

FOI Number	Type of Applicant (for non-personal requests)	Date access granted or Withdrawn	Details
21/22-1825	Media	16/02/2023	<p>"1. A summary of the complaint and any response/outcome/action taken associated with case number #10667 or #10770 and related to <a href="#">s47G - business information</a> .</p> <p>2. Complaints made about <a href="#">s47G - business information</a> from 2020 – present</p> <p>3. Annual financial reports showing how much NDIS funding was paid to <a href="#">s47G - business information</a> in 2019/20 and 2020/21</p> <p>4. Annual financial reports showing how much NDIS funding was paid to <a href="#">s47G - business information</a> in 2019/20 and 2020/21"</p>
22/23-1244	Media	17/03/2023	<p>"...I am seeking any invoices from <a href="#">s47G - business information</a> to NDIS participants for services claimed under the NDIS in between January 2022 and February 2023. "</p>
FOI-3 23/24-0109	Media	29/05/2024	<p>Hello, I'm writing to lodge a request for information under the Freedom of Information Act. My contact information is <a href="#">s47F - personal privacy</a> <a href="#">s47F - personal privacy</a> <a href="#">s47F - personal privacy</a> @theguardian.com.au <a href="#">s47F - personal privacy</a></p> <p>The information I'm seeking is:</p> <ul style="list-style-type: none"> <li>* All emails, text messages and other communication between Martin Hoffman and <a href="#">s47F - personal privacy</a> , the chief executive of <a href="#">s47G - business information</a> , from 18 May, 2019, to 21 May, 2022.</li> <li>* All emails, text messages and other communication between Martin Hoffman and John Margerison from 1 January 2017 to 21 May, 2022.</li> <li>* All emails, text messages and other communication Martin Hoffman and minister Stuart Robert related to <a href="#">s47G - business information</a> from 18 May, 2019, to 21 May, 2022.</li> <li>* File notes, meeting records or other records of verbal conversations between Minister Robert and Martin Hoffman related to <a href="#">s47G - business information</a> from 18 May, 2019, to 21 May, 2022.</li> <li>* All emails, text messages and other communication between Martin Hoffman and NDIS staff related to <a href="#">s47G - business information</a> from 18 May, 2019, to 21 May, 2022.</li> <li>* All emails, text messages and other communication between Matt Bulger, NDIS branch manager for operations and support, and representatives <a href="#">s47G - business information</a> , from 18 May, 2019, to 21 May, 2022.</li> </ul> <p>Thanks <a href="#">s47F - personal privacy</a> <a href="#">s47F - personal privacy</a> The Guardian   Australia <a href="#">s47F - personal privacy</a> <a href="#">s47F - personal privacy</a> @theguardian.com twitter: <a href="#">s47F - personal privacy</a> Queensland bureau: qlddesk@theguardian.com</p>
FOI-3 23/24-0412	Media	7/02/2024	<p>I write seeking access to documents under the Freedom of Information Act 1982.</p> <p>I am seeking access to documents containing information regarding the alleged NDIS fraud by <a href="#">s47G - business information</a> .</p> <p>Specifically, I am seeking information about:</p> <p>Any complaints made to the NDIS about alleged NDIS/NDIA fraud occurring at the NDIS supported employment provider named <a href="#">s47G - business information</a> ). Any communications between the NDIS or the Fraud Fusion Taskforce and <a href="#">s47G - business information</a> regarding these allegations, including but not limited to requests for documentation. Any investigation notes or actions taking by the Fraud Fusion Taskforce or the NDIS regarding these allegations. The time frame for the documents I am are between the months of January 1st 2023 and October 6th 2023.</p> <p>I understand that the names of individual junior staff from <a href="#">s47G - business information</a> and/or junior NDIS staff may be redacted to protect their identity. However I would not expect these redactions to include senior NDIS staff or executive management at <a href="#">s47G - business information</a> .</p> <p>I advise I am not interested in duplicate copies of documents or documents that have already been publicly released or media releases, media articles or media statements.</p> <p>I would also like advice if the information I have sought is due to be released under FOI to individuals or organisations prior to finalisation of my FOI application.</p> <p>I also note the onus rests with the agency to prove why any information should not be released under the Act and I request the agency provide evidence in support of any assumptions or assertions used to justify non-disclosure.</p>

FOI-3 23/24-0534 **Media**

9/05/2024

Hello,

I request under the Freedom of Information Act 1982 the following details:

All documents, including notes and other correspondence, relating to the complaints register kept by [b47G - business information] in the ACT, between 2016 and 2023.

Specifically, I am seeking the complaints register itself for each year, which I understand [b47G - business information] is obliged to maintain and refer to the NDIA upon request.

Could I also request:

if I could have advice if the information I have sought is due to be released under FOI to individuals or organisations prior to finalisation of my FOI application.

a total reduction in fees and charges associated with this request as release of the information will: contribute to community understanding on an important issue and inform debate and improve government accountability and transparency. Further, the ABC is a non-profit, publicly funded broadcaster and warrants a remission of fees and charges on that basis.

That the agency provide a five-day waiting period before provision of the information I have sought onto any disclosure log as this will assist the ABC in the preparation of any material for broadcast or publication including assessing the information and seeking additional comment including from government.

I refer to the OAIC guidelines on this issue and request that if the agency ignores these guidelines that detailed reasons why be provided.

Could any response please be sent by reply email to this email address.

Please feel free to call me on the below numbers if I can assist with the processing of my request, including negotiation of scope.

