

A fine balance: Tailoring NDIS provider registration to actual risk

Submission to the NDIS Provider and Worker Registration Taskforce

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Overview

People in the National Disability Insurance Scheme (NDIS) deserve to know that the providers they choose will deliver safe and high-quality support.

Expanding enrolment is essential to giving the National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (the Commission) the data they need to improve quality and safety, strike off dodgy providers, and track spending.

However, the benefits to safety, quality and transparency of extra regulation must be balanced against the costs. For many people in the scheme, the costs of registration outweigh the benefits.

If the registration process is too difficult then providers will waste time on administration that could be spent delivering high-quality services. Worse, the cost of registration can act as a barrier to entry for new providers, reducing competition, threatening the viability of services working with small margins, and increasing the cost of the NDIS.

The current system for registration has not got the balance right. Voluntary registration means that unscrupulous providers can take advantage of disabled people. And the current system of registration is not sufficiently responsive to high and low levels of risk. The Independent Review of the NDIS's plan for a graduated four-level registration system therefore has some merit.

The Review's model will ensure more oversight of providers in higher-risk roles, while the lowest risk providers such as equipment supply companies will merely be required to enrol, so that the NDIS can keep track of where money is going.

And yet, the Review's model is off-balance too. It fails to consider that many disabled people are willing and able to manage their own risk. When a sophisticated user of NDIS services sees value in choosing

a smaller or newer provider who has less ability to complete full registration, the Commission should recognise that this situation is much lower-risk than when the same services are used by people less willing to manage risk.

People in the NDIS who are at low risk of harm should be able to choose to receive most of their services from providers who have only enrolled. This would mean the marketplace could still be competitive even if full registration proves too burdensome for many providers.

Advanced registration should be extended to all shared accommodation settings (such as Supported Residential Services, boarding houses and group homes), in addition to the services already designated as high-risk such as Specialist Disability Accommodation (SDA), developing behavioural support plans, and providers using restrictive practices.

All service providers would still need to enrol in the NDIS, so that the Commission could exclude fraudulent operators and keep track of where money is being spent. But the most burdensome parts of the registration process could be avoided by providers who are working only with participants who are at low risk of harm.

The government needs to recognise that there are limits to how much even a well-functioning registration system can protect participants. Actually checking in on providers is a critical step in ensuring safety. The Commission should have the power to inspect high-risk settings to ensure providers are delivering safe and high-quality care.

Ultimately, too much attention has been paid to registration, when the whole regulatory system needs reform. The government needs to consider all its regulatory levers and resource the Commission so that providers take it seriously.

Recommendations

1. Don't limit options for low-risk NDIS participants

- Let low-risk NDIS participants choose enrolled providers rather than registered providers for most NDIS services.

2. Help people to self-manage their funding

- The NDIA needs to foster a stronger market for self-managers and their workers.

3. Make worker screening simple and portable

- Make the national worker screening process as simple as possible, and let workers take their screening clearance from one provider to another.

4. Create regulation that is sensitive to a range of home and living options

- Registration needs to work for people in all kinds of living arrangements, not just group homes.

5. Don't force every retailer to enrol in the program

- For general consumer goods, don't make people use high-cost disability specific providers

6. Conduct unannounced inspections of high-risk NDIS providers

- Mandate audits for, and introduce the right to enter for all unannounced inspections of, providers of very high-risk services.

7. Reform all regulation, not just registration

- Registration can't ensure safety and quality by itself. Governments need to do more to tackle bigger issues in NDIS regulation that extend far beyond registration.

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1 The proposed reforms to NDIS registration get it mostly right

1.1 Extending registration has real benefits

It's untenable that the NDIS spends billions of dollars every year without a clear idea of whether the money is being spent on safe, high-quality supports. Extending enrolment or registration of NDIS providers would enable the NDIA to track the money.

As well as managing fraud, the registration system aims to increase provider quality through mandatory training of workers. Traditionally, occupational and industry licensure is seen as a way of protecting consumers in highly specialised fields where consumer safety needs particular protection.¹ Australia regulates many professions – from doctors to taxi drivers and real-estate agents – to protect the public.²

The disability sector lags behind other care industries in Australia by taking a light-touch approach to worker screening. Most carers employed by unregistered NDIS providers are not health professionals, and therefore do not need to undergo any formal worker screening process. A process of registration for organisations exists, but it is voluntary and so many smaller providers choose not to register.

