their knowledge, skills, and confidence to become informed consumers and advocate for their rights.

The NDIA recognises that participants learn and express themselves in different ways. Various communication and training methods will be used to ensure all participants and their support networks have appropriate access to information, resources, training and education.

Research supports using ongoing and active education and training strategies to develop knowledge and support participants and their support networks (where applicable) to think about and plan for their participant safety and safeguards. Active education and training strategies are skills-based and involve individuals actively thinking about and applying what they are learning.

Targeted resources and active education strategies will be developed based on the best available evidence and implemented to enhance participant knowledge, capability and confidence in key areas including:

- understanding risks, safety, and a participant's role in developing safeguards, for example, recognising and understanding violence
- how a participant can work with NDIA staff, Partners, and intermediary supports to think about and plan for their safety
- how the NDIA and the NDIS Commission work in partnership to support participant safety.

A participant's support network will also be able to access these resources so they can support participants.

## **Focus Area 3 – Working with people with disability to proactively develop safeguards**

### **Strengthening the informal support networks, community, and mainstream connections for all people with disability**

Families, friends, carers, communities, and advocates are often the most effective, comprehensive, and enduring natural safeguards in the life of people with disability.

If people with disability who engage with the NDIS do not have natural safeguards and wish to be supported to develop their informal networks including friendships and connection to their community, the NDIA will provide general support which may include linkages, connections, referrals and information<sup>7</sup>. For participants, the NDIA will also consider the inclusion of reasonable and necessary funded supports in their NDIS plan to:

- sustain informal supports, and/or
- increase the participant's capability, knowledge, and skills to build their support network including their connection to mainstream and community supports.

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<sup>7</sup> [Section 13, NDIS Act 2013](#)

Partners support approximately 70% of participants with access, pre-planning, and plan implementation. They have a central role in assisting participants to strengthen their network of informal supports, gain better access to mainstream services, and build community connections in their NDIS plan. Local Area Coordinators may:

- link participants in with social and peer support groups
- provide information on programs and services offered by governments such as education, health, housing, and transport
- offer information about relevant advocacy organisations for those requiring additional supports to navigate community and government services
- provide active education such as showing a participant how and where to lodge a complaint via the relevant website or over the phone.

NDIS funded Support Coordinators also have a role in linking participants to mainstream, community and informal supports where appropriate. As Support Coordinators may be the first to become aware of any concerns about the quality and safety of a participant's supports and services, they should proactively support the participant to raise any concerns or issues around their safety or the quality of their supports and services. Support Coordinators can also raise concerns or make a complaint themselves with the NDIA or NDIS Commission.

More broadly, the DSS managed Information, Linkages and Capacity (ILC) program provides funding for organisations to create connections between people with disability and the communities they live in. It also aims to build the knowledge, skills, and confidence of people with disability, and improve their access to community and mainstream services. Building community capacity to be more inclusive and accessible enables greater opportunities to safeguard people with a disability from harm.

### **Supporting informed decision-making**

A key objective of the NDIA is to reduce a participant's level of risk by supporting them to make informed decisions.

The NDIA is responsible for empowering participants to be involved as much as possible in identifying and managing risk in their lives. This includes recognising and establishing their own safeguards.

The NDIA acknowledges that a participants' capacity and capability to make decisions about their safety and safeguards depends on factors that can change. We encourage supported decision making to be used in the NDIS rather than substitute decision making.

At times, a nominee or court appointed decision maker may be required due to concerns around wellbeing and safety.

The NDIA Supported Decision Making Policy outlines the role of the NDIA and NDIS in supporting people with disability to make decisions, and the role of nominees, guardians, family members and others supporting them to make decisions about the NDIS.

## **Proactively discussing personal safety and safeguards with participants**

Check-ins, plan reassessments, implementation and monitoring processes are the NDIA's main connection points with participants. They present key opportunities to proactively discuss risks and safeguards with participants.

