

Assessment of NDIS Checks

What is the difference between a check and a clearance?

- A **check** is an assessment by SAFE NT (or another worker screening unit in another jurisdiction) of people delivering supports or services under the NDIS to evaluate if they represent an unacceptable risk of harm to people with disability.
- A **clearance** is a decision of SAFE NT (or another worker screening unit in another jurisdiction) that enables a worker to engage in NDIS work in a risk assessed role.

SAFE NT will assess a NDIS Worker Screening check application in order for a decision to be made of either granting a clearance, or refusing a clearance.

What is an interim bar?

The NT is a work on application jurisdiction. This means that once an application has been paid for and verified by the employer in the national database, a worker can start supervised work, assuming the employer agrees and certain conditions are met, while their application is assessed. However, if SAFE NT finds information about a person's criminal history that requires assessment, SAFE NT may issue an **interim bar**.

The interim bar is a notice that the person **must stop working immediately** while the assessment takes place. The person's eligibility to work status in the national database will be updated as a result. The individual will receive notification from SAFE NT and the employer/provider should receive notification from the national database of the change to the worker's status.

The interim bar will remain in place until a decision is made on the person's application. If an interim bar has been in place for six (6) months or more, an applicant may apply for an internal review. Refer to the Internal Review of NDIS Check Decisions fact sheet for more information.

Assessment of NDIS Worker Screening Checks

SAFE NT will assess each applicant's criminal history, any disciplinary and misconduct information held by the NDIS Commission, and the outcomes of previous screening checks. SAFE NT use a number of criteria to determine whether a person poses a 'real and appreciable' risk of harm to persons with a disability. Harm includes, but is not limited to, any detrimental effect on a person's physical, sexual, psychological, emotional or financial wellbeing.

Decisions are made on evidence-based information against a risk assessment and decision-making framework to ensure that decisions are made through a reasoned and defensible process. Some of the factors considered in the assessment include, but are not limited to:

- The nature, gravity and circumstances of the offence/s, misconduct and/or other relevant information and how this is relevant to disability-related work;
- The length of time that has passed since the event occurred;



- The vulnerability of the victim at the time of the event and the person's relationship to the victim or position of authority over the victim at the time of the event;
- Any patterns of concerning behaviour;
- The person's conduct since the event;
- And the reliability of the information.

The NDIS Worker Screening framework is very clear that the rights of and personal impact to an applicant or a holder of a clearance are not relevant in determining whether they pose an unacceptable risk of harm. The paramount consideration is the safety and wellbeing of people with disability, and, in particular, their right to live free from abuse, violence, neglect and exploitation.

What type of offences are assessed?

There are three (3) categories of criminal offences that are assessed:

Category 1 Disqualifying offences	<p>A person convicted as an adult of:</p> <ul style="list-style-type: none"> - Murder and attempted murder - Serious assault against a child or vulnerable person - Sexual assault of a child or vulnerable person including incest - Child pornography-related offences - Abduction or kidnapping offences against a child or vulnerable person involving a sexual or abusive element - Bestiality 	<p>Automatic exclusion without any right of appeal, except on grounds of mistaken identity</p> <p>Disqualifying offences are deemed a permanent exclusion with no end date. No ability to re-apply.</p>
Category 2 Presumed disqualifying offences	<p>A person that has a pending charge for a Category 1 or 2 offence</p> <p>A person that has been convicted as an adult of:</p> <ul style="list-style-type: none"> - Manslaughter - Assault and sexual assault offences not captured in Category 1 - Dangerous or negligent acts against a person under care - Abduction or kidnapping offences not captured in Category 1 - Animal cruelty offences not captured as Category 1 - Drug trafficking offences - Fraud and deception offences against a child or vulnerable person - National security offences 	<p>It is presumed that these offences will result in an exclusion unless there are exceptional circumstances warranting a clearance. See next page for explanation of exceptional circumstances.</p> <p>Will result in an exclusion for a period of 5 years.</p>

Category 3 Risk assessed offences and misconduct records – no presumption	Any offence other than a Category 1 or 2 offence <ul style="list-style-type: none"> - Acts intended to cause injury - Dangerous or negligent acts endangering persons - Abduction, harassment and other offences against the person - Robbery, extortion and related offences - Unlawful entry/theft/property damage offences - Illicit drug offences - Public order offences 	A risk assessment will determine whether a clearance is granted or an exclusion is issued.
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What are exceptional circumstances?

Exceptional circumstances are those that are considered unusual, uncommon or special, and result in the assessor being satisfied the person does not pose an unacceptable risk of harm to people with disability.

Unusual means ‘different from others of the same type’

Uncommon means ‘not seen, happening or experienced often’

Special means ‘not ordinary or usual’

Evidence must exist which verifies there are exceptional circumstances. Exceptional circumstances will only be considered for Category 2 offences.

What does excluded mean?

Excluded persons are prohibited from engaging in NDIS work and delivering non-specified supports and services entailing more than incidental contact with a participant.

A person excluded as a result of a category 1 disqualifying offence are deemed a disqualified person under the *National Disability Insurance Scheme (Worker Clearance) Act 2020* (NT) and is permanently disqualified from reapplying for a clearance under section 16(1)(a).

A person excluded as a result of a category 2 or 3 offence is prohibited for five (5) years and includes a restriction on re-applying during that time.

Ongoing monitoring of clearance holders

If a person is granted a clearance they will receive an email from SAFE NT to the email address nominated on their application form. This email will be the notice of Clearance.

A person who holds a NDIS Worker Screening Clearance is subject to ongoing monitoring of their criminal history, any disciplinary and misconduct action that occurs in the workplace, and any other information considered relevant. A person consents to this ongoing monitoring when they apply for the NDIS Worker Screening Check.





Depending on the nature of the new information, a re-assessment may be required which could lead to suspension and possible revocation of the NDIS worker screening clearance.

What is a suspension?

A suspension notice means you must stop NDIS work immediately while a re-assessment is conducted by SAFE NT. A suspension notice is only applicable to people who hold a NDIS Worker Screening Clearance.

It means that SAFE NT has received information under ongoing monitoring processes, which may lead to your clearance being revoked. If a clearance is revoked, it will mean the person is excluded from undertaking NDIS work.

For more information

For further information relating to NDIS Worker Screening Checks in the Northern Territory, visit the SAFE NT website <https://pfes.nt.gov.au/NDISCheck>. Alternatively, contact SAFE NT by email at police.safent@pfes.nt.gov.au or call 1800 723 368 (1800 SAFE NT).