Registration of organisations that provide social services is even more common than for individual workers. In healthcare, the Australian Commission on Safety and Quality in Health Care accredits all hospitals,³ while in aged care, accreditation is managed by the Aged Care Quality and Safety Commission.⁴

But a growing amount of global research questions the ability of occupational licensing regimes to improve quality and safety. Where

risk is highest, there is strong evidence licensure can improve safety.⁵ But licensure schemes can act to decrease labour competition, making consumers worse off overall.⁶

Registration is unlikely to solve all problems in a sector. Any additional administrative burdens need to be carefully weighed against the benefits they provide NDIS participants and taxpayers.

1.2 The current registration system doesn't capture enough information

As of June 2023, there were about 16,000 registered NDIS providers, and at least 154,000 unregistered providers.⁷

Registered providers are subject to greater NDIS-specific oversight. For most providers, registration is voluntary; however, it is mandatory for providers of Specialist Disability Accommodation (SDA), of services that involve restrictive practices (for example, physical restraint), or for providers who are conducting behavioural assessments or developing a behaviour support plan for a participant.

Registering is time-consuming and can be expensive. To register, providers must disclose details about their business structure, locations, and personnel; engage and pay for an 'approved quality auditor'; and await the Commission's assessment of the suitability of their organisation and key personnel. Registered providers are then legally bound to the Practice Standards, which are more stringent than the Code of Conduct,⁸ and need to re-register at least every three

1. Nunn (2018).

2. Australian Senate Select Committee on Red Tape (2018).

3. Australian Commission on Safety and Quality in Health Care (2019).

4. Aged Care Quality and Safety Commission (2024a).

5. Anderson et al (2016).

6. Kleiner and Soltas (2023); and Zhang and Gunderson (2020).

7. National Disability Insurance Scheme Review (2023a, p. 911).

8. National Disability Insurance Scheme Quality and Safeguards Commission (2021).

years. So there are significant disincentives for providers to register if they don't have to.

But providers who choose not to register can 'fly under the radar', handing over no information to the agency, even while collecting payments from the public purse. Participants can make complaints against unregistered providers; but apart from complaints, the Commission has little data on and no active oversight of unregistered providers.

It was never expected so many providers would be unregistered, and so there are gaping holes in the government's understanding of what NDIS funds are being used for (Figure 1.1). The result: poor data and little oversight in a market serving some of the nation's most disabled citizens, and set to commandeer \$42 billion of government funding in 2023-24.

The current system creates too much administrative work for providers who want to do the right thing, while not putting enough obligations on rogue operators. The system is inadequate and the case for regulatory reform is clear.

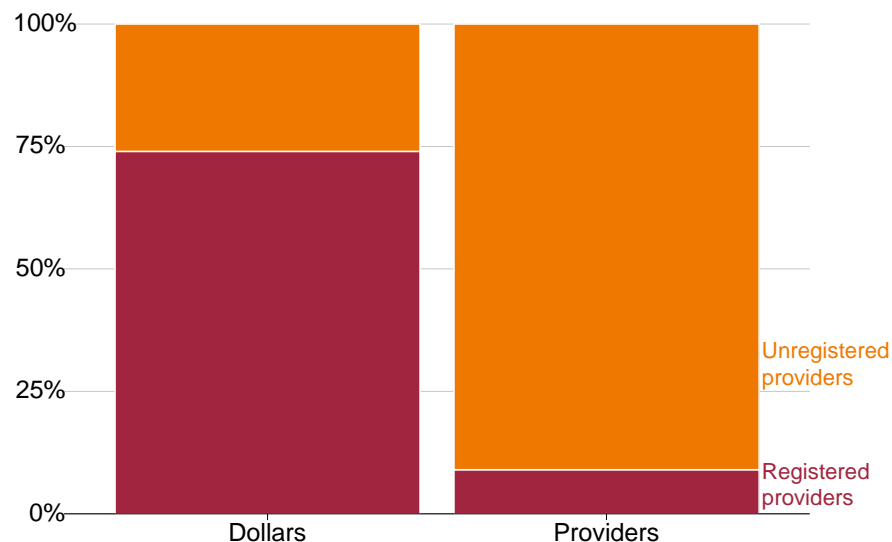
1.3 The NDIS Review's plan for mandatory registration

The Review recommends mandatory enrolment or registration of all NDIS providers. For organisations, the intensity of registration would increase with risk, with providers of high-risk services having to complete audits of their activities, while low-risk organisations would merely need to complete online registration designed to keep track of their financial details (Figure 1.2 on the next page).