The discussion of risks and safeguards in any interaction with participants requires NDIA and Partner staff to:

- work respectfully with participants through a trauma-informed, strengths-based, and culturally sensitive approach
- be prepared to discuss, record, and respond to what is learned or heard, potentially over several interactions
- be aware of signs that might indicate a participant is at risk of harm
- listen and be responsive to participant's concerns or feedback about their safety
- encourage participants to contact the NDIA by email, phone, or in-person through a visit to a NDIS office if they become aware of or are concerned about any risks to their wellbeing at any time.

To improve current processes, the NDIA will strengthen its Check-In processes by including more transparent engagement with participants about their safety and wellbeing. This means providing greater opportunity for meaningful conversations about:

- participant's safety and wellbeing
- participant's experience with the NDIS
- how participant's NDIS plan is working for them
- understanding a participant's current situation, where staff listen to and focus on "how are you going?" and "how can I help you?"

The NDIA recognises that developing trust is an important part of helping a participant feel comfortable about sharing their personal circumstances. Building a working relationship with participants based on trust is a long-term process that will require shared understanding, ongoing effort, and continuous improvement.

## **Reasonable and necessary supports**

As part of NDIS planning process, the NDIA will consider if any general supports or reasonable and necessary funded supports are needed to support the participant to minimise risks and/or develop safeguards.

The type, level, intensity, and frequency of reasonable and necessary funded supports to help a participant minimise risks in their lives and/or develop and enhance safeguards is determined based on their individual circumstances.

Reasonable and necessary supports may include funding to assist participants to engage in education strategies to support them to plan for their own safety and sustain or build informal supports and safeguards.

[Our guideline](#) on reasonable and necessary supports explains what the NDIA can fund under the NDIS.

### **Proactively supporting participants to implement safeguards**

Plan implementation provides a key opportunity for Partners, funded intermediaries, family members, and relevant mainstream services, to be aware of participant risks and where needed, work with the participant to take steps to protect their safety.

Under the NDIS Code of Conduct, Partners and funded intermediaries must take all reasonable steps to prevent and respond to all forms of harm to participants. This includes proactively supporting participant to learn about:

- the NDIS Code of Conduct
- their rights as consumers
- what to expect from service providers, and workers
- how to make a complaint
- worker screening checks.

Partners and funded intermediaries can also support participants by:

- facilitating access to information and training about participant rights and provider and worker obligations
- provide active education such as showing them how and where to lodge a provider complaint via the NDIS Commission website or over the phone
- link them in with advocacy services where required
- listening, and responding to a participant's concerns or feedback about their safety at any time and raising concerns with the NDIA and/or NDIS Commission to address issues that may emerge.

In addition to the formal support provided by Partners and funded intermediaries, a participant's informal supports can also play an important role in assisting the participant to use their NDIS plan and understand their rights.

## Focus Area 4 – Effective corrective measures in response to incidents

The NDIA views any form of violence, abuse, neglect, and exploitation of people with disability as unacceptable. The NDIA will always prioritise the safety, wellbeing and welfare of participants. The NDIS Act provides the NDIA and the NDIS Commission with a range of compliance and enforcement powers to prevent and address any breaches against the NDIS Act.

NDIA and Partner staff are required to take appropriate action in any matter related to participant critical incidents, reportable incidents and other complaints made to the NDIA. If NDIA or Partner staff become aware of any violence, abuse, neglect or exploitation towards a participant, they must comply with NDIA protocols. Partner staff may also be required to notify the NDIS Commission of a reportable incident, where they are working for an NDIS registered provider.

In any situation where a threat or risk of immediate harm is identified, emergency services (Police, Fire or Ambulance) must be called.

### Mandatory Reporting

Mandatory reporting laws exist in all Australian jurisdictions. These laws mainly relate to protecting children; however, in some states and territories, they also apply to adults living in a residential service such as psychiatric, aged care, or other government-run facility<sup>8</sup>.

The NDIA and Partners adopt an organisation-wide approach to complying with state and territory and relevant Commonwealth legislation related to reporting known or suspected cases of abuse and neglect.

