



NDIS Provider and Worker Registration Taskforce Advice

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Foreword

Advancing the rights of people with disability must be at the centre of disability public policy reform. The rights of people with disability, as articulated in the UN Convention on the Rights of Persons with Disabilities (UN CRPD) are indivisible, interdependent and interrelated. When we talk about the importance of the right to be free from violence, abuse, neglect and exploitation in developing systems and structures, it is of equal importance to realise and advance the right to be equal on the same basis as others, to agency, to decision-making, to privacy and to independent living.

The work of the National Disability Insurance Scheme (NDIS) Provider and Worker Registration Taskforce has had the deep privilege of operationalising these human rights through the development of a Provider and Worker Registration Scheme.

At the outset, I acknowledge that the proposal to introduce mandatory registration of all providers, as put forward by the NDIS Review caused significant distress to the disability community. The prospect of being required to use only registered providers immediately took the community back to dark times, where scarce resources and an absence of self-determined choice and control were commonplace when accessing disability supports and services. In fairness, these dark times are not so historical and were standard practice just a decade ago. It is important to acknowledge these genuine concerns, fears and distress.

At the heart of our engagement was to understand how people manage their supports. While it might have been more obvious to start our inquiry with the registration process or some key design element of the proposed model, to be able to develop a human rights approach to regulation through registration, you must understand how people actually manage their supports; in a real, practical and everyday way. When engaging with the disability community on this, I was in awe of the resilience, determination and sophistication that underpinned the way people with disability and their families manage their supports. These qualities strike you when you see, up close, how often those models of support have been developed, often in the absence of government or community support.

We heard of people with physical disabilities who had employed their support workers for many decades meaning they could pursue successful professional careers and still have the care they need. We also heard of people with intellectual disabilities who found excellent solutions to their support needs in mainstream services. We heard of families who have set up Services for One, to stop their loved one being subjected to abuse and neglect in offered support systems.

A key outcome of this advice is to recognise self-directed supports within the regulatory framework. Self-directed supports, where a person with disability or their nominee directly engage their workforce to support them in their everyday needs, is critical to realising the



human rights of people with disability. Recognising self-directed supports within the regulatory framework is an important step towards recognition of this approach, investment in those arrangements and providing important support so more people with disability can consider this an option for them.

The Taskforce heard from many people from all over Australia (and the world!); there were over 2000 participations in a 3-month engagement period. Following the NDIS Review and Disability Royal Commission, all stakeholders could have been forgiven for being weary of consultation and engagement. But this was not our experience. We have been met with generous contributions, frank insights and considered solutions.

The advice we now provide to the Minister for the National Disability Insurance Scheme (NDIS) is richer and more sophisticated for these views. I am extraordinarily grateful for those that provided a submission, met with us or came to a roundtable. In particular, I acknowledge the outstanding contribution of the Advisory Working Groups (AWGs) who met with us regularly and assisted us to consider the key design elements of the model. The commitment and expertise of the AWGs was a significant contributor to our work.

While this advice is not a magic wand to fix all issues in ensuring quality and safeguarding in disability support services, it is also not the end of the conversation on developing a registration model for NDIS providers. We have built on the work of the NDIS Review and directed the model toward a human rights approach, with ways for people to continue to manage their support. But it does not stop here. We have outlined a way forward for government and the disability community and sector to continue to work together to develop this model. There is much work to do, but we are confident, based on what we have heard, that by working together, a registration model that advances quality and safety in disability support services can be achieved. We hope government, community and sector take up this once-in-a-generation opportunity.

Finally, I acknowledge the erudite contributions of my colleagues, the Honourable Vicki O'Halloran AO CVO, Michael Borowick JP and Professor Allan Fels AO. Their unwavering commitment to ensuring the exploration of a registration model which was embedded with the voices of people with disability, their families, representative organisations, providers, unions and stakeholders is evident throughout our work. Behind the scenes, it takes a lot to run a Taskforce; my deepest respect and thanks to Amanda Lee and Siobhan Campbell from the Department of Social Services for leading our Secretariat with unrivalled impartiality, organisation, inclusivity and efficiency.

I trust this advice is of assistance to the Minister for the National Disability Insurance Scheme in pursuing a human rights focused registration scheme for NDIS Providers and Workers.

Natalie Wade
Chair
NDIS Provider and Worker Registration Taskforce



Recommendations

1. The Taskforce proposes that not all providers as defined in the NDIS Act should be registered. But to determine the best way to achieve that and avoid unintended consequences requires further consideration, including consultation with the disability community and sector. We anticipate that those who would not be registered would include, but not be limited to:
 - a. unregistered providers who provide support to participants who are registered as having self-directed support
 - b. goods purchased off-the-shelf from mainstream providers. In these instances, the visibility created through evidence of purchase should be sufficient.
2. The Taskforce acknowledges that visibility of payments is important to the integrity of the NDIS. To ensure visibility of NDIS funding, the Taskforce adopts Recommendation 10.3 of the NDIS Review, that the National Disability Insurance Agency (NDIA) should transition to fully electronic payments to improve the visibility of payments.
3. The Taskforce believes that the framework provided in the discussion of Recommendation 17 of the NDIS Review provides a useful framework for understanding risk. The Taskforce recommends that the registration categories, as outlined in the comprehensive graduated and risk-proportionate registration and enrolment framework at Table 1 (Annexure A) should be used as the basis for most provider registration.
4. The Taskforce recommends that there is no distinction between those operating in different environments such as in-person or online, in an organisation or alone. Platform providers should be required to be registered. The registration category depends on the services provided, not the type of organisation.
5. The Taskforce recommends that Group Homes should be subject to unannounced visits and the NDIS Commission should have a statutory right to enter the premises.
 - a. All providers of Supported Independent Living (SIL) and Home and Living supports should be seen as requiring registration as a matter of urgency (within 12 months). This should be implemented immediately, noting the significant risk to some participants of violence, abuse, neglect and exploitation in these services and the importance of Scheme integrity.
 - b. Registration of SIL and Home and Living supports should be done under the existing registration framework and should not wait for new arrangements to be developed.



- c. In the future registration scheme providers of SIL and Home and Living should be required to have 'Advanced Registration'(see Annexure A – Table1) under the proposed registration framework.
6. The Taskforce recommends that mechanisms be put in place to support arrangements for self-directed supports. A process should be developed whereby the participant will register themselves for self-directed supports, and thereby all their support providers would then also automatically become registered and visible.
 - a. The process of registration of self-directed supports should be co-designed with people with a disability.
 - b. Self-directed supports would sit in a new category within the registration categories but would also be subject to review and auditing consistent with arrangements for other service providers, except for the evaluation of Practice Standards which do not apply to self-directed supports. These approaches need to be co-designed with people with disability.
7. The Taskforce recommends that the Australian Government should invest in offering peer support and capacity building programs to engage in the NDIS regulatory framework, including for participants who self-direct their supports.
8. To be applied in a graduated, risk-proportionate manner (see Annexure A – Table 1), the Taskforce recommends that the following **Provider Obligations** be included for registration:
 - a. **Code of Conduct:** remain a legislative instrument, the Code of Conduct requires review and to be co-designed with people with disability, the disability community and disability sector.
 - b. **Worker Screening:** to be applied to all workers employed, contracted or engaged by NDIS Providers (per our recommendation on the definition of Provider), in risk assessed roles for Advanced and General registration categories. We do not make any recommendations to change the substance of the Screening Check in terms of intent or what is considered. We do recommend:
 - i. Australian governments including the states and territories improve information sharing between jurisdictions to ensure that the information considered in a screening assessment is complete, accurate and robust
 - ii. culturally safe rules or procedures are developed to consider identification documents differences faced by First Nations peoples.
 - c. **Complaints:** process is to be redesigned through a co-design process with people with disability. Complaints are to be a Provider Obligation for all categories of registration, and a participant must be able to make a complaint about any organisation or individual if paid with NDIS funding, regardless of registration status. However, it should be recognised within the process that



- complaints may need to be referred to other bodies who are appropriately able to respond in certain circumstances. The Taskforce recommend that the NDIS Commission publish a Practice Note or Guideline which sets out the process, timelines and handling of complaints. For example, a complaint should be acknowledged within 7 days and unless exceptional circumstances apply, resolved within 21 days.
- d. **Incident reporting:** The Taskforce supports the recommendations of the Disability Royal Commission to facilitate the sharing of information between the NDIS Commission and a wider range of state and territory safeguarding bodies to support the safety of NDIS participants.¹ The Taskforce recommends that legislative amendment be considered to ensure referral of incidents to other bodies such as the police, Australian Competition and Consumer Commission (ACCC) or Ombudsman in appropriate circumstances.
 - e. **Practice Standards:** it is recommended that Practice Standards apply to Advanced and General registration categories (see Annexure A – Table 1), and that they be co-designed going forward. The requirement to co-design Practice Standards should be a requirement of legislative Rules.
 - f. **Regular Check-Ins with the NDIS Commission:** participants under Self Directed Support Registration will be subject to this Obligation. We recommend that the Check-In requirements be co-designed with people with disability. However, as an Obligation, it is a requirement of gaining and maintaining registration. As such, if a Participant registered does not meet this Obligation, registration can be suspended or revoked.
 - g. **Performance Measurement (see NDIS Review Action 12.3):** designed to incentivise improvements by providers and drive greater competition on quality. It should be supported by accessible and useful information to support people with disability in making choices about providers. Over time, this should incorporate measurement of outcomes, and be accompanied by consequences for good and poor performance.
9. The Taskforce recommends the following **Provider Processes** which enforce the Provider Obligations:
- a. Application
 - b. Identification verification
 - c. Code of conduct attestation
 - d. Worker screening attestation
 - e. Audits by the NDIS Commission and Audits by Approved Quality Auditors
 - f. Suitability assessment of provider and key personnel
 - g. Ongoing monitoring and compliance

¹ Disability Royal Commission Final Report, Volume 10, Recommendation 10.28: Information sharing between prescribed bodies.



10. The Taskforce recommends a **Worker Registration Scheme** be introduced for all workers. However, the scope of the definition of ‘worker’, like NDIS providers, needs further consideration and co-design with the disability community and sector. A Worker Registration Scheme should include:
- a. a public register to be established of workers registered to provide services under the NDIS
 - b. requirements for professional development
 - c. a worker training and qualifications framework (including minimum training and qualification requirements) to apply to the disability sector.
 - d. worker registration to be automatic, simple and enabled through an online portal (with alternative accessible formats as needed)
 - e. registration is to be transparent, not place unreasonable costs on workers or Providers and enable identification verification to be conducted via myGov including the requirement of photo identification
 - f. all NDIS providers must provide such instruction, training and supervision to workers as is necessary to enable workers to perform their work in a way that is safe and without risks to the participant or themselves.
 - g. NDIS Providers in the Advanced and General Registration Categories who employ or have a job placement arrangement with five or more workers has, as a condition of their ongoing registration, responsibility for ensuring that each worker has an individual training, skills enhancement and accreditation plan which is updated in consultation with the worker at least every 12 months.
 - h. to maintain registration, registered workers be required to undertake 10 hours per year of ongoing professional development training
11. The Taskforce recommends practitioners, including allied health practitioners, who hold professional registration, may have that registration recognised to avoid duplication and administrative burden. However, where there is a difference between the professional registration and the NDIS Provider and Worker Registration Scheme, the practitioner will need to meet those outstanding obligations to provide NDIS supports.

To implement these recommendations, the Taskforce recommend the following **Implementation Actions:**

12. **Expand core functions of the NDIS Commission through co-design:** existing core functions of the NDIS Commission be expanded in a co-design process with people with disability for the purposes of implementing the proposed registration model, with the following considered to be added to the core functions:
- a. The promotion of best practice within service providers to deliver high quality, individualised and innovative services.
 - b. The promotion of safe, secure workplaces that value workers providing disability support services.



- c. The reduction of segregation in closed settings and causes of isolation of people with disability.
13. **Provider registration:** a new legislative framework to support the recommended Provider Framework is required, including the separation of the registration and reportable incidents. Within the legislative framework, there needs to be consideration of the recognition of other professional registration for allied health practitioners.
14. **Worker registration:** a legislative framework to support the recommended worker registration framework is required. This should be co-designed with people with disability, the disability sector and workers and their union representatives.
15. **Strengthened complaints function:** the Complaints function should be redesigned in the NDIS Act to include:
- preliminary inquiries
 - investigations, including a right to entry in certain circumstances while balancing the right to privacy especially for private homes
 - arrangements for investigations by other authorities such as the Australian Crime Commission, Australian Competition and Consumer Commissioner or the Ombudsman
 - power to obtain information and documents
 - administrative review of the decision in relation to the outcome of the complaint. An internal review and external review of the outcome should be made available. The Administrative Appeals Tribunal should be empowered to conduct external reviews of the Commissioner's decisions on complaints.
16. **Code of Conduct:** redesign legislative provision for the Code of Conduct, including making it clear that it applies to any goods or service purchased with NDIS funding, which may be a registered provider or not.
17. **Audits:** legislative change to audit processes that is co-designed with people with disability, their families and the sector. In particular, we recommend that audits be enshrined in the NDIS, shifting away from reliance on Rules and Guidelines to set the standards for the audit process.
18. **Practice Standards:** require an amendment to the governing Rules to ensure that Practice Standards are co-designed with people with disability.
19. **Monitoring and compliance:** Department of Social Services (DSS) and NDIS Commission to work together to develop reform for monitoring and compliance powers.



20. The following be established:

- a. an **Innovation Community of Practice and working groups** to support and nurture quality and innovation within the NDIS led by the NDIS Commission
- b. a **project group, managed by the NDIS Commission, to consider the utility of the introduction and mandating of Individual Safeguarding Plans** for participants without individual natural safeguarding relationships and/or for those participants in congregant care settings or in clusters supported by a singular provider

21. The Taskforce agrees with the Disability Royal Commission Final Report for there to be a **nationally consistent Community Visitor Scheme** in each state and territory to provide independent oversight is required.²

² Disability Royal Commission Final Report Recommendation 11.12, vol. 11.



Executive Summary

The NDIS Provider and Worker Registration Taskforce (the Taskforce) was established to provide expert advice on the design and implementation of a new graduated risk-proportionate regulatory model proposed in the [NDIS Review Final Report](#) (the Report) in consultation with the disability community.

Specifically, the Taskforce was asked to advise on [Recommendation 17](#) which is to develop and deliver a risk-proportionate model for the visibility and regulation of all providers and workers and strengthen the regulatory response to long-standing and emerging quality and safeguards issues.

The Taskforce [Terms of Reference](#) includes providing expert 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.

The advice of the Taskforce is to ensure that the regulatory 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, 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
- 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 using those services
- increase quality and innovation of services and supports for all NDIS participants.

NDIS Review Recommendation 17

The regulatory model presented in the [NDIS Review Recommendation 17](#) proposed that all NDIS providers must be registered or enrolled. It provided 4 proposed levels of registration, based on the level of risk associated with the supports provided:

1. Advanced registration for all high-risk supports
2. General registration for all medium-risk supports
3. Basic registration for all lower-risk supports
4. Enrolment of all providers of lowest-risk supports



Engagement

To understand the impacts of this proposed model, the Taskforce held meetings and roundtable events with NDIS participants, families and carers, advocates and large and small providers, not-for-profit organisations, sole providers, microboards, union representatives and government agencies.

There were more than 2,270 participations over the two phases of engagement from February to June 2024, which included:

- 31 roundtables and webinars (with more than 1,200 participations across these events)
- more than 150 one-on-one and small group meetings (with more than 360 people in attendance across these meetings)
- more than 700 submissions
- two regional trips.

The advice and recommendations throughout this report are based on what the Taskforce heard from these consultations. They are also guided by five AWGs, who met regularly to discuss key design elements of a Provider and Worker Registration Scheme. The AWGs comprised of experts in NDIS policy, worker's rights, the sector and lived experience.

In relation to the proposed regulatory mode, the Taskforce heard:

There is broad agreement:

- **change is needed** and the current provider registration system is not fit for purpose; there must be a new approach to registration
- **visibility** of providers and workers delivering disability supports and services is important, however, this visibility can be achieved through a combination of payment systems and registration
- **choice and control** is paramount to ensuring that people with disability can manage their supports and this needs to feature in the regulatory framework.
- **providers** need to be supported to innovate, be viable and continue delivering excellent services to people with disability
- **workers** are valued and must be safe at work, supported in their commitment to provide high quality services for people with disability and have a seat at the table when designing a new registration scheme
- **any form of registration should be risk-proportionate and graduated** ensuring the registration and auditing requirements differ based on types of supports provided and risks faced by services and individuals
- **recognise other forms of registration**, such as those for allied health professionals, however, also a number of comments that those existing registrations need to improve understanding and quality for supporting for people with disability.



There are significant concerns mandatory registration for all NDIS providers would:

- **significantly impact on choice and control** for NDIS participants if mandatory provider and worker registration was put in place without further design incorporating the current ways supports are managed
- be **costly or burdensome** to providers, particularly smaller providers, causing some to leave the NDIS market, which will reduce the number of providers in the NDIS and cause further barriers to accessing quality supports within the Scheme that are right for people with disability
- **limit or stifle innovation and different models of supports** NDIS participants and their families are exploring and using effectively.

Making recommendations

The Taskforce has comprehensively outlined in this report the detail of concerns raised by the community, the disability sector and key stakeholders. The Taskforce has provided 11 recommendations and 10 Implementation Actions for consideration by Government about how a regulatory model for NDIS Provider and Worker Registration might be designed, with consideration to these concerns and the ideas and feedback heard during consultations.

The Taskforce believes that the framework provided in the discussion of Recommendation 17 of the NDIS Review provides a useful framework for understanding risk and that the registration categories as outlined should be used as the basis for most provider registration. However, it proposes not all providers, as defined in the NDIS Act, should be registered. Further consideration, including consultation with the disability community and sector is required to avoid unintended consequences.

[Table 1 \(Annexure A\)](#) provides a summary of a comprehensive graduated and risk-proportionate registration and enrolment framework. There are four categories of registration and a fifth category for purchase visibility only (no registration is required). The registration category makes no distinction between those operating in different environments, such as in-person or online, in an organisation or alone, and the category to be required depends on the services provided, including for example, through a platform provider. All SIL Providers must be subject to Advanced Registration, and this should be implemented immediately, noting the significant risk to participants of violence, abuse, neglect and exploitation in these services and the importance of Scheme integrity. This is urgent and could be done under the existing registration framework and should not wait for new arrangements to be developed.

The Taskforce's recommendations have a strong emphasis on protecting choice and control with mechanisms proposed to support arrangements for self-directed supports. With co-design with people with disability, a process should be developed whereby the



NDIS participant will register themselves for self-directed supports, and thereby all their support providers would then also automatically become registered and visible.

Government should invest in offering peer support and capacity building programs to engage in the NDIS regulatory framework, including for participants who self-direct their supports.

The Taskforce has made a number of other recommendations that would be applied in a graduated, risk-proportionate way, to improve and confirm provider obligations and provider processes. These are fundamental to making sure registration achieves quality and safety, supported by the recommendations to effectively implement a new regulatory model such as expanding core functions of the NDIS Commission, new legislative frameworks for provider and worker registration, strengthened complaints systems and better monitoring and compliance.

The Taskforce has designed its advice to provide a blueprint to introduce a human rights focussed Provider Registration Scheme and Worker Registration Scheme. Many design elements of the proposed schemes are required to be co-designed with people with disability, the sector and key stakeholders.

Based on the work we have conducted to date and engagement from stakeholders, we believe that it is worth the government taking the time to undertake this recommended work to bring to life a model that reforms the way people with disability, NDIS providers and government come together to create a once-in-a-generation shift toward ensuring quality and safe service for all Australians with disabilities.



1. Overview of the NDIS Act and Recommendation 17

The NDIS is a world-leading social policy that funds the care and support of Australians with disabilities. Introduced in 2013, the NDIS has changed the lives of people with disability, many of whom have received disability care and support for the first time in their life, due to the NDIS. The NDIS plays a central role in advancing the social and economic participation of people with disability.

Through the funding model, people with disability have been able to purchase goods and services that meet their needs. This has seen an important development in the disability services market where innovation has been encouraged. However, with this market approach, the role of quality and safeguarding measures is ever paramount.

The NDIS Act

The *National Disability Insurance Scheme Act 2013* (NDIS Act) is the legislation that establishes the:

- National Disability Insurance Scheme (NDIS)
- National Disability Insurance Agency (NDIA)³
- NDIS Quality and Safeguards Commission (NDIS Commission).⁴

At the time of writing, the NDIS Act was subject to amendment in the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 (Cth)*. The Taskforce acknowledges that the amendments are significant but noting they do not address the registration requirements, we have not considered the Amendment Bill in preparing this advice. The advice is based on the law as it currently is.

Central to our work, the NDIS Act establishes the role of the NDIS Quality and Safeguards Commissioner (NDIS Commissioner) and Commission. The functions and powers of the NDIS Commissioner include provision for Rules to establish:

- a Code of Conduct
- the registration of a NDIS Provider and Practice Standards that registered providers must meet
- the NDIS worker screening database⁵

³ *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act) section 117 establishes the NDIA and section 118 outlines its functions.

⁴ NDIS Act, section 181A

⁵ NDIS Act, section 181X



- reportable incidents and complaint processes
- regulatory powers to support compliance and enforcement activities

The effectiveness of the Commissioner has been subject to significant scrutiny since it began in 2018, with reviews including the Tune Review⁶, the Robertson Review⁷ and NDIS Review⁸, Joint Standing Committee on the NDIS Inquiry into the NDIS Quality and Safeguards Commission⁹ and Disability Royal Commission¹⁰, all making recommendations to improve the delivery of the functions of the NDIS Commission.

NDIS Review

On 18 October 2022, the Hon Bill Shorten MP, Minister for the National Disability Insurance Scheme and Minister for Government Services initiated an independent review to ensure the Scheme's sustainability and to put people with disability back at the centre of the NDIS.¹¹

Led by Professor Bruce Bonyhady AM and Ms Lisa Paul AO PSM, the NDIS Review looked at:

- the Scheme's design, operations and sustainability
- how to build a more responsive, supportive and sustainable market and workforce.¹²

In their final report, the NDIS Review made 26 recommendations with 139 actions. Relevant to our advice, the NDIS Review recommended:

Recommendation 17: Develop and deliver a risk-proportionate model for the visibility and regulation of all providers and workers and strengthen the regulatory response to long-standing and emerging quality and safeguarding issues.¹³

To give effect to this recommendation, there are six actions that the NDIS Review say are needed to support Recommendation 17:

⁶ 2019 Review of the NDIS Act: Removing Red Tape and Implementing the NDIS Participant Service Guarantee Tune Review, ([dss.gov.au](https://www.dss.gov.au))

⁷ Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020 ([Robertson Review](#))

⁸ NDIS Review: Working together to deliver the NDIS ([NDIS Review](#))

⁹ Joint Standing Committee on the NDIS. [NDIS Quality and Safeguards Commission](#). Australian Parliament

¹⁰ See [Final Report Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#)

¹¹ Media Release, October 2022, [NDIS 2.0: A new hope | Department of Social Services Ministers \(dss.gov.au\)](#)

¹² [Terms of Reference: Building a strong, effective NDIS | NDIS Review](#)

¹³ NDIS Review, p.215.



- Action 17.1: The **Department of Social Services** and the new **National Disability Supports Quality and Safeguards Commission** should design and implement a graduated risk-proportionate regulatory model for the whole provider market.
- Action 17.2: The **Department of Social Services** and the new **National Disability Supports Quality and Safeguards Commission** should develop a staged implementation approach to transition to the new graduated risk-proportionate regulatory model.
- Action 17.3: The **Australian Government** should amend the *NDIS Act 2013* to remove the link between a participant's financial management of their plan and the regulatory status of their support providers.
- Action 17.4: The **Department of Social Services**, working with the new National Disability Supports Quality and Safeguards Commission and state and territory agencies, should expand the coverage of worker screening requirements.
- Action 17.5: The **Department of Finance** and the **Department of Social Services**, working with the new National Disability Supports Quality and Safeguards Commission and state and territory agencies, should improve, streamline and harmonise worker screening processes for care and support workers.
- Action 17.6: The new **National Disability Supports Quality and Safeguards Commission** should be resourced to strengthen compliance activities and communications to respond to emerging and long-standing quality and safeguards issues, and market developments and innovation.¹⁴

At the time of writing, the Government had not provided a response to the NDIS Review with respect to their acceptance or otherwise of the recommendations and actions.

Advice on Recommendation 17

The Minister for the NDIS sought advice on Recommendation 17 from this Taskforce 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.

¹⁴ NDIS Review, pp.215-217.



In providing this advice, we are asked to consider the 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
- 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
- increase quality and innovation of services and supports for all NDIS participants.

A copy of our Terms of Reference is available in [Annexure B](#).