Extending mandatory registration to providers of shared accommodation (including Supported Residential Services, boarding houses and group homes), is a commendable and long-awaited change. And yet,

Figure 1.1: The 9 per cent of providers who are registered get 74 per cent of total payments

The proportion of registered compared to unregistered providers, and the proportion of dollars paid to them, June 2023



Note: Only includes payments to providers and provider numbers from NDIS participants with agency-managed or plan-managed plans (about 71% of participants); does not include data from self-managed plans (about 29% of participants).

Source: National Disability Insurance Scheme Review (2023a).

the Review extends mandatory registration too widely in some cases, because it fails to account for participants' attitudes to risk.

Regardless of the registration an organisation completes, any workers who have more than an incidental contact with NDIS participants must complete the same worker screening check, which includes a police check as well as mandatory online training.

1.3.1 Enrolment is needed so that the NDIS can follow the money

The NDIS needs to be able to see how public money is being spent. The Review’s model of regulation will solve one of the biggest problems in the scheme: the lack of information available about money paid to unregistered providers.

Enrolment will force all service providers to disclose basic information to the Agency. If the money is tracked then the Agency will be better able to detect fraud and the Commission better able to follow up complaints made under the NDIS Code of Conduct.

But enrolment won’t work for providers of small consumer goods. Where NDIS participants buy devices such as sanitary products or iPads, there is value in being able to shop around and find the best price. Since not all Australian retailers are likely to enrol under the NDIS, participants might lose opportunities to get the best value for money if they are restricted to disability-specific retail providers.⁹ Additionally, it would be unreasonable to expect people to disclose their NDIS status just to buy everyday items related to their disability.

There is a case for providers to enrol if they are selling highly-specialised, expensive products, such as customised furniture or electric wheelchairs, because higher costs demand greater transparency.

1.3.2 Mandatory enrolment and registration will improve safety

The current voluntary registration system offers few tools for the NDIS to ensure the safety of participants. The NDIS notes in its review:

The NDIS Commission is not able to effectively monitor the market and proactively intervene to prevent harm and promote quality

9. Dickinson et al (2022).

Figure 1.2: The NDIS Review’s plan for mandatory registration

Registration level	Activity necessitating this level of registration	Organisation audit requirements	Individual worker screening
D) Online Enrollment	Home modifications, supply of equipment, etc.	None	Anyone with more than 'incidental' contact with people with a disability
C) Basic Registration	Light-touch such as social and community participation	None	Any worker in a high-risk role
B) General Registration	Anything involving significant 1:1 contact with people with a disability	Must arrange a private audit of activities against practice standards	Any worker in a high-risk role
A) Advanced Registration	High-risk activities such as daily living support in a group-home setting	Must arrange a more intense private audit of activities against practice standards	Any worker in a high-risk role

improvement. Even if issues are detected, there are limited tools available to respond and take corrective action because the unregistered market is not required to meet any specific standards in the delivery of supports beyond the basic ethical expectations in the NDIS Code of Conduct.¹⁰

For instance, under the current system an abusive worker could move from one unregistered NDIS provider to another, and neither the provider nor the Commission would have any way of knowing that they are known to be abusive.

To try and solve this problem, the Review recommends that all providers must conduct worker screening checks on employees in high-risk roles, and submit employee details to the Commission.

Grattan Institute supports this reform, because it will reduce the risk that rogue employees are prevented from moving around the system.

1.3.3 Registration alone will struggle to improve quality

To improve service quality, all providers registered at levels A, B, and C must undergo an audit or self-assessment and attest that they understand the NDIS Practice Standards, followed by a suitability assessment of the providers and key personnel, with extra ongoing compliance processes.

This system of self or privatised audit does not go far enough. Since the audit process is private, it does not provide a clear mechanism for the NDIS Commission to actually check that safety processes are being conducted. And because audits happen at a time of the NDIS provider's choosing, it is open to providers to ensure standards are being met in front of auditors, without ensuring there is an enduring culture of quality and safety in the organisation.