The laws around who is required to report, in what circumstances and the types of neglect and abuse that must be reported are different in each state and territory. Further information on the relevant legislative requirements in states and territories is provided by the Australian Government through the [Australian Institute of Family Studies](#).

### Participant critical incidents and reportable incidents

While working with participants, their families and carers, providers or mainstream services, NDIA staff and Partner staff may encounter circumstances or obtain information about allegations of serious harm occurring to a participant. This is known as a participant critical incident (PCI).

Where the NDIA and Partners receive notice of a PCI, the NDIA will follow protocols to determine when and how incident information is to be disclosed to the NDIS Commission. The NDIA may consider that the incident should be reported to the NDIS Commission

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<sup>8</sup> [Mandatory reporting | 1800RESPECT](#)

as a 'notifiable incident' as it fits the criteria of a 'reportable incident' and involves a registered provider, or that information about the incident should otherwise be shared with the NDIS Commission for consideration of possible action under the NDIS Act.

Registered NDIS providers in all states and territories are required to notify reportable incidents to the NDIS Commission that relate to the provision of services and supports. For further information about participant critical incidents which are notifiable to the NDIS Commission, refer to [NDIS Quality and Safeguards Commission \(external\)](#).

For critical incidents involving people with disability in the home or community setting, escalation, and reporting via the [National Disability Abuse and Neglect Hotline \(external\)](#) is recommended. Through this process, referral and linkages may be made to the most appropriate agency to investigate or address the report.

## **Complaints**

The NDIA is committed to a responsive approach to managing complaints. The NDIA promotes the important principles of 'no wrong door' and 'first contact resolution' wherever possible.

In line with the Participant Service Charter, the NDIA will act immediately where there appears to be a high risk of harm, and all NDIA and Partner staff have a responsibility to make sure complaints and feedback are assessed, managed and escalated appropriately and within the committed response timeframes.

When a complaint is made to the NDIA, the complainant will be contacted to talk about the nature of the complaint, there will be follow up with the person or organisation whom the complaint is about, and the NDIA will advise the complainant of the outcome.

### *Complaints about NDIS Providers*

A complaint received by the NDIA about a provider will be recorded in the NDIS Business System and the complainant will be encouraged to follow the provider's complaint handling processes as a first step. If this has already been done, or the complaint relates to a serious incident covered by escalation protocols, the complainant will be given the option of:

- having the complaint referred by the NDIA to the NDIS commission, or
- be provided with the relevant contact details so they can contact the Commission themselves.

Where assistance is needed, an LAC or Early Childhood Partner, Support Coordinator or disability advocate may also be involved to help the participant lodge a complaint.

### *Complaints about the NDIA*

The NDIS Complaints and Feedback Framework defines how the NDIA will manage feedback and complaints. This Framework covers feedback and complaints about the NDIA's performance, conduct and processes.

If a complainant is dissatisfied with the outcome of a complaint, they can ask for a supervisor or manager to review how it was handled. After this, if the complainant is still dissatisfied, they can seek assistance from the Commonwealth Ombudsman.

### *Complaints external to the NDIS*

These complaints are required to be referred to other Commonwealth or state authorities to investigate, for example Commonwealth or state ombudsmen, regulators, or consumer bodies.

### **Disclosure of personal information**

All NDIA and Partner staff have a responsibility to provide information about a participant and their circumstances to relevant state authorities, or any relevant person, if it is believed on reasonable grounds that disclosure or use of such information is necessary to prevent or lessen a threat (whether current or future) to an individual's life, health, or safety. In all instances where this is needed, staff must comply with:

- the provisions in the NDIS Act that relate to 'protected Agency information'
- the provisions of the Privacy Act 1988 (Privacy Act) which relate to 'personal information' and 'sensitive information'
- internal protocols such as notification of a PCI.

