



Australian Government
Department of Social Services

Registration of NDIS participants who self-direct their supports



Introduction:

Background

In December 2023, the Independent Review of the National Disability Insurance Scheme (NDIS Review) provided their report to the Australian Government which included a recommendation *'develop and deliver a risk-proportionate model for the visibility and regulation of all providers and workers in the NDIS and strengthen the regulatory response to long-standing and emerging quality and safeguards issues'*¹. The NDIS Review noted this model needed further development in consultation with people with disability, providers and other regulators.

In February 2024, the government established the NDIS Provider and Worker Registration Taskforce (the Taskforce) to provide expert advice on the design and implementation of the new graduated risk proportionate regulatory model. In preparing their advice, the Taskforce conducted extensive consultation with the disability community, providers, workforce representatives and other relevant stakeholders² and built on the work of the NDIS Review and the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (DRC).

The Taskforce were required to provide advice on key design elements and implementation of new regulatory arrangements, while ensuring people who are self-managing in the NDIS and employing and engaging their own workers and providers can continue to do so. The Taskforce was also asked to ensure the new arrangements would uphold the rights of people with disability, including the right to determine their own best interests, improving their ability to exercise choice and control over the providers that they use. The Taskforce explored how self-directed supports could be reflected in new regulatory arrangements through extensive consultation with the disability community.

The Taskforce heard that NDIS Participants have adopted models of self-directed support which includes services for one and direct employment arrangements to meet diverse disability-related support needs. These arrangements form an integral part of the disability ecosystem throughout Australia, including in regional and rural areas.

The Taskforce's advice was released on 2 August 2024. The advice provides a blueprint for the design and implementation of a registration model for NDIS Providers and Workers while maintaining choice and control for participants. Self-directed supports are a proposed category of registration in the Taskforce's model. The purpose of this consultation is to better understand how NDIS Participants and their Providers or Workers utilise self-directed supports to manage their disability-related support needs.

¹ [Working together to deliver the NDIS | NDIS Review](#) Recommendation 17

² Further information on the consultation undertaken by the taskforce can be found here: [NDIS Provider and Worker Registration Taskforce | Department of Social Services, Australian Government \(dss.gov.au\)](#)

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What did the Taskforce recommend?

The Taskforce made 11 Recommendations and proposed 10 Implementation Actions covering provider and worker registration, worker screening and an approach to implement the new model. The proposed registration model has four categories:

- **Category A: Advanced registration** - In-depth registration for high-risk supports
- **Category B: General registration** - Graduated registration for medium-risk supports
- **Category C: Service for One/Self-Directed Support registration** – Registration of the participant/guardian or other person with legal authority for the direct contracting of all supports
- **Category D: Basic registration** - Simple registration for lower-risk supports

To ensure that the government has a clear understanding of self-directed supports from the perspective of the disability community, the Department of Social Services (Department) would like to explore in further detail Recommendation 6, Recommendation 7 and Recommendation 8(f) as they relate to NDIS Participants who self-direct their supports:

<p>Recommendation 6</p>	<p>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.</p> <ul style="list-style-type: none"> 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.
<p>Recommendation 7</p>	<p>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.</p>
<p>Recommendation 8(f)</p>	<p>Regular Check-Ins with the NDIS Quality and Safeguards 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.</p>

The Taskforce advised that including self-directed supports as a category within the registration model would serve two main purposes:

1. Enable appropriate visibility of these arrangements and embed the concept of self-direction in the regulatory framework.
2. Ensure the NDIS Commission supports participants in their arrangements, improving their sustainability and to be available to NDIS Participants who have not had the opportunity to explore this option before.

These two purposes would be supported through the requirement for regular check-ins as outlined in Recommendation 8(f), which is an ongoing condition of registration in the self-directed supports category.

Purpose of this consultation

This consultation will be used to inform government decisions on the new registration model, as recommended by the Taskforce. The information you provide during this consultation period is an important part of ensuring the government can make decisions about registration based on the way you use your supports.

This consultation will support the Department with the design of the first stage of changes to the way NDIS providers are registered. This work builds on the advice of the Taskforce, Recommendation 17 of the NDIS Review and the findings of other inquiries including the Disability Royal Commission.

The first stage of work considers requirements for the registration of participants who self-direct their supports. This includes aspects such as, worker screening requirements, complaints, incident reporting, audits and the form and function of regular check-ins with the NDIS Commission.

It is acknowledged that a large amount of consultation activity has taken place over the past few years, and that the disability community has generously provided its views in an effort to shape the future of the NDIS.

Considering the consultation that has occurred so far, the Department considers Recommendations 6 and 7 of the Taskforce advice provide the starting point for the consultation process. A category of registration for participants who self-direct is proposed to enable the NDIS Commission and the NDIA to:

- Have the appropriate oversight over these arrangements.
- Increase the connection between participants who self-direct and the NDIS Commission.
- Support participants who self-direct to continue to do so.
- Provide an avenue for innovative ideas to be shared between participants who self-direct.