10. National Disability Insurance Scheme Review (2023a, p. 913).

1.4 Registration should increase with risk

It's important that registration matches the actual risks posed to people in the scheme. Some participants and services are lower risk than the NDIS Review assumes.

On the participant side, highly sophisticated NDIS participants often employ staff directly, so they have control over who delivers the most personal of care and support in their home (such as getting in and out of bed, using the bathroom, showering, and dressing). The workers may not have completed formal training, and may not be able to cover the costs of an audit; even so, many of these relationships are working well.

While training can be a good thing, often it is the worker's values and the relationship they develop with the person they are supporting that counts highest in terms of the participant's perception of a quality service, as opposed to formal qualifications.¹¹

Also, evidence suggests that continuity of care is a better predictor of service quality than training.¹² And yet, the trust that people have built with their directly-employed staff counts for nought in the Review's 'risk-proportionate' model. Mandatory registration may result in the ending of good relationships, because workers would no longer be 'qualified' for roles that they may have been performing for several years. The government should be careful not to undermine such arrangements with heavy-handed regulation.

On the provider side, many professionals are already regulated by other regulatory bodies, and NDIS services might represent a small part of the work that they do on a daily basis.

For example, workers with active Australian Health Practitioner Regulation Agency (AHPRA) registrations are likely lower-risk than

11. Woolham et al (2019).

12. Skills for Care (2023).

unregulated workers, all else equal. The Commission has a role in establishing disability-specific standards, but this does not need to duplicate existing standards or create hurdles to enter the NDIS market.

Unregistered providers commonly provide professional short-term or once-off support to participants, meaning that participants might use the service only once.¹³ These kinds of services are often provided by small organisations, such as physiotherapy clinics, without the backing of a large organisation capable of completing complex audit arrangements.

This kind of care benefits from strong market-place competition so that NDIS participants can find the provider that best suits their needs. But registration requirements create a barrier to entry for new providers, potentially making many support arrangements unviable.

The Review's proposal to categorise both of these lower-risk activities as 'high-risk' threatens the viability of direct-employment arrangements, especially if training requirements are added to the registration process.

1.5 Self-management is an important design feature of the NDIS and should be retained

The government needs to respect the fact that sophisticated users of the NDIS are in a better position to manage their own risk. Greater flexibility and autonomy have multiple benefits for people in the scheme.

The process of self-managing has been shown to help build participants' self-assessed level of skills and independence, a key objective of the scheme.¹⁴ People can directly employ their own staff to help with all kinds of support at home or in the community, and choose

13. National Disability Insurance Scheme (2023).

14. National Disability Insurance Scheme (2022).

Box 1: Who can currently use unregistered providers

There are already rules around which participants can use unregistered providers. Currently, this is determined by who manages the money in a person's NDIS plan: people with self-managed plans and those with the help of a plan-manager can use both registered and unregistered providers. People with plans managed by the NDIA on their behalf must use registered providers only. Self-managed participants do not have to use the NDIS Price Guide to determine how much they pay for services.

People in the NDIS choose to self-manage their plan or engage a plan manager for many reasons, including the chance to have greater autonomy and flexibility, having more direct financial control, and the opportunity to use funding in more innovative ways. The Agency has ways of ensuring that people who choose to self-manage or engage a plan manager are up to the task and have the help they need.

to self-manage an individual support item, such as consumables (e.g. continence products), because it is easier to buy these items directly from a retailer.

Many people with disability attest to the quality and the importance of their relationships with directly employed staff.¹⁵ Around 29 per cent of people in the scheme choose to self-manage, meaning that nearly a third prefer to manage their own funds and screen their own providers and staff.¹⁶

It is important that regulatory reform, including around the scope and depth of registration requirements, does not diminish the potential

15. Dickinson et al (2022).

16. National Disability Insurance Scheme Review (2023a, p. 911).

for self-management in the NDIS, or undermine established support relationships that are working well. Accounting for risk also means accounting for disabled people's attitude to risk, and their capability to manage it themselves, including with support to do so.

2 Here’s how government can get registration right

The public and the disability community expect the Commission to enforce standards and monitor quality, expect the NDIA to have the data it needs to understand and address market failures, and expect people with disability to decide who gets to come into their home and provide them with care. With a more sophisticated model of risk and broader regulatory reform, we can better balance the trade-offs and get more of what we want from the NDIS.