### **Fraud and financial abuse**

The NDIA has zero tolerance for fraud and financial abuse against the NDIS and participants. The NDIA is responsible for receiving and assessing allegations of fraud against the Scheme, pursuing criminal action, undertaking compliance action in relation to misuse of Scheme funding, and holding national regulatory intelligence about providers. Fraudulent behaviour will always be investigated, and perpetrators will be prosecuted.

The NDIA is committed to supporting participants to get the most out of their NDIS funded supports and will focus on building participant knowledge and capability on what fraud looks like and how to report it.

The NDIA will use a range of strategies to identify, investigate and act on fraud and financial abuse. The [Fraud Strategy Statement](#) outlines the NDIA's approach to addressing fraud against the NDIS.



## 10. Policy implementation and continuous improvement

The NDIA is committed to working together to implement this Policy with the people it affects.

The co-designed Implementation Plan outlines the key actions needed to guide the implementation of this Policy.

### Quality and continuous improvement

Through a process of continuous improvement, the NDIA will regularly review and update risk assessment and safeguarding policies, practice, protocols, and tools. This will ensure ongoing alignment to influential factors that may include findings from the Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability and outcomes from data and research projects.

On the 18 October 2022, the Minister for the NDIS announced a review of the NDIS. The NDIS Review will look at the design, operations and sustainability of the NDIS, and ways to make the market and workforce more responsive, supportive, and sustainable. This Policy may be reviewed if the Review findings relate to the NDIA's role working with people with disability to develop safeguards against risks of harm.

The NDIA will implement internal quality assurance processes to audit, review, analyse, and monitor the effectiveness of specific NDIA safeguarding measures on improved participant outcomes, for example, participant check-ins.

The NDIA will continue to work with the DSS and the NDIS Commission to develop an evidence-informed understanding of factors that identify participants who may be at risk of harm. The analysis of new data will be used to enhance strategies and approaches for proactively responding to individualised risk.

## 11. Glossary

Term	Definition
<b>Dignity of risk</b>	Dignity of risk refers to the legal right of people with disability to make decisions that involve risk.
<b>Decision making support</b>	Decision making support means assisting, or supporting, a person to make a decision by giving them the tools they need to make the decision for themselves, and in doing so, safeguarding their autonomy. It does not mean making the decision for them.
<b>Exploitation</b>	Exploitation is when a person takes advantage of someone else. This could include improper use of another person or the improper use of or withholding of another person’s assets, labour, employment, or resources including taking physical, sexual, financial, or economic advantage. <sup>9</sup>
<b>Formal safeguards</b>	Formal safeguards include legislative and administrative requirements, policies and practices, complaints processes (including within external organisations and bodies like police, child protection and guardianship boards), and regulatory oversight of NDIS providers (e.g., NDIS Commission) and other service providers (e.g., health services) <sup>10</sup> . Formal safeguards also include funded supports in a participant’s NDIS plan.
<b>Informal safeguards</b>	Informal safeguards include self-advocacy and building a network of trusted relationships <sup>11</sup> and informal support from family, friends, neighbours, and members of the community.

<sup>9</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Definition of Key Terms.

<sup>10</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability *Safeguards Quality and Issues Paper*, November 2020.

<sup>11</sup> Ibid.

Term	Definition
<b>Informal support</b>	The support people receive from the people around them, for example from family, friends and neighbours. People providing informal support are not paid for the care they provide. Typically, informal supports for a child are provided by a parent.
<b>Formal support</b>	Formal supports include any paid or funded supports a participant receives, including NDIS funded supports or mainstream services.
<b>Intersectionality</b>	Intersectionality describes how various parts of a person’s identity or circumstances – such as age, race, culture, disability, gender, location, or religion – intersect and combine to shape people’s individual life experiences, including of discrimination <sup>12</sup> .
<b>Mainstream services and supports</b>	Mainstream services and supports are goods, services, supports and assistance available to the Australian population, for example, health, mental health, early childhood development, school education, justice, housing, child protection and family support and employment services.
<b>NDIS Intermediary providers</b>	NDIS intermediary providers include Support Coordinators, Psychosocial Disability Recovery Coaches and Plan Managers.
<b>NDIS Registered Provider</b>	A registered NDIS provider is a person or organisation that is registered with the NDIS Commission in accordance with section 73E of the NDIS Act. NDIS providers must be registered to deliver some kinds of supports (e.g., supported disability accommodation, implementing regulated restrictive practices in a behaviour support plan). NDIS registered providers are required to comply with the NDIS Practice Standards relevant to the type of supports they deliver and meet other conditions of registration. For example: comply with the NDIS Code of Conduct; NDIS worker screening; notifying the NDIS Commission about reportable incidents; complying with behaviour support requirements.