In accordance with our Terms of Reference, the Taskforce have had a strong focus on consulting with, and where possible, have co-designed with the disability community on the design and implementation of the new graduated risk-proportionate model. The Taskforce have also consulted with the NDIS provider market, workforce representatives including unions and other relevant stakeholders. A copy of our Consultation Report is available separately.

The advice prepared is designed to assist the Minister to continue to work with the disability community and sector to advance reform that advances the rights of people with disability.



2. Reflections and Core Principles

The Taskforce is grateful to all those who contributed to our work, especially people with disabilities and their families who have shared their stories and generously explained how they manage their supports.

In developing our advice, the Taskforce committed to engaging deeply with stakeholders, including people with disability and their families, advocates and supporters, providers, unions and other representative bodies. We placed emphasis on hearing from voices often unheard including First Nations people, women and girls, children and young people and the LGBTQIA+ community. Our advice reflects this, and our work has been strengthened due to these important contributions.

While the Taskforce was challenged to engage in a fulsome co-design process due to time constraints, we were capably assisted by five Advisory Working Groups (AWGs) of invited members, who we met with on a regular basis to test our ideas and thinking in a detailed way. The 5 AWGs were:

- Participant and Nominees
- Disability Care Workers and their organisations
- Providers and Regulators
- Academic and Policy Experts
- Intergovernmental (The Department of Social Services, NDIA and the NDIS Commission)

We observed throughout all engagements the deep commitment to the NDIS across stakeholders and an unwavering dedication to advance the rights of people with disability across Australia.

In developing our advice, the Taskforce has sought to strike a balance between eliminating violence, abuse, neglect and exploitation perpetrated against people with disability and centring choice and control for people with disability to manage their services to pursue their life goals and encouraging innovation in a thriving marketplace.

Principles of the advice

In developing this advice, the Taskforce have identified statements which underpin our overall view of the approach to strengthening regulation of disability support services, funded by the NDIS, in Australia. For clarity, we have provided them at the outset, but they are important across all topics addressed in this advice.

1. **Choice and control** or Participants when managing their supports is paramount.



2. **Visibility** of providers operating in the marketplace is essential to the regulator being able to observe behaviour, guide quality and intervene effectively and efficiently.
3. The **strengthening of regulation** must be built upon the recognition and realisation of the **human rights of people with disabilities** and recognise the opportunity that redesigning the regulatory approach presents to achieve this aim.
4. It is recognised that **pricing** plays a significant role in driving quality and fairness within the marketplace. While we do not make substantive recommendations with respect to pricing, respecting that there is other work underway in this area, including the 2024-25 Budget announcement that the Independent Health and Aged Care Pricing Authority (IHACPA) is undertaking initial work to reform the NDIS pricing data strategy and the Fair Pricing Taskforce, chaired by the ACCC,¹⁵ is addressing unreasonable price differentiation, we do want to be clear that **pricing must remain a priority** to see an uplift in quality, innovation and fairness within the marketplace.
5. **Mandatory registration** is central to our recommendations and is a key lever to strengthening regulation. The Taskforce has deliberately focused extensively on the scope of mandatory registration in the context of NDIS goods and services. We want to be clear that mandatory registration refers to the consistent requirement of NDIS providers to be registered. It does not require that all purchases with NDIS funding must be from a registered provider. The Taskforce is particularly concerned with strengthening the requirements for disability support services to enter the market with a certain level of quality and commitment to continuous improvement to be maintained to stay in the market and that the regulator has consistent and effective powers to remove providers from the market. Mandatory registration, in our view, is essential to achieving this.

The Taskforce is, consistent with inquiries before us, including the Disability Royal Commission¹⁶ and NDIS Commission's Own Motion Inquiry into Supported Independent Living (2022),¹⁷ **significantly concerned with the quality and safety of supported independent living delivered in group settings of participants**. That concern deepens where those participants have not chosen to live with each other or did not know each other prior to living together. We are not persuaded that the outcomes achieved in this type of support meet the needs of participants and are an appropriate use of funding provided by government or community expectations.

¹⁵ On 24 March 2024 the Minister announced the establishment of a joint NDIS Pricing Taskforce chaired by the ACCC: [Cracking down on overcharging of NDIS participants | Department of Social Services Ministers \(dss.gov.au\)](https://www.dss.gov.au)

¹⁶ See Disability Royal Commission Final Report, Volume 7 Part C pp. 639-651

¹⁷ NDIS Commission *Own Motion Inquiry into Supported Independent Living*, December 2022



3. Defining ‘Providers’ and the scope of registration

Recommendation 1

The Taskforce proposes that not all providers as defined in the NDIS Act should be registered. But to determine the best way to achieve that, and avoid unintended consequences, requires further consideration, including consultation with the disability community and sector. We anticipate that those who would not be registered would include, but not be limited to:

- a. unregistered providers who provide support to participants who are registered as having self-directed support
- b. goods purchased off-the-shelf from mainstream providers. In these instances, the visibility created through evidence of purchase should be sufficient.

Recommendation 2

The Taskforce acknowledges that visibility of payments is important to the integrity of the NDIS. To ensure visibility of NDIS funding, the Taskforce adopts Recommendation 10.3 of the NDIS Review, that the National Disability Insurance Agency (NDIA) should transition to fully electronic payments to improve the visibility of payments.

The legislative definition of a NDIS Provider underpins the regulatory model and is essential to determining the application of the proposed registration model and focusing the regulator’s powers. Currently, the *National Disability Insurance Scheme Act 2013* (Cth) defines a NDIS provider to be anyone who receives NDIS funding that is not a participant.¹⁸ While, under the current model, not all NDIS providers are required to be registered, they are all subject to the Code of Conduct and complaints can be made to the NDIS Commission for breaches to the Code of Conduct.¹⁹ The NDIS Commission is able to exercise regulatory powers against any NDIS provider, including to ban workers, issue infringement notices, enforceable undertakings and corrective action requests, undertake audits, injunctions and initiate civil proceedings.²⁰ The NDIS Commission can also revoke, vary, impose conditions or suspend registration of registered providers.

¹⁸ NDIS provider is defined in Section 9 of the *National Disability Insurance Scheme Act 2013* [Federal Register of Legislation - National Disability Insurance Scheme Act 2013](#)

¹⁹ The NDIS Code of Conduct is set out in the *National Disability Insurance Scheme (Code of Conduct) Rules 2018*. The Code applies to all NDIS Providers [Federal Register of Legislation - National Disability Insurance Scheme \(Code of Conduct\) Rules 2018](#)

²⁰ The Commissioner’s functions and powers are set out in s181D of the *National Disability Insurance Scheme Act 2013* (the NDIS Act). The NDIS Commission’s approach to enforcement including regulatory powers is also set out in its [Compliance and Enforcement Policy 2022](#)



Despite this broad definition, without registration, NDIS providers are not visible to the NDIS Commission or the NDIA. This hinders market intervention when needed and reduces the regulatory intelligence available to improve market performance.²¹ The Taskforce heard from various stakeholders, including unregistered providers, that the NDIS Commission should have oversight of all providers under the Scheme.²²

*Monitoring, complaints and feedback mechanisms would be an essential part of the regulatory intelligence framework that contribute to the overall success of the system.*²³

*The lack of effective regulation and monitoring of services is a contributing factor in this violence and abuse, including through the lack of visibility and regulation of unregistered providers as well as a lack of effective regulation for registered providers. These issues become even more critical for people who live or work in closed settings such as group homes or ADEs and may have limited informal support networks.*²⁴

Reflections from the NDIS Review

The NDIS Review recommended that all NDIS providers, as currently defined in the NDIS Act be registered or enrolled.²⁵ In their view, registration and enrolment would provide visibility of NDIS providers which is needed for effective market stewardship.²⁶ By maintaining the current definition and applying a mandatory registration scheme, a broad range of organisations would be included in the new registration model, from mainstream retailers where participants purchase consumables and low-cost Assistive Technology from suppliers such as Woolworths, JB Hi-Fi and Bunnings to specialist disability support services available nationwide.

The Taskforce spent significant time exploring the feasibility of registering and enrolling this considerable breadth of NDIS providers, noting that it would provide full visibility of where NDIS funding was spent. However, we found that there were significant unintended consequence of this approach, including that it would monitor the decisions of participants when spending their funding. Further, in our view, the purpose of a registration is to set quality and safeguarding within service delivery and visibility of providers.

We also investigated what enrolment would look like for major retailers and other mainstream organisations that do not have the primary purpose of providing goods or services to people with disability. While we felt assured that all organisations were

²¹ Meeting notes, NDIS Quality and Safeguards Commissioner

²² Submission, Unregistered Provider

²³ National Disability Services Submission, Page 5: National Disability Insurance Scheme Provider and Worker Registration Taskforce Submission

²⁴ Submission, Advocacy Organisation

²⁵ NDIS Review, Recommendation 17 Page 215

²⁶ NDIS Review, Figure 11 p.182, and Action 10.3 p.164



committed to ensuring services could continue to provide services to people with disability, there seemed to be an absence of value-add to the quality-of-service delivery by requiring enrolment.²⁷ There was also well-founded concern that the obligations imposed on these non-disability specific goods and services, such as major retailers, would, at best receive no value-add by the imposition of provider obligations such as the complaints process and at worst, would present such a dramatic impact on the business (such as requiring all staff of a major retailer to undergo worker screening for all employees) that it would see businesses stop providing goods and services to NDIS participants. The Taskforce also did not find evidence of significant concerns of abuse, neglect, exploitation or price gouging in these goods or services which would benefit from regulatory intervention. The Taskforce heard through submission that participants on the whole found mainstream services including supermarkets and online retailers more cost effective than registered providers and benefited from greater flexibility in delivery options to their location.²⁸

3.1 Defining the scope of a ‘Provider’ within the registration model

The Taskforce is of the view that **not all providers, as currently defined, should be registered**. However, the way in which this can be achieved—through redesign of the legislative definition of NDIS Provider—requires further work to avoid unintended consequences. This should be co-designed with people with disability, and it is paramount that the approach upholds the rights of people with disability.

Further consideration, following the Taskforce, needs to be given as to how to define the scope of providers to underpin the registration model.

By way of guidance, the Taskforce believes that a provider includes requiring an Australian Business Number (ABN) or equivalent, and to cover those who operate in Australia or internationally. We have heard that participants use providers overseas for consumables or therapies but also that some intermediary services are taken offshore²⁹ so need to be covered by the regulatory framework.

Under the current NDIS we use professionally regulated and qualified providers, who have consistently provided high quality, safe and evidence-based services to our daughter, despite their being based overseas, not having an ABN, and not being registered with the NDIS or AHPRA. These services have transformed her life.³⁰

²⁷ Providers and Regulators - Advisory Working Group Minutes

²⁸ Submission, NDIS Participant

²⁹ Meeting Notes, Registered NDIS Provider

³⁰ Submission, Parent



The Taskforce is clear that the following services and supports must be included in the registration model:

- A support or service **offered** by a person or entity **to** people with disability, including a participant or prospective participant.
- A support that is described as one of the following:
 - Provision of housing or home and living support
 - Supports a person with disability to live independently, including with shared supports with other people with disability
 - Provision of day programs in centre-based environments
 - Employment support provided to people with disability to find work or obtain skills and readiness
 - Australian Disability Enterprises
 - Provision of accommodation on a short-term basis or for respite services
 - Provision of in-home care and support services to a person to maintain their hygiene, mobility, social and economic participation
 - Support to access the community or engage in social participation
 - Intermediary services to support a person to manage their NDIS Plan, support services or financial management
 - Manufacture or sale of equipment or assistive technology, including modifications
 - Provision of disability-specific transportation services
 - Allied health and therapeutic services
 - Early childhood and early intervention services
 - Positive behaviour support practitioner support and implementation
 - Interpreter services
 - Health services, such as paediatric support or optometry
 - Capacity building support
 - Peer support programs and initiatives
 - Orientation and mobility services

Consideration should also be given to capturing disability supports and services not funded by the NDIS but provided to people with disability, which are not otherwise regulated for quality and safe service delivery to people with disability. Examples might include Foundational Supports when the final form is determined.

Understanding disability-related supports

Importantly, the scope of the registration model does not replace the scope of disability-related supports³¹. **There is a distinct difference between a disability-**

³¹ Part 5 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* outlines general criteria for supports and supports that will not be funded or provided



related support need which can be funded by the NDIS³² and what goods or services may be provided by a provider and so fall within or outside the scope of the registration model. A participant purchasing products and services in accordance with the NDIS Act and Rules as they need to meet their disability-related support needs is a different issue to determining which providers should be registered.

3.2 Ensuring visibility

We do hold the view that visibility remains paramount and recommend that this be achieved through the adoption of recommendation 10.3 of the NDIS Review to ensure visibility of payments is achieved at the point of payment.³³ The information collected should be shared with the NDIS Commission to ensure transparency and compliance and to build regulatory intelligence and facilitate proactive market intervention and guidance. In the event that Recommendation 10.3 is not adopted, alternatives to creating visibility of providers would need to be explored.

³² NDIS Act section 35(1)(a)

³³ Recommendation 10.3 of the NDIS Review: 'The National Disability Insurance Agency should transition to fully electronic payments and improve visibility of NDIS payments.' p.164



4. Provider Risk Framework

Recommendation 3

The Taskforce believes that the framework (figure 14) provided in the discussion of Recommendation 17 of the NDIS Review provides a useful framework for understanding risk. The Taskforce recommends that the registration categories, as outlined in the comprehensive graduated and risk-proportionate registration and enrolment framework at Table 1 (Annexure A), should be used as the basis for most provider registration.

The Taskforce proposes a risk-proportionate registration model. We recognise that a one size fits all approach to registering supports is not consistent with a modern approach to regulation and it does not support the progressive realisation of the human rights of people with disabilities. That is, deeming specific services to be inherently risky on the basis of the types of support services that are provided to people with disability, without consideration of other factors, is incomplete.³⁴

In this chapter, we set out our Provider Risk Framework and explain how risk should be determined. At the outset, we want to be clear that people with disability do not have risky lives. We express our deep concern that services in the disability support sector persist to present a significant level of risk to people with disability by way of their service design.

For example, in the view of the Taskforce, the inherent risk of the provision of supported independent living in group home settings is unacceptable and efforts must be made to evolve these models into services that recognise the human rights of people with disability and reduce and eliminate the risk of violence, abuse, neglect and exploitation from occurring.

We recognise that individual risk and service risk are separate but intersecting. We have heard that the risk in a service is likely to look different for each individual.

*Tailor risk management to individual needs and types of support, considering: risks at the individual level (age, communication, medical conditions, mitigating factors such as nature and extent of informal supports, appropriate supported decision making mechanisms in place); risks based on types of support (personal contact, potential adverse effects); the level of personal contact involved; the environment in which the support occurs (limited supervision, professional registration).*³⁵

In this respect, we need to be realistic about the effectiveness of registration as a tool to address or mitigate risk in service delivery.

³⁴ NDIS Review pp.212-213. Also NDIS Review Supporting Analysis Box 91 p. 927

³⁵ Submission, Provider Peak



*The providers we choose are registered with AHPRA. We are confident that there [sic] provision of support is just as safe and professional as any other who is registered with the NDIS. We have also heard of some very concerning practices in the current model by registered providers. A provider being registered with the NDIS does not mean that they will be any better than a non-registered provider.*³⁶

However, the Taskforce has found that there are disability support services that would be improved in terms of quality and safety with registration being imposed.

Principles of a proportionality of risk

The Taskforce has identified the following principles to underpin our Provider Risk Framework and the proportionality of risk which determines the categories of registration:

- **Human rights:** recognition and realisation of the UN Convention on the Rights of Persons with Disabilities³⁷, including the right to independent living³⁸, legal capacity³⁹ and being equal on the same basis as others⁴⁰, privacy⁴¹ and to be free from exploitation, violence and abuse.⁴²
- **Dignity of risk:** people with disabilities must have freedom to make their own choices, including through the use of supported decision making.⁴³
- **Developing high quality, innovative services:** ensuring that services are of a high quality and meet the needs of people with disabilities, including through innovative solutions.

Addressing individual and systems risk

The Taskforce is of the view that a participant-centred approach to capacity building and safeguarding that complements the regulation of providers and workers to improve outcomes for participants is essential.⁴⁴ This approach was core to the NDIS Quality

³⁶ Submission, Advocacy Organisation (quote from parent)

³⁷ Convention on the Rights of Persons with Disabilities and Optional Protocol [Full text of convention](#)

³⁸ Ibid, p. 13, Article 19 *Living independently and being included in the community*

³⁹ Ibid, p.10, Article 12 *Equal recognition before the law*

⁴⁰ Ibid, p. 7, Article 5 *Equality and non-discrimination*

⁴¹ Ibid, p. 15, Article 22 *Respect for privacy*

⁴² Ibid, p. 12, Article 16 *Freedom from exploitation, violence and abuse*

⁴³ In April 2023, the NDIS Quality and Safeguards Commission published its policy on supported decision-making, [Supported decision making policy | NDIS](#).

In 2023, the Disability Royal Commission also published a research report making recommendations into improving how supported decision making can be implemented, including law reform: [Diversity, dignity, equity and best practice: a framework for supported decision-making | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#). The results of this research were reflected in Volume 6 of the Disability Royal Commission's Final Report.

⁴⁴ The NDIS review noted that a focus on regulatory arrangements has seen both capacity building and supports to strengthen natural safeguarding slow to emerge, p. 889 – [NDIS Review Supporting Analysis](#)



and Safeguards Framework 2016⁴⁵ and the need for this approach has continued to be clear in our work and underpins our Provider Risk Framework.

*Improve access to capacity building to ensure that people with disabilities and our nominees understand our responsibilities and the risks associated with self-management and directly engaging support people.*⁴⁶

The risks identified at an individual level or risks that are found in types of support need to be subject to developmental, preventative and corrective actions.

Recognising individual risk

People face individual risk that can impact their safety when engaging with and receiving supports. The Taskforce is clear that disability, in and of itself, is not a risk factor. Instead, we have heard that people with disability experience risk due to the poor quality supports and services they receive and the circumstances they are in.

*Registered providers are not as flexible or available in my area. By using unregistered retired providers, who only work for me some hours a week and one who does other jobs, I have shifts covered. Registered provider companies are reliably unreliable and give little notice. I can't risk not having workers help me get up and go to bed.*⁴⁷

*...by having the ability to self manage, I have been able to source, engage and train workers who are specifically suited to cater to each of our individual, unique needs. The type of support worker required for myself, as a 59 year old female living with C2 incomplete tetraplegia is very different to the type of support worker that is required by my 21 year old or my 25 year old son.*⁴⁸

*The suggestion of categorising participants into classes of disability not only oversimplifies the complex spectrum of disabilities, but also undermines the inherent dignity of individuals by reducing them to mere classes. This approach fails to recognise the unique strengths, challenges, and aspirations of each person and their informal networks removing their agency and autonomy in defining their own identity, support needs and risk mitigation strategies.*⁴⁹

The risk may be temporary or ongoing until their circumstances change. When considering individual risk, evidence shows that those living at the intersections of marginalised groups often experience additional risk.⁵⁰

⁴⁵ NDIS Quality and Safeguarding Framework, p. 6 [NDIS Quality and Safeguarding Framework \(dss.gov.au\)](https://www.ndis.gov.au/quality)

⁴⁶ Submission, NDIS Participant

⁴⁷ Submission, NDIS Participant

⁴⁸ Submission, NDIS Participant and Parent nominee

⁴⁹ Submission, Unregistered Provider

⁵⁰ Disability Royal Commission Final Report Volume 3, outlines data and examples on the incidence of violence, abuse and neglect for people with disability, [Disability Royal Commission Final Report Volume 3, p. 11](#).



The Taskforce has heard that when people with disability experience certain circumstances, their risk when receiving supports and services escalates dramatically. These circumstances can include poverty, unemployment, family and domestic violence⁵¹, backgrounds of trauma and abuse and geographic isolation.

*NDIS participants with complex and acute needs require additional safeguards if they: use alternative methods of communication and/or communication devices; do not have active family and/or social supports; have a history of trauma.*⁵²

*Additionally, participants must have access to Navigators with specialised expertise – for example, specialist knowledge in gender-based, family and domestic violence – in order to ensure they can receive supports and services that are responsive to their needs.*⁵³

*Poverty focuses Anangu (both people with disability and their family-based carers) on their immediate needs rather than allowing them to invest time in things that may be of benefit in the future, such as therapeutic services.*⁵⁴

Isolation and segregation

One of the greatest risks that the Taskforce has identified from published research, inquiries⁵⁵ and submissions provided by individuals and their families in these circumstances is the risk that comes with isolation.⁵⁶

For example, the *independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020* (Robertson Review) concluded that:

*One ‘mechanism’ which may have guarded against the particular vulnerability of Ms Smith, arising from her immobility, isolation and a sole carer providing at-home services, would have been the interest of neighbours or other members of the community or of friends and relations.*⁵⁷

When a person with disability is required to live in accommodation, work or be educated in a segregated setting that does not have genuine and close connections to communities, does not encourage the person to be an active citizen or fails to support a

⁵¹ Disability Royal Commission, Volume 3, p. 152 ‘Of First Nations men and women with disability aged 15 to 64, women were more than twice as likely to report that their current or previous intimate partner was the perpetrator of physical harm against them in the last 12 months (53 per cent and 25 per cent, respectively).’

⁵² Submission, Registered Provider

⁵³ Submission, Advocacy Organisation

⁵⁴ Submission, Registered Provider

⁵⁵ *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020* ([Robertson Review](#))

⁵⁶ Isolation was discussed as a risk factor in many consultation activities including meetings, roundtables and in submissions.

⁵⁷ *Independent review of the adequacy of the regulation of the supports and services provided to Ms Ann-Marie Smith, an NDIS participant, who died on 6 April 2020* ([Robertson Review](#)), p.42.



person to live an ordinary life, the likelihood of that person being a victim of violence, abuse, neglect or exploitation is significantly increased.⁵⁸The Taskforce has been extremely alarmed to hear of many disability support organisations that offer services that perpetuate the segregation of people with disabilities.

Witnessing the very adverse impacts on people with a disability of a large powerful service provider within a small community such as segregation, negative labels and assumptions, low expectations and the disrespect of people's individual needs and identity convinced us as a family that the way to safeguard our daughters life was to engage support outside of any such system.⁵⁹

It is incumbent on disability support organisations, in our view, to ensure that the services offered do not create individual risk to people with disability by encouraging, facilitating or designing isolation as part of their service design.

Natural safeguards

Even where people with disability are not isolated per se, the Taskforce has heard that risk will occur where the person does not have natural safeguards in their life.

The NDIS Provider and Worker Registration Taskforce should recognise the crucial role that natural safeguards play alongside formal systems. It should develop a new regulatory model that reflects and promotes the importance of freely given relationships and the need to both prevent harm and enable participants to live good meaningful lives in community. And it should demand this of providers.⁶⁰

Natural safeguards include having family and friends around a person, being involved in local activities and enabling self-advocacy so that the person knows when and how to speak up for themselves. We have heard that some supports reduce natural safeguards by separating people with disability from their family and friends or by not encouraging active involvement in local communities and instead creating heavy reliance on paid supports.

⁵⁸ The NDIS Commission's 2022 *Own Motion Inquiry into Aspects of Supported Accommodation* identified higher levels of incident reporting in closed group settings. Although the Inquiry was limited to 7 providers, these providers represented 18% of all NDIS participants receiving SIL across Australia. The Inquiry found that 85% of all reportable incidents notified by these providers occurred in group home settings, with the remainder occurring in other settings. Also, the Disability Royal Commission, Final Report (Vol 3 Chapter 9 p.256) stated that due to lack of data, they relied on evidence provided to the Commission for their findings on segregated settings: *'There is minimal data available about the violence, abuse, neglect or exploitation occurring within segregated settings and services. We therefore rely on evidence and information provided to the Royal Commission to set out the nature of people with disability's experiences in these settings.'* Volume 3 goes on to note that *'In 2020–21, more SIL and SDA recipients than those without these supports were subject to serious injury, unauthorised use of restrictive practices, allegations of unlawful physical/sexual contact, and alleged abuse and neglect'* (Vol 3 p.267).

⁵⁹ Submission, Parent

⁶⁰ Submission, Disability Representative Organisation



So for example, a traditional group home setting, where multiple people with significant need are supported in a congregate care setting, with rostered staff, where those participants do not have natural safeguarding relationships individually is the highest risk context. Whereas the lowest risk context is where people are immersed in community with lots of natural safeguarding relationships around them, including eyes on the ground in their day-to-day world, are the least risky contexts.⁶¹

...there has been a lack of investment in consumer rights capacity building for people with disability as end users of the scheme. Building the skills of people with disability to be informed and confident participants, to ensure that people with disability are able to successfully navigate the NDIS and are empowered to do so is crucial to success....and ... Greater investment is needed in peer support, community access, community visitor programs and advocacy to reduce risk and support people to navigate systems.⁶²

The implementation of the NDIS has placed an emphasis on individualised supports, which is at odds with First Nations culture and values of placing family and community first.⁶³

People with disabilities who are part of their communities have friendships and networks beyond service providers that can both identify concerns and provide support.⁶⁴

The Taskforce acknowledges the importance of developmental and preventative action needed to continue to reduce individual risk when it is present. The Taskforce encourages a balanced incorporation of safeguards into the new registration model from natural safeguarding through to regulatory intervention.

