

Presumptively Disqualified Person Written Submission

As part of the assessment for an NDIS Worker Screening Check (NDIS Check), you may be invited to make a written submission before the NDIS Worker Screening Unit (the Screening Unit) makes a final decision.

When are applicants asked to make a submission?

Where the Screening Unit identifies adverse information, you may be sent a 'proposal to issue an exclusion' letter and an invitation to provide a submission.

When are workers holding a clearance asked to make a submission?

All applicants and cleared workers are subject to ongoing monitoring. If the Screening Unit receives any adverse information about your criminal record that is considered to impact your suitability to hold a clearance, a re-assessment will be conducted. You may be sent a 'proposal to cancel a clearance' letter and an invitation to make a submission.

What is contained in your criminal record will determine which section of the NDIS Worker Screening Act is applicable in assessing your application

Based on your records, section 18 and section 19 of the *National Disability Insurance Scheme (Worker Screening) Act 2020* requires an NDIS

Check exclusion be issued unless the Screening Unit is satisfied that because of the exceptional circumstances of the case, a clearance should be granted.

For more information, please refer to the Classification of Offences factsheet on the resources page of www.ndiswsu.wa.gov.au.

Why is it important that I make a submission?

The Screening Unit strongly recommends that you make a submission. This is your opportunity to provide the Screening Unit with further information that you wish to be considered prior to a final decision being made.

What happens if I do not provide a submission?

If you do not make a submission, the Screening Unit will not be able to consider any additional information which you might think is relevant to your suitability to hold a clearance. The Screening Unit will proceed to a final decision based on the information available to consider.

What do I include in my submission to the Screening Unit?

Where you have received a 'proposal to issue an exclusion' or 'proposal to cancel a clearance' letter, it will include the relevant information and explain the reasons why the adverse decision is proposed. For example, the letter will detail your criminal offence history and any other information deemed relevant to your suitability to hold a clearance. If there are requests for you to provide specific information or evidence, this will be outlined in the letter you receive.

When writing your submission and without limiting any information you wish to provide, it is recommended you focus on the reasons for the adverse decision being proposed. This may include:

- whether you consider any information relied on by the Screening Unit contains factual errors or does not apply to you (for example, an error in the record of your criminal history)
- whether you disagree with the details contained in the information received by the Screening Unit
- your personal circumstances and any other relevant events that you consider may explain your conduct/alleged conduct at the time
- any steps you have taken to address your conduct/alleged conduct since. For example, counselling/treatment you have undertaken to address the behaviour and/or any demonstration of lifestyle changes
- any references (see 'Guidance on providing references' section of this factsheet)
- anything else you consider relevant.

Information, including your submission, is considered as a whole and not in isolation when conducting a risk assessment. You may wish to refer to the Risk Assessment factsheet which explains the matters that the Screening Unit must consider when assessing an application (refer to www.ndiswsu.wa.gov.au).

The following is not relevant or considered by the Screening Unit as part of a risk assessment:

- whether any alleged conduct has not been proved beyond reasonable doubt or on the balance of probabilities

- the adverse impact on you of a decision to prevent you from holding, or continuing to hold, an NDIS Check clearance certificate
- any potential benefit that will result from you holding, or continuing to hold, an NDIS Check clearance certificate.

Guidance on providing references

You may wish to provide personal or professional references that you feel support your submission. There is no limit to the number or type of references that you can provide. However, it should be noted that greater weight is generally given to references where the referee can clearly demonstrate that they are aware of your criminal history and/or relevant conduct. Your referee(s) should review the Guidance for Referees factsheet prior to completing a reference (refer to www.ndiswsu.wa.gov.au).

What format is acceptable for my submission?

Your submission should be in writing (handwritten or typed) and can be in a format of your choice, such as dot points or paragraphs. You are entitled to seek support in preparing your submission. If you have difficulty providing a written submission, please contact the Screening Unit on 1800 225 558.

How long do I have to make a submission?

Your 'proposal to issue an exclusion' or 'proposal to cancel a clearance' letter will advise you of the submission due date, which will be no less than 28 days from the date of issue. The assessment will not proceed to a final decision prior to this date expiring, unless you request so in writing. This timeframe allows you sufficient opportunity to provide additional information, should you choose to.

If you are unable or have difficulties in making a written submission within the designated timeframe, please contact the Screening Unit. Consideration may be given to extending the due date depending on the circumstances and will be subject to an approvals process.

What happens after the submission due date?

The Screening Unit will consider any information you have provided. In some circumstances where a written submission that has been provided is deemed insufficient or unclear, the Screening Unit may contact you to clarify further information.

Once a final decision is made, you will be advised of one of the following outcomes:

- **clearance:** you will receive a letter confirming the approval of your NDIS Check. The letter will also provide you with your clearance number and clearance expiry date.
- **exclusion:** you will receive a letter setting out the reasons for the decision and you will be issued an exclusion certificate. The letter will also provide you with information about how to apply for a review.

The Screening Unit will notify the NDIS Commission of the outcome of your NDIS Check and it will be registered on the NDIS Worker Screening Database. This will also be accessible by your linked employer(s).

What options do I have if I no longer wish to continue with my application for an NDIS Check?

Once a 'proposal to issue an exclusion' has been issued, you cannot withdraw your application.

How long will it take to make a decision?

The most important factor when making the final decision is to protect and prevent people with disability from experiencing harm arising from poor quality or unsafe supports or services under the NDIS.

The Screening Unit must take the time necessary to obtain and properly consider relevant information. The time taken to reach a final decision varies and may take longer when additional information is needed.

You may contact the Screening Unit to enquire about the status of your application or check online by logging into your DoTDirect account.

Disclaimer – This factsheet is a summary which has been made available to assist you to make a submission pursuant to the *National Disability Insurance Scheme (Worker Screening) Act 2020* in Western Australia and is not designed to offer specific legal or other advice of any kind. Please access the [National Disability Insurance Scheme \(Worker Screening\) Act 2020](#) for the full detail of this legislation. It is recommended that you obtain appropriate professional/legal advice that considers your particular set of circumstances if you require further assistance.

The Screening Unit is committed to providing clear information to help you understand your rights and meet your obligations. Every reasonable effort has been made to ensure information is accurate and up to date. However, errors can occur and changes after the time of publication may impact on the accuracy of the information in a factsheet/information sheet. Further information about the *National Disability Insurance Scheme (Worker Screening) Act 2020* is available on the website at www.ndiswsu.wa.gov.au.

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Presumptively Disqualified Person – Submission Process