This consultation is open to everyone who wishes to contribute. The Department is particularly interested in hearing from participants who self-direct their supports already, are interested in self-direction or other services-for-one arrangements.

The Department would like to hear about what the registration of NDIS Participants who self-direct their supports should entail. This includes:

- A definition of self-directed support for the purpose of registration.
- The obligations that apply to participants who self-direct their supports
- The level of support provided by the NDIS Commission to assist participants who are registered to self-direct their supports.

The scope of this consultation paper does **not** include:

- The range of services and supports that are able to be obtained as part of an NDIS Plan.
- The definition of a NDIS provider.
- The approach to worker registration.
- The features and structure of the other registration categories (A, B, and D) contained in the Taskforce advice.

Future consultation opportunities will consider these matters.

Current situation

Under the NDIS, Participants are provided with individual budgets. Participants have choice and control over what they purchase for their disability-related support needs. NDIS Participants can financially manage their funds themselves (self-managed), through an intermediary (plan managed) or through the NDIA (Agency-managed). The financial management of a Participant's NDIS Plan is determined by the NDIA in consideration of various factors including the Participant's ability to manage their funding and the supports to be funded. If a Participant's plan is Agency-managed, there are some constraints in place, including that they must purchase from registered NDIS Providers only.

The NDIS Quality and Safeguards Commission (NDIS Commission) is responsible for registration of NDIS providers. Currently, registration is optional for most NDIS Providers, unless they provide specific services such as Specialist Disability Accommodation, behaviour support or implement restrictive practices³. Plan managers must also be registered.

The NDIS Review found there was a significant number of unregistered providers being used by NDIS Participants. While all NDIS Providers, registered or not, are required to comply with the NDIS Code of Conduct and can be subject to a complaint to the NDIS Commission, the NDIS Review and the Taskforce observed that these are insufficient safeguards to promote a strong, safe and quality NDIS Provider market.

During the Taskforce's consultation, NDIS Participants shared that they had found success in directly engaging their supports. Usually, these were for the provision of personal care, community access and daily assistance. NDIS Participants, their families and supporters explained that directly employing workers enabled greater flexibility to design support services to meet their needs through training of workers, and direct negotiation of pay and other work conditions. They also observed that

³ In response to the advice of the Taskforce, the government will consult on requiring registration of providers delivering Supported Independent Living, Support Coordination and platform providers. Changes to the registration requirements of these providers is being considered separately.

they had greater control over the recruitment process which was of significant importance when bringing supports into their homes or to provide intimate care and support.

Self-directed arrangements can have differences and similarities compared to purchasing support from a disability support provider. These similarities can include elements such as NDIS participant and service provider working together to design support services that meet their individual needs, selecting the right worker and being a part of worker recruitment and a service provider governance, as determined by the NDIS Participant and their provider.

Centring human rights

The NDIS is an important step to Australia's fulfillment of obligations under the UN Convention on the Rights of People with Disabilities (UN CRPD). The UN CRPD articulates the rights of people with disability. Relevantly, article 19 of the UN CRPD enshrines the right for people with disability to live independently and be included in the community.

Self-directed support is a concept that has specific meaning in the context of the UN CRPD and is an important way to pursue the progressive realisation of the human rights of people with disability.

The Taskforce recognised self-directed supports were a key part of the disability support system consistent with realising the human rights of people with disability⁴. The Taskforce recommended current arrangements must be preserved, and future arrangements encouraged in the registration model. The Taskforce recommended the best way to do this while creating appropriate visibility to the NDIS Commission was the creation of a separate registration category for self-directed supports.

Definition of terms:

For the purpose of this consultation paper, we have used the following definitions:

Self-managed is considered to mean:

- The financial management of funding for supports under an NDIS plan⁵. A self-managed participant is a participant who manages their NDIS funding without the use of a nominated registered plan manager. The participant directs funding by purchasing any goods or services for their disability-related support needs.

Self-Directed Supports is considered to mean:

- A way of managing supports, where the participant directly employs workers providing support; or
- Self-directed supports include service-for-one arrangements, where a company or business structure is established for the purpose of providing disability support services to one individual.