Here are five ways to improve registration:

2.1 Let low-risk participants use enrolled providers for most services

The Review’s regulatory model uses only one dimension to determine risk: the kind of service being provided. That model fails to recognise that some NDIS participants are low-risk. A sophisticated user of NDIS services should be able to opt to use providers who have not gone through the audit process required of Basic, General, and Advanced Registration. These NDIS participants undertake their own risk-assessment when they choose an NDIS provider, and the system should be calibrated to the fact that they are lower risk. Figure 2.1 shows our proposed two-dimensional risk model.

Even though low-risk NDIS participants should be able to choose their own providers and workers, the NDIA still has a legitimate interest in maintaining financial propriety. The NDIS Commission also needs to be able to ensure that providers and workers who have been banned are kept out of the system. For this reason, almost all providers and workers should still need to enrol in the NDIS and provide basic information such as their ABN, and workers their police-record history.

Figure 2.1: The Grattan Institute model for provider registration

Registration level	Activity necessitating this level of registration		Organisation audit requirements	Individual worker screening
	Opt-in low risk pool	Default risk pool		
D) Enrollment	Any activity that would not otherwise require Advanced Registration, up to and including directly hired daily living support	Home modifications, supply of equipment, services provided by AHPRA - regulated professionals	None	Anyone with more than 'incidental' contact with NDIS participants
C) Basic Registration	-	Light-touch such as social and community participation	None	Any worker in a high-risk role
B) General Registration	-	Anything involving significant 1:1 contact with people with a disability	Must arrange a private audit of activities against practice standards	Any worker in a high-risk role
A) Advanced Registration	High-risk activities such as daily living support in a group-home setting	High-risk activities such as daily living support in a group-home setting	Must arrange a more intense private audit of activities against practice standards	Any worker in a high-risk role

Under our two-dimensional risk model, the default would be for participants to use registered providers, as proposed by the NDIS Review. The Review believes all participants should be in this group, but we argue some participants are lower risk.

In addition to the default, we argue for a second, opt-in pool for participants who want to directly employ providers who have not undertaken Basic, General, or Advanced Registration. People who choose this pool could use providers or workers who enrol only – and who only use the worker screening check if they have more than ‘incidental’ contact with the participant. Of course, participants could still request that other workers undertake a screening check.

The opt-in group would be similar to the current system for self-managed participants. And participants in this group should fall under the same legislative protections that exist for self-managed participants today. However, participants would have the added protection of the checks and balances provided by the proposed enrolment process.

People with disability and their families who choose to take on the responsibility of directly hiring staff should be assessed by the Agency to make sure they are willing and able to incur the risks, and that they are given any support they might need to do so. If not, participants should stay in the default pool. People in the NDIS should be able to select which parts of their plan they would like to use registered or enrolled providers for, just as self-managed and plan-managed participants do now.

While we think all the staff that participants hire directly should have undertaken the enrolment process, we believe further screening and training should largely be left to the personal preference of the people who choose to join this pool. In England, people who directly

employ their own staff have a far lower turnover than people who use providers.¹⁷

Because our model accounts for people’s desire to manage risk in decisions about their disability services, it better preserves individual choice; those who want the Commission to oversee audits of their providers could get this service, while those who want to hire providers directly and assess employees themselves, could do so.

We anticipate two positive results from this policy. Firstly, unregistered providers tend to offer lower-cost or short-term services. The costs of registering under the Review’s proposed model could mean that some providers drop out of the market, choosing not to offer services to people in the NDIS (or at least, not to be paid through NDIS plans) rather than register. A loss of supply could mean longer wait times for people to get the services they need. Our model reduces the regulatory hurdles to entering the market, and could help to retain providers offering lower-cost or short-term services.

Secondly, in so-called ‘thin markets’, such as in rural and remote Australia, there may only be one provider available to a handful of people in the scheme. Expensive audits and lengthy registration processes could mean that businesses stop providing services to NDIS participants altogether, rather than forking out. Creating the option to operate with fewer regulatory hurdles may help participants who need services in thin markets.

Importantly, these positive results would only arise where people are willing and able to use enrolled-only providers. For people who want to use registered providers, the government would need to consider other options, such as covering the costs of audits for certain organisations.