Thanks in advance,

[b47F - person]

# Standard Operating Procedure – Referring Provider Complaints to the NDIS Quality and Safeguards Commission

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This Standard Operating Procedure (SOP) provides guidance to National Disability Insurance Agency (NDIA) staff and partners about how to refer complaints about providers to the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission (NDIS Commission). This SOP also applies to complaints relating to providers that have been received through internal processes.

A communications protocol is in place between the NDIA and the NDIS Commission advising that relevant complaints about provider's received by NDIA staff and partners should be channelled through the Complaints and Participant Incidents Team (CPIT) Oversight Team.

Some complaints about providers that are NDIS related can be managed and resolved as part of standard complaints processes. However, complaints should be referred to the NDIS Commission when the complaint is about:

- NDIS services or supports that were not provided in a safe and respectful way;
- NDIS services and supports that were not delivered to an appropriate standard; or
- How a NDIS provider has managed a complaint about services or supports provided to a NDIS participant.

## 1. Recent updates

Date	What's changed
March 2024	Transferred to new template.

## 2. Checklist

Topic	Checklist
<b>Pre-requisites</b>	You have: <ul style="list-style-type: none"> <li><input type="checkbox"/> Received a complaint about a NDIS provider</li> <li><input type="checkbox"/> Determined a Participant Critical Incident has not occurred</li> <li><input type="checkbox"/> Read the <a href="#">Standard Operating Procedure – Record and Update a Complaint</a></li> </ul>
<b>Actions</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">3.1 Determine if a Participant Critical Incident (PCI) has occurred</a></li> <li><input type="checkbox"/> <a href="#">3.2 Investigate and Action Complaint</a></li> <li><input type="checkbox"/> <a href="#">3.3 Quality Assurance of referral</a></li> </ul>

## 3. Procedure

### 3.1 Determine if a Participant Critical Incident (PCI) has occurred

If a PCI has occurred, action must first be taken to ensure the participant's safety. The PCI should then be reported to the PCI Team, as per process outlined in the [Participant Critical Incidents](#) Intranet page.

The PCI Team will refer any concerns raised about providers to the NDIS Commission as part of the PCI process.

Reportable incidents include:

- the death of a NDIS participant
- serious injury of a NDIS participant
- abuse or neglect of a NDIS participant
- unlawful sexual or physical contact with, or assault of, a NDIS participant
- sexual misconduct committed against, or in the presence of, a NDIS participant, including grooming of the NDIS participant for sexual activity
- the unauthorised use of a restrictive practice in relation to a NDIS participant.

For further information refer to [Participant Critical Incidents](#) Intranet page.

### 3.2 Issues regarding provider performance or conduct received or observed during regular business activities (all staff and Partners)

If concerns about the way a provider is delivering services or conducting themselves is received or observed during ordinary business activities (planning, check ins, enquiries etc.) and a PCI has not been identified, the following process applies:

### 3.2.1 Reported concerns

- Encourage the reporter to complain to the provider directly and explain that if they are dissatisfied with the provider's response they can raise a complaint with the NDIS Commission directly via 1800 035 544 (free call from landlines), TTY 133 677 or online at <https://www.ndiscommission.gov.au/contact-us/makeacomplaint>
- If the reporter does not want to complain to the provider directly, the staff member can explain that the reporter can make a complaint to the NDIS Commission via their email.
- If the reporter requires assistance and does not want to raise the issue with the NDIS Commission or provider themselves, the staff member should offer to transfer the complaint to the NDIS Commission at 1800 035 544.
- Staff should complete the NDIS Commission Complaint Referral Form ([Appendix A](#)) with as much detail as possible, then email the referral to the s47E(d) - certain operations of agencies inbox (s47E(d) - certain operations of agencies) for Quality Assurance (QA) and dispatch. It is preferable to have the reporter's consent.

### 3.2.2 Staff observations

- If a staff member observes and has concerns about a providers conduct and/or service delivery, the staff members should make a referral by completing the NDIS Commission Complaint Referral Form ([Appendix A](#)) with as much detail as possible, then email the referral to the s47E(d) - certain operations of agencies inbox (s47E(d) - certain operations of agencies) for Quality Assurance (QA) and dispatch.

## 3.3 NDIS Commission referrals received in open complaints (Complaints Staff)

If a complaint received by the NDIA includes concerns about a provider and a PCI **has not** been identified, the following process applies:

- Create a complaint in the NDIA Business System and make contact as outlined in [Standard Operating Procedure - Allocating and Receiving a Complaint](#).
- Encourage the complainant to contact the provider directly to explain that they are dissatisfied with the provider's response. After this they can raise a complaint with the NDIS Commission directly via their website at: <https://www.ndiscommission.gov.au/about/making-complaint>

- If the complainant does not want to complain to the provider or NDIS Commission directly or have complained to the provider directly and are not satisfied with the outcome, the Complaints Officer should offer to refer their complaint to the NDIS Commission. It is preferable to have the complainant's consent.
- The Complaints Officer should complete the NDIS Commission Complaint Referral Form ([Appendix A](#)) with as much detail as possible, then email the referral to [s47E\(d\) - certain operations of agencies](#) inbox.
- Where a complaint is best managed by the NDIS Commission the Complaints Officer should attach the email referral to the open complaint record.
- If there are no other concerns raised in the complaint that require NDIA action the complaint can be closed.
- Where there are other concerns requiring NDIA action, the Complaints Officer must keep the complaint open and action as per the complaint management process relevant to the appropriate complaint channel.