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<sup>12</sup> LGBTIQ Inclusive Language Guide (2019) p7 Victorian State Government.

Term	Definition
<b>NDIS Unregistered Provider</b>	An unregistered provider is a provider of NDIS supports and services that has not been registered with the NDIS Commission. Only participants who self-manage or plan-manage their NDIS funding can choose to receive supports and services from unregistered providers, with the exception of certain types of support (see NDIS Registered Provider). All providers of NDIS funded supports must comply with the NDIS Code of Conduct.
<b>Neglect</b>	Neglect includes physical or emotional neglect, passive neglect, or willful deprivation. Neglect can be a single significant incident or a systemic issue that involves depriving a person with disability of the basic necessities of life such as food, drink, shelter, access, mobility, clothing, education, medical care, and treatment. <sup>13</sup>
<b>Nominee</b>	Nominees assist a person who requires support to make decisions or, where necessary, makes decisions about the NDIS on behalf of a participant over the age of 18 (an adult). Nominees are responsible for upholding a person's right to make decisions, creating opportunity for participants to be part of making decisions about their life, and making decisions on behalf of participants that are consistent with the will and preference of the participant where possible. Further detail on the role of NDIS nominees is outlined in the Supported Decision Making Policy.
<b>Participant Critical Incident</b>	Participant critical incidents (PCI) include allegations of unexpected death, serious injury, abuse, or neglect, unlawful sexual or physical contact or misconduct, unauthorised use of restrictive practices or threatening self-harm. Anyone can notify the NDIA about a critical incident.
<b>Partner staff</b>	People working in local area coordination and early childhood partner organisations.

<sup>13</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Definition of Key Terms.

Term	Definition
<b>Person-centred</b>	A person-centred approach is where people are treated as a person first and placed at the centre of the service model. It recognises that all people are unique and complex and respects their knowledge, experience, and preferences when working with them to develop safeguarding strategies.
<b>Proactive approach</b>	A proactive approach is a self-initiated action to reduce the risk of future harm. For this policy this includes actions initiated by NDIA and Partner staff, participants, and their support networks as they work together to reduce risks of harm.
<b>Protective factors</b>	Protective factors are positive features or characteristics in a person's life that are associated with a lower likelihood or risk of harm. These characteristics or variables can occur at any level, for example, individual, family, social or community, systems or environment and may include factors such as having informal supports such as family, peer support, being involved in community groups, having stable housing.
<b>Risks of harm</b>	For the purposes of this Policy, 'risk of harm' relates to different forms of violence, abuse, neglect, or exploitation.
<b>Safeguard</b>	Safeguards are actions designed to protect the rights of people to be safe from the risk of harm, abuse, neglect, or exploitation, while maximising the choice and control they have over their lives <sup>14</sup> . Safeguards can be informal and formal.
<b>Strengths-based</b>	Strengths-based approaches focus on individuals' strengths (including personal strengths and social and community networks) and not on their deficits.
<b>Substituted decision-making</b>	Substituted decision-making is when a representative is appointed to make decisions for a person who requires decision-making support.

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<sup>14</sup> NDIS Quality and Safeguarding Framework, December 2016, p102.

