

# What is non-compliance?

Not following the NDIS rules and regulations is non-compliance.

Non-compliance can range from a simple mistake to criminal matters such as fraud. It can be accidental or deliberate.

There are 6 different categories of non-compliance:

1. **Error or mistake** – a genuine mistake where there is no intention to gain something.
2. **Misuse** – using funds in ways that are not consistent with a participant's plan.
3. **Conflict of interest** – when someone has competing interests because of their duties to more than one person or organisation. A conflict of interest is only non-compliant when it isn't declared or managed properly.
4. **Dishonest or barely honest behaviour ('sharp practice')** – practices that are not illegal but are unethical, unscrupulous or not in the interests of participants.
5. **Fraud** – intentionally trying to gain a benefit through deception or other means.
6. **Corruption** – a range of criminal offences including breach of public trust, bribery or biased exercise of official functions.

## Intentional non-compliance is different to making mistakes

Not all non-compliance is intentional. We understand that many participants, nominees and providers try to do the right thing, but sometimes make mistakes.

Mistakes do happen. We want to help participants, nominees and providers learn how to do the right thing before it escalates and becomes a compliance issue.

If you have made a genuine mistake, we will work with you to fix it before it becomes a formal compliance matter.

## Helping you to do the right thing

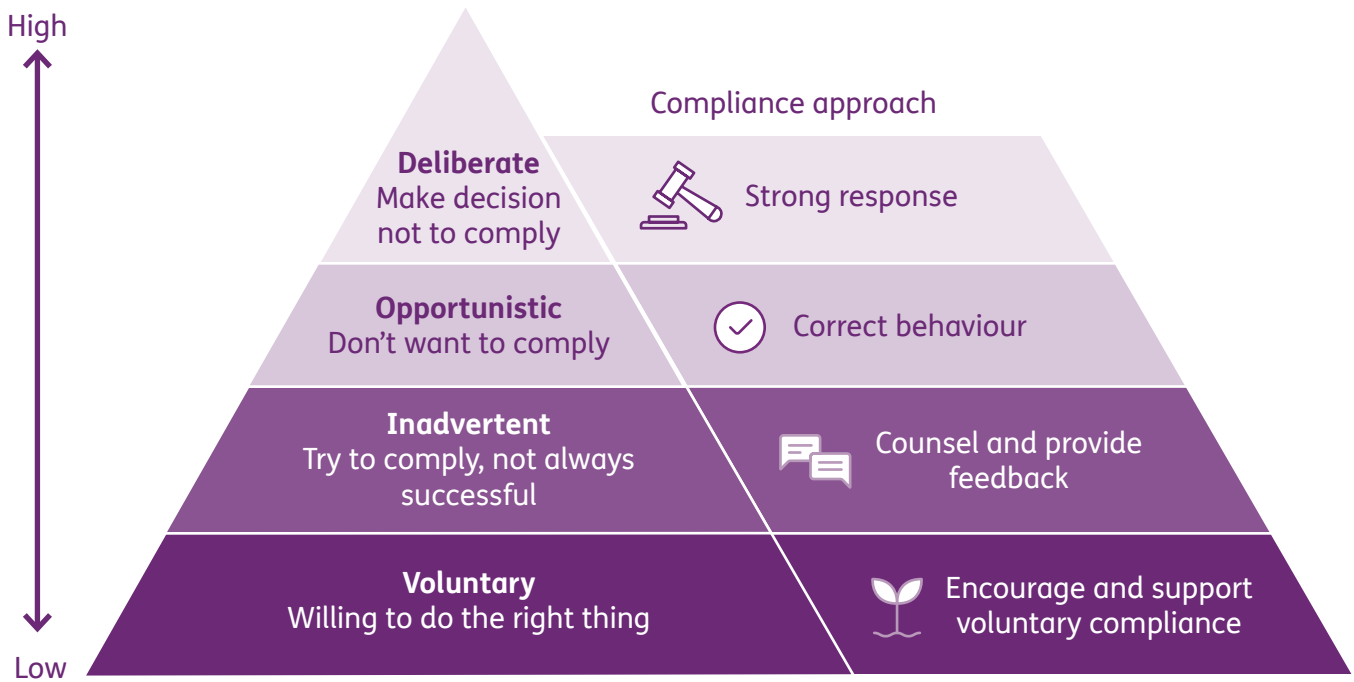
Addressing fraud and non-compliance in the NDIS is not just about monitoring, investigating and prosecuting people who do the wrong thing.