### 3.4 Quality Assurance of Complaint referral

On receipt of a NDIS Commission Complaint Referral, the Track Triage team within Complaints and Participant Incidents team will create a new complaint record in the NDIA Business System and allocate to an Oversight Complaints Officer for QA and dispatch.

#### 3.4.1 The assigned Complaints Officer will consider the following requirements during QA:

- There is sufficient information provided within the referral template to enable to the NDIS Commission to effectively investigate the complaint.
- That the complaint falls within the NDIS Commissions remit

#### 3.4.2 Dispatch or return

- If the request meets the QA requirements, the referral will be sent to the NDIS Commission [s47E\(d\) - certain operations of agencies](#) by the Complaints Officer via the [s47E\(d\) - certain operations of agencies](#) inbox and the complaint referral will be closed with the NDIA.
- If the Complaints Officer determines that the referral to the NDIS Commission does not meet the QA requirements, it will be sent back to referrer for action.
- If the Complaints Officer identifies the complaint should remain with the NDIA it will be reallocated to the appropriate area for resolution.

## 4. Related procedures or resources

- [NDIA Act 2013](#)
- [Standard Operating Procedure - Allocating and Receiving a Complaint](#)
- [Operational Protocols between the NDIA and the NDIS Commission](#)

## 5. Feedback

If you have any feedback about this Standard Operating Procedure, please email the CPIT [Business Improvement Team](#). In your email remember to include the title of the product you are referring to and describe your suggestion or issue concisely.

## 6. Version control

Version	Amended by	Brief Description of Change	Status	Date
1.0	GLW650	Branka <span style="background-color: #cccccc; color: #000080; font-size: 8px;">s22(1)(a)(ii) - info</span> APPROVAL.	APPROVED	2019-08-05
2.0	SW0065	Amended WA transition to NDIS Commission from 1 July 2020 to 1 December 2020.  Moved to new template. Minor changes to language and formatting.	APPROVED	2020-06-02

## 7. Appendices

### 7.1 Appendix A – NDIS Commission Complaint Referral Form

Referring agency and contact name	
Contact Phone	
Email	
Name of participant	
Participant Number	
Participant Date of Birth	
Contact details (phone, email)	

Referring agency and contact name	
Capacity to be involved in complaint	
Consent by participant/complainant to refer the complaint to the NDIS Commission or NDIA	
Complainant's name (if not participant)	
Relationship to Participant	
Contact details (phone, email)	
Which service provider is the complaint about?	
Location of Service Provider	
Service Provider contact details	
Incident Date (if known)	
Incident Time (if known)	
What is the complaint about?	
What has the complainant done so far to resolve the issue?	
Has a complaint been made to another agency, if so, which and when?	
What was the outcome?	
What would the complainant like to happen to resolve the complaint?	



Referring agency and contact name	
Any other service providers involved with the participant? If so, please provide details	
Are there any safety issues? If so, please document	



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# Complaint Handling and Reportable Incidents Arrangements Operational Protocol

As agreed between the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission

**Date: 23 June 2023 (V2.1)**

**For internal staff use only – not for distribution**

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Date Amended	Version Number Amended	Key Changes	New Version Number
July 2019	V 0.0	Published Complaints Handling Arrangements Operational Protocol, agreed between NDIA and NDIS Commission	V 1.0
May 2020	V 1.0	<p>Operational Protocol will only be reviewed as required, rather than every six months.</p> <p>Added reference to the WA Quality and Safeguards transitional working arrangements for WA complaints and incidents, until June 30, 2020.</p> <p>Inclusion of participant incidents to the scope of the protocol.</p> <p>Where Fraud is referenced, it is noted NDIA will handle the allegation of fraud, NDIS Commission handles the complaint against the Provider (where appropriate).</p> <p>Reference to LAC's changed to Partners – as it also encompasses ECEI providers.</p> <p>Addition of the Escalation Prioritisation Matrix.</p> <p>Updates to Key Contacts.</p> <p>Updates to the NDIS Commission complaint transfer email addresses.</p> <p>Change Reportable Incidents and Critical Incident references to Participant Incidents, to reflect the organisational realignment to the Escalations and Participant Incident Team (EaPIT).</p> <p>Addition of Reportable Incidents to the name of the protocol.</p> <p>Change to reference of WA transitioning from 1 July 2020 and inclusion of information around NDIS Commission sharing information with NDIA.</p>	<p>V 1.1</p> <p>V1.2</p> <p>V1.3</p>

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<b>Date Amended</b>	<b>Version Number Amended</b>	<b>Key Changes</b>	<b>New Version Number</b>
February 2021	V1.3	<p>Deletion of references to 'participating jurisdictions' and 'WA transition' to reflect national operation of NDIS Commission</p> <p>Explanation of types of NDIS providers funded by the NDIA to provide services to people with disability under the NDIS Act.</p> <p>Updates to Key Contacts</p> <p>Change of titles of NDIA teams to reflect organizational realignment</p> <p>Additional explanation of roles and terminology</p>	V1.4
February 2021	V1.4	Complaints Handling and Reportable Incidents Arrangements Operational Protocol, agreed between NDIA and NDIS Commission	V2.0 <i>FINAL</i>
June 2023	V2.0	Updates to the Key Contacts and referral email addresses	V2.1

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## 1. About the Operational Protocol

The National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (NDIS Commission) agreed a Statement of Intent in June 2018 to work collaboratively in supporting each other to perform individual and shared responsibilities under the *National Disability Insurance Scheme Act 2013* (NDIS Act).

