Registration of providers principles

NDIS Review proposal

Introduction

The NDIS Review has proposed a new tiered, graduated system of registration for all supports that people with disability use through the NDIS.

In the current system, supports are provided by either registered or unregistered providers. Most types of support can be provided by unregistered providers. Under the current system, registration is costly and complex. There are significant safeguarding gaps in both registered and unregistered providers.

The NDIS Review have recommended that the following four tiers of registration be created:

- **Advanced registration** for all high-risk supports, applying more intensive regulatory requirements and oversight where supports may pose an inherently high-risk or require high-level technical competence.
  For example: Supports delivered in high-risk settings, such as daily living supports delivered in formal closed settings like group homes.

- **General registration** for all medium-risk supports, applying graduated approaches to regulatory requirements and oversight, depending on factors impacting the level of risk.
  For example: 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.

- **Basic registration** for all lower-risk supports, applying lighter-touch registration requirements, while still allowing for regulatory oversight against Practice Standards, when required.
  For example: Sole traders and smaller organisations, supports such as social and community participation, and supports involving more limited 1:1 contact with people with disability.

- **Enrolment** of all providers of lowest-risk supports, providing full visibility of the market and applying lightest-touch requirements through a simple online process.
  For example: Supports where general protections available under Australian Consumer Law are sufficient, such as consumables, equipment, technology, and home and vehicle modifications.
  [NDIS Review final report p212]

Why the change?

A new model of registration is suggested by the NDIS Review as the current registration and regulation system is not working. Under the current system, registration is a costly and time intensive process that has not delivered substantial change to rates of violence and abuse against people with disability, or the development of alternatives to closed settings, such as group homes.

The large growth in unregistered providers has allowed people with disability to have more choice and control over their NDIS supports, but also has enabled significant predatory market behaviour from new and existing providers.

The NDIS Review has flagged key reasons for the need for change. These are:

- Lack of visibility of payments to unregistered providers
- Reliance on individuals to assess risk and quality
- Quality and Safeguards Commission cannot monitor market or take regulatory action
- Need for oversight of unregistered providers, particularly those providing home and living supports
- Inconsistency of existing regulatory systems across different government programs
- Current worker screening not working well to provide quality services and safety
- Quality and Safeguards Commission not effectively addressing 'conflicts of interest and client capture, sharp practices (including unfair service agreements), transparency and duties of care'

The NDIS Review also recommends that the style of management is de-linked from registration as part of replacing the system with one that is more aligned with the activities providers undertake and the potential risk.

The Review discusses an individualising of risk assessment and a wide range of safeguarding measures, both existing and new.

Key concerns

The current registration system is not fit for purpose, does not stop violence and abuse of people with disability, and does not prevent conflicts of interest or provider exploitation of people with disability. This system does not encourage high quality and innovative services and supports for people with disability.

There are particular risks and experiences for people with disability who use 24/7 support in a variety of settings and systems, particularly those that are closed to the community.

While the NDIS Review talks about the importance of choice and control, they do not discuss how self-management, including directly employing support workers, will work under the proposed system. This is causing significant distress among people with disability, particularly those who use self-management and direct employment. Any registration compliance costs also must not be transferred to people with disability.

Some people with disability and organisations strongly support the proposed Enrolment system, but for others, there are concerns about some elements and the potential impact on accessing mainstream services, for example for purchasing of consumables. This underscores the need for careful and deliberative co-design of any new registration system.

People with disability are currently being harmed due to the practices of unregistered and registered providers, and there is no oversight or visibility of unregistered providers. There is also a lack of scrutiny of quality, and little emphasis on quality improvement and safeguarding.

DROs also have very significant concerns with the current operations and structure of the NDIS Quality and Safeguards Commission and want to see this addressed as a vital part of any changes to the registration system. The recommendations from the Disability Royal

Commission and the NDIS Review both discuss the need for major safeguarding reform, and DROs believe this is urgent.

There are strong concerns about the capacity of the current Quality and Safeguards Commission to manage the large increase in registrations, and to oversee compliance, as well as proactively preventing abuse and handling complaints.

The recommendations from the Review do not make it clear what the risk or decision-making framework will look like, particularly to decide which provider goes into which category. This work must be led by people with disability.

Implementation

The process for implementing any change to registration is not clear, nor whether these proposals will be adopted in full by the Federal Government. The timeline for any change is also unclear. This is creating significant concern and uncertainty in the disability community.

Any change of this magnitude needs to be done in concert with the disability community. We have developed the following principles to guide the consultation and implementation process. The implementation process must not interfere in the continuity of supports for people with disability.

Implementation of any changes to the registration system needs to also include the work of the Registration Taskforce, including their consultation process, and any NDIS Workforce Dialogue recommendations.

Principles

The following are the key principles which should guide the next steps about registration.

1. People with disability must have **choice and control** over the supports they use, **both inside and outside the NDIS** – for example, people with disability can use mainstream services, and purchase consumables from mainstream outlets.

2. People with disability need to have **safer and higher quality services and supports**.

3. People with disability need to be **involved in co-design** of any new registration and quality system.

4. People with disability who need **support for decision making need to be consulted** about the supports they use, with **independent support for that decision making**.

5. 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.

6. An individualised evidence-based risk **assessment framework needs to be developed with people with disability**, including changes to the safeguards system

to enable this.

7. Issues for people with disability who live in **regional, rural and remote areas must be included and considered**.

The following issues also need to be **addressed and included** in any registration system:
- Services for One
- Purchasing consumables from mainstream services
- People with disability directly employing disability support workers
- Role of independent disability advocacy

About Us

Disability Representative Organisations are funded by the Department of Social Services (DSS) to represent people with disability. The following organisations have endorsed this joint proposal:

- Children and Young People with Disability Australia
- First Peoples Disability Network Australia
- Disability Advocacy Network Australia
- Inclusion Australia
- National Ethnic Disability Alliance
- Women with Disabilities Australia

This proposal was prepared by Disability Advocacy Network Australia, in their role as the National Coordination Function for the Disability Representative Organisations program.

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