Risks based on types of supports

Different from individual risk, the Taskforce acknowledges that certain types of support can present risk. First and foremost, the Taskforce has heard that some supports have inherent risk because of what could happen to a participant or worker if something goes wrong in the delivery of support.

Safety hazards NDIS workers sometimes face are physical, such as manual handling, slips and falls and workplace-related violence, but also psychosocial, such as stress, burnout, vicarious trauma, bullying and unpredictability of work.⁶⁵

⁶¹ Meeting notes, Academic

⁶² Submission, Advocacy Organisation

⁶³ Submission, Advocacy Organisation

⁶⁴ Submission, Advocacy Organisation

⁶⁵ Submission, Advocacy Organisation



For example, if a participant requires medication management and is given the wrong medication, then they can become very sick. Or, if a worker is providing manual handling assistance, the risk of injury can increase.

*As such, my son's life was thrown into turmoil. He became progressively dysregulated, could not tolerate the mixture of the excessive drugs administered to him and subsequently required hospitalisation.*⁶⁶

Personal care

In the delivery of supports where there is personal contact or intimate care provided, the Disability Royal Commission has found that there is an increased risk of violence or abuse occurring, and this is especially the case for people with disability who may be isolated or living in segregated or separate settings.⁶⁷ The Taskforce recognises that this risk intersects significantly with individual risk and where a person experiences lower individual risk and is, in particular, able to advocate for themselves and is able to seek help if something goes wrong, the risk is minimised. The Taskforce heard that risk assessment should be individualised. It should not be informed solely by the providers perspective but also by other relevant factors including the capability of the Participant and their setting as well as their connection to informal support networks.⁶⁸

However, the Taskforce accepts that even where individual risk is very low, the evidence suggests that providing brings an increased risk of violence and abuse as current data shows that people are more likely in these scenarios to be taken advantage of compared to other types of disability support such as community participation.⁶⁹

The risk in personal care supports increases the longer it is provided. For example, a participant who receives 1 - 2 hours of personal care per day may be at less risk than someone receiving personal care 24 hours per day. The Taskforce expresses our deep concern and disappointment that the risk in the delivery of personal care services persists in modern times. This reflects extremely poorly on those organisations and workers who perpetrate against people with disability when they are providing supports on which the person is dependent. Unlike other risk factors in supports, such as negative outcomes that can occur through poor service delivery (and which may only ever be able to be mitigated so far), the Taskforce does not accept that there must be an inherent risk in the delivery of personal support services. Significant effort must be undertaken to address this and to ensure that organisations and workers do not exploit

⁶⁶ Submission, Parent

⁶⁷ Disability Royal Commission, Final Report Volume 10, pp.60-61 and also NDIS Commission Own Motion Inquiry into Aspects of Supported Accommodation 2022.

⁶⁸ Submission, NDIS Participant

⁶⁹ The NDIS Commission's 2022 *Own Motion Inquiry into Aspects of Supported Accommodation* identified higher levels of incident reporting in closed group settings.



the apparent opportunity that arises to perpetrate crimes against people with disabilities when providing personal care support services.

Closed settings

Similar to the risk of isolation increasing a person's individual risk factors, the environment in which services are delivered adds a layer of risk to the service type. When a service is offered in a closed environment, without external visibility or direct supervision, the Taskforce has heard that risk can increase.

The environment in which the support occurs, particularly if it lacks external visibility or direct supervision, or if the support does not require professional registration, can pose a higher risk of abuse for participants.⁷⁰

The Taskforce accepts that some supports will always be delivered alone to a person and, as is the case with the delivery of personal support services, that brings an inherent risk that violence or abuse may occur. This is very disappointing and causes deep concern. As such, the Taskforce emphasise that preventative actions such as through worker training, screening and reportable incidents need to be undertaken to minimise this risk. Those preventative actions are discussed in [Chapter 8 NDIS Provider Obligations and Processes](#).

High risk supports

Upon examining the current offerings of disability support services, the Taskforce has noted the following supports and services to be so inherently risky due to the opportunity for violence, abuse, neglect and exploitation of people with disability, providers offering them will need to register to deliver high-risk supports:

- Behaviour support and restrictive practices (authorised or unauthorised)
- Specialist Disability Accommodations
- Plan management
- Support coordination (including specialist support coordination)
- Early childhood supports and therapies

Oversight in larger organisations and conflict of interest

Further, the Taskforce observed evidence of concern that some risk may occur in some large organisations, who offer different types of disability support services provided to a large client base. Principally, the risk lies in the inability of the service to know and have thorough oversight of an NDIS participant's needs in these large scale and often dispersed operations.

⁷⁰ Submission, Provider Peak



The larger organisations employ primarily young, inexperienced staff with high staff turnover that means they are unable to provide continuity of services. This is a common complaint directed at large providers from NDIS participants.⁷¹

In all of my experience NDIS registration or government approved and funded organisations, particularly those that are large - are unable to provide good support for those with disabilities due to their focus on rules and regulations - but not on people - so in the end the ones who miss out are the people!!⁷²

The Taskforce acknowledges that many large service providers deliver quality services and do the right thing, and we recognise the importance of having large scale providers to meet the needs of people with disability and contribute to the NDIS market.

However, during our consultations, we heard concerning stories that people with disability who have used these styles of services have not had their individual needs met, have not received adequate (or any) response when an incident has occurred or have received services that are in conflict such as personal care support and support coordination by the same organisation. One Participant shared their experience of workers who were not fully trained to deliver their specific supports let alone accommodating their personal preferences due to workforce shortages but also challenges in worker training matching the individual needs of Participants.⁷³ The Taskforce also heard from the parent of a Participant, who shared concerns regarding the lack of oversight of a worker who had not disclosed incident reporting or requested approval for medical testing for their child.⁷⁴

Notwithstanding that the Practice Standards require where a specialist disability accommodation (SDA) provider is delivering both SDA and other NDIS supports to the same participant that there are separate service agreements, the Taskforce, like the NDIS Review, heard these concerns about conflict of interest in the provision of housing/accommodation supports and living supports, for SDA, but also for non-SDA accommodation such as SIL homes and recommended mandating the separation of SDA and living support providers.⁷⁵

Too many people are becoming trapped by providers who are offering all services such as support workers, housing and support coordination despite obvious conflict. This limits a participants' ability to seek support or guidance outside of this provider and makes providing feedback near impossible.⁷⁶

⁷¹ Submission, Parent

⁷² Submission, Guardian

⁷³ Submission, NDIS Participant and Parent

⁷⁴ Submission, Parent of NDIS Participant

⁷⁵ NDIS Review, Supporting Analysis, p.637

⁷⁶ Submission, Registered Provider



4.1 Incorporating risk into the model

With this understanding of risk, the Taskforce has recommended that there be 4 categories of registration which reflect a graduated risk-proportionate approach:

- **Advanced Registration:** Providers who offer high-risk supports and services such as supports delivered in high-risk settings, such as daily living supports delivered in formal closed settings like group homes.
- **General Registration:** Providers who offer medium-risk supports such as high intensity supports (such as high intensity daily personal activities), supports that require additional skill and training (such as complex bowel care or injections) and supports involving significant 1:1 contact with people with disability.
- **Self-Directed Support Registration:** Participants, their guardian or legal representative who direct contract all of their supports, including through direct employment, Services for One and independent contractors.
- **Basic Registration:** Providers who offer lower-risk supports such as some sole traders and supports such as social and community participation and supports involving more limited 1:1 contact with people with disability.

We note that a **fifth category** is included in the proposed model (Table 1, [Annexure A](#)) but it does not require registration; **Purchase Visibility only**. This is for goods from mainstream retailers where there is no support provided to the participant, with visibility provided via the purchasing arrangements.



5. Registration categories

The purpose of this Chapter is to explain these categories from what we have heard in our engagement and in light of recent findings of the critical work of the Disability Royal Commission. However, we note at the outset that prior to implementation, the full scope of the categories of registration needs to be co-designed with the disability community and sector and so we do not seek to be overly prescriptive. Further, it is important to read this chapter together with [Chapter 8](#) which details Provider Obligations.

As discussed in [Chapter 3](#), the categories of registration are not proposed to apply to all providers as would be caught by the current legislative definition. As noted, the Taskforce believes the best way to achieve the scope of providers to which these categories will apply, in order to avoid unintended consequences, requires further consideration, in consultation with the disability community and sector.

The NDIS Review's approach

As discussed in [Chapter 1](#), the NDIS Review recommended that all providers be registered or enrolled. The NDIS Review held significant concerns about the rise in unregistered providers because of their lack of visibility to the regulator.

The Taskforce have considered the NDIS Review's proposed model in significant detail. This model has formed the basis for much of our work, to test what would work with the disability sector and disability community. We found that the model provides a useful framework and should be used as the basis for most provider registration.

The design of the current system: reflections on registered versus unregistered providers

Currently, NDIS providers are a mix of registered and unregistered providers. NDIS providers are an important part of the market, as competitors, but also with scale to support workforce training and development, explore innovative and alternative service delivery models and to promote and support the lived experience workforce. They are an important component in the successful exercise of choice and control by people with disability, which is at the core of the NDIS.

Mandatory registration is already imposed for those providing SDA, behaviour supports, and restrictive practices.⁷⁷

The Taskforce has heard of service providers voluntarily registering to reflect their commitment to achieving the highest quality and safety within their service offerings.

⁷⁷ *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*



Others have told the Taskforce that the cost and lengthy process of registration is cost-prohibitive and does not add value to their business.

*I am unregistered as it would not be able to be financially sustainable to gain registration in the current process.*⁷⁸

*When I started as an independent, I wanted to get registered, as this was important to me to ensure I was not only doing a job to the best of my ability, but also ensuring that I had the approval from the NDIS to say I was doing everything appropriately to the guidelines, however, this has been unachievable for me [due to cost].*⁷⁹

The Taskforce is of the view that the current registration process is not fit for purpose and fails to encourage better quality or adequate safeguards in service delivery. Providers and participants alike agreed with this view through our engagement with them. Some unregistered providers suggested there was no benefit to registering in the current scheme because it was slow, cumbersome, and participants didn't distinguish between registered and unregistered providers.⁸⁰

In terms of market share 'unregistered providers' are large in number, estimated to be over 154 000 compared to around 16,000 registered providers.⁸¹ From our engagement, we identified that the most likely reasons for operating without registration are cost, time involved and process to become registered and a perceived or actual lack of flexibility in service delivery once registered. Specifically for therapists providing NDIS services, these three reasons - cost, delays, audit burden (among others) are why therapists have elected to be unregistered in the current system and have often chosen not to renew registration once they have experienced it.⁸²

*There is no line number that specifically caters to my industry, therefore we have a concern that getting registered could further restrict what we could charge.*⁸³

Outside of these reasons, the Taskforce have been concerned by a growing number of providers who have declined to become registered for unethical or concerning reasons. For example, to avoid providing services to certain people with disabilities, who require agency-managed NDIS Plans. It was put to the Taskforce that this group of people with disability required more significant care and support which exceeded what the provider

⁷⁸ Submission, Unregistered Provider

⁷⁹ Submission, Unregistered Provider

⁸⁰ Submission, Unregistered Provider

⁸¹ NDIS Review Final Report, p.207. This noted that in the period April 2022 to June 2023, over 154,000 unregistered providers received a payment from a Plan Manager and that the number of unregistered providers is likely higher.

⁸² Submission, Unregistered Provider

⁸³ Submission, Unregistered Provider



was set up to do and so they used their non-registered status as a shield to hide from these people with disability. The Taskforce express concern about this approach.

A cultural side effect of the current registration system is that NDIS service providers are divided by the identity of 'registered' and 'unregistered' providers. Often, commentators seek to have one prevail over the other.

The Taskforce observed that at times the divide between types of providers was significant. There was often debate as to whether unregistered providers were unseen and dangerous or whether registered providers were 'wolves in sheep's clothing'. The Taskforce observed this divide to be toxic and in many instances, the debate was weaponised against people with disability and service providers alike.

The Taskforce observed the impact this was having on provider registration issues within the NDIS and how they are publicly reported, which included perpetuating a narrative that the NDIS is losing integrity. When looking beyond the commentary, the evidence provided to the Taskforce demonstrated that neither registered nor unregistered providers outperformed the other. Both types of providers presented great service options in almost equal measure to significant concerns of quality and safety. In our view, this construct to divide the providers based on registration was merely another indicator of a system that is failing in part to serve the people who matter most, people with disability. The Taskforce also acknowledge the significant anxiety and distress that has been experienced by many people involved in this conversation, especially those with disability.

An improved registration system

Ultimately, one of the most significant barriers that the Taskforce had to overcome was the understanding of what a future registration model would look like. For some people and providers, it has been unimaginable to consider a registration system that would not impose significant costs and time burdens. The Taskforce has been especially disappointed by providers who have told their clients that they would never register and so if the Taskforce recommended a registration model, the service would end; no matter what the registration process would look like.

They will simply leave the NDIS market. There is no incentive to do unbillable hours work as a mainstream business to enrol or register. The demand for their services is such they don't need NDIS.⁸⁴

This type of scaremongering and misinformation was unprofessional and in some instances, unethical.

⁸⁴ Roundtable Participant



When people and providers engaged with the Taskforce to explore what a registration system could *not* look like and what would add value, it was much clearer as to how we could design a system that was efficient and effective that worked for everyone. The Taskforce has been grateful for those who engaged with us in this way, at times, despite their anxiety and concern for their lives or livelihoods. We acknowledge that it has not been easy.

5.1 Registration categories explained

5.1.1 Advanced Registration

Advanced Registration is the strictest form of registration, imposing the most obligations on the provider. This category is designed to demand the utmost quality and safety in the services provided to recognise and respond to the risk in the services, whether capable of mitigation or inherent.

Providers who deliver services in congregate or closed settings will fall within this category. This includes behaviour support and supported employment. The Taskforce recognises that these supports and services can restrict the rights of people with disability and expose them to risks including isolation, reduction in natural safeguards, minimised community participation and little opportunity for capacity building. For completeness, the Taskforce acknowledges that the Disability Royal Commission found services delivered in congregate or closed settings placed unacceptable limitations on the lives of people with disability, and while there was disagreement about the timeframes for implementation, all Commissioners agreed they should be phased out.⁸⁵

The NDIS Commission's *2022 Own Motion Inquiry into Aspects of Supported Accommodation* identified higher levels of incident reporting in closed group settings. Although the Inquiry was limited to 7 providers, these providers represented 18% of all NDIS participants receiving SIL across Australia.⁸⁶ The Inquiry found that 85% of all reportable incidents notified by these providers occurred in group home settings, with the remainder occurring in other settings.⁸⁷

The Inquiry also identified a number of risk factors in supported accommodation settings that heightened exposure to risks of violence, abuse, neglect and exploitation including:

- many residents have an intellectual disability
- many residents have high physical support needs, and/or dependence on others for most aspects of their daily living needs

⁸⁵ Disability Royal Commission, Final Report – Volume 7 Inclusive education, employment and housing Part C – p.648.

⁸⁶ NDIS Commission, Own Motion Inquiry: Aspects of Supported Accommodation in the NDIS, p.5.

⁸⁷ NDIS Commission, Own Motion Inquiry: Aspects of Supported Accommodation in the NDIS, p.46.



- participants who display what are termed ‘behaviours of concern’ or ‘challenging behaviours’ commonly reside in supported accommodation
- residents may have fewer connections to family, community and a range of informal safeguards

Residents may have considerable difficulty and no support in making complaints, including because of a number of the factors listed above.⁸⁸ Specific recommendations are made about Group Homes in [Chapter 6](#).

It is important in our view that the findings of the Disability Royal Commission and Own Motion Inquiry are considered in all areas of policy-making, acknowledging the significant body of evidence which sits behind those findings.

5.1.2 General Registration

General registration is designed to capture high intensity supports (such as high intensity daily personal activities), supports that require additional skill and training (such as complex bowel care or injections), and supports involving significant 1:1 contact with people with disability. These high intensity supports are provided in the community or private settings, distinguishing them from those that fall within the Advanced Registration category. Further, it is noted that if a Participant self-directs high intensity support, the Self-Directed Support Registration Category applies to those supports.

The Taskforce anticipates this category will capture most of the current disability support services that are delivered in-home or in the community. The Provider Obligations (see [Chapter 8](#)) set a benchmark of quality expected in these services that are in the business of servicing NDIS participants. Examples of these types of services include personal care, community access, disability-specific transport services and therapy.

We have heard that people with disability have a diverse range of supports and services that they look to purchase for their everyday support needs.

People with disability have diverse support needs and preferences in who supports them and how they are supported.⁸⁹

I purchase consumable continence supplies, miscellaneous assistive technology products and utilise community access via wheelchair from non-registered providers regularly. The reason I do this is not only for convenience of purchasing local and being able to save money but also out of necessity where there are no registered providers.⁹⁰

⁸⁸ NDIS Commission, Own Motion Inquiry: Aspects of Supported Accommodation in the NDIS, page 102.

⁸⁹ Submission, Parent

⁹⁰ Submission, NDIS Participant



The NDIS consumables category is designed to facilitate the purchase of ‘everyday items you may need because of your disability support needs.’ This category has facilitated the provision of a vast range of low-cost vision aids and equipment. However, it has also enabled the delivery of more innovative supports in a rapidly developing market. One such example is AIRA, a ‘visual interpreting service’ which connects users with a trained agent via a smartphone or computer.⁹¹

The Taskforce intends there to be a baseline of quality and safety in services that are offered to NDIS participants. For example, this category of registration requires worker screening of workers which will lift the checks and balances of workers’ criminal history to a consistent baseline. This is important for people with disability and their families to be able to make informed choices of their disability support services.

Through registration, the NDIS Commission will have clear visibility of services which, like other categories of registration will enable a supportive relationship between the NDIS Commission and providers to be formed to develop a model of continuous improvement and innovation in service delivery and build trust.

5.1.3 Self-Directed Support Registration

As discussed in [Chapter 7](#), self-directed supports are a critical and valued approach to managing support services under the NDIS. This registration category will apply to the participant or guardian or other person with legal authority for the direct contracting of all supports. This includes for family members of children under 18 years with legal responsibility for the child. The central characteristic of the arrangement is that the participant (or their representative) directly employ or contract their own supports, including through independent contractors.

The types of supports managed through self-direction vary, but the safeguards in place often mean that the risk to the participant is lowered, including a high level of natural safeguards, understanding of rights and control to stop and start the services as needed. It is also recognised that while it is important for self-directed supports to be recognised within the regulatory framework, the treatment of participants who self-direct their supports is different to providers in terms of the Provider Obligations and Processes (see [Chapter 8](#)) that ensure that registration adds value and drives quality and safety in the arrangements.

A participant (or their representative) can register to self-direct any supports, unless they fall within the Advanced Registration category and so include, for example, behaviour support, restrictive practices or are a Group Home. These supports will be subject to Advanced Registration regardless of self-direction. The reasons for this are to avoid a loophole of a provider exploiting participants by using their self-direction to propagate

⁹¹ Submission, Advocacy Organisation



these arrangements without undergoing significant registration requirements. We recognise that this approach would benefit from co-design with people with disability who would fall within this category to ensure that it is implemented in a way that does not limit their choice and control. It is not the Taskforce's intention to arbitrarily curtail participant choice and control but we are mindful that extreme care would need to be taken in exempting services from the Advanced Registration category. It is important to note that we have heard that few participants self-direct supports that fall within Advanced Registration. Those that do use restrictive practices told us that undergoing Advanced Registration was agreeable given the risk involved in those supports⁹² however, further exploration of this would be beneficial.

We hope that by creating visibility to the NDIS Commission an opportunity arises to develop a relationship between the participant and the NDIS Commission which supports people with disability to self-direct their supports. To aid in this, we propose the establishment of a Self-Directed Support branch within the NDIS Commission, which is discussed in more detail in [Chapter 10](#).

5.1.4 Basic Registration

Basic registration offers a light touch registration for lower-risk supports. These include sole traders and supports such as social and community participation and supports involving more limited 1:1 contact with people with disability. The Taskforce heard from a Participant who highly valued mainstream local services for low-risk support as it provided greater connection with their community and supported their goals.⁹³

We have heard that there is a need for Providers to be able to register in a light touch category when delivering lower-risk supports so that they are visible to the NDIS Commission, but it is not feasible or a value-add to undergo the same Provider Obligations and Processes as other Registration Categories. The Taskforce also heard that mainstream services that didn't require entry into the home, such as gardening, should not require registration as this may act as a disincentive to the services being provided and also impact connection to informal supports.⁹⁴

This category continues, like other categories of registration, to strike an important balance between visibility and bringing providers into the regulatory framework while also ensuring that it is workable for providers to meet the Obligations and Processes.

*Think about which providers need to be registered but give flexibility to other providers who are lower risk. Choice and control is fundamental and has to work.*⁹⁵

⁹² Meeting notes, Service for One provider

⁹³ Submission, NDIS Participant

⁹⁴ Meeting notes, Academic

⁹⁵ Participants and Nominees - Advisory Working Group Minutes



5.1.5 Purchase visibility only

The Taskforce agrees with the NDIS Review that visibility of goods and services is important to the overall effective regulation of the NDIS market. However, the Taskforce does not want this to be confused with monitoring of participants' decision-making when deciding what goods and services meet their disability-related needs. We have explained this important distinction in [Chapter 4](#).

The Taskforce acknowledges that legislative Rules apply to what participants can and cannot spend their funds on. If this comes into issue, the NDIA are best placed to respond through the planning process. It is not the role of the NDIS Commission as the Regulator to do so.

Purchase visibility is not created through registration but where goods are purchased from 'mainstream' retailers. Where there is no support provided to the participant, visibility is provided to the NDIA via agreed purchasing arrangements, including invoices or receipts. Examples include a ramp purchased from a hardware store, headphones from an electronics store or dog food for a Guide Dog from a pet store. A Participant submitted that mainstream suppliers of supports were often cheaper and that requiring Participants to only use registered providers would add to the costs of the Scheme.⁹⁶

For example, what risk does [Supermarket] pose when people go in to buy incontinence products? It's interesting reading the legislation and thinking about it. If we're talking about risk-proportionate, and that provider isn't a risk at all, why would they have to do anything in relation to this?⁹⁷

As this is not a specific registration category, there are no Provider Obligations or Provider Processes that apply.

⁹⁶ Submission, NDIS Participant

⁹⁷ Participants and Nominees - Advisory Working Group Minutes



6. Inclusion of types of providers

Recommendation 4

As registration is required of all NDIS providers, there is no distinction between those operating in different environments such as in-person or online, in an organisation or alone. Platform providers should be required to be registered. The registration category depends on the services provided through the platform.

Recommendation 5

Group Homes should be subject to unannounced visits and the NDIS Commission should have a statutory right to enter the premises.

- a. All providers of Supported Independent Living (SIL) and Home and Living supports should be seen as requiring registration as a matter of urgency (within 12 months). This should be implemented immediately, noting the significant risk to participants of violence, abuse, neglect and exploitation in these services and the importance of Scheme integrity.
- b. Registration of SIL and Home and Living supports should be done under the existing registration framework and should not wait for new arrangements to be developed.
- c. In the future registration scheme providers of SIL and Home and Living should be required to have 'Advanced Registration' under the proposed registration framework.

The Taskforce do not distinguish between the different modes of service providers, for example, those with a physical presence, operating on an online platform or sole traders. In our view, consistency is important, and categories of registration should be determined on a risk-proportionate basis. Our view on how risk is used proportionally is discussed in [Chapter 4](#).

6.1 Application to different types of providers

Platform providers

The Taskforce acknowledges the important innovation that platform providers have introduced to the provision of disability support services. The Minister has sought specific advice on the arrangements for platform providers.

We acknowledge that the difference between a traditional provider and a platform provider goes beyond the physical presence, and we have observed that platform providers have offered a way for participants to be more directly involved in finding



support workers and deciding what works well for them. We have heard how the use of platform providers has brought new options to the flexibility of choice and control to people with disabilities wanting to have more say in whom their supports are provided by, without the administrative complexity of self-directing supports.