17. Skills for Care (2024a).

2.2 The NDIA needs to foster a stronger market for self-managers and their workers

Rather than discouraging small providers by imposing cumbersome registration requirements, the NDIS needs to do more to encourage high-quality services for people who self-manage their plans and seek out direct employment of enrolled providers or workers.

England builds capacity and capability into the process of opting-in to self-management.¹⁸ The country has been able to achieve a self-management rate of 39 per cent - much higher than Australia.¹⁹

Not all capacity building supports should be provided through NDIS packages, either. The Foundational Supports strategy proposed by the NDIS Review should include investment in supports that build people's knowledge, skills and confidence to self-manage safely and effectively. These supports could be modelled on the UK's Direct Payment support services. These services are often user and peer led, and are directly commissioned rather than being purchased in the market through individualised funding. The range of functions these services provide translate closely to what self-managers would value in establishing and maintaining their NDIS supports, including:

- the provision of information, advice, and peer support on self-management best practice,
- end-to-end support around the direct employment of staff – from developing job descriptions, explaining options around worker screening, through to maintaining the right insurances,
- providing access to training for self-managers and/or their directly employed workers, and
- ongoing support and trouble-shooting.

18. NHS England (2024).

19. NHS England (2023).

A more user-led model could also provide worker training and development that actually improves quality, rather than the one-size-fits-all model provided by audits through the registration process.

Government should consider providing grants as incentives for direct employers to train and develop the skills of their staff, such as occurs in relation to directly employed personal assistants in the UK under the auspices of Skills for Care.²⁰ The grants could cover the direct costs of training and qualifications, travel, and the cost of hiring replacement support while a worker is attending training.

2.3 Make worker screening simple and portable

There should be an integrated national system for screening for all workers engaged in more than incidental contact with people in the NDIS. This process should be designed to be as quick as possible.

Worker screening should work like a national version of the current state-based 'Working with Children' checks, where each person needs to enrol only once every five years. Workers would then be provided with a licence or NDIS worker number that could be checked instantly online by any provider to ensure it is still valid.

It should be the responsibility of providers to inform the NDIS of which staff are currently employed by the service using their NDIS worker number. The NDIS Commission should then inform providers if any worker has been struck off the register and is no longer fit to work.

As a result, employees should be able to easily move between providers without having to wait weeks for a new police check.

Consideration should also be given to requirements on providers that are solely engaged in the delivery of services that are regulated by other regulatory bodies. These providers should enrol, but the

20. Skills for Care (2024b).

Commission does not need to crowd out existing quality standards, for example where the care they deliver is already regulated by the Australian Health Practitioner Regulation Agency (AHPRA). The Commission should inform providers that they are beholden to the Code of Conduct, without requiring workers to undergo unnecessary or duplicative administration.

2.4 Create regulation that is sensitive to a range of home and living options

The Review lacked detail about how registration would work in individualised living arrangements, where people with disability might be living with peers, rather than employees. It is important for the Taskforce to consider how it can recommend regulation of home and living arrangements, without unintentionally restricting options for disabled people that go beyond group homes and other congregate living settings.

As a baseline, any contractor directly hired as a home and living support worker should be enrolled and have completed a Worker Screening Check. Just like for non-live-in arrangements, a low-risk participant should be able to choose to directly hire enrolled workers who have not undergone full registration. Home and living support providers should be registered, but the Taskforce should consider how people with disability and their families can be supported as self-managers in these arrangements, rather than requiring their registration as 'providers'.

2.5 For general consumer goods, exempt most providers from registering

Not all technology that people with disability need to access the community has to be purchased through specialist disability providers. Items from iPads to kettle-tippers are examples of technology and

equipment that some people with disability need; however, people with disability, the NDIS, and taxpayers will probably get a better deal if participants purchase these goods through major retailers, rather than disability organisations.

There is growing evidence that NDIS participants (and indirectly, taxpayers) are hit with 'disability taxes', where prices are arbitrarily increased for NDIS participants. Cases of people with disability being charged more than twice as much for the same good or service that non-disabled people buy is a rort on disabled Australians and taxpayers.²¹

The NDIA should track how participants are using their budget for general, non-specialised technology, equipment, and consumables using receipts or invoices from participants, as happens now.

Mandating that retailers enrol as NDIS providers is impractical and inefficient. For starters, sales staff are often unlikely to know when an NDIS participant is buying from them, and people in the scheme should not have to declare this whenever they buy technology or consumables.

