

# Risk Assessment

A risk assessment is an evaluation of whether a person poses an unacceptable risk of harm to people with disability based on their criminal history and/or other relevant information.

## Where is a risk assessment conducted?

A risk assessment is conducted where the applicant has:

- Class 1 offences and/or Class 2 offences where there are pending charges, non convictions, convictions where a pardon has been granted, and convictions for offences committed as a child
- Class 2 and Class 3 offence where there are convictions
- Class 3 offences where there are convictions, or pending charges where it is reasonably believed that:
  - an indecent act was performed by the applicant in the course of allegedly committing the offence, or
  - the applicant engaged in conduct of a threatening or violent nature in the course of allegedly committing the offence
- previously had a clearance refused or cancelled, and/or
- where the CEO is in possession of information where it is considered necessary or appropriate to conduct a risk assessment, including information from:
  - an applicant or holder of an NDIS Check clearance (through self-disclosure)
  - the NDIS Commission

- an interstate screening agency
- a criminal records agency
- a relevant official
- a prescribed authority
- information prescribed by regulations.

## What information does a risk assessment consider?

A risk assessment involves the assessment of the following:

- National criminal history information held by law enforcement agencies, including expanded criminal history information where relevant (inclusive of spent convictions, pending charges and non-conviction charges). 'Circumstances information' about the circumstances of an offence or alleged offence may also be taken into account, where available.
- Disciplinary and misconduct information supplied by the NDIS Commission to worker screening units, including any adverse and substantiated findings of formal investigation (such as in relation to reportable incident notifications, complaints, or breaches of the NDIS Code of Conduct), and adverse actions by the NDIS Commission including banning orders.

- The outcomes of previous NDIS Worker Screening Checks.
- Any other information relevant to determining an applicant’s eligibility for an NDIS Check clearance as identified during the screening process, including information obtained through self-disclosure.

This includes but is not limited to:

- a) international criminal history
- b) child protection orders and/or related information
- c) conduct and disciplinary information
- d) information in relation to an applicant’s previous Working with Children Checks, Working with Vulnerable Persons Checks or other worker screening process.

### What factors are considered by the NDIS Worker Screening Unit during the risk assessment?

The paramount consideration during a risk assessment is the safety and wellbeing of people with disability and, in particular, their right to live free from abuse, violence, neglect and exploitation.

By law, the Screening Unit must consider the following factors when assessing whether there is an unacceptable risk of harm to people with disability:

- the person’s **criminal, disciplinary, misconduct or other relevant history**

- the **nature, gravity and circumstances** of criminal offending, misconduct or other action, circumstance or event relating to the person, and its relevance to disability related work
- the **length of time that has passed** since any relevant offending, misconduct or other action, circumstance or event occurred
- the **vulnerability of any victim** of any relevant offending, misconduct or other action, circumstance or event at the time of its occurrence, and the **person’s relationship to, and position of authority over the victim at that time**
- the person’s **conduct since** any relevant offending, misconduct or action, circumstance or event occurred
- any other information reasonably considered relevant to the assessment.

The following is not relevant or considered in a risk assessment:

- the adverse impact on a person where there is a decision that will prevent them from holding, or continuing to hold, a clearance
- any potential benefit that would result from a person holding, or continuing to hold, a clearance
- whether any “alleged” conduct has not been proved beyond reasonable doubt or on the balance of probabilities.