The majority of [participant's name] Support Workers are from through the online platform, [platform provider] which allows for advertising, recruitment, screening, shift bookings and approvals. This platform enables me to work with [participant] to build and coordinate [participant's] support Team. Outside of this we employ 1 support worker directly for Saturday activities. This staff member has voluntarily enrolled as a Support Worker.⁹⁸

People with intellectual disability and families want different things for their lives than what they've been getting for a very long time, i.e. group homes and group activities. Using platform providers helps them to gain that extra choice and control. Large providers don't always provide the range of services they are seeking.⁹⁹

We have learned from several participants that using a platform provider can make them feel empowered to manage their own supports on their terms and that the peer support from some providers helps you to get started on your journey to a flexible and independent way of life. A parent of a Participant submitted their son was able to advertise, screen and select his support worker through a platform.¹⁰⁰

There is a lot more flexibility with platform providers over traditional providers. More availability and access to suitable workers who don't need to be qualified in support areas.¹⁰¹

Platform providers have also introduced new ways of working for disability support workers.

The recent Own Motion Inquiry into NDIS Platform Providers by the NDIS Commission reported that participants identified a number of benefits from the platform model of service provider. These included the ability of Participants to more effectively choose how their supports and services are delivered and by whom, which led to participants feeling 'safe and comfortable in the company of the people delivering their services.'¹⁰² The Inquiry also reported Participants found that arrangements with platform providers also provided greater flexibility than traditional providers in scheduling and cancelling

⁹⁸ Submission, Parent

⁹⁹ Meeting notes, M01.24, Advocacy Organisation

¹⁰⁰ Submission, Parent nominee

¹⁰¹ Webinar participant

¹⁰² NDIS Commission Own Motion Inquiry into Platform Providers 2023; Own Motion Inquiry into Platform Providers in the NDIS Market | NDIS Quality and Safeguards Commission (ndiscommission.gov.au), p.21



shifts. This flexibility was particularly valued by Participants who travel, as they did not need to complete additional onboarding and intake processes.¹⁰³

The Own Motion Inquiry also identified challenges that were experienced by participants using platform providers. Participants that contributed to the Inquiry commented on the additional safeguarding burden placed on them ‘no manager is keeping an eye on them, a lot of responsibility on us’ and ‘Most workers on them significantly lack training, experience and basic skills.’¹⁰⁴ Examples of participants managing these risks included building profiles, interviewing and trialling workers. NDIS participants expressed that they should be able to expect any person they engage across all platform providers to have had the same background and probity checks and¹⁰⁵ Participants also reported that they did not feel supported when it came to engaging with platform providers.

Currently, two platform providers are registered.¹⁰⁶ It is reported that registration under the current system is workable for a platform provider, as it is for other types of providers. However, it suffers from the same issues that all providers do in the current registration system, including cost, time, compliance and administrative burden.¹⁰⁷ It has not been clear to the Taskforce as to why more platform providers do not register, other than the fact they do not have to, and it is an additional cost when trying to keep overhead costs low.

The Taskforce recommends that registration applies to all platform providers, the registration category will depend on the services provided through the platform. The Taskforce has heard that some platform providers would like a specific category of registration to cater to their offerings rather than be considered with providers offering their business with a physical presence.¹⁰⁸ On balance, we have not been satisfied that platform providers are any different to providers that have a physical presence. Discussion around the influence of differing employment relationships or scope of services put forward by some platform providers as reasons to not be registered in the same way as others has not been persuasive.

¹⁰³ NDIS Commission Own Motion Inquiry into Platform Providers 2023; Own Motion Inquiry into Platform Providers in the NDIS Market | NDIS Quality and Safeguards Commission ([ndiscommission.gov.au](https://www.ndiscommission.gov.au)), p.21

¹⁰⁴ NDIS Commission Own Motion Inquiry into Platform Providers 2023; Own Motion Inquiry into Platform Providers in the NDIS Market | NDIS Quality and Safeguards Commission ([ndiscommission.gov.au](https://www.ndiscommission.gov.au)), p.21

¹⁰⁵ NDIS Commission Own Motion Inquiry into Platform Providers 2023; Own Motion Inquiry into Platform Providers in the NDIS Market | NDIS Quality and Safeguards Commission ([ndiscommission.gov.au](https://www.ndiscommission.gov.au)), p.25

¹⁰⁶ A list of registered providers is available at the NDIS Commission website: [List of registered providers | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](#). The two platforms referenced are HireUp [NDIS Registered Disability Support Provider | Hireup | Hireup](#), and five.good.friends; [NDIS Supports \(fivegoodfriends.com.au\)](#)

¹⁰⁷ See for example Submission, Registered Platform Provider, Submission, Unregistered Platform Provider

¹⁰⁸ Submission, Unregistered Platform Provider



Under the proposed model, registration is designed to, as far as possible, uplift quality and safeguarding in service delivery, improving the market overall.

Sole traders

We have heard that sole traders have a unique and specific role to play in the provision of NDIS services.

My support workers are sole traders with their own ABNs. They all have substantial experience in disability (yet none of them have a disability certificate qualification). But of course that did not matter to me, as I was more interested in their skills and work ethic. I interviewed, hired and trained them myself.¹⁰⁹

Sole traders are a common type of provider delivering in-home care, community access and allied health services. While the Taskforce have recommended a Worker Registration Scheme (refer [Chapter 9](#)), sole traders who operate a business that falls within the definition of a provider, will require provider and worker registration, depending on the scope of their work. It is anticipated that many sole traders will fall within the Basic Registration category.

However, those delivering support that falls within the Advanced Registration category and General Registration category must be registered accordingly. The Taskforce suspects that the delivery of behaviour support may be most impacted by this approach where Behaviour Support Practitioners may commonly operate as sole traders but will always be required to undergo Advanced Registration. However, the Taskforce emphasises that the provision of behaviour support is complex and can curtail the rights and freedoms of the individual, especially where restrictive practices are in use. As such, while sole traders may be challenged by strict registration requirements, the risk to Participants in these services is too great to reduce or graduate the registration requirements for them on this basis. Similarly, if a sole trader was to set up a SIL service, they too would need to be registered in the high-risk, Advanced Registration category which is an extremely important safeguard.

6.2 Group homes

Group Homes (including SIL) and large accommodation settings

The provision of supports provided in group accommodation or congregate environments has caused the Taskforce significant concerns. Disproportionately, participants in these

¹⁰⁹ Submission, NDIS Participant



settings are funded with SIL funding¹¹⁰, which has led to the colloquial name ‘SIL Group Homes’.

The Disability Royal Commission noted that SIL funding for home and living supports in the NDIS is ‘for people with higher support needs who need some level of help at home all the time’.¹¹¹ As at December 2022, 29,812 participants were accessing SIL supports.¹¹² The Disability Royal Commission also noted that as of September 2022, there were around 21,000 people with SDA supports in their NDIS Plan. Of those receiving SDA, there are at least around 7,000 people residing in group homes.¹¹³

However, we recognise that participants may use other funding categories such as flexible core funding to pay for group or congregate services. Centrally, these are services where people have not chosen where they live, who they live with and have minimal control over their daily personal activities. Group homes are a form of accommodation that is ‘distinguished from other houses by having four or five long term residents’ and where services and supports are provided to residents with disability.¹¹⁴

NDIS participants living in supported accommodation are mainly adults with a primary disability of intellectual disability, indeed, more than 50% of NDIS Participants with SIL in their plans have intellectual disability as their primary disability, compared to 18% of the total NDIS participant population.¹¹⁵ The risk inherent in these types of services due to the isolation of people with disability is unacceptable. It is also expensive for, what we have seen to be, too regularly very poor outcomes compared to other models of care and support where a person has more choice and control, and investment is made in their overall social and economic participation. The opportunity for violence, abuse, neglect and exploitation in Group Homes is significant. Often that opportunity, the Taskforce has learnt, is seized. Group Homes funded by the NDIS, including through SIL, are too often unregistered and so subject to little regulation and are not visible to the NDIS Commission.

Many advocates were concerned service providers were using NDIS funding to create a new generation of group homes that were little more than privatised institutions. Often

¹¹⁰ Disability Royal Commission, Final Report – Volume 7 Inclusive education, employment and housing Part C – p.633

¹¹¹ Disability Royal Commission, Final Report - Volume 7, Inclusive education, employment and housing - summary and recommendations (royalcommission.gov.au) p.18)

¹¹² Disability Royal Commission, Final Report - Volume 7, Inclusive education, employment and housing - summary and recommendations (royalcommission.gov.au) p.15)

¹¹³ Disability Royal Commission, Final Report - Volume 7, Inclusive education, employment and housing - summary and recommendations (royalcommission.gov.au) pp.18-19) The DRC also noted that the estimated SDA figure represents an undercount of the total number of group home residents.

¹¹⁴ Disability Royal Commission, Final Report - Volume 7, Inclusive education, employment and housing - summary and recommendations (royalcommission.gov.au) p.616.

¹¹⁵ NDIS Commission, Own Motion Inquiry: Aspects of Supported Accommodation in the NDIS, p.50.



these group homes are one- stop-shops for residents, meaning they are seldom visited by anyone other than the employees of the service provider running the group home.¹¹⁶

The lack of visibility in particular has challenged the accuracy of our understanding of this situation. We have heard concerning stories that unregistered providers target people with disability and entice them to live in a SIL accommodation, away from their families and communities.¹¹⁷ These stories were especially present in Central Australia.

Group Homes can be worth significant money to those who run them.

*[NDIS provider] receives hundreds of enquiries from ‘SIL Providers’ on a monthly basis, wanting to join our platform and connect with customers who are NDIS Participants with SIL funding in their plans. When screened and questioned extensively by [NDIS provider], we find that many have no prior experience in delivering this high-risk support yet despite this they believe they are well equipped to sign on their first participants. It would appear many are simply driven by the potential economic value of SIL.*¹¹⁸

Often residents that are targeted have significant NDIS Plans. The NDIS Commission Own Motion Inquiry into Aspects of Supported Accommodation noted that the average NDIS Plan budgets for SIL funded participants was \$358,000 and significantly higher in value than those NDIS participants who are not funded for SIL (these plans were on average \$53,500).¹¹⁹ With very few requirements to achieve baseline quality, safety or outcomes, the level of exploitation to ‘drain’ those plans is significant. We have heard of multiple NDIS participants, with large NDIS Plans being housed together and when the money runs out, the participant is evicted, left homeless and removed from their community.

*A participant with a significant NDIS plan (generally over \$100,000) is approached by a business and offered a set-up that sounds terrific... The participant takes up the offer, and the resultant arrangements are not at all what they were promised. But now they are reliant on the provider, they generally have no access to a phone, and no idea who they could call anyway. They are moved to a house with many other people and the 1:1 supports don’t eventuate. Their NDIS funding is drained and they are evicted from the home because they no longer have funding to pay.*¹²⁰

Group Homes and large accommodation settings are a modern tool for institutionalisation and segregation. The Taskforce has heard, and learnt through

¹¹⁶ Submission, Advocacy Organisation

¹¹⁷ Meeting notes

¹¹⁸ Submission, Unregistered Platform

¹¹⁹ NDIS Commission, Own Motion Inquiry: Aspects of Supported Accommodation in the NDIS, page 30. The data referenced on average NDIS plan funding is based on plans as at 30 June 2022.

¹²⁰ Submission, Advocacy Organisation



inquiries before us, including the Disability Royal Commission¹²¹, that people with disability living in many group homes can have little connection to community, are bereft of choice in their everyday lives including what they eat, where they go and what they do, and are often socialised together.

We heard from a NDIS Participant who stated that in the many years they lived in a Group Home, they were subject to being yelled at, hit and pushed. They contrast this previous experience with their current support workers who are described as kind and considerate. The Participant stated they now have more control over their life because their support workers are directly employed.¹²²

The Disability Royal Commission heard evidence that these settings present unique barriers to self-advocacy¹²³, informal support networks¹²⁴, and independent advocacy services.¹²⁵ This extreme level of isolation is risk of the highest order and has no place in modern service delivery. The Taskforce acknowledges that some people with disability require significant care and support. However, this care and support must be provided in accordance with that person's wishes, preferences and needs and take a human rights approach.

Given these concerns, the Taskforce recommends that all SIL and home and living supports should be seen as requiring registration as a matter of urgency (within 12 months). This can be done under the existing framework and must not wait for new arrangements to be developed.

Further, under the proposed model, in addition to the Provider Obligations which will apply to all Group Home providers, SIL Providers will be subject to unannounced visits and the NDIS Commission will have a statutory right to entry to Group Homes. Increasing the external supervision of these providers is important to endeavour to counteract some of the isolation that can be built into the service model.

¹²¹ Disability Royal Commission, Final Report - Volume 7 Inclusive education, employment and housing Part C

¹²² Submission, NDIS Participant

¹²³ Disability Royal Commission, Final Report - Volume 6 p.263

¹²⁴ Disability Royal Commission, Final Report - Volume 6 p.302

¹²⁵ Disability Royal Commission, Final Report - Volume 6 p.270



7. Scope of self-directed supports

Recommendation 6

There should be mechanisms put in place to support arrangements for self-directed supports. A process should be developed whereby the participant will register themselves for self-directed supports, and thereby all their support providers would then also automatically become registered and visible.

- a. The process of registration of self-directed supports should be co-designed with people with a disability.
- b. Self-directed supports would sit in a new category within the registration categories but would also be subject to review and auditing consistent with arrangements for other service providers, except for the evaluation of Practice Standards which do not apply to self-directed supports. These approaches need to be co-designed with people with disability.

Recommendation 7

The Australian Government should invest in offering peer support and capacity building programs to engage in the NDIS regulatory framework, including for participants who self-direct their supports.

The Minister has sought our advice on 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.

Self-directed supports are fundamental to upholding the rights of people with disability and describe those employing and engaging their own workers and providers. This Chapter provides specific advice on ensuring those arrangements can continue in the new regulatory arrangements.

An introduction to self-directed supports: an international perspective

Article 19 of the UN CRPD enshrines the right for people with disability to live independently and be included in the community. The CRPD Committee observe that people with disability are often presumed unable to do so based on misconceptions



‘including that they lack the ability to make sound decisions for themselves and that, therefore, society needs to protect them.’¹²⁶ Article 19 aims to prevent institutionalisation and segregation in domestic settings through the promotion of enabling inclusive environments for all, and the abolishment of legal provisions that deprive persons with disability of choice by forcing them to live in institutions or other segregated settings.¹²⁷

While Australia undertook significant programs to deinstitutionalise people with disability from large-form institutions to community-based living options, it is important to recognise that institutionalisation can differ from one context to another and is not limited to where people with disability are required to live in large group environments. The UN CRPD Committee observe that common elements that define institutionalisation ‘include: isolation and segregation from community life; lack of control over day-to-day decisions; rigidity of routine, irrespective of personal preferences or needs; identical activities in the same place for a group of persons under a central authority; a paternalistic approach in the approach in the provision of services; supervision of living arrangements without consent and disproportion in the number of persons with disabilities living in the same environment.’¹²⁸

Institutionalisation, including as described by the UN CRPD Committee is incompatible with Article 19 and Australia, as a State Party to the UN CRPD has an obligation to make alternatives available. The UN CRPD Committee explain that deinstitutionalisation entails a shift of reclaiming of ‘control over one’s life’ and requires that individualised support services (art 19(b)) be provided to, and mainstream services and facilities be made available for and access to, persons with disabilities.¹²⁹ Support services are ‘an indispensable element’ of deinstitutionalisation.¹³⁰ The UN CRPD Committee have been clear that ‘support provided in segregated settings to continue institutionalisation is therefore not compliant with the Convention’¹³¹, and relevant to our task, the Committee explains:

‘No single option of support fits in all contexts. Therefore, Article 19(b) include reference to a range of services that can involve different providers. There are, however, certain criteria that need to be met based on the principle that support is intended by Article 19 implies a shift from ‘care’ to ‘rights’. All persons with disabilities should have equal access to, an equal choice of, and control over

¹²⁶ General comment No.5 on Article 19 - the right to live independently and be included in the community, p. 3/para 3. [A/HRC/28/37](#)

¹²⁷ General Comment 5, p. 4/para 6.

¹²⁸ General Comment 5, p. 7/para 21.

¹²⁹ General Comment 5, p. 8/para 25.

¹³⁰ General Comment 5, para 28.

¹³¹ General Comment 5, para 28.



*support services that respect the inherent dignity and individual autonomy and aim to achieve effective participation and inclusion in society.*¹³²

The Taskforce has heard of disability support service providers offering in-home support to people with disability but requiring that the person go to bed at a certain time, have certain meals or have limited time to use the bathroom.

We have heard common instances where providers have refused or been unable to support a person with disability to leave their home or participate in the community. The UN CRPD Committee have said clearly ‘... in-home support must contribute to promoting inclusion and preventing segregation. It should not prevent a person from leaving the home when he or she desires and should be complemented, where needed, by other community-based services.’¹³³ The Taskforce notes that these practices of providers do not meet the requirements of Article 19 of the UN CRPD and by Australia funding such services, as a State Party to the UN CRPD, with obligations to fulfil the obligations of the UN CRPD is extremely problematic. Recommendations made in this report reflect those concerns.

The UN CRPD Committee is clear that ‘persons with disabilities must have control over the support provided and be the ones who hire, employ, supervise, evaluate and dismiss their assistants. The possibility to choose between different service providers is a way to make the services more accountable to increase control by the user and provide protection against the risk of abuse.’¹³⁴ Self-directed supports are described as being when ‘the participant selects and trains their own staff, develops their staff’s schedules, and sets their own standards for how their services will be delivered.’¹³⁵ In self-directed supports, typically the person with disability is the legal employer of their staff.¹³⁶ Self-directed supports are the best practice approach to meeting Australia’s obligations under the UN CRPD and realising Article 19 of the UN CRPD.¹³⁷

Self-directed supports in Australia

Following the deinstitutionalisation of people with disability in Australia in the 1980s, services provided by organisations have continued to be a dominant model of care and support. However, people with disability have been using self-directed supports since that time, and in our observation, in greater numbers since the introduction of the NDIS. The Taskforce has not been able to identify specific data on the use of self-directed

¹³² General Comment 5, para 29.

¹³³ General Comment 5, para 30.

¹³⁴ General Comment 5, para 38.

¹³⁵ Applied Self-Direction: <https://appliedselfdirection.com/what-self-direction>

¹³⁶ Applied Self-Direction: <https://appliedselfdirection.com/what-self-direction>

¹³⁷ [Article 19 – Living independently and being included in the community | United Nations Enable](#)



supports, but in our observation from engaging with the disability community, it seems to be a common approach to managing supports for: (but are not limited to):

- people with physical and sensory disability (and they have often done so before the NDIS but the number of those doing so since the NDIS appears to have grown)
- families and nominees of people with intellectual disabilities and psychosocial disabilities through direct employment or Service for One models.

*Participants supported by service-for-one models were some of the first people to transition across to the NDIS when rollout commenced. People involved in this process say that their initial planning meetings were collaborative and purposeful, with families being encouraged to continue to support their family member with disability in an ongoing way through a service-for-one model.*¹³⁸

A common reason for participants setting up these arrangements is because of a lack of suitable services available from disability support service providers or a total service failure, including increased incidents of violence, abuse, neglect and exploitation.

*We currently use our own support workers who we employ. When we first received funding for support, there weren't really any services available in our area suitable for the kids. They could have gone to a day program targeted towards older kids and teens with a big organisation but they were terrified. They would never have coped with that environment, leaving home and their parents, and the staff weren't really set up for little ones with autism. So we would have had no supports at all. With the option to self manage and employ people independently, we found a team. It took a little while and we've learnt skills in hr, recruitment, payroll and staff management, but we've got there! We do screening checks, reference checks, buddy shifts and training, all to ensure that our children are cared for safely.*¹³⁹

We have been told that when using self-directed supports, people with disability are in control of their services and so in control of their lives, they have more flexible supports, and they create longer lasting and consistent relationships with support staff leading them to feel safer in their homes and lives.

My support worker is local, and knows my local community well. My employing her means she gets to work minutes from home, and from her kids school, and it gives us the flexibility to reorganize [sic] shifts around my needs and hers. For example if her children are sick we have a list of tasks she can do without putting me at risk, she still gets the work she expects, I still get help, but I am safe, this sort of arrangement is only possible because she lives 5 mins from my house

¹³⁸ Submission, Advocacy Organisation

¹³⁹ Submission, Parent nominee



*and we have a very clear and direct line of communication and shared sense of responsibility. We have a respectful and open dialogue that suits us both.*¹⁴⁰

Many families and nominees who have set up self-directed supports have told us that this is an important future proofing tool, so that their loved one is safe and receiving quality care when they are gone.

*As an aging carer can I say the thought top of mind every day is how the supports around my son's life will continue to be managed when I am no longer available to manage it. Plan management and Service Coordination are two important support systems which families with a person with intellectual disability and/or complex needs rely on to keep the show on the road. Having access to those types of support in the local community will allow those who take on the carer role after I'm gone to be supported in that role.*¹⁴¹

These experiences are reflected in international research on self-directed supports, which found that in the United States people who use self-directed supports found the following:

- Choice of goods and services to purchase
- Freedom to develop workers' schedules
- Innovative use of community resources
- Honouring dignity of risk
- Flexibility
- Creativity
- Authentic choice and control

People with disability using self-directed supports report less turnover in staff and lower (to no) rates of unmet need, which is especially useful in rural settings and is lower cost compared to traditional services.¹⁴²

*I also use unregistered providers because of location and waitlists, I live rurally. It widens the scope of support and I'm not stuck on wait lists for people that either can't provide services to us, or need to travel... Taking away this ability means potentially not able to obtain any supports at all or having to pay much high[er] prices.*¹⁴³

However, there are some barriers people are facing to implementing self-directed supports. People with disability who have self-directed supports told us that there is a lack of support for them to do so, especially in terms of legal, industrial relations and

¹⁴⁰ Submission, NDIS Participant

¹⁴¹ Submission, Parent

¹⁴² Applied Self-Direction lecture

¹⁴³ Submission, Parent



advocacy support and that ensuring legal and regulatory obligations are met can be challenging. These challenges are consistent with what is reported around the world by people with disability who self-direct their supports.¹⁴⁴

*We asked for a special set of requirements for registering a service for one. Don't load us up with all this paperwork we don't need, and it is going to burden us. If I am a large company, I can pay someone to do my safety and quality management. We need a lightweight registration system with a little bit of support, and a bit of training here and there. I need to be able to employ people to help me manage my business and I get back to looking after my son.*¹⁴⁵

The Taskforce has been told of impressive combinations of direct employment mixed with available community supports to meet the overall needs of the person.

*Safety for our daughter comes from...individualised support, handpicked committed staff and from being an active member of her local community.*¹⁴⁶

Again, this is consistent with international experiences and evidences the importance of supporting these arrangements to continue and be adopted where they are not already so. Ultimately, it is crucial that people with disability increasingly have choice and control over their services

Self-management verse Self-directed supports: explaining the difference

NDIS Plans can be managed in three ways: self-managed, plan-managed and agency-managed.¹⁴⁷

Self and plan management are, for the most part, the same except that in plan management, there is a Plan Manager who acts as an intermediary to administer the plan, but the participant remains in control of the decisions and spending of the plan.¹⁴⁸

The Taskforce does caution that we have heard concerning anecdotes that some Plan Managers have sought to use their role to influence or restrict decisions made by participants on their supports and services, including advising that a purchase cannot be made within the proposed budgets. This type of behaviour is outside of our Terms of

¹⁴⁴ Applied Self-Direction lecture.

¹⁴⁵ Meeting notes, Parent

¹⁴⁶ Submission, Parent

¹⁴⁷ Section 43(1) of the NDIS Act Federal Register of Legislation - National Disability Insurance Scheme Act 2013; See also NDIA Fact Sheet, managing your funding: <https://www.ndis.gov.au/media/6403/download?attachment>

¹⁴⁸ See part 4 of National Disability Insurance Scheme (Plan Management) Rules 2013 [Federal Register of Legislation - National Disability Insurance Scheme \(Plan Management\) Rules 2013](#); See also Section 42(2)(b) of the National Disability Insurance Scheme Act 2013 [Federal Register of Legislation - National Disability Insurance Scheme Act 2013](#)



Reference, but we observe it to be poor practice and suggest that it is drawn to the attention of the NDIS Commission or the NDIA for investigation.

*People ring up or attend a meeting with a LAC or Planner and are routinely told misinformation about the purchases that can be made. Completely legitimate purchases within the NDIS framework are discouraged or rejected, and people may find themselves reported and have their self-management removed, forcing them to go through reviews and AAT processes – which are extremely stressful.*¹⁴⁹

Agency-managed plans arguably have the least choice and control offered to participants, with the NDIA remaining responsible for the Plan rather than the participant.¹⁵⁰

Importantly, participants who self or plan manage their NDIS Plans can purchase goods and services with their NDIS funding from wherever they see fit (though it still needs to be a disability-related support and satisfy the relevant accountability measures and NDIS Rules in that respect).¹⁵¹ Unless those supports are specialist disability accommodation (SDA), restrictive practice or behaviour support, they do not have to be registered.¹⁵² Whereas, participants who have agency-managed plans are required to purchase supports from only registered providers.¹⁵³

Self-management is a core component of the NDIS. It is one of the critical design features which has given rise to choice and control in services for people with disabilities because when a participant is ‘self-managed’ they are able to take their NDIS funding and spend it on any supports and services that fall within the NDIS Rules and their NDIS Plan. This can be from mainstream services, disability support services or self-directed supports. Previous to the NDIS, this level of choice and control over services was rare for people with disabilities when they needed funding for services to meet their needs.