The NDIA and NDIS Commission each have authority under sections 60, 66, 67A and 67E of the NDIS Act to disclose protected NDIA or protected Commission information to each other:

- For the purpose of the NDIS Act (this includes purposes that are relevant to achieve the objects, principles and functions of each agency under the Act);
- For relevant research about the NDIS or for policy development or for actuarial analysis of NDIS matters (NDIA only) where the CEO of the NDIA or Commissioner of the NDIS Commission is satisfied it is reasonably necessary to disclose that information for those purposes
- With the express or implied consent of the person to whom the information relates. Where practicable, express consent will be sought rather than relying on implied consent;
- If either party reasonably believes that the disclosure of the information is necessary to prevent or lessen a serious threat to an individual's life, health or safety;
- Where the CEO of the NDIA or Commissioner of the NDIS Commission is satisfied on reasonable grounds that it is in the public interest to disclose the information;
- For the purpose of the NDIA or NDIS Commission as set out in s66 (1)(b)(i) and s67E(1)(b)(i) of the Act.

This Operational Protocol is to be read in conjunction with the Information Statement of Intent signed by the NDIA and NDIS Commission in June 2018. This Operational Protocol is agreed between the NDIA and the NDIS Commission.

The NDIA and NDIS Commission will jointly monitor the implementation of this Operational Protocol and review its operation as required.

These arrangements will be in place from 18 February 2021 noting that the NDIS Commission operates in all states and territories.

## 2. Purpose

This protocol sets out the agreed roles and responsibilities of the NDIA and NDIS Commission in regard to the effective management and resolution of complaints received by either agency, and participant critical incidents (PCIs) reported to the NDIA's Participant Incident team and Reportable Incidents (RIs) notified to the NDIS Commission.

## 3. Relevant Areas

The protocol covers complaints, feedback, PCIs, RIs and enquiries relating to participant wellbeing which may need to be referred (in whole or part) through established referral processes. Workflow and operational processes for referral, resolution and closure are included and will be updated, as required.

Should there be any other types of enquiries that arise in the everyday work of either the NDIA or the NDIS Commission and there is no clear pathway described in this or any other protocol between the two

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agencies, the Key Contacts listed in this protocol can be used to work on how these matters can best be resolved.

## 4. Roles and Responsibilities

### Complaints

The NDIA and NDIS Commission have a responsibility in complaint resolution for determining the agency best placed to respond to complaints. Both the NDIA and the NDIS Commission have complaint handling functions and have appointed leads to operationalise this protocol.

The **NDIS Commission** can accept and handle complaints about an issue arising out of, or in connection with the provision of supports or services by an 'NDIS provider'.

"NDIS providers" includes persons and bodies funded by the NDIA under the NDIS Act to provide services to people with disability, such as Early Childhood (EC) and Local Area Coordination (LAC) services provided by NDIA Partners in the Community; NDIS Community Connector Program providers, Specialist Support Coordination Services, Exceptionally Complex Support Needs Program providers and Independent Assessors. The NDIA monitors the performance of these bodies under their funding contracts. The sharing of data on complaints received by the NDIS Commission about such bodies is dealt with under the Data Access and Transfer Protocol. A complaint can be made about services or supports provided by any NDIS provider, whether or not the provider is registered with the NDIS Commission.

Complaints about providers may relate to the conduct of workers employed or engaged by the provider (including volunteers.)

The **NDIA** will continue to:

- Deliver the NDIS—providing individualised plans and support to people with disability, and coordinating service bookings, payments and access to plans for providers.
- Handle complaints about the NDIA and participant plans.
- Handle allegations about alleged fraud and payment integrity as agreed against the NDIS (NDIS Commission template - Referral to NDIA fraud and compliance). It is important to note that whilst the NDIA will handle the allegation of fraud (as per the Regulatory Interface Protocol), the NDIS Commission will continue to handle a complaint about the provider where appropriate, as per below the 'Shared Complaints Process' in Section 5 Agreed Principles.

### Reportable incidents and participant critical incidents

The NDIS Commission has a specific responsibility under the NDIS Act to respond appropriately to notifications by registered providers of 'reportable incidents'. Only **registered** providers are required to report such incidents to the NDIS Commission. The NDIS Commission may disclose incident information to the NDIA for the purposes of the Act in accord with this protocol.

Where the NDIA and its partners receive notice of a PCI the NDIA will follow this protocol in determining when and how incident information is to be disclosed to the NDIS Commission. The NDIA may consider that the incident should be reported to the NDIS Commission as a 'notifiable incident' as it fits the criteria of a 'reportable incident' and involves a registered provider, or that information about the incident should otherwise be shared with the NDIS Commission for consideration of possible action under the Act.

### Matters relating to agency staff

The NDIS Commission will manage incidents and complaints in relation to its staff, processes and decisions.

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The NDIA will manage incidents and complaints in relation to NDIA staff, NDIA processes and NDIS decisions.

## 5. Agreed Principles

### General

- Where there is an extreme or high risk to a participant this will be managed via the escalation prioritisation matrix at section 7.4 of this protocol, then escalated via the key contacts listed in section 6 and information shared as appropriate.
- Participants and people making complaints about the NDIS will be supported by the NDIA and the NDIS Commission through a 'no wrong door' approach where it appears an issue raised in a complaint is better addressed by the other agency.
- Some complaints might include issues to be addressed or actions to be undertaken by both agencies in a coordinated way through regular communication and updates.
- General feedback and enquiries may be handled by another body with the consent of affected parties and where the body has authority or jurisdiction to manage the response.

