



Factsheet – How to handle an incident

Disability Services and Inclusion Act 2023

The *Disability Services and Inclusion Act 2023* (the DSI Act) requires service providers to have an incident management system. This includes a process to record and manage incidents that happen in connection with providing supports or services to people with disability. This factsheet provides information relating to:

- What is an incident?
- When is an incident a reportable incident?
- Requirements of incident management system.
- Assessing an incident.
- Incident recording keeping.
- Notifying the department.

For further information please visit the *Disability Services and Inclusion (Complaints and Incidents Management) Rules 2023* at <https://www.legislation.gov.au/F2023L01726/>

What is an Incident?

Incidents that must be recorded and managed include:

- a) incidents that have, or could have, caused harm to a person with disability receiving supports or services
- b) acts by a person with disability that happen in connection with the provision of supports or services and that have caused serious harm, or a risk of serious harm, to another person
- c) reportable incidents that are alleged to have occurred in connection with the provision of supports or services.

When is an incident a reportable incident?

Reportable incidents are a type of incident. Reportable incidents need to be reported to the Department of Social Services (the department). This includes alleged reportable incidents. Please see further detail below on what information needs to be reported to the department. Reportable incidents include:

- a) the death of a person with disability
- b) serious injury to a person with disability
- c) abuse or neglect of a person with disability
- d) unlawful sexual or physical contact with, or assault of, a person with disability
- e) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity.

Requirements for incident management systems

Service providers are required to establish procedures in identifying, managing and resolving incidents. This is called an incident management system. The incident management system should be appropriate for the size and complexity of the provider and the supports or services provided. Service providers have a responsibility to make sure their workers know the process for managing and recording incidents.

The DSI Act requires an incident management system to include the following:

- a) how incidents are identified, recorded and reported
- b) to whom incidents must be reported
- c) the person who is responsible for reporting incidents that are reportable incidents
- d) how the service provider will provide support and assistance to persons with disability affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety and wellbeing
- e) how the service provider will provide support and assistance to employees of the service provider affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety and wellbeing
- f) how persons with disability affected by an incident will be involved in the management and resolution of the incident
- g) when an investigation by the service provider is required to establish the causes of a particular incident, its effect and any operational issues that may have contributed to the incident occurring, and the nature of that investigation
- h) when corrective action is required and the nature of that action.

The incident management system must also provide for the periodic review of the system by the service provider to ensure its effectiveness. Your grant agreement may specify further requirements in relation to incident management.

Assessing an Incident

All incidents that occur in relation to the provision of services and supports under the DSI Act need to be assessed by the service provider in relation to the following, considering the view of persons with disability affected by the incident,

- a) whether the incident could have been prevented
- b) how well the incident was managed and resolved
- c) what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact
- d) whether other persons or bodies need to be notified of the incident.

When taking action in response to an incident, service providers should ensure that procedural fairness is afforded if it applies – for example, following a fair and consistent process in addressing worker actions that may have contributed to an incident.

Record Keeping

Records of incidents, including reportable incidents, must be kept for 7 years from the day the record is made. The record should include:

- a) a description of the incident, including the impact on, or harm caused to, any person with disability affected by the incident
- b) whether the incident is a reportable incident
- c) if known—the time, date and place at which the incident occurred
- d) if paragraph (c) does not apply—the time and date the incident was first identified
- e) the names and contact details of the persons involved in the incident
- f) the names and contact details of any witnesses to the incident
- g) details of the assessment undertaken in accordance with the requirements of subsection 18(3)
- h) the actions taken in response to the incident, including actions taken to support or assist persons with disability affected by the incident
- i) any consultations undertaken with the persons with disability affected by the incident
- j) whether persons with disability affected by the incident have been provided with any reports or findings regarding the incident
- k) if an investigation is undertaken by the service provider in relation to the incident—the details and outcomes of the investigation
- l) the name and contact details of the person making the record of the incident.

Notifying the Department

If a service provider becomes aware of a reportable incident, the service provider must notify the department within 24 hours. This includes for an alleged reportable incident. Information that should be provided to the department includes:

- a) the name and contact details of the service provider
- b) a description of the reportable incident
- c) a description of the impact on, or harm caused to, the person with disability
- d) the immediate actions taken in response to the reportable incident, including actions taken to ensure the health, safety and wellbeing of persons with disability affected by the incident and whether the incident has been reported to police or any other body
- e) the name and contact details of the person making the notification
- f) if known—the time, date and place at which the reportable incident occurred
- g) the names and contact details of the persons involved in the reportable incident
- h) any other information required by the department.

Workers also have a duty to notify their employer of reportable incidents. Your grant agreement may specify further requirements in relation to incident management.

The service provider must provide (a) to (e) to the department within 24 hours. If unavailable, the remaining information must be provided within 5 business days.

Initial notification of a reportable incident can be made by telephone or in writing. The department may also provide you with a form for the purpose of reporting reportable incidents. Further information may be included in your grant agreement.

Department actions in relation to reportable incidents

Upon receiving notification that a reportable incident has occurred, the department may do one or more of the following:

- a) refer the incident to another person or body with responsibility in relation to the incident (such as a State or Territory agency responsible for child protection)
- b) require or request the service provider to undertake specified remedial action in relation to the incident within a specified period, including remedial action to ensure the health, safety and wellbeing of persons with disability affected by the incident
- c) require the service provider to carry out an internal investigation in relation to the incident, in the manner and within the timeframe specified in by the department, and to provide a report on the investigation to the department
- d) require the service provider to engage an appropriately qualified and independent expert, at the expense of the service provider, to carry out an investigation in relation to the incident, in the manner and within the timeframe specified by the department, and to provide a report on the investigation to the department
- e) take any other action that the department considers reasonable in the circumstances.