The Taskforce is very supportive of self-management and encourages it to be available to all NDIS participants, including through investment in supported decision-making frameworks. We acknowledge the NDIS Review’s recommendation that the link between a participant’s financial management of their NDIS Plan and the regulatory

¹⁴⁹ Submission, NDIS Participant

¹⁵⁰ See part 4 of National Disability Insurance Scheme (Plan Management) Rules 2013 [Federal Register of Legislation - National Disability Insurance Scheme \(Plan Management\) Rules 2013](#)

¹⁵¹ Section 43, National Disability Insurance Scheme Act 2013 [Federal Register of Legislation - National Disability Insurance Scheme Act](#)

¹⁵² Section 43 National Disability Insurance Scheme Act 2013 [Federal Register of Legislation - National Disability Insurance Scheme Act 2013](#)

¹⁵³ Section 43 National Disability Insurance Scheme Act 2013 [Federal Register of Legislation - National Disability Insurance Scheme Act 2013](#)



status be removed.¹⁵⁴ The Taskforce is not asked to provide advice on this specific recommendation. We do observe that it is important that all people with disabilities be afforded the opportunity to have choice and control over their disability support services and express concern where that is curtailed or denied to those who have agency management of their NDIS Plan.

Self-management and self-directed supports are not the same concept. However, it is often conflated because participants who have self-managed plans have the choice and control over their funding to be able to adopt self-directed supports more readily. Self-management is the financial management of the NDIS Plan whereas self-directed support is a way of managing your supports, usually through direct employment. The Taskforce has made recommendations about self-directed supports.

7.1 Proposed model – self-directed supports

The Taskforce is extremely supportive of self-directed supports. Recognising the consistency of self-directed supports to realising the human rights of people with disability, but also acknowledging that current arrangements must be preserved, and future arrangements encouraged. The Taskforce recommends that a registration category be made for self-directed supports.

The purpose of this being its own registration category is to create visibility of those arrangements and bring these important arrangements into the regulatory framework. However, it must be designed carefully so as to not create administrative burden and complexity for people. We hope the NDIS Commission will be able to support participants in their arrangements, making them sustainable and future-lasting. We recognise at the outset that this will take some time to develop, and significant trust needs to be built between the NDIS Commission and disability community for this to work well. In [Chapter 10](#), we go through more of the details on implementing the proposed model.

Further, it is critical to secure the future of self-directed supports that they be recognised as a key part of the disability support system. Participants registered for self-directed supports will be able to use ‘unregistered providers’ because visibility of those arrangements comes from the participant being registered for those supports.

From what we heard; self-directed supports have different risks to other service provider arrangements. While the types of supports provided within self-direct models varied, the safeguards in place often meant that there was little risk of the participant.

¹⁵⁴ Working Together to Deliver the NDIS NDIS Review: Final Report Page 13, Recommendation 17.3.



There was a frequent presence of a strong understanding of their rights held by the participant, natural safeguards, and control to start and stop services as needed.

Participants directly managing their supports also had developed specific, sophisticated and tailored approaches to safeguarding that address their specific risks and needs.

My personalised support framework is directly linked to what keeps me safe and delivers quality support: I live with trusted flatmates and/or family; I establish connection with community by employing people who live locally; I am and present myself as a person who is socially connected, who is confident about her own and employees rights and boundaries. My support staff are clear that I am the person who has choice and control over her personal support delivery and that it is safeguarded by a community of people (both professional and non-professional).¹⁵⁵

If someone is identified as vulnerable because of risk of isolation, it creates a pathway which is different from those who are strongly safeguarded and don't need additional supports. Rather than thinking from a service centric point of view, to say if you're a person who has high complex intensity supports you should only use registered providers, which will constrain some people and be inadequate for others, coming from a person centred position where you're actually using a process to do identify the ones who are genuinely most at risk because they're isolated and don't have people to speak up for them.¹⁵⁶

The Taskforce found that participants were often unsupported in these arrangements, which is a risk. In our view, registration obligations for the self-directed supports registration should be designed to assist in providing this support. Ultimately though, the registration is designed not to be invasive or impose a great deal on participants or their Nominees and does not aim to impose a minimum standard on the arrangements. This will help to ensure that self-directed supports can be whatever the participant needs them to be.

Noting that the Taskforce is of the view that Advanced Registration is recommended to apply to those self-directing their supports, the Taskforce cautions that consideration needs to be given to the treatment of supports that fall within the Advanced Registration Category but are self-directed, and in particular, behaviour support to ensure that this centres on choice and control. We do not anticipate that there are many Participants impacted. We have heard mixed views on this with some telling us that these types of support should always be registered and others advising that it is not suitable to do so. The Taskforce appreciates both views. As we have recommended that this category of

¹⁵⁵ Submission, NDIS Participant

¹⁵⁶ Meeting notes, Participant



registration be co-designed, this should be determined through that process and in consultation with those who have behaviour support or supports within the Advanced Registration category.

Importantly, the Taskforce acknowledges that if Advanced Registration were to be required to be registered, even when directed, we do not suggest that participants are not able to keep themselves safe from violence, abuse, neglect or exploitation, and it's recognised that examples of self-directed supports are sophisticated and have proper safeguards in place to avoid violence, abuse, neglect and exploitation. Rather, we seek to be mindful that we have heard there are many unscrupulous providers that look for ways to take advantage of systems within the NDIS to exploit participants for their gain, for example, setting up Group Homes with self-directed supports.

How self-directed supports registration will work

Registration will be automatic upon meeting the application criteria. Subject to this, when a participant or their Nominee registers the self-directed support, they will automatically receive a registration reference number and that concludes the registration process.

The NDIS Commission will review registrations made and can contact the participant or Nominee to follow up as needed. Registration will be done as far as practicable online, but alternative formats and assistance from the NDIS Commission with the process should be made available.

The Obligations required for self-directed supports are detailed in [Chapter 8](#).

The Taskforce acknowledges that registration of self-directed supports adds an element of administrative burden that is unwelcome for some.

NO [registration]. Self directing supports, services for one and direct employment already involve a LOT of unpaid administrative work. Oversight can be achieved as we claim through the NDIS Portal.¹⁵⁷

We recognise that people with disability and their families are already subject to significant administrative loads when managing their NDIS Plans. However, we hope that with this proposed approach and the benefit of co-design, the proposed model can adopt the least burdensome approach while still recognising self-directed supports in the regulatory framework.

¹⁵⁷ Webinar participant



7.2 Capacity building and peer programs for self-directed supports

The Taskforce recommends the Government should invest in the systemic benefits of self-directed supports by offering programs and supports for capacity building and peer supports.

The Taskforce has heard that people self-directing supports learn a lot from those who have done or are doing it at the moment. Some would also like to have options to build their capacity to sophisticate their arrangements. Peer support and capacity building should be co-designed with the disability community. We have made recommendations for the investment in peer support and capacity building which is discussed in [Chapter 10](#).



8. NDIS Provider Obligations and Processes

Recommendation 8

1. To be applied in a graduated, risk-proportionate manner ([Table 1 Annexure A](#)), the Taskforce recommends that the following **Provider Obligations** be included for registration:
 - a. **Code of Conduct:** remain a legislative instrument, the Code of Conduct requires review and to be co-designed with people with disability, the disability community and disability sector.
 - b. **Worker Screening:** to be applied to all workers employed, contracted or engaged by NDIS Providers (per our recommended definition), in risk assessed roles for Advanced and General registration categories. We do not make any recommendations to change the substance of the Screening Check in terms of intent or what is considered. We do recommend:
 - i. Australian governments including the states and territories improve information sharing between jurisdictions to ensure that the information considered in a screening assessment is complete, accurate and robust
 - ii. culturally safe rules or procedures are developed to consider identification documents differences faced by First Nations peoples.
 - c. **Complaints:** process is to be redesigned through a co-design process with people with disability. Complaints are to be a Provider Obligation for all categories of registration, and a participant must be able to make a complaint about any organisation or individual if paid with NDIS funding, regardless of registration status. However, it should be recognised within the process that complaints may need to be referred to other bodies who are appropriately able to respond in certain circumstances. The Taskforce recommend that the NDIS Commission publish a Practice Note or Guideline which sets out the process, timelines and handling of complaints. For example, a complaint should be acknowledged within 7 days and unless exceptional circumstances apply, resolved within 21 days.
 - d. **Incident reporting:** The Taskforce supports the recommendations of the Disability Royal Commission to facilitate the sharing of information between the NDIS Commission and a wider range of state and territory



safeguarding bodies to support the safety of NDIS participants¹⁵⁸. The Taskforce recommends that legislative amendment be considered to ensure referral of incidents to other bodies such as the police, Australian Competition and Consumer Commission (ACCC) or Ombudsman in appropriate circumstances.

- e. **Practice Standards:** it is recommended that Practice Standards apply to Advanced and General registration categories and that they be co-designed going forward. The requirement to co-design Practice Standards should be a requirement of legislative Rules.
- f. **Regular Check-Ins with the NDIS Commission:** participants under Self Directed Support Registration will be subject to this Obligation. We recommend that the Check-In requirements be co-designed with people with disability. However, as an Obligation, it is a requirement of gaining and maintaining registration. As such, if a Participant registered does not meet this Obligation, registration can be suspended or revoked.
- g. **Performance Measurement (see NDIS Review Action 12.3):** designed to incentivise improvements by providers and drive greater competition on quality. It should be supported by accessible and useful information to support people with disability in making choices about providers. Over time, this should incorporate measurement of outcomes, and be accompanied by consequences for good and poor performance.

Recommendation 9

The Taskforce recommend the following **Provider Processes** which enforce the Provider Obligations:

- a. Application
- b. Identification verification
- c. Code of conduct attestation
- d. Worker screening attestation
- e. Audits by the NDIS Commission and Audits by Approved Quality Auditors
- f. Suitability assessment of provider and key personnel
- g. Ongoing monitoring and compliance

¹⁵⁸ Disability Royal Commission Final Report, Volume 10, Recommendation 10.28: Information sharing between prescribed bodies



NDIS Provider Obligations and Processes

NDIS providers, as newly defined, need to fall within the four categories of registration, or be registered under the Self-Directed Supports Registration category. Each category determines the Provider Obligations and Processes which will apply to their registration.

Currently, there are around 16,000 registered providers and an estimated more than 154,000 unregistered providers¹⁵⁹. For the purposes of providing this advice, the Taskforce has not modelled how many providers would be caught by the proposed registration scheme. This will be an important piece of work to be done if the Government accepts the recommendations to implement the proposed model.

Overarching approach to Provider Obligation and Processes

In developing a category of NDIS Provider Registration, the Taskforce is clear that the system must be designed for competence and recognise excellence in service providers.

Registration will apply to all NDIS providers, but the Taskforce recommends that the scope of who is a provider needs to be subject to further consultation and co-design with the disability community and sector. Categories of registration are provided in [Chapter 5](#).

We have also made specific comment on platform providers (refer [Chapter 6](#)), in accordance with our Terms of Reference, and have recommended that they be treated the same as other providers presenting similar risks and so are included as an NDIS provider subject to registration.

8.1 Strengthening Provider Obligations

Existing types of Provider Obligations

8.1.1 Code of Conduct

The *National Disability Insurance Scheme (Code of Conduct) Rules 2018* ('Code of Conduct') is an essential component of the regulatory framework. Currently, it applies to all providers and persons employed or engaged by NDIS providers, regardless of registration status and is established under section 73V of the NDIS Act. The Code of Conduct is short, providing nine obligations which focus on the respect of individual rights and freedoms and providing safe, competent and fair services.¹⁶⁰ Breaches of the

¹⁵⁹ NDIS Review Final Report, p.207

¹⁶⁰ *National Disability Insurance Scheme (Code of Conduct) Rules 2018* (Cth), s 6.



Code of Conduct can be complained to the NDIS Commission for investigation and resolution.

The Taskforce has heard that the current Code of Conduct is not properly understood by NDIS providers or participants. The Code of Conduct legislative instrument is not well-known. Some NDIS providers were not even aware of its existence. Instead, a 38-page version issued by the NDIS Commission is thought to be the official Code of Conduct.¹⁶¹ That has caused significant confusion.

The Taskforce is not surprised that there is confusion. When you search for ‘the NDIS Code of Conduct’ online or look at the NDIS Commission webpage, the NDIS Commission’s version is shown. To find the legislative instrument, you need to specifically search for that or go to the Federal Legislation webpage. Based on the 38-page version, people told us that it was too long, they did not understand it and there were no alternative versions available. The Taskforce did find accessible versions, but it took considerable searching online and is not considered an easy option for people to access. The Code of Conduct needs to be made easier for people to find, access and understand, to receive or deliver safe and quality services.

There is no current requirement for NDIS providers or people with disability to demonstrate their understanding of, or continued commitment to abiding by, the Code of Conduct.

With the current definition of NDIS Provider being so broad, mainstream organisations caught when participants spend their funds with them to purchase disability-related support goods or services are absolutely unaware that the Code of Conduct applies to them or what to do if a complaint was made against them. On the Taskforce’s inquiry, in these examples of mainstream retailers or similar, the Taskforce heard the NDIS Commission having jurisdiction to receive complaints pursuant to the Code of Conduct, made no sense and was unlikely to assist the participant, provider or Commission. Instead, complaints of issues that may arise (for example, faulty products, poor customer service), would be better addressed by other regulators such as the ACCC.

Improving the Code of Conduct

The Code of Conduct should be strengthened to reflect the disproportionate rates of violence, abuse, neglect and exploitation faced by people with disability but also to

¹⁶¹ <https://www.ndiscommission.gov.au/about/ndis-code-conduct> and also guidance materials such as <https://www.ndiscommission.gov.au/workers/worker-training-modules-and-resources/worker-orientation-module>.



more effectively realise the right of people with disability to make their own choices, including through supported decision making frameworks. For example, currently, the NDIS Code of Conduct states that a person covered by the Code must ‘take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability.’¹⁶²

We have heard, and we agree, that this does not go far enough given what is known of the rates of violence, abuse, neglect and exploitation perpetrated against people with disability. This should be strengthened in the co-design process.¹⁶³ In addition to strengthening these provisions, clear pathways must be enshrined to ensure that complaints of violence, abuse, neglect and exploitation are actionable. It is important to acknowledge and be clear that making a complaint of such allegations to the NDIS Commission does not replace in any way the criminality of these offences. The Taskforce is clear that when an allegation of violence, abuse, neglect or exploitation is made, the police must be called to respond. The role of the NDIS Commission in these allegations is to ensure that where appropriate, services do not continue and where needed, the participant is assisted to safety in terms of their services.

The Taskforce recommends that the NDIS Code of Conduct remain a legislative instrument and that it applies to all goods and services purchased with NDIS funding. It will be required as an Obligation for all categories of registration. However, we are clear that it needs to be redesigned. We recommend that the NDIS Commission redesign the NDIS Code of Conduct with the disability community and disability sector.

8.1.2 Worker screening

The NDIS Commissioner is required, by law, to establish and operate a NDIS worker screening database.¹⁶⁴ The database is a register of workers who have applied for a NDIS Worker Screening Check and is currently accessible by registered providers. Unregistered providers or self-managed participants can request access to the database.¹⁶⁵

The NDIS Worker Screening Check assesses whether a person who works, or seeks to work, with people with disability poses a risk to them. It is a nationally consistent assessment as outlined in the Intergovernmental Agreement on National Consistent Worker Screening for the NDIS.¹⁶⁶ The Check is conducted by a state or territory Worker

¹⁶² NDIS Code of Conduct, r 6(1)(f).

¹⁶³ Academic and Policy - Advisory Working Group Meeting Minutes

¹⁶⁴ *National Disability Insurance Scheme Act 2013* (Cth), s 181Y.

¹⁶⁵ <https://www.ndiscommission.gov.au/participants/apply-access-worker-screening-database>

¹⁶⁶ [Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme \(federation.gov.au\)](#) Clause 27



Screening Unit in accordance with enabling legislation of that jurisdiction. A decision made by the State or Territory Worker Screening Unit is called a ‘NDIS Worker Screening Clearance’ or ‘NDIS Worker Screening Exclusion’. NDIS worker screening is governed by the NDIS (Practice Standards – Worker Screening) Rules 2018.¹⁶⁷

Current approach to who needs a NDIS worker screening

Workers and personnel in *risk assessed roles* employed or engaged by a registered NDIS provider must undergo a NDIS worker screening. The provider is required to identify the roles which are risk assessed roles.¹⁶⁸ A risk assessed role means:

- a key personnel role of a person or an entity
- a role for which the normal duties include the direct delivery of specified supports or specified services to a person with disability
- a role for which the normal duties are likely to require more than incidental contact with a person with disability.¹⁶⁹

Incidental contact is explained in the Rules to be:

- physically touching a person with disability
- building rapport with a person with disability as an integral and ordinary part of performance of those duties.¹⁷⁰

A registered NDIS provider must only allow a worker to engage in a risk assessed role if they have a worker screening clearance. There are exceptions to this such as the person is in the process of obtaining a clearance¹⁷¹ or the person is appropriately supervised by a person with a clearance¹⁷² unless there are circumstances that apply in a ‘no card, no start’ jurisdiction.¹⁷³

Importantly, some requirements for NDIS Worker Screening Checks vary between states and territories, including whether workers can work while obtaining a clearance. While the Taskforce understands the intent of the Intergovernmental Agreement, we acknowledge that national consistency across all NDIS worker screening requirements has not yet been achieved.

The Taskforce heard that the current NDIS worker screening is frustrated by a lack of national consistency and difficulties in information sharing between jurisdictions. This

¹⁶⁷ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018*

¹⁶⁸ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 11.

¹⁶⁹ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 5.

¹⁷⁰ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 6(2).

¹⁷¹ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 14(1)(a)(i).

¹⁷² *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 14(1)(a)(ii).

¹⁷³ *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* (Cth), s 14A.



has been a pain point shared with us by providers and self-managed participants in particular.

*There should be greater consistency in state-based requirements and processes (and application costs) for worker screening and it would be beneficial if it could be linked to working with children checks and requirements for working in aged care.*¹⁷⁴

*Worker screening, certifications and registrations need to be streamlined – both across the care and support sector as well as across states and territories. There is currently no national approach to worker screening and registration. Systems including the NDIS Worker Screening, Working with Children Check (WWCC) and Working with Vulnerable People Check (WWVP) vary considerably in process, rules and timeframes from state to state, making it not only difficult to manage, but also impacting workforce and service delivery.*¹⁷⁵

Self-managed participants and unregistered providers

With respect to self-managed participants and unregistered providers as currently defined, it is recognised in the Intergovernmental Agreement that:

Self-managing NDIS participants may choose workers or providers not registered with the Commission. To maximise the potential for self-managing participants to use unregistered providers and workers, formal regulatory requirements on these providers and workers has been minimised.¹⁷⁶

Self-managing NDIS participants may request that workers who provide supports and services to them have an NDIS Worker Screening Check. Workers of unregistered providers may apply for a NDIS Worker Screening Check if they are delivering or are planning to deliver NDIS supports and services and their application is endorsed by their employer.¹⁷⁷

The Taskforce has heard that many self-managed participants use the NDIS Worker Screening Check as a safeguarding tool when managing their supports. One NDIS Participant said in a confidential submission they want to ensure that their support workers hold current NDIS Worker Screening Checks, First Aid and CPR Certification to maintain control over safety.¹⁷⁸

¹⁷⁴ Submission, NDIS Participant

¹⁷⁵ Submission, Registered Provider

¹⁷⁶ [Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme \(IGA\)](#)

¹⁷⁷ IGA, cl 27 and 28.

¹⁷⁸ Submission, NDIS Participant



However, we also heard frustrations of not being able to access the portal that supports worker screening or having access to the required identification documentation (for example, participants or their families not having a driver's licence or passport).

*We have not been able to utilise the NDIS Commission worker screening database. Although the worker screening data base is available to self managers, it requires a driver's licence or a passport to satisfy identity requirements. As I don't drive, I was unable to meet these requirements.*¹⁷⁹

To apply for a NDIS Worker Screening Check, the applicant must provide an Australian driver's licence and an Australian birth certificate or Australian passport or Australian citizenship certificate. Applicants must also advise of any previous names they have had. The Taskforce was told that this is extremely challenging for some participants and their families, and in particular for First Nations people who may not have a driver's licence or have had names that they do not know about. The Taskforce was told of several distressing stories where First Nations people found out for the first time that their known name was not their birth name through the screening check process.¹⁸⁰ This caused understandable trauma and for some, saw them cease their important work to not have to continue the process.¹⁸¹

*In early 2023, someone had insufficient ID to do the worker screening. A missing piece of information was a birth certificate. She had to pay for her birth certificate, (we paid for it), no chance that the staff we're engaging can pay for everything required. When the birth certificate came back, her name was spelt [sic] incorrectly in two letters and her birth date was off. Highly traumatic.*¹⁸²

NDIS Worker Screening Checks are valid for up to 5 years from the date of the decision, subject to ongoing monitoring by NDIS Worker Screening Units.¹⁸³ If an applicant disagrees with a decision of the NDIS Worker Screening Unit, they can seek an internal review of the decision.¹⁸⁴ If still unsatisfied, an external review of that decision can be sought from the tribunal or authority in the relevant jurisdiction.¹⁸⁵

Continued use of NDIS worker screening as a safeguard

Most stakeholders were supportive of NDIS Worker Screening, recognising the importance of the safeguard to reduce criminal offending and predictably poor outcomes in service delivery. However, national consistency is critical and that is not currently achieved.

¹⁷⁹ Submission, Parent

¹⁸⁰ Meeting notes, Indigenous Health Service

¹⁸¹ Meeting notes, Indigenous Health Service

¹⁸² Meeting notes, Indigenous Health Service

¹⁸³ IGA, cl 76.

¹⁸⁴ IGA, cl 82.

¹⁸⁵ IGA, cl 85.



*Expanding the requirement for worker screening and mandatory training to all NDIS workers relative to the types of supports being provided is a critical aspect to improve quality and safety within the scheme.*¹⁸⁶

But stakeholders were also clear that significant improvements need to be made and that the time, cost and differences between jurisdictions reduced the importance of this otherwise valued safeguard. For instance, one unregistered platform provider suggested the screening checks should be mandatory for workers providing 1:1 supports, but the credential should be portable and valid in any state to enable workers to transfer from one provider to another. The Taskforce is supportive of the NDIS Worker Screening Check for all workers employed or engaged by NDIS providers (as we propose it to be defined), in risk assessed roles for Advanced and General Registration categories. The Taskforce has heard that those with historical misdemeanours can be excluded from Worker Screening which is a barrier to the workforce. This should be considered in developing the approach. We do not make any recommendations to change the substance of the Screening Check in terms of intent or what is considered. We do recommend:

- that Australian governments including the states and territories improve information sharing between jurisdictions to ensure that the information considered in a screening assessment is complete, accurate and robust.¹⁸⁷
- a need to develop culturally safe rules or procedures to consider identification documents differences faced by First Nations people.

8.1.3 Complaints

We recommend that all categories of registration be subject to the Complaints process and that a participant be able to make a complaint to the NDIS Commission wherever they spend their NDIS funding.

However, we acknowledge that the current complaints system does not work and is not fit for purpose, despite its importance to the regulatory functions of the NDIS Commission. The Taskforce has been overwhelmingly concerned by the feedback from complainants and providers as to how this process works for them. The Taskforce heard from family members of NDIS Participants recommended a ‘complete overhaul’ of the NDIS Commission.¹⁸⁸

¹⁸⁶ Submission, NDIS Provider

¹⁸⁷ The Disability Royal Commission Final Report also made recommendations to improve worker screening processes including information sharing arrangements (recommendation 10.33) and operational guidelines to promote greater consistency (recommendation 10.32), Volume 10, p.417-427.

¹⁸⁸ Submission, Family member of NDIS Participant



*There are also occasions where a complaint will be acknowledged however, the voice of the provider is louder than the person with the disability and backed by legal advice and language that provides inequity in the process. It is also widely believed that the interests of the quality and safeguard commission officer is to close off the complaint as quickly as possible, with recommendations being often irrelevant and non-genuine in attempts to remedy the matter.*¹⁸⁹

Similarly, the Disability Royal Commission also heard 'that there are people who are identified as at risk of experiencing violence, abuse, neglect or exploitation but do not have advocacy or support to make complaints and ensure incidents are reported to the NDIS Commission.'¹⁹⁰

We have heard that complaints may not be acknowledged for 12 months or at all and that complainants have felt they were not heard, or NDIS providers left unsure of the next steps. It has even been described by a participant as 'a big black hole', referring to the absence of responses received when a complaint is made.¹⁹¹ Other family members told us that they felt let down by the lack of communication from the NDIS Commission after reporting incidents.