We also want to help participants, nominees and providers to understand where they might be making mistakes and connect them with the information and resources they need to do the right thing. This includes helping people to identify and report unscrupulous and unethical behaviour.

We use a range of strategies to address non-compliance within the NDIS including:

- education
- request to review
- compliance audits and reviews and
- reclaiming debts.

**Figure 1. Our approach to compliance**



When deciding what compliance actions to take, we consider the attitudes, behaviours and actions of the person or business.

For people who are willing to do the right thing, we aim make it easier to comply by offering support, education and guidance.

For people who have made a choice to do the wrong thing, we will use a stronger response.

By tailoring our approach, we are able to focus on areas that need more specialised management, ensuring the effective and efficient use of resources.

The majority of our compliance work is educating people on how to do the right thing.



## Case study

### Misrepresentation of supports in provider claim

Shannon is an NDIS participant. She has been participating doing swimming lessons as part of her physical therapy with NDIS provider, Earlyset.

Shannon's father noticed that on most occasions the physical therapist was not there when Shannon was in the pool. Instead, they had arranged for a therapy assistant to run the lesson. Although the therapy assistant was able to supervise Shannon while they were in the pool, the support that they provided was not qualified or targeted as detailed in her NDIS plan.

Shannon's father called the NDIS Fraud Reporting and Scams Helpline to talk about his concerns. The NDIA assessed the referral and following an investigation, found that Shannon was being charged the full therapist rate and not the therapy assistant rate. The NDIA undertook compliance activities with Earlyset. This resulted in a debt being recovered due to the incorrect claiming. Earlyset also corrected their behaviour and now Shannon is being charged appropriately for the supports she receives.



## Case study

### Using artificial intelligence to identify incorrect claims

Sam is an NDIS participant. Gyrocare regularly supports Sam to go to the supermarket to buy groceries, prepare meals and do chores around the house.

Gyrocare incorrectly started claiming the higher weekend rate for assisting Sam in the community on a weekday.

Sam made plans to use his NDIS funds to go to a weekend long event that would help him build the skills he needed to be more independent in the kitchen. To attend the event, he needed all day support at the weekend rate.

Gyrocare's incorrect claims meant that Sam was at risk of not having enough funding in his plan to attend this event.

The NDIA uses advanced analytics powered by artificial intelligence to identify unusual claiming patterns by providers. Shortly after Gyrocare started claiming the higher rate incorrectly, the NDIA contacted Gyrocare to check if the claims were correct. Gyrocare fixed their incorrect claims and the funds were put back into Sam's plan. The NDIA continued to monitor Gyrocare's future claims to make sure they continued to be compliant.

By using new technology, the NDIA has been able to detect and respond to non-compliant behaviour more quickly.

Sam was able to use the NDIS funds he had budgeted to attend the event. He is now more confident in the kitchen and no longer needs as much formal support.



## Case study

### Inappropriate cancellation fees

George is an NDIS participant. He recently stopped receiving supports from Thoughtkeep, a counselling support provider.

Although George clearly told the provider he no longer wished to receive supports from them, Thoughtkeep continued to claim a cancellation payment for 'missed' sessions against his plan.

George was unaware that this was happening until he tried to see a new therapist. The new therapist told him he had no more funds in his plan.

George reported the issue to the NDIS Fraud Reporting and Scams Helpline. The NDIA undertook compliance activities with Thoughtkeep and was able to return funds back to his plan.

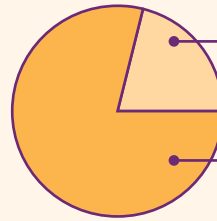
George now pays close attention to transactions and claims made against his plan and keeps a detailed logbook of services provided and invoices received. This means he is able to better manage his NDIS funds.

## NDIS compliance activities in 2020-21



**2,829**

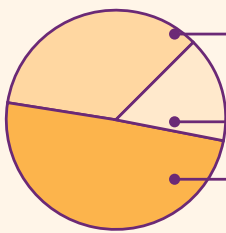
Total compliance activities undertaken



21% NDIS participants/nominees

79% NDIS providers

### Provider compliance activities (by type)

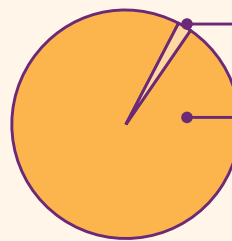


785 Compliance reviews

355 Education

1106 Request to review

### Participant/nominee compliance activities (by type)



10 Compliance reviews

355 Education



### Case study

## Claiming for supports not provided

MowChopCut was a provider of house and yard maintenance services. Over the course of a few weeks, MowChopCut intentionally claimed hundreds of hours of yard work and housing cleaning services against dozens of NDIS plans. These services were never provided.