⁴ Further information about how self-directed supports are integral to the human rights of people with disability is available in chapter 7 of the Taskforce Final Advice available here: [NDIS Provider and Worker Registration Taskforce | Department of Social Services, Australian Government \(dss.gov.au\)](https://www.dss.gov.au/ndis-provider-and-worker-registration-taskforce)

⁵ As per s43(1) of the *National Disability Insurance Scheme Act 2013* [Federal Register of Legislation - National Disability Insurance Scheme Act 2013](https://www.federalregister.gov/?date=2013-07-18&title=National+Disability+Insurance+Scheme+Act+2013)

The distinction between self-directed supports and self-management is important because:

- **Self-managed participants** will not need to register with the NDIS Commission. Oversight and safeguarding is achieved here through Provider registration as proposed by the Taskforce and NDIS Review.
- **Self-directed participants** will need to register with the NDIS Commission and can directly employ workers. The participant will be responsible for maintaining their registration and will need to comply with obligations commensurate with the risk for the services provided to them.

Question:

1. Do you agree with the definition of Self-Directed Supports above?

Proposed obligations for registered self-directed participants

The following obligations have been proposed for the self-directed supports category, for participants, nominees and the workers who support them:

- Adherence to NDIS Code of Conduct
- Worker screening
- Complaints process
- Incidents
- Audits
- Ongoing monitoring
- Participant undertaking their own assessment for practice and quality according to self-defined standards.
- Suitability assessment – undertaken by participant - how?
- Regular check-ins with the NDIS Commission

The Taskforce advice recommends self-directed participants (or their representative) would apply for registration via a portal. Once registration is granted, the participant would be able to directly engage their supports.

In these arrangements, the participant or nominee takes on the responsibilities of an employer. This includes mandatory responsibilities such as occupational health and safety, insurance, and compliance with the terms set out in industrial awards. The new category recognises pre-existing arrangements, enabling participants who directly engage their own supports to continue doing so in the new model.

The Taskforce's advice proposed that due to the nature of self-direction, participants who are registered in this category would not be subject to external audits. Similarly, as the participant directs their own supports, practice standards would only apply in the case of high-risk support categories. For other support types, the Taskforce recommended that the Participant or their Nominee would undertake their own assessment for practice and quality according to self-defined standards.

Any supports that fall within the proposed new Advanced Registration Category would need to be provided by registered providers. These supports have been assessed as high-risk and include behaviour support, restrictive practices, early childhood supports, support coordination, plan

management, specialist disability accommodation and home and living services delivered in formal or closed settings such as group homes. This would mean that any supports within the Advanced registration category must be delivered by a provider that is already registered in the Advanced category.

Another consideration for the design of a self-directed supports category is the registration process. The Taskforce recommended registration be automatic upon meeting the application criteria, and that the process to register should be (as far as practicable) done online. There are no present criteria for a participant to qualify for self-directed supports.

Participants who choose to self-manage are unable to do so if they are currently bankrupt or insolvent under administration, or if the NDIA assess self-management would pose an unreasonable risk to the participant. It may be appropriate for similar criteria to apply when the NDIS Commission assesses an application for registration for the self-directed supports category made by participants as well as guardians or other persons involved in directing the participant's supports.

We want to know what each of these obligations would mean for you.

Questions:

2. Do you agree with the proposed obligations for registered self-directed participants?
3. Are there any barriers to compliance with these requirements?
4. What features are important for the regulator to have when registering self-directed supports?

Support from the NDIS Commission

The Taskforce heard from participants who self-direct that they often lack appropriate support in these arrangements.

The Taskforce recommended registered self-directed participants have a regular check-in with the NDIS Commission. The Taskforce recommended that this process as an obligation and a requirement of gaining and maintaining registration. If a registered self-directed participant does not comply with this obligation, the NDIS Commission would be able to suspend or revoke the participant's registration.

Importantly, registration of self-directed supports with the NDIS Commission would increase visibility of these arrangements and allow the NDIS Commission to be more active in supporting participants who self-direct their supports.

The check-in process would also provide an opportunity for participants to have an ongoing interaction with the NDIS Commission. As self-directed participants maintain control over their supports, those who wish to do so may be able to provide insights and innovative approaches to how they manage their day-to-day life. The check-ins could therefore be an opportunity for the NDIS Commission to learn best practice from participants who consent to share this information with others. There is also potential for this knowledge to be shared with other providers to enable improved practice led by the experience of participants who self-direct their own supports.

The Taskforce considered that the 'check-in' process would be flexible and respectful of a participant's right to privacy. The development of strict privacy and confidentiality safeguards would be essential to enabling the sharing of such sensitive information. To protect privacy, self-directed participants should be able to easily opt-out of information sharing arrangements at any time after opting in without impacting their registration status. The check-ins would remain mandatory, however there would be no requirement for the participant to authorise information sharing. The Taskforce recommended that this "check-in" process be co-designed with the disability community. The department wishes to understand what support from the NDIS Commission would be useful for participants who self-direct their supports:

Questions

5. How often should participants who self-direct their supports check-in?
6. What form should these check-ins take?
7. What types of information could assist with checking in?
8. What types of support structures could help participants share innovative practices? (for example, via a knowledge base, templates, or community of practice)?