*Submitting complaints to the commission over these big providers does nothing, I have been involved with a few companies now as an employee and have witnessed first hand serious breaches of the NDIS Code of Conduct, NDIS practice standards, major fraud within the plans, theft of participants dsp [sic] money, assault on participants, emotional manipulation and blackmail, senior managers forging false incident reports, many many cases of coercive control and have submitted reports each and every time that goes absolutely nowhere.*¹⁹²

This is unacceptable given the scope and importance of complaints in this area.

Redesigning complaints

We recommend that the entire complaints process be redesigned to support our proposed registration model through a co-design process with people with disability.

Complaints should be permitted against NDIS providers or any place where NDIS funds are spent. However, it should be recognised within the process that complaints may need to be referred to other bodies who are appropriately able to respond in certain

¹⁸⁹ Submission, Advocacy Organisation

¹⁹⁰ Disability Royal Commission Final Report, vol 10, p.261

¹⁹¹ Meeting notes - Participant

¹⁹² Submission, Support Coordinator



circumstances. For example, if the NDIS Commission receive a complaint about the quality of a good from a major retailer, the ACCC may have more suitable powers to respond and so the complaint should be referred. The legislative powers to enable this to occur are discussed in [Chapter 10](#). The complaints process should be modelled on a best practice and tailored to best serve people with disability, including by being accessible and inclusive.¹⁹³ We recommend that priority be given within the process to acting on complaints quickly.¹⁹⁴

The Taskforce acknowledges that there is currently a triage system in place at the NDIS Commission¹⁹⁵, but our recommendation goes further than triage. In our view, a complaint should be acknowledged within 7 days and unless exceptional circumstances apply, resolved within 21 days. When a complaint is opened by the NDIS Commission, it should be given a complaint reference (shared with the complainant and respondent) where appropriate and safe, the respondent) and a file opened. Having a record of all complaints is critical to regulatory intelligence and good practice.

It is not in the interests of complainants, respondents or the Commission to have complaints be protracted and long-lasting. If available, resolutions and remedial action should be pursued promptly. A triage process should be built into that process but not at the expense of leaving complaints largely languishing if there is not an immediate threat of death or harm. We acknowledge that this recommendation will take significant system reform, which is discussed in more detail in [Chapter 10](#).

While there is information on the NDIS Commission about how to make a complaint and what the process is,¹⁹⁶ the Taskforce recommend that the NDIS Commission publish a Practice Note or Guideline which sets out the process, timelines and handling of complaints.

The Taskforce notes that the Disability Royal Commission also heard evidence regarding concerns with complaints processes and made several recommendations to improve the responsiveness, awareness and procedures in response to concerns with complaints reporting and management including:

¹⁹³ Concerns regarding the accessibility and inclusivity of the complaints process were shared by the Disability Royal Commission Final Report, Recommendation 10.20, Volume 10, p.308..

¹⁹⁴ The Disability Royal Commission also heard concerns regarding the timeliness of complaint handling processes by the NDIS Commission, Recommendation 10.18, Volume 10, p.302

¹⁹⁵ Disability Royal Commission Final Report, Vol. 10. p.293, noted that the NDIS Commission has developed a four step process for managing complaints. Step 2 involves assessing risk, triaging and allocation to a stream. Ms Mackey also gave evidence in public hearing 26 of the Disability Royal Commission referenced in Final Report Volume 10, p.310 that 'the NDIS Commission is maturing its processes around intake and triaging of complaints'.

¹⁹⁶ [How to make a complaint | NDIS Quality and Safeguards Commission](#)



- making complaints processes more accessible (recommendation 10.20)¹⁹⁷
- improving complaint handling procedures and responses (recommendation 10.18)¹⁹⁸
- issue complaint handling and investigative practice guidelines (recommendation 10.15)¹⁹⁹
- improving information sharing across prescribed bodies (recommendation 10.28)²⁰⁰
- developing model policies and procedures for complaints (and incidents) recommendation 10.14).²⁰¹

Acceptance and implementation of these recommendations would provide important improvements to the complaints functions.

Importantly, we are of the view that the NDIS Commission come up with a solution to respond to the complaints currently outstanding, which we acknowledge may be up to 10,000 complaints.

8.1.4 Incident reporting

Incident reporting is a critical Provider Obligation that will be attached to all High-Risk and Medium-Risk registration categories.

Under the current approach to incident reporting, unregistered providers are not required to notify the NDIS Commission of ‘reportable incidents’.²⁰² Reportable incidents require registered NDIS providers to notify all reportable incidents (including allegations) to the NDIS Commission, even where the registered NDIS provider believes it has acted and responded appropriately.²⁰³

The Rules also place obligations on registered providers to report incidents within a specified timeframe: 24 hours of when the registered provider is made aware of the incident, except for the unauthorised use of a restrictive practice that has not resulted

¹⁹⁷ Disability Royal Commission Final Report vol 10, p.308

¹⁹⁸ Disability Royal Commission Final Report vol 10, p.302

¹⁹⁹ Disability Royal Commission Final Report vol 10, p.274

²⁰⁰ Disability Royal Commission Final Report vol 10, p.396

²⁰¹ Disability Royal Commission Final Report vol 10, p.272

²⁰² Section 73Z(4) of the NDIS Act states that reportable incidents means: a) the death of a person with disability; or b) serious injury of a person with disability; or c) abuse or neglect of a person with disability; or d) unlawful sexual or physical contact with, or assault of, a person with disability; or e) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; or f) the use of a restrictive practice in relation to a person with disability, other than where the use is in accordance with an authorisation (however described) of a State or Territory in relation to the person

²⁰³ NDIS Commission, ‘Reportable Incidents: Detailed Guidance for Registered NDIS Providers 2019’, p.15 ; [detailed-guidance-reportable-incidents-detailed-guidance-registered_0.pdf \(ndiscommission.gov.au\)](#)



in serious injury, which must be reported within 5 days, as is required for other unauthorised use of restrictive practices.²⁰⁴

The Taskforce is supportive of the current approach to reportable incidents as provided in section 73Z of the NDIS Act and *NDIS (Incident Management and Reportable Incidents) Rules 2018*.²⁰⁵

The Taskforce notes the importance of incident reporting being separate but complementary to the complaints function. We also want to be clear that, where relevant, incident reporting must have an interface with law enforcement and coronial agencies. In particular, we want to ensure that the incident management and reportable incident system supports proper criminal investigation. Making an incident report should not be seen as an alternative to responding to unlawful behaviour or allegations of criminal offending. The Taskforce has been concerned about sentiments shared that a reported incident of criminal offending such as rape or assault to the NDIS Commission has been interpreted as reducing the criminality of the incident.

*It is also important to note that illegal activity and other things regulated within mainstream society should not be merely considered 'incidents' in a disability context. For example, if illegal activity occurs, this is a Police matter. No matter how equipped the NDIS Q&SC becomes, they should never replace mainstream regulatory systems. If mainstream systems are not equipped to adequately support people with disability, this is a separate issue that needs critical attention.*²⁰⁶

The NDIS Commission is responsible for regulating the behaviour of providers and their appropriateness for providing NDIS services. Working closely with police and other bodies is imperative for the NDIS Commission but should not be seen as an alternative or replacement.

The Taskforce confirms support for incidents to continue to be acts, omissions, events or circumstances that occur in connection with providing supports or services to a person with disability and have or could have caused harm to the person with disability. As is consistent with section 73Z of the NDIS Act, incidents captured by the incident reporting requirement would include but not be limited to:

²⁰⁴ NDIS (Incident Management and Reportable Incidents) Rules 2018

²⁰⁵ 73Z (1) of the NDIS Act 2018 notes: The National Disability Insurance Scheme rules must prescribe arrangements relating to registered NDIS providers notifying and managing reportable incidents that occur, or are alleged to have occurred, in connection with the provision of supports or services by registered NDIS providers or in other circumstances prescribed by the National Disability Insurance Scheme rules.

²⁰⁶ Submission, NDIS Participant



- Death
- Serious injury
- Sexual abuse
- Serious illness
- Assault
- Theft
- Robbery
- Property damage
- Diverse behaviours

Importantly, the Taskforce supports inquiries being conducted by the Commissioner in relation to reportable incidents. Under current arrangements, the Commissioner is able to disclose information to other persons or bodies determines if the Commissioner considers that it is in the public interest to do so, subject to procedural steps under the NDIS Rules.²⁰⁷ However, the Taskforce has heard that referrals and arrangements to share information with other regulators to reduce the risk of abuse and neglect are not working effectively and could be enhanced.

The Taskforce supports the recommendations of the Disability Royal Commission to facilitate the sharing of information between the NDIS Commission and a wider range of state and territory safeguarding bodies to support the safety of NDIS participants.²⁰⁸ The Taskforce recommends that legislative amendment be considered to ensure referral of incidents to other bodies such as the police, ACCC or Ombudsman in appropriate circumstances.

Operationally, the Taskforce wishes to be clear that incident reports are expected to be made instantaneously and by the staff who were present. The Taskforce has been concerned of anecdotes of incident reporting being left for the next person on shift or from management. Where a staff member is required to add additional time to their shift, they should be paid for this. Importantly, where a person receives support from multiple staff on rotating shifts, a ‘handover’ should include the incident report.

In [Chapter 8](#), we make recommendations for staff to be paid for their time when required to provide handovers or other work-related activities outside of their shift. These recommendations extend to the proposed approach to incident reporting.

²⁰⁷ *National Disability Insurance Scheme Act 2013* section 67E. Further details on information disclosure by the NDIS Commission is outlined in NDIS Rules: Federal Register of Legislation - National Disability Insurance Scheme (Protection and Disclosure of Information—Commissioner) Rules 2018.

²⁰⁸ Information sharing between prescribed bodies, Volume 10, Disability Royal Commission Final Report Recommendation 10.28.



8.1.5 Practice Standards

NDIS Practice Standards are an important quality assurance measure established pursuant to section 73T of the NDIS Act and may deal with:

- Standards to be complied with to become a registered NDIS provider
- Standards to be complied with to remain a registered NDIS provider
 - Matters relating to assessing compliance with the standards
 - Matters relating to the screening of workers employed or otherwise engaged by registered NDIS providers or of members of key personnel of registered NDIS providers.²⁰⁹

The *NDIS (Provider Registration and Practice Standards) Rules 2018* set out the NDIS Practice Standards that apply to registered NDIS Providers.²¹⁰ Current material from the NDIS Commission explains succinctly:

*The NDIS Practice Standards specify the quality standards to be met by registered NDIS providers to provide supports and services to NDIS Participants. Together with the NDIS Code of Conduct, the NDIS Practice Standards build NDIS Participants' awareness of what quality service provision they should expect from registered NDIS providers.*²¹¹

The NDIS Practice Standards consist of a core module²¹² and several supplementary modules²¹³ that apply depending on the types of supports and services delivered, and the organisational structure of the provider.²¹⁴ The core module covers:

- Rights of participants and responsibilities of providers
- Governance and operational management
- The delivery of support, and
- The environment in which supports are delivered

Supplementary models cover:

- High intensity daily personal activities
- Specialist behaviour support, including implementing behaviour support plans

²⁰⁹ *National Disability Insurance Scheme 2013* (Cth), s 73T (3).

²¹⁰ *NDIS (Provider Registration and Practice Standards) Rules 2018*, Preamble.

²¹¹ <https://www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/ndis-practice-standards>

²¹² *NDIS (Provider Registration and Practice Standards) Rules 2018*, Schedule 1.

²¹³ *NDIS (Provider Registration and Practice Standards) Rules 2018*, Schedule 2.

²¹⁴ <https://www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/ndis-practice-standards>



- Early childhood supports
- Specialised support coordination
- Specialist disability accommodation.²¹⁵

For each outcome in the modules, the NDIS Commission has prepared quality indicators that approved auditors use to assess compliance with the NDIS Practice Standards.

Notably, in November 2021, three new Practice Standards and associated Quality Indicators for mealtime management, severe dysphagia management, and emergency and disaster management commenced.²¹⁶

The Taskforce observes that Practice Standards are an ideal way for the Commissioner to address emerging issues facing participants or providers. For example, amendments to the NDIS Practice Standards and Quality Indicators were introduced to mealtime management and severe dysphagia management in response to findings of the 2019 report titled 'Scoping review of causes and contributors to deaths of people with disability in Australia'.²¹⁷ We acknowledge that this is an important function and would remain so going forward.

The Taskforce did not receive significant feedback from participants or providers on the effectiveness of the Practice Standards. Our view of the current Practice Standards is that they are suitable to meet expectations of a human rights focussed regulator and would suit our proposed model if applied to all NDIS Providers in accordance with our proposed definition. We do recommend that Practice Standards be co-designed going forward and suggest that this be included as a requirement in the Rules.

Practice Standards are an obligation for High-Risk and Medium-Risk registration categories.

New types of Provider Obligations

8.1.6 Regular Check Ins with NDIS Commission

A new Provider Obligation is recommended by the Taskforce for self-directed supports; a check in with the NDIS Commission. Acknowledging that due to the nature of

²¹⁵ *NDIS (Provider Registration and Practice Standards) Rules 2018*, Schedule 2; NDIS Practice Standards and Quality Indicators (November 2021), version 4.

²¹⁶ *National Disability Insurance Scheme (Provider Registration and Practice Standards) Amendment (2021 Measures No. 1) Rules 2021* and *National Disability Insurance Scheme Legislation Amendment (Quality Indicators) Guidelines 2021*.

²¹⁷ [2019 Report: Scoping review of causes and contributors to deaths of people with disability in Australia.](#)



self-directed supports, the Taskforce believes that it is important for the NDIS Commission to regularly check in with those providers.

The Check-In process should be co-designed with the disability community. The Taskforce anticipate that it will be flexible and respectful of a participant's right to privacy. However, as an Obligation, it is requirement of gaining and maintaining registration. As such, if a participant registered in the self-directed category does not meet this Obligation, registration can be suspended or revoked.

8.1.7 Performance measurement

As proposed by the NDIS Review, performance management is proposed to measure and publish metrics of registered provider performance.²¹⁸ The NDIS Review describe that the performance measurement:

*should include an initial focus on quality and safety and be designed to incentivise improvements by providers and drive greater competition on quality. It should be supported by accessible and useful information to support people with disability in making choices about provides. Over time, this should incorporate measurement of outcomes, and be accompanied by consequences for good and poor performance.*²¹⁹

The Taskforce explored this concept during engagement with stakeholders and there was a general agreement that having quality ratings would be helpful for Participants choosing services.

*Market rating scales akin to My Aged Care star ratings can empower participants to make informed choices about service providers, thereby driving continuous improvement and accountability within the NDIS sector.*²²⁰

Some told us that this would not be helpful or useful in how they choose services because they look more for values-based metrics than qualitative measures.

The Taskforce also met with the UK Care Quality Commission, the regulator for disability and health services in the UK.²²¹ The UK Care Quality Commission have a performance measurement system and reported that it was an important tool for regulating the market.²²²

²¹⁸ NDIS Review, Action 12.3, p.177

²¹⁹ NDIS Review, p.177.

²²⁰ Submission, Advocacy Organisation

²²¹ Meeting notes, UK Care Quality Commission

²²² Meeting notes, UK Care Quality Commission



Overall, the Taskforce is supportive of Performance Measure for Advanced, General and Basic Registration. However, the design and implementation of this provider obligation should be co-designed with the disability community and sector to ensure that it provides useful and meaningful measurement.

8.2 Provider Processes

To ensure compliance with the Provider Obligations, the Taskforce have identified the following Provider Processes that need to be undertaken.

8.2.1 Application

The provider will complete an online application form, that could be integrated with centralised online platform and NDIS payments system (Actions 10.1 and 10.3), when these are developed to provide the NDIA and NDIS Commission with visibility of all providers and data on payments.

Those registered for self-directed supports will have the participant (or representative) complete the application to be a self-directed support provider, that could be integrated with a centralised online platform and NDIS payments system, when these are developed.

8.2.2 Identification verification

All providers required to registered, including those registered for self-directed supports will have their identification verified.

If applying to become a registered provider under existing processes, an entity must provide details including ABN, contact details and corporate structure. A provider must also engage an auditor to complete an audit assessment (specific to the services they wish to provide). The NDIS Commission then completes its suitability assessment of both the provider and key personnel having regard to whether provider²²³ or personnel.²²⁴

- has previously been a registered NDIS provider
- had a banning order in place
- any past convictions for an indictable offence
- been insolvent under administration

²²³ NDIS (Provider Registration and Practice Standards) Rules 2018, Cl.9

²²⁴ NDIS (Provider Registration and Practice Standards) Rules 2018, Cl.10



- had adverse findings or enforcement action taken by any relevant authorities (these include bodies ‘with responsibilities relating to the quality or regulation of services provided to people with disability, older people or children’)
- adverse findings or enforcement action following an investigation by other bodies including: (i) the Australian Securities and Investment Commission; (ii) the Australian Charities and Not-for-profits Commission; (iii) the Australian Competition and Consumer Commission; (iv) the Australian Prudential Regulation Authority; (v) the Australian Crime Commission; (vi) AUSTRAC; (vii) an equivalent State or Territory
- been the subject of findings or judgement in relation to fraud, misrepresentation, or dishonesty
- been disqualified from managing corporations.²²⁵

This will include the identification of key personnel. The Taskforce has been alarmed by information received from members of the Fraud Fusion Taskforce that in the current system, the identification of businesses and individuals is not verified.²²⁶ Current requirements for this leaves a gap that is exploited with fake providers or fake profiles being created to act fraudulently and take money from the NDIS. To assist in closing this gap, identification will be an important component of registration. Existing systems that are reliable and strong, such as myGov and Single Touch Payroll may be used to verify identification where appropriate.

To ensure consistency in Identity Proofing and Credentials across individual/provider jurisdictional spaces. The identities and the digital credentials associated with provider entities must be reconcilable against real individuals and real entities in the economy. Government must be confident that people associated with an entity are real human beings who are known in other parts of the economy (e.g. document verification checks, TFN matching, Director ID etc.).

Co-design with the disability community will be required to develop this because of issues raised with the Taskforce about Participants and their family members not having identification documents such as driver’s licences or passports.

We have not been able to utilise the NDIS Commission worker screening database. Although the worker screening data base is available to self

²²⁵ [NDIS \(Provider Registration and Practice Standards\) Rules 2018, Cl.9 -11; and NDIS Commission ‘Application Pack – Suitability Assessment Guide’](#)

²²⁶ Senate Estimates 3 June 2024, NDIA pp.96-99: [Community Affairs Legislation Committee 2024_06_03.pdf;fileType=application/pdf \(aph.gov.au\)](#); Meeting Notes, Fraud Fusion Taskforce



*managers, it requires a driver's licence or a passport to satisfy identity requirements. As I don't drive, I was unable to meet these requirements.*²²⁷

When changes are made to key personnel or the business, the NDIS Commission should be notified within a specific timeframe and no more than 21 days. The NDIS Commission must have access to real time data of the identification information to ensure accuracy and enable checks to be performed.²²⁸

8.2.3 Code of Conduct attestation

Acknowledging that the current Code of Conduct is reportedly poorly understood and known, but also recognising the importance of the Code of Conduct in delivering quality and safe disability support services, under the proposed model, providers need to provide a Code of Conduct attestation, including those delivering low-risk supports. The Taskforce recommends that this be an online form (with hard copy options) available from the NDIS Commission for the provider and workers (within the provider) to complete to confirm they have read and understood and confirm their ongoing commitment to adhering to the Code of Conduct. Each worker should be required, as part of the attestation, to answer some short form, multiple choice questions to demonstrate their comprehension of the Code of Conduct.

It is important that the attestation be available in different languages and accessible formats.

8.2.4 Worker screening attestation

All providers or workers that have undergone worker screening in accordance with their Provider Obligation, must provide the NDIS Commission with confirmation of the screening including names of the worker or personnel, expiry of check and role in the organisation.

Real time data should be available to the NDIS Commission as to the employment status of the worker or changes in their screening status (which would be available via the National Database, operated by the NDIS Commission).

8.2.5 Audits by the Commission and audits by approved quality auditor

Currently, registered providers are subject to audits. Even though there is a risk-proportionate approach to auditing that distinguishes between high and low-risk

²²⁷ Submission, Parent

²²⁸ Meeting Notes, Fraud Fusion Taskforce



supports through the implementation of verification and certification audits, the Taskforce has heard that the current audit process is not suitable.

*The audit process is not keeping anyone safe and not enforcing the conditions of registration. Auditors however, are making a lot of money and the providers just have to wait (up to 18 months or more for any response from the commission) I think any new process to address this needs to be first and foremost, resourced appropriately. Timely actions are what will keep participants safe.*²²⁹

We have heard that audits are extremely costly, take a long time, and are in some cases conducted by inexperienced or poorly skilled auditors and at times do not audit the right settings to determine quality and safety in services.

*Our experience is the system relies on audit and the audit process is conducted by accountants or new entrants following an accountant's script – focus areas are business based rather than focused on participant welfare and outcomes (e.g. no auditor has ever commented on progress notes, suitability of participant goals, frequency of therapy or any matter related to scheme involvement).*²³⁰

We have also heard that for rural and remote areas, including Central Australia, the costs of the audits are very high due to cost of travel to those areas.

*As a registered provider, the [provider] team is currently subject to audits which are expensive in both time and direct costs. Regular audits cost around \$10,000 and because of the remoteness of Alice Springs, we are also charged for airfares and accommodation for auditors. Audits require lengthy time spent in preparation as well as time during the actual audit period. So, too, do the mid-term audits. Because of the unique situation of Anangu, each and every audit also involves considerable time orientating auditors in order to give them some understanding of the remote situation and the unique social and cultural requirements of Anangu living in a traditional way in remote communities.*²³¹

We recommend that all Advanced and General Registered providers are required to be subject to audits, but the audit process be redesigned. The redesign should be done in a co-design format with people with disabilities, their families and the sector. The NDIS Commission should lead the redesign process. The purpose of the audit should evaluate the provider's fulfilment of the obligations required by registration. Failure to

²²⁹ Submission, Parent and Registered Provider

²³⁰ Submission, Registered Provider

²³¹ Submission, Registered Provider



meet an audit, could see the registration restricted or revoked. The redesign should consider the following elements:

- Auditing should be risk-proportionate and respond to service type and size of service, taking a proportionate and consistent approach. Past experience of the Provider to fulfil audited obligations should be recognised, leading to ‘earned autonomy’.
- There should be an in-depth observational audit of compliance with relevant practice standards for those registered in the Advanced Registration category. A graduated and proportionate audit of compliance with relevant practice standards, including observational audits should be applied to those in the General Registration category.
- Verification audits should be more than a desktop review and should involve at least one face-to-face exercise.
- There should be a core team of auditors within the NDIS Commission who audit the highest risk supports. For General and Basic Registration categories, approved quality auditors, external to the Commission can be appointed in accordance with the Act (similar to the current case). However, different to now, approved quality auditors must undergo specific training, receive professional development to review NDIS providers. Similar to the early childhood space, auditors may currently work in the sector.
 - audit powers should be enshrined in the Act, where appropriate, including the requirement for a provider to participate in the audit by providing documentation or being interviewed as needed. Importantly, these are distinct from investigation powers held by the NDIS Commission.
 - Further consideration of how auditing can interface with other quality processes (such as ISO 9001)²³² to avoid duplication, without missing important aspects of the NDIS audit process is needed.
- The process must be cost effective. Current audits which are reported to cost upwards of \$10,000 does not seem to the Taskforce to be proportionate to encouraging a positive audit culture. Alternative ways to making the audit process cost effective, including considering whether it should be proportionate to the organisation’s income or determined by category of registration should be explored. Importantly, travel of auditors should be a cost borne by the organisation being audited. In the first instance, wherever possible, audits should be conducted locally. For those in rural and remote areas where auditors

²³² ISO 9001 is a globally recognised standard for quality management [ISO 9001:2015 - Quality management systems](#).



are not able to be sourced locally (though efforts should be made to invest in local workforces), the NDIS Commission should subsidise these travel costs.

- Auditors should be appointed by the NDIS Commission and not chosen by the provider.

In addition to these elements, the focus of audits needs to be on incentivisation and continuous improvement, quality assurance and ongoing and meaningful education. Provider obligations set by the registration category need to be evaluated in a practical, real time way. We have heard that often the current focus of audits is paper-based and more concerned with what happens at head office in the procedure files than on the frontline. This is not the appropriate focus to have, in our view. Instead, audits should be focused on service delivery. We also acknowledge that the Disability Royal Commission identified that auditors do not routinely have access to complaints and incident reporting which impacts their audit samples.²³³ This issue was expressly heard by the Taskforce but reinforces the importance for auditors to have access to appropriate information that orientates their audits to what matters to evaluate the delivery of quality and safe services.