Term	Definition
<b>Supported decision-making</b>	<p>A way of providing support to people with cognitive disabilities to make decisions. Assisting, or supporting, someone to make a decision means giving them the tools they need to make the decision for themselves. It is about supporting them to make their own decision, and in doing so, safeguarding their autonomy.</p> <p>Is a rights-based approach that aims to enable a person who requires decision-making support to make, and/or communicate, decisions about their own life. The decision-making is supported, but the decision is theirs.</p>
<b>Support network</b>	<p>A support network is a group of people who provide support and assistance to an individual. People in this group can be family, friends, neighbours as well as professional or funded supports such as doctors, mainstream housing services, allied health providers, disability service providers. Support networks will vary, and they may change over time. They can also be large or only include a few people.</p>
<b>Supportive Formal, Informal and Community Supports</b>	<p>Supportive Formal, Informal and Community Supports are those people from a participant's support network who operate in their best interests, and who are not perpetrators of violence, abuse, neglect or exploitation.</p>
<b>Violence and abuse</b>	<p>Violence and abuse cover a range of behaviours towards people with disability. These could include assault, sexual assault, constraints, restrictive practices (physical and chemical), forced treatments, forced interventions, humiliation and harassment, financial and economic abuse and significant violations of privacy and dignity on a systemic or individual basis.<sup>15</sup></p>
<b>Working with people with disability and participants</b>	<p>In this Policy, when referring to working with 'people with disability' and 'participants' this may also involve working with their families, child representatives, or wider support networks.</p>
<b>NDIS service and support system</b>	<p>All entities that have a role in delivering the NDIS or supporting participants. For example, the NDIA, the NDIS Commission, NDIS funded service providers, family and other informal supports, mainstream services and supports such as health, housing, education.</p>

<sup>15</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Definition of Key Terms.

## Attachment A: Roles and responsibilities

Opportunity to identify risk	NDIA Role	Other formal supports
Applying for the NDIS	NDIA Access Delegate, Local Area Coordinator, Early Childhood Partner	Mainstream supports involved in access (e.g., General Practitioner, allied health, funded advocates)
Planning and Plan Reassessment (including planning meeting, plan development and change of circumstances review)	NDIA Planner/Complex Support Needs Planner or Local Area Coordinator, Early Childhood Partner	Support Coordinator, Psychosocial Disability Recovery Coach
Plan Implementation	NDIA Planner/Complex Support Needs Planner or Local Area Coordinator, Early Childhood Partner	Support Coordinator, Psychosocial Disability Recovery Coach
Participant Check-in call from current contact* *The current contact is the person who approved the plan last.	NDIA Planner/Complex Support Needs Planner or Local Area Coordinator, Early Childhood Partner	Support Coordinator, Psychosocial Disability Recovery Coach
Notification of any issue changing a participant's risk status	NDIA Planner/CSN Planner or Local Area Coordinator, Early Childhood Partner, National Contact Centre staff, complaints, and feedback portal	Support Coordinator, Psychosocial Disability Recovery Coach, Plan Manager (funded intermediaries), NDIS Commission
Complaints against NDIA staff	NDIA and Partner staff referral to NDIA complaints and feedback process, NDIA complaints team response and escalation process	Funded intermediaries' referral to NDIA or Commonwealth Ombudsman
Complaints against providers, NDIA partners	NDIA Planner/CSN Planner, Local Area Coordinator or, Early Childhood Partner referral to NDIS Commission	NDIS Commission in response to a complaint made by a participant, referral from NDIA or any other person or agency that raises a concern.