### Legal

- It is best practice to seek the express consent of the person making a complaint and/or affected parties prior to sharing information about the complaint.
- Information disclosure powers will only be used as required, and by officers with the appropriate delegation or authority, noting the NDIS Commission and the NDIA have authority to disclose information for the purposes summarised at item 1.

## Complaint Assessment and Referral Process

### General

- The initial assessment of a complaint should determine if there is an immediate risk to a participant or if the complaint includes allegations of a criminal nature which should be referred to police, or matters which should be referred to child protection or other agencies best placed to respond to a matter.
- The response and any referrals will be prioritised according to the risk to a NDIS participant and whether it is more appropriate that another agency deals with the complaint and responds to that risk.
- When either agency identifies the complaint needs to be referred, the complainant should be given the option of having the complaint referred by that agency or being given the relevant contact information and details so they can contact the other agency themselves.
- The NDIS Commission and NDIA will maintain a list of contact officers as per section 6 of this protocol. The NDIS Commission and NDIA will ensure that any referrals addressed to individual contact officers will also be emailed to appropriate mailboxes to maintain visibility of those referrals.

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**OFFICIAL****Referrals from NDIS Commission to the NDIA**

- Non-priority cases, where the risk is assessed as Low or Medium according to the escalation prioritisation matrix in section 7.4, will be referred to the NDIA via the [s47E\(d\) - certain operations of agencies](#) mailbox.
- Priority cases, where the risk is assessed as Extreme or High according to the escalation prioritisation matrix, will be referred within the time frames detailed in the escalation prioritisation matrix in section 7.4 and can be referred by phone to the NDIA National Complaints Team, (with the call details confirmed in follow-up email via appropriate mailbox).

**Referrals from the NDIA to the NDIS Commission**

- The NDIA will refer non-priority cases to the NDIS Commission via [s47E\(d\) - certain operations of agencies](#)
- Priority issues can be referred by phone to the relevant key contact at the NDIS Commission and followed up by email. If this contact is unsuccessful, the referring officer will call the NDIS Commission's 1800 035 544 and ask to speak to the relevant Assistant Director/Director, Complaints.

**Shared complaints process (NDIA and NDIS Commission)**

- Complaints in which both agencies have a role are referred to in this document as 'shared complaints'. The steps to be taken by each agency to manage shared complaints are summarised in the Workflow diagram: Complaints Scenario 3 at the end of this document.
- Initial consultation in relation to shared complaints will occur within 24 hours (or as soon as practical to accommodate weekends/holidays).
- Initial consultation will determine which agency will lead the coordination and response on behalf of both agencies. Where possible, the issues raised in a complaint may be separated with each agency leading and responding to their respective matters.
- When separating matters, the referring agency should, where possible, provide a high level overview of other matters raised, allowing the other agency to provide an assurance to complainants about who is handling the respective matters.

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**OFFICIAL****Participant critical incident/ Reportable incident assessment and information sharing process**

- Participant critical incident is a term used by the NDIA to refer to incidents involving NDIS participants that come to the attention of NDIA staff and NDIA partners that require investigation to ensure the safety of a NDIS participant. These include:
  - unexplained death of a National Disability Insurance Scheme (NDIS) participant that occurs in connection with the provision of NDIS supports or services
  - serious injury of an NDIS participant
  - abuse or neglect of an NDIS participant
  - unlawful sexual or physical contact with, or assault of, an NDIS participant
  - sexual misconduct committed against, or in the presence of, an NDIS participant, including grooming of the NDIS participant for sexual activity
  - unauthorised use of a restrictive practice in relation to an NDIS participant
  - a NDIS participant threatening or attempting self-harm.
  - PCIs often include incidents involving a NDIS provider, both un-registered and registered.
- When NDIA Service Delivery teams, including Partners, receive a notification of a PCI that meets the threshold of a reportable incident, they will refer the incident in the first instance to [s47E\(d\) - certain operations of agencies](#). This will occur regardless of the registration status of the provider.
- 'Reportable incidents' (RIs) are defined types of incidents that occur in connection with the provision of supports or services by a registered provider.
- Only registered providers are required to notify the NDIS Commission of such 'reportable incidents'. Reportable incidents under the NDIS Act are overseen by the NDIS Commission and managed by providers. In some cases the NDIS Commission may conduct its own investigation or consider the need for other action.
- The NDIA and the NDIS Commission may liaise on and discuss PCIs that involve an unregistered provider, to explore best options for dealing with and responding to such information within their roles and responsibilities.
- Where the Participant Incident team considers the incident meets the scope of the NDIS Quality and Safeguards Commission's definition of a reportable incident, it will forward the incident as a notifiable incident to the NDIS Commission according to the jurisdiction where the incident is alleged to have occurred:
  - [s47E\(d\) - certain operations of agencies](#)
  - [s47E\(d\) - certain operations of agencies](#)
  - [s47E\(d\) - certain operations of agencies](#)
  - [s47E\(d\) - certain operations of agencies](#)
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  - [s47E\(d\) - certain operations of agencies](#)

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- The referral will allow the NDIS Commission to seek a notification from the Registered NDIS Provider where appropriate.
- When the NDIS Commission receives a notifiable incident from the NDIA that does not meet the definition of reportable incident, the NDIS Commission will inform the NDIA via email to [s47E\(d\) - certain operations of agencies](#)

