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NDIS Providers and Worker Registration

Submitted to:

The NDIS Provider and Worker Registration Taskforce

For:

The National Disability Insurance Scheme (NDIS)
The Department of Social Services

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Introduction

Lived Experience Australia Ltd (LEA) is a national representative organisation for Australian mental health consumers and carers, families and kin, formed in 2002. Our 'friends' include more than 9000 people with lived experience of mental health concerns, including suicide and suicidality, across Australia.

All members of our Board and staff have mental health lived experience as either a consumer, family/carer/kin/supporter, or both. This includes lived experiences with all parts of the mental health care system, NDIS, psychosocial disability support outside the NDIS, public and private service options, and service provision across urban, regional, rural and remote Australia.

Lived Experience is core to our advocacy, recognising that the impacts of policy and practice are felt not only by individuals, but also by families and whole communities. Our core business is to advocate for effective policies and systemic change to improve mental health care and psychosocial disability support services and support across the whole Australian health and social care system, including within State and Territory jurisdictions.

We welcome the opportunity to provide our feedback to this crucially important issue for people with mental health challenges and psychosocial disability, and their families, carers and kin in the Australian community.

Purpose of this Consultation

The NDIS Provider and Worker Registration Taskforce has been established to provide advice on the design and implementation of the new graduated risk-proportionate regulatory model (Recommendation 17) proposed in the [NDIS Review Final Report](#). The Taskforce will consult with people with disabilities, their families and advocates, the NDIS provider market, workforce, and other relevant stakeholders. The goal of this work is to strengthen the regulatory response to long-standing and emerging quality and safeguards issues associated with the NDIS that were reported in the NDIS Review. In particular, the Review Panel heard that there are gaps in oversight of providers.

The registration process aims to ensure that providers and their workers are reputable and have the skills and knowledge to deliver supports. While registration is not a guarantee of either safety or quality, it ensures visibility and does indicate a provider has taken steps to deliver supports professionally and competently. Registration is an important way of holding providers to account. It would also enable greater monitoring of whether providers and supports are adequately trained and qualified to provide support, as all supports aside from the 'Enrolment' level described below, would be subject to some form of Practice Standards management.

Currently, most providers can opt-out of registration, and registration is only mandatory for a limited number of high-risk support types. The market of unregistered providers is larger than originally expected and has been driven by a large number of self-managing and plan-managing participants – 29% of participants self-manage all or part of their plan and around 60% use a Plan Manager, and both can access unregistered providers. Similarly, the ability to access unregistered providers has driven demand for self-management and plan-management.

The proposed model for the regulation of providers is based around four broad categories related to the risk associated with different types of supports and providers, with corresponding mandatory registration or enrolment requirements:

- **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.
- **General registration** for all medium-risk supports, applying graduated approaches to regulatory requirements and oversight, depending on factors impacting the level of risk.
- **Basic registration** for all lower-risk supports, applying lighter-touch registration requirements, while still allowing for regulatory oversight against Practice Standards, when required.
- **Enrolment** of all providers of lowest-risk supports, providing full visibility of the market and applying lightest-touch requirements through a simple online process.

The proposed model within the NDIS Review Final Report has been met with a lot of criticism from the broader disability sector. The model would require some level of registration for all NDIS providers which would result in removing, or drastically diminishing a participant's ability to access non-registered providers.

Key issues that have been identified with the proposed model include:

- A decrease in the type and number of services available to participants, specifically in regional and rural areas, due to low numbers of registered providers.
- An increase in the cost of services and supports due to a limited market and the additional burden placed on providers to register and maintain registration.
- Increased risk to a participant's safety and wellbeing due to mandatory disclosure of their disability or health issues.
- That it would impinge on the ability for participants to self-manage and lead to a loss of choice and control for participants due to their inability to engage unregistered providers.

Our response to the Review

What do you think of the proposed levels of registration and enrolment in the Report?

LEA supports the overall intention of the proposed model because, as we and many others have reported in advocacy submissions to the NDIS review, there have been many problems with NDIS implementation, particularly with the behaviour or unscrupulous support provider organisations and individuals. A universal registration model would offer at least some minimum level of accountability that is currently not evident, especially for individuals (with support from their family, carers where applicable) who self-manage their plans, and for individuals who use a Plan Manager. However, it is unclear from the detail provided whether and how having these levels will actually prevent fraud by unscrupulous individuals or syndicates, or misuse of invoicing and plan billing issues (even by regulated providers).

We are also concerned about the 4 key issues that are noted above, particularly the first and fourth issue that are linked issues that not only likely to impact people in regional and rural areas, but also negatively impact people with NDIS plans across all locations.

We are concerned about the 'deficits' language of 'risk' evident in the descriptions of the levels. Whilst we recognise that this relates to the providers, not to NDIS participants, it sets a tone that must be clearly managed in any communications to the provider market. There is already inherent deficits language and processes evident in the NDIS eligibility and assessment process which we have highlighted to the Review in our previous submissions; we don't need more. Levels of scrutiny and accountability of the providers should be the focus. New providers with limited experience and expertise on psychosocial disability support who are reading the categories and deciding which one they should sign up to may be less attuned or sensitised to the importance of non-deficits language. There is already more than enough concern with poorly trained and supervised support workforce providing paternalistic support.