Funded intermediaries' referral to NDIS Commission, National Disability Abuse and Neglect Hotline, Emergency services (Police, Fire or Ambulance)

## Attachment B: The cycle of identifying, assessing, and managing participant risk at multiple NDIS connection points

NDIS Connection Point	Identifying, assessing, and managing participant risk
Pre-Access, Access, and Pre-planning	<ul style="list-style-type: none"> <li>• Initial identification of risk and implementation of safeguards by Local Area Coordinators, Early Childhood Partners and/or NDIA Access Delegates occurs as early as pre-access and during eligibility assessment.</li> <li>• People with disability who are assessed as not meeting NDIS eligibility criteria will be referred to Local Area Coordinators who can assist them to connect with their community and link to mainstream services in response to risks identified at pre-access.</li> <li>• Once access has been determined, the NDIA will discuss support needs with participants, including preventative safeguards, as part of the pre-planning or information gathering process to inform the development of the NDIS plan.</li> </ul>
Planning	<ul style="list-style-type: none"> <li>• Using the information gathered during access and pre-planning, a NDIS plan is developed to include preventative safeguards such as:               <ul style="list-style-type: none"> <li>• family and community connections and supports</li> <li>• mainstream services and supports</li> <li>• reasonable and necessary NDIS funded supports.</li> </ul> </li> </ul>
Implementation	<ul style="list-style-type: none"> <li>• Once the NDIS plan is approved, supporting, and empowering the participant to use their plan and put safeguards in place is an important next step. This involves Local Area</li> </ul>



NDIS Connection Point	Identifying, assessing, and managing participant risk
	<p>Coordinators, Early Childhood Partners or funded intermediaries supporting participants to engage their funded services and facilitating community connections and other non-NDIS funded safeguards through referrals to mainstream and community services and supports.</p> <ul style="list-style-type: none"> <li>• During implementation, additional or new information about risks or safeguards can be identified from any source e.g., NDIS providers, families, NDIS Commission, mainstream services, members of the community. Where further information is provided, the NDIA will seek a response and further details from participant and their support network to determine if there is a change of circumstances that may require changes to their NDIS plan.</li> <li>• New or additional information informs the cycle of risk evaluation and monitoring.</li> </ul>
Ongoing monitoring and Check-Ins	<ul style="list-style-type: none"> <li>• Ongoing monitoring occurs as part of the continuous cycle of risk evaluation based on new information received at any time, for example: <ul style="list-style-type: none"> <li>• participant check-ins</li> <li>• issues raised by participants and their support network</li> <li>• data flags and indicators</li> <li>• formal complaints</li> <li>• information provided by the NDIS Commission through joint operational protocols.</li> </ul> </li> <li>• A key monitoring action is conducting participant check-ins. A check-in is a personalised call where the NDIA checks in with a participant to see how they are going with their NDIS plan, and if their circumstances have changed. It is designed to understand and address their support needs and wellbeing. This can include adjusting their existing plan, assistance with plan implementation, and support for participants to connect with community and mainstream services and supports. The frequency of check-ins will be determined by the participant's level of risk.</li> </ul>

NDIS Connection Point	Identifying, assessing, and managing participant risk
	<ul style="list-style-type: none"><li>• Where potential issues or safeguarding matters are raised the NDIA may seek further details from a participant and their support network to determine if there is a change of circumstances that requires a variation or a plan reassessment.</li></ul>

## Attachment C: Accessible description of figures within the policy

### Figure 1

Figure 1 demonstrates the layers of informal and formal supports that may be available to individuals to safeguard them from harm. The figure is a circular diagram with three circles - the centre circle representing participants or people with disability, next circle representing informal and community supports and the final outer circle representing formal system services and supports. Three text boxes appear alongside each circle. The text in these text boxes provide further details:

- Box 1 text: Participant or person with a disability
- Box 2 text: Informal and Community Supports e.g., family, friends, community groups
- Box 3 text: Formal Supports i.e., NDIS service and support system including Department of Social Services, NDIS Commission, NDIA and Partners, NDIS funded supports, and mainstream system funded services e.g. disability advocates, community visitors

### Figure 2

Figure 2 is a diagram showing the cycle of identifying, assessing, and responding to risk. The figure has two circles – the inner circle has three parts connected by three arrows. The first part is Pre-Access, Access and Planning, the next part is Planning and the third part is Plan Implementation. Together the arrows show a cyclical process. On the outside 'Monitoring and Check-Ins' is placed on either side of the inner circle to represent an ongoing and constant process of monitoring risk.