**Participant critical incidents not involving reportable incidents of registered providers**

- Where the Participant Incident team considers the PCI may be relevant to the NDIS Commission's functions, a member of the team will liaise with the relevant NDIS Commission contact as listed in section 6 to discuss the possible referral to or sharing of information about the incident with the NDIS Commission including the form it should take and the email address to which it is to be sent.
  - Where the agencies agree the matter is to be referred as a complaint to the NDIS Commission, the referring staff member will be the complainant for the purposes of the NDIS (Complaints Management and Resolution) Rules 2018.  
The NDIS Commission will disclose incident information to the NDIA under this protocol where:
    - The incident information highlights concerns for an NDIS participant's wellbeing or is relevant to the NDIA's administration and review of participant plans, access and funding decisions.
    - The incident involves the death of a participant and the information raises questions relevant to the NDIA's administration or review of the participant plans, access and funding decisions, or the conduct of any NDIS provider contracted by the NDIA to provide services to people with disability, referred to in Section 3 of this protocol.
    - This information will be provided by email to [s47E\(d\) - certain operations of agencies](#)

**Disclosure of information necessary to prevent or lessen a serious threat**

- Disclosures made by the NDIS Commission of information reasonably believed to be necessary to prevent or lessen a serious threat to an individual's life, health or safety will be emailed to [s47E\(d\) - certain operations of agencies](#) using the subject line "Concern regarding safety of a person with a disability."
- Such disclosures will occur AFTER all appropriate action is taken within the control of the NDIS Commission to address any immediate safety concerns for any person, such as calling emergency services.
- The NDIA will ensure the information is shared with the relevant National Delivery or Partner Performance staff to give consideration to any actions that should be taken to ensure participant safety. This may include, but is not limited to, direct contact with the participant, follow up with a service provider that is currently in regular contact with the participant, or contact with the support co-ordinator, guardian or nominee of the participant to ensure their wellbeing. Any contacts will be generic in nature if the consent of the participant is not noted in the NDIS Commission referral.

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- The NDIA will acknowledge the receipt of information and advise the NDIS Commission that the information has been referred to the appropriate area for action/information, or otherwise clarify if the person is not known to the NDIA within 5 working days.
- Disclosures made by the NDIA of information reasonably believed to be necessary to prevent or lessen a serious threat to an individual's life, health or safety will be made by phone to the relevant key contact at the NDIS Commission and followed up by email. If unsuccessful, call the 1800 035 544 and ask to speak to the relevant Assistant Director/Director, Complaints.
- Such disclosures will occur after all appropriate action is taken within the control of the NDIA to address any immediate safety concerns for any person, such as calling emergency services

**6. Governance****Regular Meeting Schedule**

- The NDIA and NDIS Commission will meet at agreed intervals to review these Operational Protocols. The SES and EL2s for each agency will meet at regular intervals to discuss operations relating to the application of this protocol and will try to resolve any operational issues arising under this protocol.

**Change Process**

- Minor changes to the Operational Protocols are encouraged and shall be decided upon by joint agreement between all parties. The document should be updated to reflect the changes and provide an ongoing record of agreed protocols.

**Escalation Process**

- Issues arising from the operationalisation of these protocols will be raised at the EL2 level. If the issue cannot be resolved, it will be escalated to SES level at both the NDIA and the NDIS Commission.

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## Key Contacts

Agency	Name	Title	Phone Number	Email
NDIA	Branka <small>§22(1)(a)(i) - Irrelevant</small>	Branch Manager Internal Reviews and Complaints	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>
NDIA	Maddi <small>§22(1)(a)(i) - Irrelevant material</small>	Director Complaints Resolution, Oversight Bodies and Participant Incidents	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>
NDIA	Janice <small>§22(1)(a)(i) - Irrelevant</small>	Assistant Director, Oversight Bodies	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(b) - certain operations of agencies</small>
NDIA	Brooke <small>§22(1)(a)(i) - Irrelevant</small>	Assistant Director, Reportable Incidents	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(b) - certain operations of agencies</small>
NDIS Commission	Sian <small>§22(1)(a)(i) - Irrelevant</small>	Complaints Commissioner	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>
NDIS Commission	Jan <small>§22(1)(a)(i) - Irrelevant</small>	Assistant Complaints Commissioner	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>
NDIS Commission	Sally <small>§22(1)(a)(i) - Irrelevant</small>	Director Complaints Policy and Performance	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>
NDIS Commission	Angela <small>§22(1)(a)(i) - Irrelevant</small>	Director Reportable Incidents Policy	<small>§22(1)(a)(i) - Irrelevant material</small>	<small>§47E(d) - certain operations of agencies</small>

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## 7. Appendix - Related documents

### Other Operational Protocols

- NDIS Participants at risk
- Data Access and Transfer
- Market Stewardship Oversight
- Regulatory interface – registration, compliance and fraud
- Complex Support

### Email transfer templates

- This email template is to be used to transfer information in both directions between the NDIA and the NDIS Commission.

**Email subject:** *NDIA/ NDIS Commission complaint transfer – [Complainant name]*

Dear *NDIA/NDIS Commission*

We have received a complaint from *[Complainant's name] [Participant number or Address or Date of Birth]. [Insert complaint –dot point/initial approach screen/paragraph format]*

I am writing to bring this matter to your attention as it seems that it may be appropriately addressed through your usual complaint handling processes. *[C's name]* has agreed to the transfer of this complaint and has been informed that you will contact them by *[close of business in 5 working days]*.

*(for referral to the NDIS Commission) the issues raised relate to an NDIS provider, the quality of service provision or the conduct of a worker.*

Note: multiple correspondence attachments should not be included.