In particular, we have heard about the value of having providers work with participants and families to ensure that services provided to an individual are quality, fostering community connections and advancing their goals in life. The Taskforce has heard mixed views about the participation of Participants in audits.

*The participant voice during audits - and also outside of the audit process – is critical.*²³⁴

*A random annual survey of a minimum of 10 participants per provider based on meaningful outcomes (as viewed by the participant), quality, integrity, safety and respect would go much further in truly determining suitability to sustain registration than any amount of auditing for policies and procedures.*²³⁵

In the current process, participants who provide feedback to the auditor are self-selected.

The critical aspect is the quality of the auditing process, particularly where remote desktop audits are undertaken. There are huge risks where providers are asked to select participant files for audit rather than auditors randomly selecting

²³³ Disability Royal Commission, Final Report, Vol 10, p. 322.

²³⁴ Submission, Auditor Trainer

²³⁵ Submission, Unregistered Provider (currently undergoing registration)



files. Participants and workers should be personally engaged with by the auditors rather than relying on emailed surveys. ²³⁶

The Taskforce do not endorse this approach for obvious biases that come with such an approach. However, the Taskforce suggests that consideration be given when co-designing a new auditing process to the imposition placed on a participant if asked to be part of the audit process.

The Taskforce acknowledges the importance and benefit of having participants involved in an audit and from that perspective it is encouraging. Participants may even be provided with capacity building support to participate in audits, if they wished. However, participants should not be imposed upon unduly, remembering that the purpose of the audit is on continuous improvement and quality assurance for that organisation. Participants are not responsible for the quality (or lack thereof) of service providers.

A way to balance this would be through auditors issuing a call to participants of the service to invite them to voluntarily provide feedback. If the audit is going to impact on the participant in a different way, including by reading their records or visiting their home (in group accommodations), participant informed consent must be sought, and the approach of the auditor should be respectful of their privacy and inclusive at all times.

Finally, we highlight the importance of auditors providing a report within a specified timeframe.²³⁷ The Taskforce has heard that audits have taken up to a year. Audits must be timely to be effective and standards should be set.

Auditors already have a 12 month wait for audits not to mention the 18-24 month wait for NDIS to process the audit, there are not enough auditors to meet the need currently. ²³⁸

For those that fall within the Self-Directed Supports registration category, the participant should undertake their own assessment for practice and quality according to self-defined standards.

8.2.6 Suitability assessment of provider and key personnel

Those registered in the Advanced, General and Basic registration categories must be subject to a suitability assessment of the provider and key personnel. Consistent with the NDIS Review, the Taskforce notes that this considers any findings of judgements in

²³⁶ Submission, Community member

²³⁷ See, *NDIS (Approved Quality Auditors Scheme) Guidelines 2018*, s 17(5).

²³⁸ Webinar participant



relation to fraud, civil or criminal proceedings, and any other matters the NDIS Commissioner considers relevant.²³⁹ This process should be streamlined and sped up to reduce overall processing times for registration.²⁴⁰ Per the NDIS Review's advice, consideration should be given to granting conditional registration to some providers while the suitability assessment is being undertaken to remove delays for lower-risk in the market, such as those in the Basic Registration category.²⁴¹

Those who register Self-Directed Supports will undertake their own suitability assessment.

8.2.7 Ongoing compliance and monitoring

Right to entry and Unannounced visits

As discussed throughout this advice, the Taskforce has been concerned about the quality and safety of services delivered in group environments or when a person faces vulnerability such as isolation, a lack of natural safeguards or little community involvement. Currently, the NDIS Commission is not able to enter properties without permission or make unannounced visits for the purposes investigating complaints of poor practice or allegations of abuse and neglect. It is acknowledged that an authorised person may enter premises if the authorised person suspects on reasonable grounds that there may be material on the premises related to the contravention of an offence that is subject to investigation.²⁴² However, entry must be with the consent of the occupier of the premises or under an investigation warrant.²⁴³ The Taskforce has heard that such legal powers would enhance the ability of the NDIS Commission to be able to respond more effectively but also create a sense of oversight and monitoring within the sector.

For many high-risk services subject to mandatory registration (such as SDA and shared accommodation settings), a third-party audit is not enough. The nature of these services means that people with disability are at a much higher risk of violence, abuse, neglect and exploitation. Proportionally, more oversight is needed for the Commission to adequately protect people. Therefore, the Commission should also have the right to enter SDA dwellings or homes where shared living supports or individualised living arrangements are provided, to randomly inspect them and to check the welfare of people with disability.

²³⁹ NDIS Review Supporting Analysis, p. 910.

²⁴⁰ See also, NDIS Review Supporting Analysis, p. 925.

²⁴¹ NDIS Review Supporting Analysis, p. 937.

²⁴² *Regulatory Powers Act 2014* (Cth), Part 3.

²⁴³ *Regulatory Powers Act 2014* (Cth), Part 3.



*Inspections should be unannounced, or there should be only minimal notice given.*²⁴⁴

Having a right to entry or to conduct unannounced visits is not uncommon for state and territory regulators responsible for monitoring the quality and safety of an industry or sector. However, care must be taken when designing these powers in human services. In particular, it is critical to design this in a way that respects the right to privacy and home of participants while maximising the value of exercising the regulator's right to entry or conduct of an unannounced visit.

To explore how these regulatory powers can be balanced, consideration should be given to existing regulators including the Aged Care Quality and Safety Commissioner's regulatory powers to enter premises and exercise search powers in relation to approved aged care providers,²⁴⁵ and state-based examples such as the South Australian Adult Safeguarding Unit and the Victorian Human Services Regulator. Notably, the *Commonwealth Aged Care Quality and Safety Commission Act* and *Victorian Human Services Regulator* are undergoing reform and legislative changes are imminent but have not been enlivened at the time of writing. While these are examples worth considering when designing similar regulatory powers for the NDIS Commission, it is imperative to do so with the knowledge that disability services are especially unique compared to other areas of human services such as aged care or childcare in part due to disability services being delivered in-home, but also due to the lifelong nature of disability compared to those areas which are age-specific.

Further, we note that having a right to entry or conduct unannounced visits is only able to be considered after the provider registration scheme is established. A provider being registered will be an important factor that enlivens these legal powers.

For the purposes of this advice, the Taskforce supports a right of entry and powers to conduct unannounced visits being provided to the NDIS Commissioner for NDIS providers registered in the High-Risk category. However, we advise that this needs to occur within a regulatory framework that is human rights focussed. The powers could not be, in our view, implemented without a clear framework governing the powers or a well-functioning registration scheme.

Risk-based monitoring and regulatory intelligence

The NDIS Commission is to undertake risk-based monitoring, investigation and regulatory intelligence gathering (including through provider outreach and information sharing with other regulators) for all categories of registration. This needs to be co-

²⁴⁴ Submissions, Advocacy Organisations

²⁴⁵ *Aged Care Quality and Safety Commission Act 2018* (Cth), Part 8.



designed with the disability community, especially for those registering self-directed supports.

The Taskforce acknowledges that proactive monitoring and the collection of regulatory intelligence is currently a significant gap in the approach by the NDIS Commission. Improving this approach and creating a clear Provider Process within registration is critical the overall performance of the market.

Corrective action against NDIS providers

Currently, the NDIS Commissioner can take the following action against NDIS providers:

- Investigations, and a power to appoint investigators and inspectors
- Infringement Notice
- Compliance Notice
- Banning order
- Enforceable undertaking
- Injunctions

The Taskforce recommends that with the introduction of a redesigned registration scheme, monitoring and compliance powers be reviewed. These powers should reflect the commitment to reduce and elimination of the violence, abuse, neglect and exploitation of people with disability. Further work needs to be undertaken by DSS and the NDIS Commission to progress this approach.

Breaches of the Practice Standards

Service agreements

Currently, registered providers are required to provide a service agreement so that each participant has a clear understanding of the support they have chosen and how the support will be provided.²⁴⁶ In the case of SDA, it is required that each participant be supported to understand the terms and conditions that apply to their SDA dwelling and the associated service or tenancy agreements.²⁴⁷ Despite these requirements, the Taskforce has heard evidence of there being inconsistent, onerous and illegal service agreements being imposed on participants by NDIS providers.

Audits of compliance should also include checking of service agreements. I have seen instances of unfair contract terms with some service agreements. Even

²⁴⁶ National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018, Sch 1, s 20.

²⁴⁷ National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018, Sch 7, s 5.



*participants with full cognitive abilities might not be aware the terms of the agreement they have signed are unethical.*²⁴⁸

These issues have been found in both registered and unregistered NDIS providers. In particular, the Taskforce would be concerned with practices such as imposing onerous obligations on the client (person with disability) to meet work health and safety obligations otherwise needing to be met by employers, clauses that prohibit clients from working with their support workers for a specified period after the termination of a contract and unconscionably short periods for termination of service provision without cogent reason.

These concerning provisions impact people with disability significantly, in practical ways through risk of losing services they depend on without legal recourse but also in unethical ways through taking advantage of the power imbalance inherent between a service provider and a client, whatever the circumstances of that individual.

The Taskforce is reluctant to make a recommendation for all registered NDIS providers to have service agreements. Service agreements are a unique and specific part of a business' operations and flexibility should be retained for NDIS providers to engage with clients as they need to for their business needs. However, it is critical that providers understand that these agreements need to comply with contractual and consumer law. Failure to do so may see the NDIS Commission refer the issue to the ACCC or similar body. Further, it is likely that going forward unethical and illegal conduct will, as it is now, be considered a breach of the Code of Conduct. This gives rise to regulatory action being taken against the provider by the NDIS Commission.

Fraud

The Taskforce acknowledges that the Fraud Fusion Taskforce is currently working to address fraud within the NDIS. We acknowledge the expertise of the Fraud Fusion Taskforce and recognises the work they are undertaking to address fraud in the Scheme. The Taskforce received advice from members of the Fraud Fusion Taskforce on ways in which the registration scheme can assist in their efforts to address fraud in the scheme, they advised:

- there should be consistency in verification of identification of providers and workers, this includes consideration of linking identification across other parts of the economy such as document verification checks, TFN matching, and Director ID.

²⁴⁸ Submission, Support Worker



- improved information sharing and data matching, enabled through legislation, would ensure that the individuals/ entities being registered are consistently known across the various touchpoints of the economy.
- registration should be conditional on the ongoing fulfilment of provider obligations, including any changes to these over time.
- embedding integrity measures into the registration model, as recommended by the NDIS Review. This should include a real time payment platform for visibility of financial transactions.

The Taskforce recommends identification of key personnel and using existing systems that are reliable and strong, such as myGov and Single Touch Payroll may be used to verify identification where appropriate.

On our request, members of the Fraud Fusion Taskforce confirmed that changes to the definition of 'NDIS Provider' under the NDIS Act (refer [Chapter 3](#)) will be unlikely to increase incidents of fraud. It is important to acknowledge that fraud occurs in both registered and unregistered providers so amending the scope of who is required to register (or not) is not likely to see more fraud result.

Continued work to build the registration scheme should occur in consultation with the Fraud Fusion Taskforce.



9. Regulation of the workforce

Recommendation 10

The Taskforce recommends a **Worker Registration Scheme** be introduced for all workers. However, the scope of the definition of ‘worker’, like NDIS providers, needs further consideration and co-design with the disability community and sector. A Worker Registration Scheme should include:

- a. a public register to be established of workers registered to provide services under the NDIS
- b. requirements for professional development
- c. a worker training and qualifications framework (including minimum training and qualification requirements) to apply to the disability sector.
- d. worker registration to be automatic, simple and enabled through an online portal (with alternative accessible formats as needed)
- e. registration is to be transparent, not place unreasonable costs on workers or Providers and enable identification verification to be conducted via myGov including the requirement of photo identification
- f. all NDIS providers must provide such instruction, training and supervision to workers as is necessary to enable workers to perform their work in a way that is safe and without risks to the participant or themselves.
- g. NDIS Providers in the Advanced and General Registration Categories who employ or have a job placement arrangement with five or more workers has, as a condition of their ongoing registration, responsibility for ensuring that each worker has an individual training, skills enhancement and accreditation plan which is updated in consultation with the worker at least every twelve12 months.
- h. to maintain registration, registered workers be required to undertake 10 hours per year of ongoing professional development training.

Recommendation 11

Practitioners, including allied health practitioners, that hold professional registration may have that registration recognised to avoid duplication and administrative burden. However, where there is a difference between the professional registration and the NDIS Provider and Worker Registration Scheme, the practitioner will need to meet those outstanding obligations to provide NDIS supports.

In this Chapter, the Taskforce outlines our recommendations to worker registration including the important aspects that must be considered when designing the worker registration scheme and considerations on worker screening.



Throughout our engagement with the disability community and sector, the Taskforce heard clearly of the vital and valued role that the NDIS workforce plays in providing care and support to NDIS participants.

Noting that our Terms of Reference do not request specific advice on a worker registration scheme, as it is in our name we have found through our engagement that stakeholders wanted to share their solutions with us as to what a worker registration scheme could look like. We formed the view in consideration of the topic that the composition of the market requires broadening the scope of consideration beyond providers and Provider Obligations. Workers, operating independently or for employers, make up an important part of delivering quality services. In line with the Disability Royal Commission, the Taskforce recommends the establishment of a worker registration scheme.

The Taskforce acknowledges that registration and screening do not guarantee safety.

However, given persistent concerns with the quality and safety for both participants and workers, the Taskforce believes that a worker registration scheme, underpinned by worker screening, is an important safeguarding step to a better system and improved outcomes. We anticipate that this will increase the quality of care and supports, encourage innovation and best practice, upgrade the skills and qualifications of the workforce, and assist in attracting and retaining disability support workers by offering an attractive career path. Further worker registration provides visibility of the NDIS workforce.

The Taskforce endorses the NDIS Review recommendations that go to improving recruitment, retention, training, skills development, career pathways and pay equity in the NDIS workforce in ways that reflect the diversity and growth required to meet the needs of all NDIS participants, and people with disability more broadly.

9.1 Developing a Worker Registration Scheme

Reflecting what we heard, the Taskforce supports worker registration for all workers. However, further work needs to be done in co-designing with the disability community and sector to define the scope of 'workers'. Further, the Taskforce does not seek to duplicate recommendations provided by the Disability Royal Commission. The Taskforce endorses the Disability Royal Commission recommended design considerations, including but not limited to, the development of a code of conduct and minimum standards, recognition and accreditation of qualifications and skills, recognition of registration with other professional bodies and a First Nations workforce pathway.²⁴⁹

²⁴⁹ Disability Royal Commission Final Report, Recommendation 10.8



While the Taskforce recommends worker registration is mandatory, consideration needs to be given to the scope of ‘workers’. In considering that scope, care must be taken to avoid service failure, especially in thin markets and respond to unique circumstances, including the use of ad hoc supports. There also needs to be deep consultation with participants who self-direct their supports to better understand from them how worker registration would fit in their models of support. The Taskforce did hear that in determining the scope of ‘worker’ for the purposes of a registration scheme, exemptions could be considered. Examples of exemptions we have heard should be considered include:

- to those workers that provide one off, ad hoc or emergency short-term support or care to a single participant not expected to be of a duration exceeding 5 days in any 60-day period.
- to those workers that provide support and care to participants who self-direct their supports
- in an area deemed by the NDIS Commission to have a thin market/s, to a class or classes of workers whom the NDIS Commission believes a requirement to register will threaten the provision of support and care services including those that are culturally appropriate.

For the avoidance of doubt, the Taskforce is not recommending an exemption system but notes that it is a solution that could be considered when designing the scope of who is a worker for the purposes of the worker registration scheme. The Taskforce has heard that delays in worker registration may be a barrier to meeting the needs of service delivery. Therefore, consideration should be given to provisional registration to workers to avoid this.

Simple and transparent

The Taskforce recommends that worker registration is automatic, simple and enabled through an online portal (with alternative accessible formats as needed). Further, registration should be transparent, not place unreasonable costs on workers or providers and enable identification verification to be conducted via myGov including the requirement of photo identification.

A public register should be established of workers registered to provide services under the NDIS.

Worker obligations

The Taskforce recommends registration is granted to workers when they have:



- acknowledged that they have read and understood the Code of Conduct, commit to adhering to its requirements on an ongoing basis and have successfully completed the required online module/s
- satisfied relevant worker screening requirements
- satisfied registration identification requirements
- provided the required registration and contact details.

As outlined in [Chapter 8](#), worker screening would be applied to all workers employed, contracted or engaged by NDIS Providers (per our recommended definition), in risk assessed roles for Advanced and General Registration Categories.

Minimum professional development requirements

As a crucial component of establishing and sustaining a professional workforce, the Taskforce recommends that to maintain registration, registered workers be required to undertake 10 hours per year of ongoing professional development training. This would support workers to progress their careers, refresh training, and ensure recency of practice and knowledge.

The Taskforce acknowledges that many providers, including Services for One, recognise the value of, and currently provide ongoing training to their workers. To support the implementation of the worker registration, the NDIS Commission should develop a list of professional development training that would meet the above requirement. Further the NDIS Commission should provide online training and development modules to address priority areas such as supported decision making, restrictive practices, incident reporting and legislative changes as an example.

The Taskforce also recommends that NDIS providers must provide such instruction, training and supervision to workers as is necessary to enable workers to perform their work in a way that is safe and without risks to the participant or themselves and that NDIS providers in the Advanced and General Registration categories who employ or have a job placement arrangement with five or more workers has, as a condition of their ongoing registration, responsibility for ensuring that each worker has an individual training, skills enhancement and accreditation plan which is updated in consultation with the worker at least every 12 months.

Worker Training and Qualifications Framework

The Taskforce recommends the development of a new Worker Training and Qualifications Framework (including minimum training and qualification requirements) to apply to the disability sector.



The Taskforce recommends that the Worker Training and Qualifications Framework be co-designed by the disability community and disability sector including employers, unions and HumanAbility, the national Jobs and Skills Council for the disability sector.

Communication

An important feature of worker registration would be the ability for the NDIS Commission to identify and communicate quickly with the workforce. Registered Workers would be required to keep their contact details updated and NDIS Commission should consider communication including:

- bulletins & alerts relating to matters of interest including, but not limited to, regulation, operation and administration of the NDIS, legislative changes, Ministerial announcements, areas of focus of programmed audits, practice standards, and matters relating to emergency management including public health emergencies
- advertisements for conferences, workshops, roundtables, town hall meetings, etc.
- surveys about quality, innovation, safeguarding & other matters
- information relating to training, skills, qualifications & continuous professional development
- educational and support materials relating to, but not limited to, the rights of participants, choice and control, the complaints process, consumer affairs, financial exploitation, Service agreements and work health and safety.

9.2 Recognition of allied health practitioners

We heard that allied health professionals already required to be registered with the Allied Health Practitioner Regulation Agency (AHPRA), oppose having to undergo a secondary registration with respect to the NDIS. It was suggested that if allied health services were required to register, many allied health practitioners could be deterred from providing services to people with disability. It was put to the Taskforce that many allied health practitioners are either sole traders or operate small businesses, and these practitioners would not be able to justify compliance with the additional regulatory burden required to become a registered provider or worker. Some cited the costs and time involved in registering to be a provider²⁵⁰, while another sole trader who operated part time submitted that NDIS registration would mean additional costs on top of other professional registration requirements.²⁵¹

²⁵⁰ Submission, Unregistered Provider

²⁵¹ Submission, Unregistered Provider



The Taskforce does not wish to see a regulatory system created that is unnecessarily burdensome or requires duplication of effort without obvious benefit. This would have the consequence of unduly limiting the options available to participants who require access to allied health services, especially in regional, rural and remote areas of Australia.

The Taskforce recommends that the registration of allied health professionals by AHPRA be recognised as registration for the purposes of NDIS where this can be achieved. This recommendation is in relation to registration only and does not apply to worker screening.

The Taskforce acknowledges that both the NDIS Commission and AHPRA are legally obliged to protect information held by them. These protections are in place for good reason. The Taskforce also acknowledges there is an expectation that government entities will share information available to them in circumstances where it provides a benefit to the practitioner. Given this, we recommend that the NDIS Commission work with AHPRA to investigate information sharing arrangements via the consent of practitioners.

If this practice was to be implemented, it has the potential to considerably reduce the regulatory burden associated with providing identical information to two government bodies (the NDIS Commission and AHPRA) and streamline the process for practitioners. In doing so, it would remove the main barrier to registration which has been raised with the Taskforce by allied health practitioners who are currently not registered NDIS providers.

The Taskforce recognises that work is already underway to streamline and harmonise worker screening processes across care and support sectors. Significant work has been undertaken by the Commonwealth Department of Health and Aged Care in consultation with state and territory governments on the expansion of NDIS worker screening arrangements to the aged care sector. The Taskforce is also aware that in April 2023 First Ministers agreed at National Cabinet to work together to progress a first tranche of reforms to streamline worker screening.²⁵²

Equivalence of NDIS and AHPRA screening checks

The current AHPRA screening check considers an individual's situation at a particular point of time, and doesn't provide ongoing monitoring of criminal history, through an automated system that flags new criminal records of screened workers. It instead relies on notifications from police services of new criminal charges and a practitioner's disclosure of any change in their criminal history in the past 12 months, as part of their registration renewal process. Practitioners must also notify AHPRA within 7 days of charges and convictions punishable by imprisonment. Therefore, it does not meet the

²⁵² April 2023 First Ministers agreed at National Cabinet see [Meeting of the National Cabinet - A Better Future for the Federation | Prime Minister of Australia \(pm.gov.au\)](#)



threshold of the current level of ongoing safeguarding available through the current NDIS worker screening process.

At this stage, the worker screening provided under AHPRA is not comparable to the NDIS Worker Screening Check. As a result, the worker screening requirements provided under AHPRA cannot be part of the dual recognition scheme to meet the threshold of a NDIS screening check required by the proposed model specified in [Chapter 8](#).

Recognition of allied health practitioners who are not required to maintain AHPRA registration

The Taskforce acknowledges there are a number of allied health practitioners who are not required to register with AHPRA, including dietitians, audiologists and speech pathologists. Some of these practitioners operate in a self-regulated environment (e.g. for National Alliance of Self Regulating Health Professions (NASRHP)). These frameworks may be accompanied by a certification process and Code of Ethics. We have heard that members of these bodies would prefer to not be required to operate under duplicate accreditation and registration requirements, through mandatory registration with the NDIS Commission.

The Taskforce recommends consideration be given to the appropriateness of extending a recognition of those registration schemes to self-regulating allied health professionals. Any such assessment would need to consider the requirements of the self-regulated environment and other relevant matters. This recommendation is in relation to registration only and does not apply to worker screening.



10. Implementation

To implement these recommendations, the Taskforce recommend the following

Implementation Actions:

Recommendation 12

The Taskforce recommends that the existing core functions of the Commission be expanded in a **co-design** process with people with disability for the purposes of implementing the proposed registration model, with the following considered to be added to the core functions:

- a. The promotion of best practice within service providers to deliver high quality, individualised and innovative services.
- b. The promotion of safe, secure workplaces that value workers providing disability support services.
- c. The reduction of segregation in closed settings and causes of isolation of people with disability.

Recommendation 13

Provider registration: a new legislative framework to support the recommended Provider Framework is required, including the separation of the registration and reportable incidents. Within the legislative framework, there needs to be consideration of the recognition of other professional registration including allied health practitioners.

Recommendation 14

Worker registration: a legislative framework to support the recommended worker registration framework is required. This should be co-designed with people with disability, the disability sector and workers and their union representatives.

Recommendation 15

The **Complaints function** should be redesigned in the NDIS Act to include:

- a. preliminary inquiries
- b. investigations, including a right to entry in certain circumstances while balancing the right to privacy especially for private homes
- c. arrangements for investigations by other authorities such as the Australian Crime Commission, Australian Competition and Consumer Commissioner or the Ombudsman
- d. power to obtain information and documents
- e. administrative review of the decision in relation to the outcome of the complaint. An internal review and external review of the outcome should be made available. The Administrative Appeals Tribunal should be empowered to conduct external reviews of the Commissioner's decisions on complaints.



Recommendation 16

The legislative provision for the **Code of Conduct** will need to be redesigned, including making it clear that it applies to any good or service purchased with NDIS funding, which may be a registered provider or not.

Recommendation 17

Audits: legislative change is needed which will be co-designed with people with disability, their families and the sector. In particular, we recommend that audits be enshrined in the NDIS, shifting away from reliance on Rules and Guidelines to set the standards for the audit process.

Recommendation 18

Practice Standards: require an amendment to the governing Rules to ensure that Practice Standards are co-designed with people with disability.

Recommendation 19

Monitoring and compliance: Department of Social Services (DSS) and NDIS Commission to work together to develop reform for monitoring and compliance powers.

