

NDIS Provider and Worker Registration Taskforce

Terms of Reference



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You can read the [taskforce advice](#) report. The NDIS Review final report released on 7 December 2023 recommends the development and delivery of a graduated risk-proportionate model for the visibility and regulation of all providers and workers, and strengthening of the regulatory response to long-standing and emerging quality and safeguards issues (Recommendation 17), specifically to:

- Design and implement a graduated risk-proportionate regulatory model for the whole provider market (17.1)
- Develop a staged implementation approach to transition to the new graduated risk-proportionate regulatory model (17.2), and
- Amend the National Disability Insurance Scheme Act 2013 to remove the link between a participant's financial management of their plan and the regulatory status of their support providers (17.3).

The Minister for the NDIS has established a Taskforce to provide expert advice on:

- the design and implementation of the graduated risk-proportionate regulatory model, which the NDIS Review regarded as requiring further consideration.
- a Provider Risk Framework that identifies and evaluates the risk profile of different types of supports and providers. It will also clarify new arrangements for platform providers and circumstances where participants directly employ their workers, including 'Services for One' where participants and their families may directly employ workers to deliver supports.

The Taskforce will comprise the following eminent experts who bring deep knowledge and experience about the regulation of supports and services used by people with disability in the NDIS and contemporary regulatory practice, and lived experience of disability:

1. Natalie Wade, human rights lawyer and disability advocate
2. Michael Borowick, former ACTU Assistant Secretary and training and safety expert
3. Vicki O'Halloran, former Administrator of the Northern Territory
4. Allan Fels, former chair of the Australian Competition and Consumer Commission.

The Taskforce will provide advice to the Minister about key design elements and implementation of new regulatory arrangements, including the Provider Risk Framework, so that those arrangements:

- Uphold the rights of people with disability including to determine their own best interests, improving their ability to exercise choice and control over the providers that they use, and this is central to design of the new regulatory model,
- Enable people who are self-managing in the NDIS and employing and engaging their own workers and providers to continue to do so, and
- Reduce the potential for risk of harm to people with disability by taking a proportionate and risk-based approach to regulation that considers both provider and support risk, and the circumstances of the people who using those services, and
- Increase quality and innovation of services and supports for all NDIS participants.



The Australian Government, together with states and territories has committed to work together with the disability community, including through co-design, to implement the Government's response to the NDIS Review recommendations.

The Taskforce' advice will assist the government in working further with the disability community, including through co-design, on these and related recommendations.

To undertake its work the Taskforce will familiarise itself with the NDIS Review's report and supporting material considered by the NDIS Review (such as submissions and external reports and inquiries), and may meet with members of the Independent Review panel. The Taskforce will consult, and where necessary, co-design, with the disability community on the design and implementation of the new graduated risk-proportionate regulatory model. The Taskforce will also consult with the NDIS provider market, workforce representatives and other relevant stakeholders.

Supported by the Department of Social Services, in consultation with the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission, The Taskforce will provide the Minister with a report in 2024 setting out advice on:

- The design and implementation of the recommended graduated risk-proportionate regulatory model, as it relates to upholding the rights of people with disability to exercise choice and control,
- A Provider Risk Framework that identifies and evaluates the risk profile of different types of supports and providers,
- Arrangements for platform providers and circumstances where participants directly employ their workers.

Context

The NDIS gives effect to Australia's obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

In the NDIS, people with disability can expect to receive quality and innovative supports, and be protected and prevented from experiencing harm. They can also expect to exercise their rights to choose the way in which their supports are delivered, including by whom, having access to all the information and support they need, or choose to use, to inform their decisions.

Currently, the decision about how a participant's plan will be managed, and the supports that are in that plan, determines the types of providers a person can choose to deliver their support. This includes whether their providers must be registered by the NDIS Commission or not.

Legal arrangements and relationships may vary in circumstances where participants directly employ their workers. 'Services for One' arrangements have generally been set up in circumstances where the support needs of the participant are very complex and families have not been able to obtain the quality of supports they require in the open market. Close consultation with this group is particularly important, so as not to disrupt arrangements which are working well and have taken years to establish and build up.

The NDIS Review has recommended that there be a graduated mandatory registration (or enrolment) of all NDIS providers that is proportionate to complexity, and the risks of a providers' activities and operations.

It proposes greater use of preventative measures applied to all providers and participants to make the system work better for everyone and prevent harm to those most at risk, to strike a better balance between preventing harm, supporting choice and control, encouraging innovation and enabling the market to thrive.

The NDIS Review has observed that there are both gaps in regulation for higher-risk support delivery, as well as excessive burden and duplication for lower-risk support delivery.

The NDIS Review also recommends that the NDIS Act should be changed so that the connection between how a person chooses to manage their NDIS plan, and the regulatory status of their providers is removed.

The Review indicated that further work will be required to design and implement this model, including consultation with people with disability, providers and other regulators, to determine how and where proportionality should be applied through a Provider Risk Framework.