



## NDIS Review submission: 4 key reforms for a stronger and sustainable future

As a [not for profit](#) disability support provider, InLife puts our clients front and centre. We have created a team based model for people with frequent and complex support needs.

We're constantly looking at new ways to connect and learn, which is why we've embraced technology from day one. And our client feedback shows that we're on the right track with consistently high results when it comes to quality.

We welcome the NDIS review as an opportunity for the scheme to reset and recalibrate. The goal is to put people with disability back at the centre of the NDIS, something we endorse.

It is a critical opportunity to improve the quality of disability support provision across Australia. Too often, we have seen [horrific stories](#) hit the headlines when current safeguards have failed. Every Australian, no matter their ability, deserves to live their life the way they want.

We are calling for the government to take action and:

1. **Strengthen the work of the NDIS Quality and Safeguarding Commission**
2. **Support participant decision making**
3. **Enforce the separation of SIL and SDA**
4. **Implement different prices for registered and unregistered providers**

### 1. Strengthen the work of the NDIS Quality and Safeguarding Commission

#### **Background**

Current registration requirements are complex and difficult to navigate. It appears that much of the Commission's design, function and ways of working have been carried over from a patchwork of state based systems.

And what has that compliance burden delivered? The Royal Commission and many inquiries before it show that traditional regulatory approaches have not worked anywhere near as well as they need to for people with disability.

Regulation has a role to play but it must not create unnecessary red tape or stifle innovation. It's important that the Commission strikes the right balance.

## Changes we'd like to see

We want to see the Commission fundamentally change its regulatory approach. Innovation is needed to achieve better public outcomes and technology needs to be embraced to help achieve its goals. We need smarter regulation to improve outcomes for NDIS clients while still enabling people to exercise choice and control about how they live their lives.

## Reforms could include:

1. **Simplifying and clarifying the purpose of all regulatory requirements:** The current audit has 156 quality indicators, many of which are difficult to interpret. Incident reporting requirements and follow up procedures are time consuming and of questionable value.
2. **Applying user-centred design:** This would ensure reporting systems are easier to navigate and use. The [aged care serious incident response decision tool](#) is an example of a step in the right direction.
3. **Improving systems and the use of data:** Proactive compliance measures could be developed through data analysis (e.g. identifying risks in incident and complaints data trends). Linking the Incident Report system to the Worker Screening Check system would also be useful. At present, critical incident data collected by the Commission is not connected to the Worker Screening Check system. For example, if someone breaches the code of conduct and is dismissed by one employer that incident should be flagged on their Worker Screening Check to make other potential employers and clients aware of it.
4. **Evidence-based reviews of regulatory changes:** Reviews should take into account the root cause of the issue. A broad based impact assessment is also crucial before introducing any new regulations (e.g. how will the costs of implementing the new high intensity support skills descriptors be paid?).
5. **Finishing the job of creating a truly national scheme:** Too many pockets of state based regulation remain (e.g. worker screening, restrictive interventions) that create complexity across state lines, duplication of requirements and can involve cumbersome legacy systems.

6. **Engaging directly with more participants as part of accreditation and monitoring requirements:** This could involve investing in a national community visitor scheme, as there is no substitute for seeing and listening to actual experience on the ground.
7. **Creating a stronger Commission:** The NDIS Quality and Safeguards Commission needs to be strengthened to be more effective. A sensible and truly reformist idea could be a merger with the Aged Care Quality and Safety Commission. Both these commissions share many quality standards. Together, more resources could be directed into improving the participant experience and compliance to ensure the highest safety standards for all.

## 2. Participant Decision Making

### **Background**

The design of the NDIS, with its roots in a report of the Productivity Commission, draws a lot on the microeconomic theory of consumer choice. It assumes all participants are informed and empowered consumers (hence 'choice and control'). But there are two key issues:

1. It can be difficult to find and know what constitutes a good quality disability support provider. It's a hugely fragmented market, marketing spin is everywhere, and while websites such as [Clickability](#) can be useful, more needs to be done to help participants identify quality providers.
2. The complexity of the NDIS can be overwhelming. Even the most highly educated among us can be staggered at the scheme's complexity when encountering it for the first time. And while a key focus of the Review must surely be to address the scheme's complexity, it was pleasing to see the [National Disability Insurance Agency's supported decision making policy](#) acknowledge that some people will always need support to make their decisions (p. 10).

### **Changes we'd like to see**

A more transparent, data driven approach that aims to simplify the complexity of the market, while taking into consideration the wide ranging needs and

circumstances of the people who are making decisions, either for themselves or on behalf of a family member/individual.

## Reforms could include:

- 1. Provision of quality signals:** This way participants would be able to make informed decisions about their choice of provider. The NDIA could use [the NDIS outcomes survey](#), linking registered providers to participant data, and highlighting where providers are associated with better or worse participant outcomes than expected on average. Or it could introduce a standardised (and simple) participant survey about their service providers, with high level results published (e.g. a rating system). Support coordinators could also participate in this survey.
- 2. Strengthen support coordination:** In our experience, a quality support coordinator is indispensable. The Commission should consider professionalising the support coordinator role with registration or accreditation requirements. It should also tighten adherence to the [conflict of interest policy](#). The NDIA could mandate that the same organisation cannot provide both support coordination and direct supports to the same participant.
- 3. Fund supported decision making for participants in shared living environments:** We are the support provider at two locations where NDIS participants share our service and are receiving independent support to engage with us as a group. We believe this should be the norm. The potential for power imbalance between participants and their provider is particularly high in shared environments, and mechanisms that help build a group voice are a powerful counterpoint. They are also important in ensuring shared funding is used in the best possible way.
- 4. Mandate registration for Supported Independent Living (SIL) supports:** We are against mandatory registration as a rule, but there are strong arguments in the case of SIL supports. Ensuring all SIL providers are registered is an important decision making intervention for those whom the scheme most needs to support (and to avoid some of the [worst examples of behaviour](#) such as participants being offered bribes and treated as 'human cargo').

