

How to challenge a NDIS Worker Screening decision made by SAFE NT

In certain circumstances, an individual may apply to the Screening Agency (SAFE NT) to ask for an independent **internal review** of an NDIS Worker Screening Unit decision.

What is an internal review?

It is a fresh assessment of your NDIS Worker Screening Check case by an internal reviewer that has had no involvement with the original assessment of your case. It may or may not result in a different outcome.

Can I apply for an internal review?

Under the *National Disability Insurance Scheme (Worker Clearance) Act 2020* (NT) (the Act), only certain decisions are reviewable. These are:

- A decision to impose an interim bar¹ on an applicant after the interim bar has been in place for **six (6) months or more** (s33(2) of the Act).
- A decision to suspend² a person's clearance after the suspension has been in place for **six (6) months or more** (s33(2) of the Act).
- An intention to refuse clearance to an applicant (s38 of the Act).
- An intention to cancel a person's clearance (s38 of the Act).
- Where a person's clearance has been suspended on the grounds that the person is a disqualified person³ due to mistaken identity only (s38(3) of the Act).
- Where a person's clearance has been refused on the grounds that the person is a disqualified person due to mistaken identity only (s38(3) of the Act).

Please note, if you are subject to an interim bar or a suspension, the Screening Agency aims to have a decision made on your assessment before six months has passed. However, this is subject to a number of factors such as, how quickly the Screening Agency receives information that is requested from yourself and from third parties, such as the court, or a Police agency in another jurisdiction.

In the unlikely event that an interim bar or suspension has been in place for 6 months or more, you will be entitled to apply for an internal review on whether the original decision to impose the interim bar was correct; the internal review does not look at whether it is unfair that it has been in place for 6 months or more.

¹ Under section 33(1)(a) of the Act.

² Under section 33(1)(b) of the Act.

³ A disqualified person is a person, who, as an adult, committed a disqualifying offence listed in Schedule 1 of the Regulations.



Refer to the chart at Attachment A to help you work out if you are eligible to apply for an internal review. Your options would be included in the notification email you would have received.

How do I apply?

It is a requirement under the *National Disability Insurance Scheme (Worker Clearance) Regulations 2021 (NT)* that an application for internal review must be submitted **within 30 days** from the date the person was notified of the decision. SAFE NT may refuse the request for review if it is not received within 30 days.

When you are notified of a reviewable decision, you will be provided information about the review process along with the notice.

To request an internal review, you must:

1. Complete the 'Internal Review Request Form', which can be found on the website: www.pfes.nt.gov.au/NDISCheck.
2. As part of your application, you must provide your reasons for requesting an internal review. This must be accompanied with supporting documentation to evidence your claims. Be as detailed as possible.
3. Email the form and attachments to NDISScreening.Advice@pfes.nt.gov.au using the subject title 'Internal Review Request – Your name – Your worker screening ID'.

The internal reviewer (the person responsible for conducting the new assessment) has 30 days, after receiving a valid application, to make a decision. You will be notified of the review outcome.

What might be the outcome of the internal review?

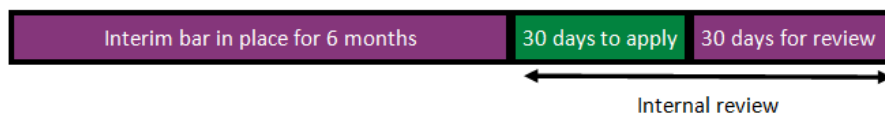
Under the Act (s42(7)), the internal reviewer may:

- a) Affirm the decision (agree with the original decision);
- b) Vary the decision (change the decision); or
- c) Set the decision aside and substitute a new decision (make a new decision).

Under s23(1) of the Act, the Screening Agency must decide to either grant clearance, refuse clearance or to impose an interim bar.

If the internal review is in relation to an intention to refuse, or intention to cancel a clearance, then the decision made by the internal reviewer will be considered the final decision.

Example 1 – Internal review of interim bar



Bob has had an interim bar in place for the past 6 months. After the 6 months, Bob submits an application for internal review within 30 days. The internal reviewer may decide to:





- Agree with the decision to impose an interim bar and the assessment process continues until a decision to grant or refuse is made (s42(7)(a) – affirm the decision);
- Grant a clearance (s42(7)(c) – substitute a new decision); or
- Refuse a clearance (s42(7)(c) – substitute a new decision).

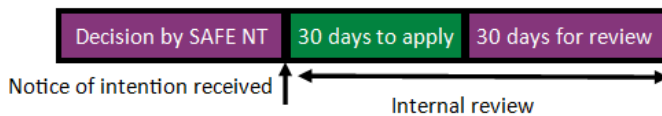
Example 2 – Internal review of suspension



Jenny has had a suspension in place for 6 months. After the 6 month period, Jenny submits an application for an internal review within 30 days. The internal reviewer may decide to:

- Agree with the decision to suspend Jenny’s clearance and the assessment process continues (s42(7)(a) – affirm the decision);
- Lift the suspension and reinstate Jenny’s clearance (s42(7)(b) - vary the decision); or
- Cancel Jenny’s clearance (s42(7)(b) – substitute a new decision).

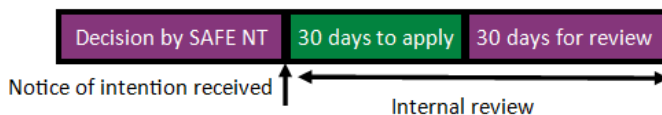
Example 3 – Internal review of intention to refuse clearance



Oscar received a notice of intention to refuse clearance and applied for an internal review within 30 days. The internal reviewer may decide to:

- Agree with the decision to refuse clearance (s42(7)(a) – affirm the decision); or
- Grant a clearance (s42(7)(b) – vary the decision).

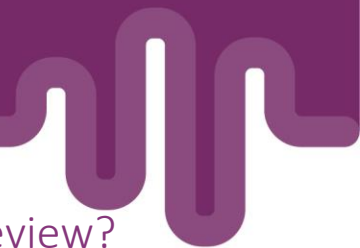
Example 4 – Internal review of intention to cancel clearance



Charlotte received a notice of intention to cancel clearance and applied for an internal review within 30 days. The internal reviewer may decide to:

- Agree with the decision to cancel Charlotte’s clearance (s42(7)(a) – affirm the decision); or
- Lift a suspension that is likely to be in place and reinstate Charlotte’s clearance (s42(7)(a) – vary the decision).





What if I am not happy with the decision of the internal review?

If you are not satisfied with the outcome of the internal review, you may apply to the NT Civil and Administrative Tribunal (NTCAT) for an external review (s43 of the Act). You may only do this once you have requested an internal review and the result of that internal review remained an adverse decision.



An external review is only applicable to decisions made by an internal reviewer. If you choose not to request an internal review, you cannot apply to NTCAT for an external review. If you did not submit your internal review form on time and SAFE NT does not accept it, you cannot apply to NTCAT for an external review.

This process is managed externally to SAFE NT. You must apply directly to NTCAT and there may be fees applicable.

You can find more information on this here - <https://ntcat.nt.gov.au/getting-started/making-application>

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 safent.police@pfes.nt.gov.au or call 1800 723 368 (1800 SAFE NT).