Recommendation 20

NDIS Commission to establish:

- an **Innovation Community of Practice and working groups**, which act to support and nurture quality and innovation within the NDIS
- a **project group to consider the utility of the introduction and mandating of Individual Safeguarding Plans** for participants without individual natural safeguarding relationships and/or for those participants in congregant care settings or in clusters supported by a singular provider.

Recommendation 21

The Taskforce agrees with the Disability Royal Commission Final Report for there to be a **nationally consistent Community Visitor Scheme** in each state and territory to provide independent oversight is required.

The implementation of the proposed model is imperative to its success. While the Taskforce Terms of Reference did not ask us to provide costings or data modelling of the proposed model, there are key legislative, policy and operational changes which the proposed model depends on.

The purpose of this part of our advice is to provide some guidance for the implementation our proposed model. The Taskforce is mindful that this is not a comprehensive implementation plan and acknowledges that it will need to be developed, based on the response of the Government to the Taskforce's advice.



Principles of implementation

The proposed model – a graduated, risk-proportionate registration model for NDIS Providers – must be built on the following principles:

- Participant-focused
- Accessible
- Timely
- Impartial

For successful implementation of the model, the Taskforce notes that the following features are essential:

- **Co-design:** policies and approaches must be developed and designed with people with disabilities, their families and the sector.
- **Developing a local presence:** the Commission must operate in local communities, including at state and territory levels to build trust and effectiveness in operations.
- **Technology:** operationalising the proposed model will rely heavily on an advancement in technology used to perform registration, gather and analyse regulatory intelligence and facilitate accessible communication with the Commission.

The role of Commonwealth agencies in implementing the model

Ensuring that the proposed model is operationalised to realise the rights of people with disability is paramount. The design and implementation of the proposed model will have shared responsibility across DSS, the NDIA and the NDIS Commission.

The Taskforce acknowledges the importance of these three agencies exercising their respective powers and responsibilities to deliver and implement the proposed model. We underscore the importance of the unified and collaborative relationship of these agencies to effectively deliver their respective functions. This extends to the importance of information sharing between the agencies, and in particular the NDIA and NDIS Commission, which we will discuss later in this Chapter.

As the NDIS Commission has legislative responsibility for the registration and reportable incidents function²⁵³ which is the basis on which the proposed model is legalised (with legislative amendment as recommended), much of the implementation of the proposed model falls to them.

²⁵³ *National Disability Insurance Scheme Act 2013* (Cth), s 181F.



NDIS Act

In proposing a model which makes such a significant shift from what is currently in place, the Taskforce can see the benefit of the Government introducing a new legislative instrument for the purposes of the establishment, functions and powers of the Commission and Commissioner.

The current functions of the Commission under the NDIS Act remain important and needed for the proposed model but require redesign and reform. The Taskforce makes recommendations below to realign the organisational structure to align with the proposed model and recommended legislative changes.

10.1 Building on core functions of the Commission

The core functions of the Commission are currently described in section 181E of the Act. The Taskforce acknowledges that they remain important in the context of the proposed model.

We recommend that the existing core functions be built upon and developed in a co-design process with people with disability for the purposes of the proposed model. These include:

- The reduction of segregation in closed settings and causes of isolation of people with disability.
- The promotion of best practice within service providers to deliver high quality, individualised and innovative services.
- The promotion of safe, secure workplaces that value workers providing disability support services.

To operationalise the proposed model, the Taskforce recommends that there must be the following statutory positions in the Commission a:

- Complaints Commissioner
- Registrar
- Senior Practitioner

Within the Commission, the operational units should be established in the following areas to support the statutory positions:

- Self-directed supports
- First Nations people
- Rural and remote
- Engagement
- Safeguarding
- Innovation
- Human rights



Some of what we have suggested above might already be in place. Where that is the case we are recommending that the Commission refocus these functions as part of implementing the new model.

10.2 Legislative reforms

In preparing this advice, the Taskforce has considered the proposed model against the current legislative framework and provides guidance on where legislative reform is needed to give effect to the proposed model, if accepted. This is especially important for the establishment of registration categories (as described in [Chapter 5](#)) and Provider Obligations and Processes (as described in [Chapter 8](#)).

10.2.1 Opportunity for a new Act

While the NDIS Act could continue to establish the NDIS Commission, a separate Act would offer the opportunity for clear Objects, Principles and specific functions and powers, separate from the provision of reasonable and necessary supports to support the independence and social and economic participation of people with disability.²⁵⁴ A separate Act would also emphasise the independence of the Commissioner and Commission, which is imperative under the proposed model.

10.2.2 Provider registration

Section 181F of the Act provides the current registration (and reportable incident) function. Sections 73B to 73S of the Act are also imperative to the registration function, providing for the registration requirements of NDIS Providers. Due to the significant change from the current model to the proposed model, the Taskforce recommends that a new framework be designed for provider registration. This should include the requirement to be registered for all NDIS providers and the obligations which flow from the registration. Currently, the *NDIS (Provider Registration and Practice Standards) Rules 2018* set out some of the conditions that providers must comply with to become and remain registered providers. They also set out the NDIS Practice Standards that apply to all registered NDIS providers delivering more complex support in areas such as behaviour support, early childhood support, specialist behaviour support, support coordination and SDA.²⁵⁵ With the change in definition, this legislative framework for this function is relatively sound if the application of the new definition is considered. However, the Taskforce recommend that registration and reportable incident functions are separated so that the provider registration system can be articulated in a legislative Part and reportable incidents be captured as a provider obligation.

²⁵⁴ *National Disability Insurance Scheme Act 2013* (Cth), s 3(1).

²⁵⁵ *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Cth), Preamble.



10.2.3 Worker registration

There is currently no worker registration scheme under the NDIS Act. This will need to be a framework included in the Act. The Taskforce recommend that it be co-designed with people with disability and workers. Discussion on the parameters of worker registration can be found in [Chapter 9](#).

10.2.4 Complaints

The Commissioner's complaints function is provided by section 181G of the Act.

Currently, flowing from the NDIS Act, the complaints process is set out the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, including the complaints process,²⁵⁶ resolving the complaint²⁵⁷ and seeking a reconsideration of the decision.²⁵⁸ In response to a complaint, the Commissioner may:

- take no action or defer taking action. For example, if the complaint was not made in good faith or there is not enough information to continue
- help the complainant and other affected people to work with the NDIS provider to resolve the complaint
- undertake a resolution process.²⁵⁹

The Commissioner may also undertake inquiries, in response to a complaint or on their own initiative.²⁶⁰ The Commissioner may conduct an inquiry as they think fit and is not bound by the rules of evidence.²⁶¹ In conducting an inquiry, the Commissioner may:

- consult with other persons, bodies and governments on matters relating to the inquiry
- request information that is relevant to the inquiry from any person
- provide opportunities for people with disability to participate in the inquiry.²⁶²

The Commissioner may prepare and publish a report setting out their findings in relation to the Inquiry.²⁶³

The Taskforce has heard that the current complaints function does not work, and the complaints process needs to be redesigned to be more effective. Our concerns with the execution of the current complaints process are well detailed in [Chapter 8](#). Reflecting

²⁵⁶ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, ss 15-19.

²⁵⁷ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, ss 20 –25.

²⁵⁸ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, ss 26 – 28.

²⁵⁹ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (Cth), s 16.

²⁶⁰ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 29(3).

²⁶¹ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 29(4).

²⁶² *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 29(5).

²⁶³ *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*, s 29(6).



those concerns, we recommend that the complaints function be redesigned to reflect that similar to the Commonwealth Ombudsman, with a clear legislative framework for complaints being set out. Complaints functions that should be considered to implement the intention of the proposed model include:

- preliminary inquiries
- investigations, including a right to entry in certain circumstances while balancing the right to privacy especially for private homes
- arrangements for investigations by other authorities such as the Australian Crime Commission, Australian Competition and Consumer Commissioner or the Ombudsman with:
 - power to obtain information and documents
 - administrative review of the decision in relation to the outcome of the complaint.
 - an internal review and external review of the outcome should be made available
 - the Administrative Review Tribunal empowered to conduct external reviews of the Commissioner's decisions on complaints.

This will require legislative change but is an important step toward creating an effective and fit for purpose complaints mechanism.

10.2.5 Code of Conduct

While the Taskforce has recommended that the Code of Conduct remain a creature of legislation, legislative change is required to ensure that the Code of Conduct apply broadly. At the moment, the Code of Code applies to all NDIS Providers which is defined to include anywhere that receives NDIS funding which is not a participant. As the Taskforce has recommended that this definition be narrowed to sharpen the regulator's focus and strengthen regulation through registration, the legislative provision for the Code of Conduct will need to be redesigned. It should be clear that the Code of Conduct applies to any good or service purchased with NDIS funding, which may be a registered provider or not.

Further, in redesigning the Code of Conduct, this broad application should be considered and reflected. For example, there is benefit in considering provisions for goods as distinct from services and for there to be clear expectations of those who provide services in closed or congregate settings.

10.2.6 Worker screening

The Taskforce has recommended that state and territory and Commonwealth governments improve information sharing between jurisdictions to ensure that the information considered in a screening assessment is complete, accurate and robust. We



do not propose specific legislative amendment that is required but do not the value having specific legislative provisions to support this.

10.2.7 Audits

Currently, all NDIS Providers (per the existing definition) who apply for or renew their registration with the NDIS Commission undergo an audit against the NDIS Practice Standards. The audit is conducted by an independent approved quality auditor appointed under section 73D of the NDIS Act. Auditors consider the provider's size, scope and service delivery risk when determining their activities in the audit. The registration groups that the provider has registered for will determine whether a certification or verification audit is needed, as set out in Part 6 of the *NDIS (Provider Registration and Practice Standards) Rules 2018*. The approved quality auditor will provide information that enables the NDIS Commissioner to use information to inform their decision in determining the provider's suitability in accordance with the *NDIS (Approved Quality Auditors Scheme) Guidelines 2018*.

Ensuring a risk-proportionate approach, verification and certification audits distinguish between low and higher risk supports and services. Verification quality audits are conducted for lower complexity supports and services. Many providers that have this type of audit are subject to professional regulation as a requirement of doing business such as AHPRA or other professional bodies. The approved quality auditor will undertake a desktop review of the required documentary evidence outlined for each profession in the Verification Module. Whereas certification quality audits are for more complex or higher risk supports and services. The provider is required to engage an approved quality auditor and they will conduct document reviews, site visits and interviews with NDIS Participants and workers. For providers who provide higher risk and complex supports, registration is usually for three years but a mid-term audit is required no later than 18 months after the beginning of the period of registration. Some service types, such as SDA or early childhood supports delivered by an individual or partnership, are not required to undergo a mid-term audit.

To implement the recommendations of the Taskforce to redesign the audit process, significant legislative change is required. It is difficult for the Taskforce to outline the specific scope of legislative change because we have recommended that the process be co-designed with people with disabilities, their families and the sector. This will inform the policy basis on which legislation will be designed. However, a salient point that is clear from our consideration of the effectiveness of audits is that audits should be enshrined in the Act, shifting away from reliance on Rules and Guidelines to set the standards of the audit process.



10.2.8 Incident reports

As the Taskforce has indicated support for the current incident management and reportable incidents approach as provided in section 73Z of the NDIS Act and *NDIS (Incident Management and Reportable Incidents) Rules 2018*, no reform is recommended for these provisions. The Taskforce has noted that referrals need to be made from the NDIS Commissioner to relevant authorities such as police, the ACCC or Ombudsman to ensure that reportable incidents are appropriately addressed. Consideration should be given to having these powers reflected in the NDIS Act.

10.2.9 Practice Standards

The Practice Standards need to include provision for co-design in the rules but otherwise, no changes needed.

10.2.10 Monitoring and compliance powers

With the establishment of the proposed registration scheme, it is critical that the NDIS Commissioner have the proper monitoring and compliance powers to be able to regulate the market and ultimately, reduce and eliminate the violence, abuse, neglect and exploitation of people with disability. The Taskforce has not made specific recommendations to the legislative reform needed for these powers but suggests that DSS and the NDIS Commission work together to develop this reform in light of the proposed model.

10.3 Additional proposals for implementation

10.3.1 Community of practice and working groups

To support implementation of the proposed model, it's proposed the NDIS Commission establish an Innovation Community of Practice which acts to support and nurture quality and innovation within the NDIS.

We heard about the value of having an NDIS with a market willing to innovate and harness new ways of delivering services that have the best outcomes for people with disability. The NDIS Commission is well placed to support this.

In addition it would establish working groups on:

- the development of strategies and plans to improve safeguarding including appropriate system or standard for measuring any improvements
- workforce development
- modernising the Code of Practice
- reviewing the complaints process to ensure it is fit for purpose



- improving upon the audit process including:
 - benefits to be derived from the prior training of participants to enable their meaningful participation
 - how to meaningfully allow the participation of participants in auditing, without burden on them.

10.3.2 Safeguarding

The Taskforce has heard that it is important that there are resources to support this capacity building, but also the important role that peer- led supports, including cultural supports, can play in educating and safeguarding.

*People with disability need to have **access to capacity building information and support** to engage with services and supports – for example, independent, accessible, peer led information and support to build skills and knowledge about what is a good quality service.²⁶⁴*

Mainstream services should not be relied upon to provide services for Aboriginal and Torres Strait Islander communities, as this often results in the delivery of services that are not culturally safe for Aboriginal and Torres Strait Islander people.²⁶⁵

The Taskforce recommends a renewed focus on the drivers of quality with the initial focus on:

- the development of strategies and plans to improve safeguarding including appropriate system or standard for measuring any improvements
- workforce development
- modernising the Code of Practice

Given what the Taskforce heard about isolation being a key driver of risk to participants, the Taskforce also recommends that a project group be established to consider the utility of the introduction and mandating of Individual Safeguarding Plans for participants without individual natural safeguarding relationships and/or for those Participants in congregant care settings or in clusters supported by a singular provider.

10.3.3 Community visitor schemes

Community visitors are statutory appointed members of the community with powers to visit, inspect, and report on the experience of people in numerous settings, including congregate settings where more than one person lives in a group together in the same residential setting. All states and territories except Western Australia and Tasmania have

²⁶⁴ Submission, Advocacy Organisation

²⁶⁵ Submission, Peak Body



a disability Community Visitor Scheme (CVS), however, each scheme operates separately and differently with regard to its scope, scale, and design. Variations include types of staffing (volunteers vs paid workers), scope (who or what establishments are visited, including in other sectors), frequency of visits, legislative powers (e.g. right of entry) and cost. Their role is to independently monitor services and facilities provided to people with disability and assist with resolving issues or complaints. The Taskforce heard that a national CVS, that is delivered locally, is an important tool for monitoring compliance of NDIS providers to ensure quality and safety are maintained on the ground.

The Disability Royal Commission also heard about the important role of community visitors in promoting and protecting the rights and wellbeing of people with disability to prevent abuse and neglect, as well as an escalation pathway for issues to be addressed.²⁶⁶ The Disability Royal Commission also heard about the inconsistency in these arrangements across the states and territories and importance in strengthening CVS arrangements with the NDIS.²⁶⁷

The Final Report of the Disability Royal Commission noted that its recommendations regarding CVS were informed by 4 separate reviews²⁶⁸ and that ‘each report supported the continuation of community visiting and provides evidence showing that CVS are widely valued as a quality and safeguarding mechanism.’²⁶⁹

The Disability Royal Commission recommended a nationally consistent approach to CVS and improved integration and reporting with the NDIS.²⁷⁰ The Taskforce endorses the Disability Royal Commission recommendations that a nationally consistent CVS be delivered in each state and territory to provide independent oversight of the wellbeing of people with disability in congregate care or closed settings and to be available to people with disability in private settings who request visits to assist them to ensure quality and safety when managing their supports at home.

²⁶⁶ Disability Royal Commission Final Report, vol. 11, p. 7

²⁶⁷ Disability Royal Commission, Final Report, vol. 11, p.7

²⁶⁸ The four reviews referenced in the Disability Royal Commission Final Report as valuing the CVS and their role as a quality and safeguarding mechanism were: WestwoodSpice Review, [pdf-version-community-visitors-review_0.pdf \(dss.gov.au\)](#); [Robertson Review](#); The Joint Standing Committee on the NDIS, [Joint Standing Committee on the National Disability Insurance Scheme – Parliament of Australia \(aph.gov.au\)](#); and [Report of the South Australian Safeguarding Task Force](#).

²⁶⁹ Disability Royal Commission Final report, vol.11, p.128.

²⁷⁰ Recommendation 11.12, Disability Royal Commission Final Report, vol. 11, p.146.



11. Annexures

- A. Table 1: Graduated and risk-proportionate provider registration and enrolment (adapted from NDIS Review Figure 14)
- B. NDIS Provider and Worker Registration Taskforce – Terms of Reference



Annexure A.

Table 1: Graduated and risk-proportionate provider registration and enrolment (adapted from NDIS Review Figure 14)

Components	A. Advanced registration	B. General registration	C. Service for One/Self Directed Support Registration	D. Basic registration	E. Purchase visibility only (not registration)
Description	In-depth registration for high-risk supports	Graduated registration for medium-risk supports	Registration of the participant/ guardian or other person with legal authority for the direct contracting of all supports	Light-touch registration for lower-risk supports	For goods only from “mainstream” retailers where there is no support provided to the participant with visibility provided via the purchasing arrangements.
Examples	Supports delivered in high-risk settings, such as daily living supports delivered in formal closed settings like group homes. Including those operated by sole traders, where applicable.	High intensity supports (such as high intensity daily personal activities), supports that require additional skill and training (such as complex bowel care or injections), and supports involving significant 1:1 contact with people with disability. Including those operated by sole traders, where applicable.	Participants or their family member (for children under 18 years) or guardian or other legal authority directly employ and contract their own supports, including through independent contractors.	Sole traders and supports such as social and community participation and supports involving more limited 1:1 contact with people with disability.	Standard goods purchased through mainstream retailers (e.g. a ramp from Hardware stores; headphones from electronics store.)
Code of Conduct	Yes	Yes	Yes	Yes	No
Worker screening (Action 17.4)	Yes Workers in risk-assessed roles.	Yes Workers in risk-assessed roles.	Decisions related to worker screening requirements need to be considered in context of services	No	No



Components	A. Advanced registration	B. General registration	C. Service for One/Self Directed Support Registration	D. Basic registration	E. Purchase visibility only (not registration)
			for one/ self-directed supports. Consultation required.		
Subject to complaints process	Yes	Yes	Decisions related to the complaints process needs to be considered in the context of services for one/ self-directed supports. Consultation required.	Yes	No (normal consumer protection applies)
Report incidents	Yes	Yes	Decisions related to how incidents are reports need to be determined on consultation with services for one/ self-directed supports. Consultation required	Yes	No
Practice Standards	Yes General standards and support-specific standards for all support types.	Yes General standards for all support types and support-specific standards where needed.	No	Yes Simplified general standards for all support types.	No
Check-ins with NDIS Commission	No	No	Yes	No	No
Performance measurement (Action 12.3)	Yes	Yes	No (but on audit if necessary)	Yes	No



Table 2: Process

Components	A. Advanced registration	B. General registration	C. Service for One/Self Directed Support Registration	D. Basic registration	E. Purchase visibility only
<p>Application, identity verification and Code of Conduct and worker screening attestation</p>	<p>Yes</p> <p>Provider completes online application form, integrated with centralised online platform and NDIS payments system (Actions 10.1 and 10.3) to provide the NDIA and NDIS Commission with visibility of all providers and data on payments. To ensure consistency in Identity Proofing and Credentials across Individual/Provider jurisdictional spaces. The identities and the digital credentials associated with Provider Entities must be reconcilable against real individuals and real entities in the economy. Government must be confident that people associated with an entity are real human beings who are known in other parts of the economy (e.g. Document Verification Checks, TFN matching, Director ID etc.)</p>	<p>Yes</p> <p>Provider completes online application form, integrated with centralised online platform and NDIS payments system (Actions 10.1 and 10.3) to provide the NDIA and NDIS Commission with visibility of all providers and data on payments. To ensure consistency in Identity Proofing and Credentials across Individual/Provider jurisdictional spaces. The identities and the digital credentials associated with Provider Entities must be reconcilable against real individuals and real entities in the economy. Government must be confident that people associated with an entity are real human beings who are known in other parts of the economy (e.g. Document Verification Checks, TFN matching, Director ID etc.)</p>	<p>Yes</p> <p>Participant completes application form to be a “service for one” provider, with centralised online platform and NDIS payments system (to be developed)</p> <p>Provider attests to understanding obligations under code of conduct and worker screening requirements.</p>	<p>Yes</p> <p>Provider completes online application form, integrated with centralised online platform and NDIS payments system (Actions 10.1 and 10.3) to provide the NDIA and NDIS Commission with visibility of all providers and data on payments. To ensure consistency in Identity Proofing and Credentials across Individual/Provider jurisdictional spaces. The identities and the digital credentials associated with Provider Entities must be reconcilable against real individuals and real entities in the economy. Government must be confident that people associated with an entity are real human beings who are known in other parts of the economy (e.g. Document Verification Checks, TFN matching, Director ID etc.)</p>	<p>No</p>



Components	A. Advanced registration	B. General registration	C. Service for One/Self Directed Support Registration	D. Basic registration	E. Purchase visibility only
	<p>Those people are using strong digital credentials (to minimise identity theft and provider hijacking) Appropriate data matching is occurring to ensure that the individuals/entities being registered are consistently known across the various touchpoints of the economy (e.g. across Provider Registration, police or worker screening, ABR & ATO matching, Key Management Personnel COI Declarations, AHPRA registrations, participant or nominee roles etc.).</p> <p>Provider attests to understanding obligations under code of conduct and worker screening requirements.</p>	<p>Those people are using strong digital credentials (to minimise identity theft and provider hijacking) Appropriate data matching is occurring to ensure that the individuals/entities being registered are consistently known across the various touchpoints of the economy (e.g. across Provider Registration, police or worker screening, ABR & ATO matching, Key Management Personnel COI Declarations, AHPRA registrations, participant or nominee roles etc.).</p> <p>Provider attests to understanding obligations under code of conduct and worker screening requirements.</p>		<p>Those people are using strong digital credentials (to minimise identity theft and provider hijacking) Appropriate data matching is occurring to ensure that the individuals/entities being registered are consistently known across the various touchpoints of the economy (e.g. across Provider Registration, police or worker screening, ABR & ATO matching, Key Management Personnel COI Declarations, AHPRA registrations, participant or nominee roles etc.).</p> <p>Provider attests to understanding obligations under code of conduct and worker screening requirements.</p>	
<p>Audits by the NDIS Commission and Audits by Approved Quality Auditors</p>	<p>Yes</p> <p>Conducted by the NDIS Commission In-depth observational audit of compliance with relevant practice standard.</p>	<p>Yes</p> <p>Conducted by Approved Quality Auditors Graduated and proportionate audit of compliance with relevant practice standards,</p>	<p>No</p> <p>Participant or Nominee undertakes own assessment for practice and quality according to self-defined standards.</p>	<p>No</p> <p>But includes a self-assessment and attestation of compliance with Practice Standards, in place of an audit.</p>	<p>No</p>



Components	A. Advanced registration	B. General registration	C. Service for One/Self Directed Support Registration	D. Basic registration	E. Purchase visibility only
	Streamlining where appropriate based on risk, such as self-assessment and attestation, and mutual recognition of compliance in other regulatory systems.	including observational auditing. Streamlining where appropriate based on risk, such as the use of self-assessment and attestation, and mutual recognition of compliance in other regulatory systems.			
Suitability assessment of provider and key personnel	Yes	Yes	Yes (undertaken by Participant)	Yes	No
Ongoing monitoring and compliance	<p>Yes</p> <p>The NDIS Commission undertakes:</p> <p>Risk-based monitoring, investigation and regulatory intelligence gathering (including through provider outreach and information sharing with other regulators).</p> <p>Corrective action in response to breaches of the code of conduct and practice standards.</p>	<p>Yes</p> <p>The NDIS Commission undertakes:</p> <p>Risk-based monitoring, investigation and regulatory intelligence gathering (including through provider outreach and information sharing with other regulators).</p> <p>Corrective action in response to breaches of the code of conduct and practice standards).</p>	<p>Yes</p> <p>The NDIS Commission undertakes:</p> <p>Risk-based monitoring, investigation and regulatory intelligence gathering (including through provider outreach and information sharing with other regulators).</p> <p>Corrective action in response to breaches of the code of conduct and practice standards.</p>	<p>Yes</p> <p>The NDIS Commission undertakes:</p> <p>Risk-based monitoring, investigation and regulatory intelligence gathering (including through provider outreach and information sharing with other regulators).</p> <p>Corrective action in response to breaches of the code of conduct and practice standards.</p>	No



Annexure B. Terms of Reference for NDIS Provider and Worker Registration Taskforce

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.