### **3. Full separation of SDA and SIL**

#### **Background**

It has long been recognised that housing and support should be delivered by separate providers. In 2020, the government supported in principle this recommendation of the Senate Joint Standing Committee on the NDIS (see [page 10 of their response](#)). It's time to start making it happen.

In our experience, further steps are needed too. There are a variety of commercial arrangements in the market that exist today between SDA and SIL operators and all should be removed in the interests of participant choice and control and service quality.

In one example, we observed a participant with highly complex support needs urgently seeking new accommodation. Their support coordinator identified more than a dozen available and potentially suitable SDA properties, and could only find a handful where the participant could bring their own support provider and specialised team. This was typically due to underlying commercial agreements that were in place.

#### **Changes we'd like to see**

Full commercial separation between SDA and SIL is needed. Current commercial arrangements that redirect SIL funding away from the provision of supports can be detrimental to service quality, as well as to participant choice and control.

The recent increases in SDA pricing mean that reform is now possible. The [SDA 2022-23 pricing review](#) resulted in an increase across most cases, including all improved liveability (IL) and robust design category dwelling types, 2 and 3 resident houses, as well as existing and legacy stock. A separation between SDA and SIL can now be rolled out as it is more financially viable for operators.

#### **Reforms could include:**

##### **1. Requiring that SIL and SDA providers:**

- Are separate and fully independent legal entities, with no common ownership, governance or management ties.
- Do not invoice the other party for any cost or expense in the ordinary and usual course of business.

- Do not enter into arrangements to share profits or losses arising out of the provision of supports.

2. **Introducing arrangements over a period of time**, to recognise the complexities that some providers will face in adjusting to them.

3. **Making provisions for exceptional circumstances** such as outer rural and remote locations, with controls in place such as mandatory lodgement of the details of the arrangements with the NDIS Commission.

4. **Mandatory registration** for SIL supports, as an added safeguard against unscrupulous providers.

#### 4. Different prices for registered and unregistered providers

#### **Background**

InLife wholeheartedly endorses the need for a thriving and diverse market for supports, including both registered and unregistered options, to ensure every participant can engage a provider who can meet their own, unique support needs. However a thriving market requires a level playing field, and current pricing arrangements result in a significant competitive disadvantage for registered providers.

The NDIS price guide specifies the maximum prices that all providers can charge, whether they are registered or unregistered. Unregistered providers can charge the same price and have the option to use it in ways that at best have no benefit for service quality and at worst can seriously undermine it, such as higher profits, sales and marketing spend, or incentive payments to participants or other providers. Critics may well argue that there are plenty of bad registered providers out there too. This is why [strengthening the Commission](#) and [participant decision making](#) are also vital.

#### **Changes we'd like to see**

Our proposed solution is to create a more level playing field by fairly compensating registered providers for the extra costs specific to them. We are not advocating to increase prices for registered providers. Rather, given they are not beholden to the quality requirements of registration, there could in fact be a lower price for unregistered providers.

## Reforms could include:

- **A loading for registered providers:** A registration loading could be paid to registered providers, and it could sit separately rather than be paid out of participant plans (similar to the one off arrangement in June 2022, but linked to ongoing provider payments as part of BAU).
- **Introducing the loading over time:** To promote scheme sustainability, annual price rises could be applied into the loading factor only. Prices for participants would not need to change, and their purchasing power (choice and control) would remain the same.

The introduction of a loading payment would mean:

- Participants would not be penalised for choosing a registered provider, who in turn would be fairly compensated for the quality and safeguarding requirements of registration.
- It would avoid wastage and promote choice and control (price caps are based on a model that factors in the cost of quality service delivery).
- The labour market would not be distorted (some unregistered providers are individuals who contract as individuals for exactly the same price as registered providers can charge).

## Conclusion

NDIS participants should be confident that they can access high quality and safe supports to live life the way they want.

The NDIS Quality and Safeguarding Commission needs to be strengthened and streamlined to ensure that vulnerable participants don't fall through the cracks. Systems need to be connected, data used better to inform regulatory action, regulatory requirements streamlined and participants engaged with more directly.

Participants need to be empowered and supported to exercise choice and control. Funding supported decision making for participants in shared living would be a step in the right direction. We need greater transparency about provider performance so participants can make informed decisions. Publishing a simple

participant survey could highlight which providers are performing well and where there is room for improvement.

A separation of SDA and SIL provision would reduce conflict of interest and ensure NDIS participants have greater choice and control. This, along with mandatory registration for SIL support providers, would provide a further safeguard for those who need it most.

Finally, differential pricing for registered and unregistered providers would strengthen the industry and choices for participants going forward. Registered providers have higher costs including training, supervision and reporting, which needs to be recognised. A lower price for unregistered providers and a one off payment or loading for registered providers could help level the playing field.

The disability sector is diverse but quality must be encouraged and rewarded for the benefit of all participants who deserve to be in control when it comes to making decisions about their own life.