*[C's name]* contact details are:

Phone: *[insert]*

Email: *[insert]*

Address: *[insert]*

Please contact me if you have any questions about this transfer.

**Email subject:** *NDIA/ NDIS Commission shared complaint– [Complainant name]*

Dear *NDIA/NDIS Commission*

We have received a complaint from *[Complainant's name] [Participant number or Address or Date of Birth]. [Insert complaint –dot point/initial approach screen/paragraph format]*

I am writing to bring this matter to your attention as it seems it may be appropriately addressed by the NDIA and the Commission. I would like to work with you to respond to the matters raised. *[C's name]* has agreed to the NDIA and NDIS Commission liaising to respond to this complaint and understand they will be contacted by *[close of business in 5 working days]*.

*[C's name]* contact details are:

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**OFFICIAL**Phone: *[insert]*Email: *[insert]*Address: *[insert]*

Please contact me if you have any questions about this transfer.

**Complaint Referral Form**

This form is for both complaints transfers and shared complaints

Referring agency and contact name	<i>Insert text</i>
Contact Phone	<i>Insert text</i>
Email	<i>Insert text</i>
Name of participant	<i>Insert text</i>
Participant Number	<i>Insert text</i>
Participant Date of Birth	<i>Insert text</i>
Contact details (phone, email)	<i>Insert text</i>
Capacity to be involved in complaint	<i>Insert text</i>
Consent by participant/complainant to refer the complaint to the NDIS Commission or NDIA	<i>Insert text</i>

Complainant's name (if not participant)	<i>Insert text</i>
Relationship to Participant	<i>Insert text</i>
Contact details (phone, email)	<i>Insert text</i>
Which service provider is the complaint about?	<i>Insert text</i>
Location of Service Provider	<i>Insert text</i>
Service Provider contact details	<i>Insert text</i>
Incident Date (if known)	<i>Insert text</i>
Incident Time (if known)	<i>Insert text</i>
What is the complaint about?	<i>Insert text</i>
What has the complainant done so far to resolve the issue?	<i>Insert text</i>
Has a complaint been made to another agency, if so, which and when?	<i>Insert text</i>

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Complainant's name (if not participant)	<i>Insert text</i>
What was the outcome?	<i>Insert text</i>
What would the complainant like to happen to resolve the complaint?	<i>Insert text</i>
What action is the referring Agency requesting in relation to the complaint?	<i>Insert text</i>
Any other service providers involved with the participant? If so, please provide details	<i>Insert text</i>
Are there any safety issues? If so, please document	<i>Insert text</i>
Any sensitivities? (e.g. don't contact participant's father)	<i>Insert text</i>

**For the NDIA, please email the completed form to:**

- [s47E\(d\) - certain operations of agencies](#)

**For the NDIS Commission, please email** [s47E\(d\) - certain operations of agencies](#)

### **Workflows for complaint handling**

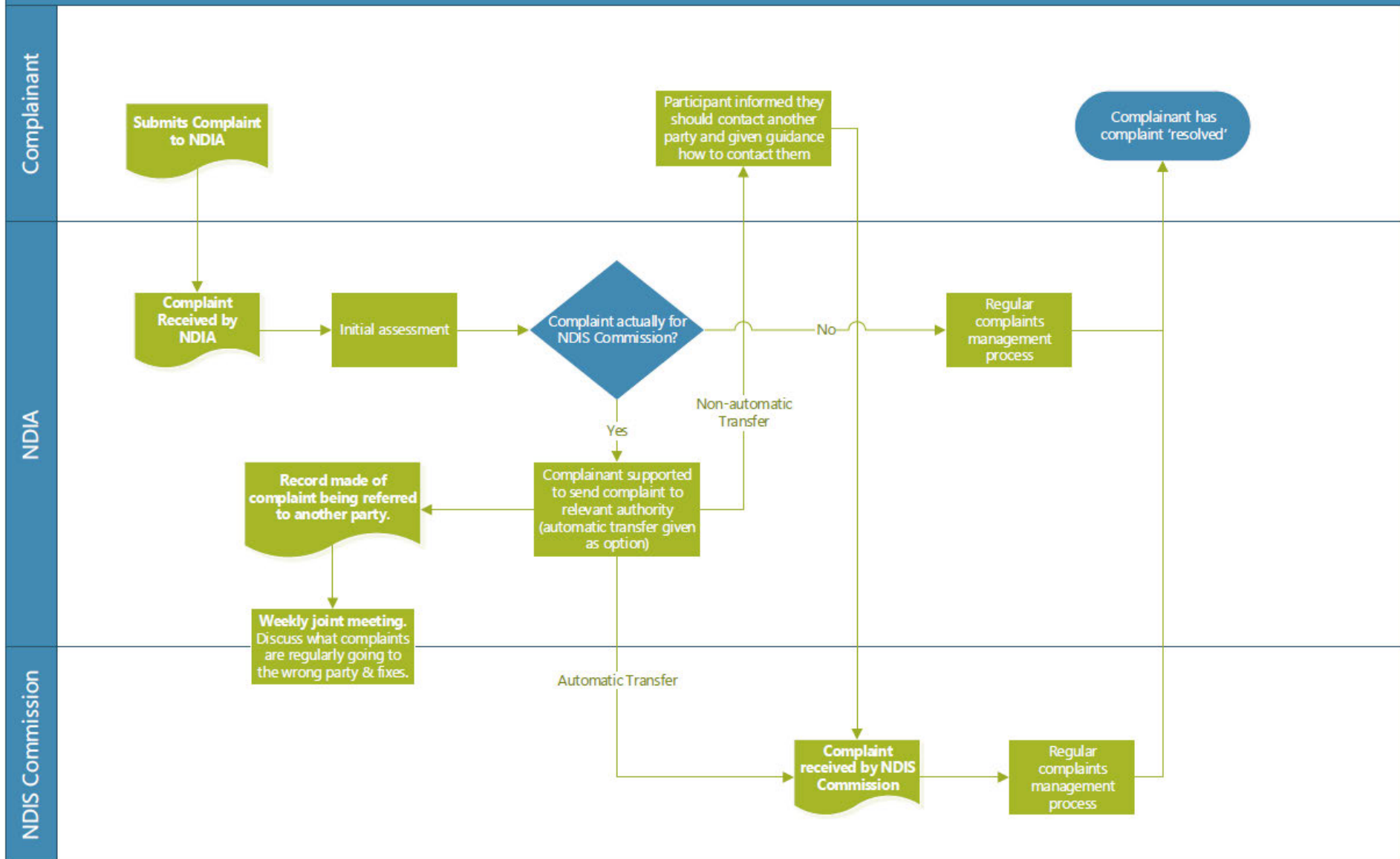
When transferring a complaint the following workflows should be followed