What key features of the proposed model are important to you?

Systems and processes for ensuring greater protections and accountability for how NDIS Plan money is spent to ensure maximum benefit is delivered directly to the individual to support their everyday psychosocial needs, is of great importance. Also, better quality support, better trained providers, and clearer mechanisms for individuals and their advocates to change providers if needed, are important. Any changes also need to ensure that access to mainstream community activities is not unintentionally destroyed by these new processes.

What is the most important thing to you that you want the Taskforce to consider when developing their advice?

We want the taskforce to carefully consider any known impacts (as per the key issues with support, choice and control noted above), and potentially unintended sequences of the proposed graduated model for people with psychosocial disability. There are 3 points that we wish to highlight:

1. We note that a large proportion of people receiving NDIS for psychosocial disability are likely to receive support from providers who will opt for and be required to register in the lowest 2 categories (Basic registration and Enrolment). This may be both a positive where providers are not hampered by more complex registration processes, which may in-turn mean there is a greater diversity of providers from which to choose from, and diversity is not lost to the potential provider pool as a result of leaving NDIS due to perceived administrative burdens being too great, which may occur with the higher levels of registration (General and Advanced). However, if we assume that a larger proportion of the psychosocial group's support needs are met by the lower levels, there may be unintended consequences with the overall psychosocial group of NDIS participants receiving services that are subject to less accountability through reporting and monitoring of the Practice Standards that is a feature of the 2 higher levels. Hence, the levels may inadvertently create inequity in the quality of overall services provided to NDIS participants based on their disability type.

2. We note that there are many 'home and living' supports that are very important to NDIS participants with psychosocial disability, to enhance their quality of life, promote recovery and safeguard their community tenure and inclusion. These include support with house cleaning, gardening, and so forth that are likely to sit within the 4th 'Enrolment' level of registration being proposed. Providers of equipment, technology, and home and vehicle modifications are arguably less likely to be impacted by a new requirement to undertake a simple online process to remain eligible to provide their services to NDIS participants because many such providers have been performing such roles with services and individuals with physical disability for decades prior to the establishment of the NDIS. However, many people providing support for cleaning, gardening and similar services may be sole-traders, or operating very small businesses. Any administrative requirements would need to acknowledge this sector and ensure unnecessary administrative burden is not created. An unintentional outcome may be more increased medicalisation of the supports available and provided within plans, and a decrease in use of more holistic and practical supports that are so important in people's lives in their community. Additionally, if these small providers are pushed out, the market for these services may become dominated by the larger chain and franchised providers who often charge more to ensure their profit margins.

These issues may also impact peer support providers who are striving to establish their role outside of the larger corporate-type psychosocial support CMOs that employ a range of staff, including peer workers, to deliver NDIS support. As the Review found, receiving support from a peer worker employed by a large provider is not a guarantee of better-quality support or stronger alignment to the principles of peer support – the opposite may in fact occur and individualisation of support may be less likely.

3. The NDIS Review flagged that a key reason for the need for change was the current reliance on individuals to assess risk and quality. The proposed graduated model may well alleviate this concern, or it may have little impact on it, particularly as it relates to the process of changing providers if and when concerns about support quality, billing practices, or other concerns become apparent. We know that there have been other drivers impacting risk and quality, most notably that some NDIS participants develop a sense of obligation to continue with a support provider and will tolerate poor service (e.g. because of undue pressure from the provider, they perceive the provider as their 'friend', they don't want to 'make trouble' for the provider, they choose the 'known' rather than the 'unknown' that any change can bring, there are limited other options anyway due to thin markets, and so forth). Hence, we expect that the Taskforce's deliberations will need to consider these complexities in how the 4 levels are then operationalised.

Other comments?

It is unclear whether there are any implications of the proposed changes for families, carers and kin who may well be providing significant 'invisible' support for practical monitoring of whether and how support is provided, helping to problem-solve any issues with plans, support, billing, payment, and so forth. In many cases, their administrative input is just assumed by NDIS LACS/planners and NDIS providers. Please do not forget the importance of communicating these changes to family, carers and kin, and the potential need to have more formal training extended to them, especially for self-managed plans and those that are Plan Managed.

It is unclear how the proposed changes will address the current pervasive problem of invoicing which is one of the many issues reported to the Review. This system falls down with plan managers not checking if a service has actually occurred. Ongoing monitoring assumes such systems are always accurate when, even with larger providers with established finance and recording systems, invoicing errors can and do occur. We are aware of some plans where administrative costs have dominated with vastly reduced funds then available to provide the much-needed actual support to the person. This is a finance accountability issue, but it has significant potential to be detrimental to the person's human rights, empowerment, choice and contact, and the safeguarding processes that are central goals of any reform of the NDIS.

Contact

We thank the Department of Social Services and the NDIS Provider and Worker Registration Taskforce for the opportunity to put our views forward. We wish you well with the next steps and would be pleased to contribute our lived experience perspectives to any future discussions about this important topic.

Your sincerely

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