Margaret was one of the NDIS participants impacted. MowChopCut drained her entire core support budget, which left her temporarily unable to pay for her regular ongoing supports.

The NDIA investigated and was able to return the money to Margaret's NDIS budget. After a debt was raised against MowChopCut, the NDIA referred the matter to the NDIS Quality and Safeguards Commission to review their status as a registered provider of supports. The NDIA also referred MowChopCut to the Commonwealth Director of Public Prosecutions to consider formal action in court.

# Report suspicious behavior

If you suspect someone is doing the wrong thing with NDIS funds, you should report it to us by:

- calling the NDIS Fraud Reporting and Scams Helpline on 1800 650 717 or
- emailing [fraudreporting@ndis.gov.au](mailto:fraudreporting@ndis.gov.au).

When making your report, please consider the following questions:

- Who are you making a report about?
  - A provider
  - Someone employed by the NDIA or our Partners in the Community
  - A participant or nominee
- When did it occur and for how long?
- What happened?
- Where did it occur?
- Why does it seem suspicious?
- How did you learn about this?
- Who else have you reported this matter to?

## What happens when you make a report

We take all reports seriously and assess every allegation made to us. Depending on the information provided to us, we may:

- start a formal investigation into the matter
- undertake compliance activities including:
  - audits
  - education
  - reclaiming debts or
- refer the allegation to another authority.

In some cases, we may not take any further action. This is usually because:

- we are unable to properly identify the business or person associated with the allegation

- the business or person you name doesn't provide services to the NDIS, or have involvement with the NDIS
- the person you name isn't an NDIS participant
- the information provided isn't relevant to the NDIA or the NDIS
- we confirm the person is not doing anything wrong and is acting within the rules of the NDIS.

The more information you can provide, the better able we are to look into the matter.

Where possible, we will let you know what action we are taking in response to your allegation.

Sometimes we can't tell you what we're doing because we need to protect the privacy of individuals or the integrity of an investigation. We also may not be able to give you any information about the conduct or outcome of the investigation due to our obligations under the Privacy Act 1988.

### **If we find evidence of non-compliant behaviour**

We may take action including:

- reclaiming a debt
- conducting an audit
- provide further education and guidance
- referring the matter to the NDIS Quality and Safeguards Commission.

### **If we find evidence of criminal behaviour**

We will investigate further and prosecute the perpetrators.

This means we may make a referral to the Commonwealth Director of Public Prosecutions, to pursue criminal prosecutions.

We may also take civil action to recover money lost as a result of fraud or intentional non-compliance.

# Where to get help

## For participants and nominees

If you have questions about how to use your NDIS funds lawfully, your NDIS planner or LAC can provide advice and support to help you do the right thing.

There is also helpful information on our website:

### Would we fund it?

Our [Would we fund it?](#) guides include examples of commonly requested items that we find cause the most confusion. For each item, we explain how we make reasonable and necessary decisions about them and provide advice about whether or not we typically fund them.

### Our guidelines

[Our guidelines](#) explain what we need to consider and how we make decisions based on the NDIS legislation and rules.

We have been updating our guidelines to make the language clearer and easier to understand. The new guidelines are written in plain English and include more information about how we make decisions.

## For providers

We have a range of resources on our website to help providers do the right thing including guidance on:

- making service agreements
- records keeping
- making claims.

The NDIS Quality and Safeguards Commission also has information and guidance on [their website](#) to help providers do the right thing including [NDIS Practice Standards](#) and the [NDIS Code of Conduct](#).



## Report suspected fraud or non-compliance by:

Calling 1800 650 717 or emailing [fraudreporting@ndis.gov.au](mailto:fraudreporting@ndis.gov.au)

## For more information about the NDIS, please contact:

### National Disability Insurance Agency

 Telephone 1800 800 110

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[ndis.gov.au](http://ndis.gov.au)

### For people who need help with English

 TIS: 131 450

### For people who are Deaf or hard of hearing

 TTY: 1800 555 677

 For Speak and Listen: 1800 555 727

 Internet relay: National Relay Service  
[relayservice.gov.au](http://relayservice.gov.au)