- Scenario 1 NDIA receives complaint
- Scenario 2 NDIS Commission receives complaint
- Scenario 3 Shared complaint

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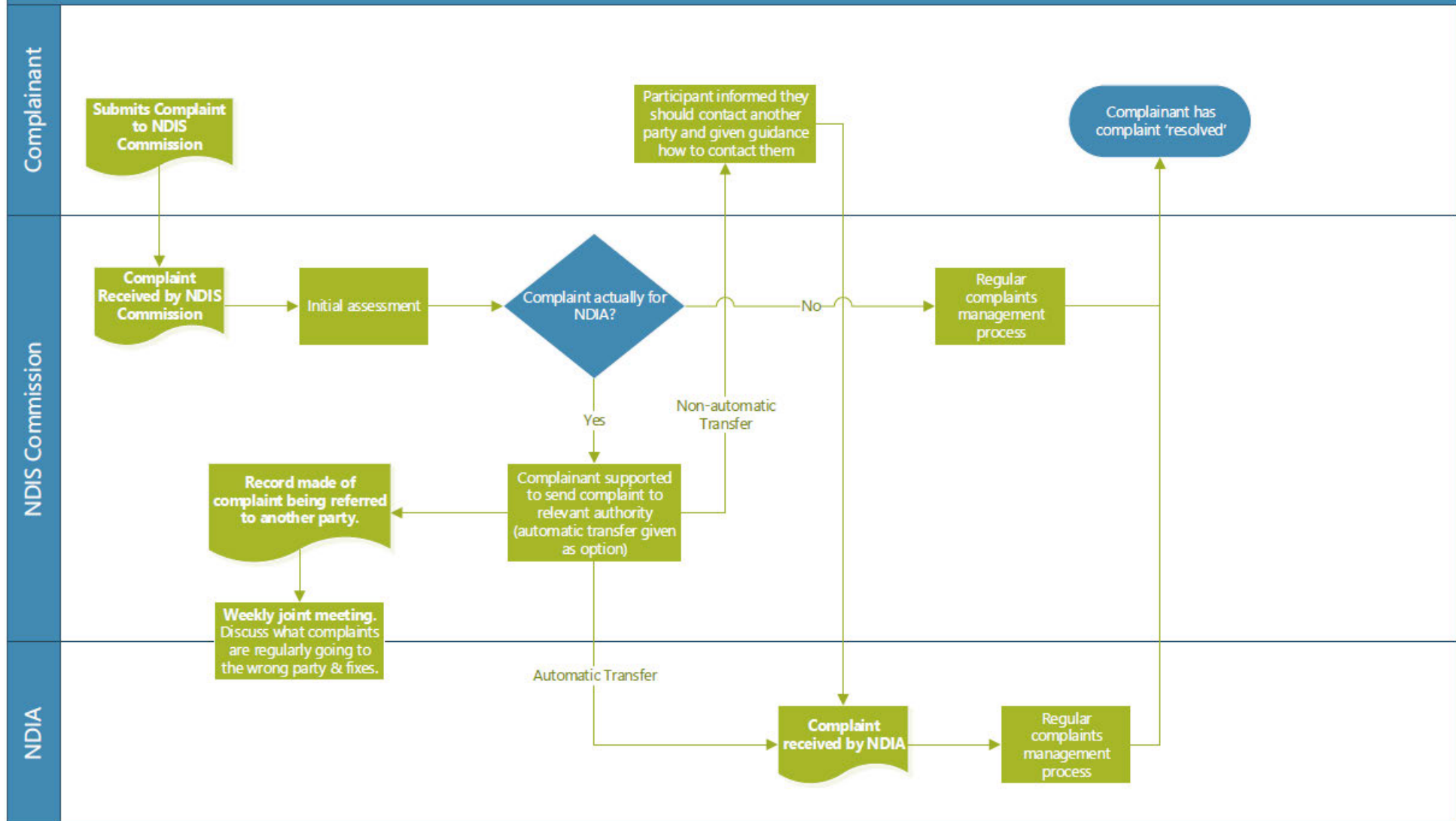


Complaints Scenario #1 – NDIA receive complaint that should have gone to NDIS Commission



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Complaints Scenario #2 – NDIS Commission receive complaint that should have gone to NDIA



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s47E(d) - certain operations of agencies