Enrolling retailers is unlikely to foster more competitive prices for NDIS participants, it will not make people safer or promote quality in the market, and there are alternative methods that the Agency can use to collect data about purchases that do not involve retailers registering.

Getting the most competitive price for goods, all else being equal, is good policy. Reducing the number of hurdles that businesses and participants have to jump over to get the best price will help to reduce costs. We should bank the gains we can by buying from the open market wherever possible.

For very high-cost and disability-specific goods, there is a case for providers to enrol. The Commission should cover regulatory

21. McCubbing (2023).

gaps where people with disability need special protections, or in cases where higher costs demand greater transparency. Examples include highly-specialised electric wheelchairs or home furniture. The independent pricing authority recommended by the NDIS Review should set the threshold prices triggering enrolment for goods providers.

3 Disabled Australians need more than a registration process, they need an NDIS regulator with teeth

3.1 The NDIS Review missed the mark on regulatory reform

The NDIS Review missed the opportunity to assess the problems of NDIS regulation, and consider specific risks and harms that people in the scheme are exposed to, and present much-needed policy solutions. Even though the Review does comment on most of the regulatory levers included in the NDIS Quality and Safeguarding Framework, it does not assess how effective they are in practice.

3.1.1 Urgent issues that need stronger regulation

Violence and abuse in people's homes, pressure to purchase junk therapies, and over-servicing are some of the urgent issues that demand more effective regulation, and are largely outside the scope of enrolment and registration.

The issue of violence and abuse in group homes uncovered in the Commission's Own Motion Inquiry deserves special attention from the government, as well as support provided to participants who live alone, or who have no informal support, or who have only one service provider. Creating incentives for quality services, and disincentives for substandard care, is critical in these contexts.

How providers behave once they are enrolled or registered is often invisible to the Commission unless people complain. Not all people in the NDIS can easily complain, though; other safeguards will help the Commission to see what is happening.

For example, the Commission should have the right to enter properties where people with disability are receiving Specialist Disability Accommodation (SDA) or living supports, to check their welfare and assess whether the provider is offering a safe and good-quality service. Seeing how people are living is critical for safety, especially when

people with disability have few, if any, family members, friends, or advocates.

A lack of regulation also allows for the proliferation of junk therapies that have no evidence base. Capturing people with disability and their families, and exploiting them through over-servicing, are sharp practices that damage public confidence in the NDIS and are a threat to the financial sustainability of the scheme.

Alongside formal measures, family, friends and community - sometimes called 'natural safeguards'²² - are foundational for keeping people safe, and pushing for better-quality services. A good regulatory system for disability services will draw on the experience of disabled people and their trusted friends and family.

3.2 Mandate unannounced inspections for providers of high-risk services

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.

Inspections should be unannounced, or there should be only minimal notice given. Short- or no-notice Commission-led inspections are

22. National Disability Insurance Scheme Review (2023b).

already performed for Hospitals and Aged Care, and disability care should be no different.²³ Inspections could be similar to those conducted in the UK, with inspectors observing care being provided, interviewing people with disability separately from staff and providers, inspection teams including people with lived experience, reviewing records, and publishing the results.²⁴

Under-staffing is a problem for the Commission. We agree with the Review that the Commission was not ‘set up for success.’²⁵ The capacity of the Commission has never been adequate for its role, and this has to change to improve safety and quality. Inspections are an important safeguard, and the Commission needs adequate staffing to conduct them. It would be better for the necessary uplift in the Commission’s operational capacity to be directed towards undertaking inspections where needed, rather than being swallowed up by mandatory registration of all NDIS providers.

3.2.1 Reform all regulation, not just registration

The NDIS needs, and Australians with disability deserve, an effective regulator that has the resources it needs – including staff, funding, data, and legislated powers – to ensure a reasonable level of safety and quality in the market.

We commend the Review’s focus on quality improvement; however, improving safety and quality will need a much broader focus from government than enrolment and registration.

The government needs to reform NDIS regulation holistically. Getting enrolment and registration right is a stepping stone to the NDIS Australians need. There is still a long way to go.

23. Australian Commission on Safety and Quality in Health Care (2024); and Aged Care Quality and Safety Commission (2024b).

24. Care Quality Commission (2024).

25. National Disability Insurance Scheme Review (2023a, pp. 1024–1028).

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