

Appeals and Disputes Process

Appealing the NDIS Check decision

In certain circumstances an individual can apply to have an NDIS Worker Screening Unit decision reviewed. An internal review is conducted by the Department of Communities. If an individual is not satisfied with the internal review outcome, they can apply for an external review through the State Administrative Tribunal.

What decisions can be reviewed?

An individual can appeal the following outcomes by seeking an internal review:

- refusal to grant an NDIS Check clearance (being issued an exclusion)
- cancellation of an NDIS Check clearance
- refusal to cancel an NDIS Check exclusion certificate.

The application for review must be lodged with the Screening Unit within 28 days of the Unit giving written notice of the decision.

An individual can apply for the following interim decisions to be internally reviewed:

- issue an interim bar, or
- issue a suspension of an NDIS Check clearance.

The application for review can only be lodged with the Screening Unit six months after a written notice of decision is issued.

Disqualified Persons - limited rights of appeal

If the applicant is a disqualified person, the only grounds on which they may seek review of any decision made by the Screening Unit is that their criminal record does not include a conviction for a Class 1 offence committed by them as an adult.

Applying to have an exclusion certificate cancelled

An individual cannot apply sooner than five years (from the date of issue) to have an exclusion certificate cancelled, unless they were issued with an exclusion certificate on the following grounds:

- where the exclusion was based on a pending charge for an offence, and the individual was then later not convicted of that offence
- where the exclusion was based on a conviction for an offence that was later quashed or set aside

- where the exclusion was based on a Class 1 or Class 2 offence where a pardon was later granted in relation to the offence
- where a finding that was the subject of a risk assessment, and upon which the exclusion decision was based, is set aside, quashed or ceases to have effect
- any other significant or exceptional change of circumstances or other factor that the Screening Unit considers should enable the person to apply for a cancellation of the exclusion certificate.

Where an individual believes one of these circumstances apply, they may apply to have the exclusion certificate cancelled and pay the prescribed fee.

What is the process?

To request an internal review, contact the Screening Unit. Individuals will need to complete the application process and pay the prescribed fee.

After the application is submitted, the applicant will be given the opportunity to make a written submission and this will be considered by the Screening Unit.

A review will then be undertaken by another decision maker in the Department of Communities. The internal reviewer will consider all the information available and will not have been involved in the original decision.

The review will be conducted in a timely manner and the applicant will receive written notice of the decision as soon as practicable.

If the outcome is adverse (i.e. the original decision remains the same), the response will include reasons for the decision.

How to seek an external review

If the applicant is not satisfied after the internal review, they may seek external review by the State Administrative Tribunal within 28 days of written notice of the decisions made by the Screening Unit. Further information can be found by visiting the [State Administrative Tribunal](#).

Disputes regarding Criminal History Check

Lodging a dispute

To lodge a dispute, the NDIS Worker Screening Unit must be contacted at NDISCheck@communities.wa.gov.au.

Individuals will be required to outline the reasons for the dispute and provide documentation to support their claims. Individuals should provide as much information as possible, including any documents that support the claim.

The Screening Unit will then lodge the dispute into a national database for further investigation. The police agency/ies responsible for the release of information on the individual's police check result will investigate the dispute and determine an appropriate outcome. The police agency/ies may request further information to support their investigation.

Once the dispute has been concluded, the Screening Unit will advise the individual of the outcome. However, due to privacy concerns, they may not be provided with specific detail of reasons for the outcome.

Making a complaint

A review or dispute is not a complaint about the Screening Unit or how an individual's information has been handled.

If individuals are unhappy about the Screening Unit's service or staff, they can lodge a complaint with the Department of Communities central complaints team (refer to www.communities.wa.gov.au).

Complaints can also be made by contacting the Ombudsman Western Australia. Visit the Ombudsman's website for more information at www.ombudsman.wa.gov.au.

Accessing information held by the NDIS Commission

The NDIS Commission is separate to the Screening Unit and requests for information must be lodged directly with the Commission.

The *Freedom of Information Act 1982* (FOI Act) gives individuals the right to:

- access copies of documents (except exempt documents) the NDIS Commission holds
- ask for information the Commission holds about them to be changed or annotated if it is incomplete, out of date, incorrect or misleading
- seek a review of a decision not to allow them access to a document or not to amend their personal record.

Individuals can ask to see any document that the NDIS Commission holds. The Commission can refuse access to some documents, or parts of documents that are exempt.

The NDIS Commission's Freedom of Information Coordinator can be contacted for details about how to access information under the FOI Act, and to find out whether the information can be provided outside the FOI Act.

Contact details:

Email: FOI@ndiscommission.gov.au
Telephone: 1800 035 544

Postal address:

The FOI Coordinator
NDIS Quality and Safeguards Commission
PO Box 210
Penrith NSW 2750