

ndisregulation@health.gov.au

Australian Government Department of Health, Disability and Ageing

Dear Consultation Team,

Getting It Right – A New Definition for NDIS Providers

Thank you for the opportunity to provide feedback on the proposed amendments to the definition of “NDIS provider” under the National Disability Insurance Scheme Act 2013 (NDIS Act), as outlined in your consultation paper.

Advocacy for Inclusion (AFI), incorporating People with Disabilities ACT, is a Disabled People’s Organisation providing systemic advocacy informed by our individual and self-advocacy work across the ACT. Most of our Board, staff and members are people with disability, and AFI’s policy positions are grounded in lived experience and co-designed with our community. Our work is guided by the principles of the Convention on the Rights of Persons with Disabilities.

AFI strongly supports the objective of improving safety, quality, transparency and sustainability within the NDIS. However, we are concerned that the proposed changes may have a number of unintended consequences.

1. Risk of unintentionally capturing self-directing participants

There is a risk that people who self-direct their supports could be unintentionally captured within the proposed provider definition, including people who:

- Directly employ their own workers
- Engage independent support workers
- Use a mix of registered and unregistered providers
- Have Supported Independent Living (SIL)-labelled funding but self-direct it in their own home
- Potentially use Individualised Living Options (ILO) funding
- Establish company or trust structures to manage employment and governance responsibly
- If the definition of “provider” is changed before a clear self-direction category is created, self-directing participants could be captured in compliance systems designed for commercial providers.

Participants who organise supports for themselves or family members are not “providers” in a market-facing sense. They are not delivering outward-facing services. They are organising supports to meet their own disability-related needs.

The consultation paper mentions the idea of a “self-direction registration category”, as recommended by the NDIS Provider and Worker Registration Taskforce, but it does not appear in the regulatory diagrams or structural outline of the proposed model. It is also not clear how and in what circumstances a participant could enter the self-direction category.

Sequencing is critical. If the definition of “provider” is changed before a clear self-direction category is created, self-directing participants could be captured in compliance systems designed for commercial providers. The definition should not safely change without first clarifying where self-direction sits.

A properly constructed self-direction category could allow:

- Visibility to the Commission where appropriate
- Focused oversight on employment law and safeguards
- Recognition of participant governance
- Protection of private homes from being treated as service facilities

Creation of such a category would require transition arrangements especially for providers seeking to move between categories.

2. Support type does not equal risk

The proposed framework appears to assume that that certain support types (like “provision of home and living support”) will likely automatically require “advanced level” provider registration and therefore regulation. This assumption is highly problematic. Support type alone does not determine risk. Consider the following scenario:

Jane has lived in her privately owned home for 20 years.

She uses a family-governed company trust to employ her support workers under the SCHADS Award. She has a voluntary home sharer providing companionship and overnight presence in exchange for no rent. Her core budget was previously self-managed.

At her most recent plan review, her funding was reclassified as SIL and changed to plan-managed. Her living situation did not change. Her risk profile did not change. Her governance arrangements did not change. Only the funding label has changed.

Under a framework that treats “SIL” as automatically requiring advanced registration, Jane’s family trust could be treated as a regulated provider and her private home as a regulated service site.

Two people may both receive “SIL funding”. While the funding label is identical, the governance and risk profile may be entirely different. A risk-proportionate model must look beyond support type and consider:

- Who holds power and decision-making authority
- Whether the arrangement is participant-governed
- Scale and market exposure
- Whether services are outward facing
- Organisational complexity
- Concentration of power away from the participant

Risk is shaped by power structures, not line items. For many participants, self-direction is not a lifestyle preference. It is a protective response to past failures in systems where:

- Power was concentrated away from the person with disability
- Oversight was fragmented or ineffective
- Decision-making was remote
- It was difficult to remove unsafe providers

Self-direction often reduces risk by increasing participant control. Regulation must not mistake autonomy for danger.

3. Risks to peer supports, intermediary services and non-clinical capacity building

The draft list at Table 2 in the consultation paper includes:

- Peer support programs
- Intermediary services to support plan management
- Capacity building supports
- Allied health and therapeutic services
- Interpreter services
- Health services

There is significant risk in capturing peer supports, non-clinical capacity building, and intermediary services within a provider definition requiring registration. Examples include:

- Peer-led support groups
- Disability advocacy organisations
- HR advisory services assisting participants to employ workers
- Financial compliance advisors
- Community-based mentoring initiatives

These supports often exist precisely to help participants:

- Stay compliant with employment law
- Exercise choice and control
- Navigate complex systems
- Avoid unsafe providers including those who do not represent value to consumers or the Scheme.

Peer support and intermediary assistance are safeguards, not risk drivers. They should not be scoped into a provider definition designed for service delivery entities.

4. Provider registration is not a “silver bullet” for fraud and cost control

Provider registration is increasingly being presented as a solution to fraud, abuse, price gouging and cost escalation within the Scheme. However:

- Fraud and misconduct are not confined to unregistered providers.
- Registered providers have been subject to enforcement action.
- Registration alone does not prevent exploitation or guarantee quality or value for money.

Misconduct is provider-agnostic. The stronger protective lever is empowered consumers. What is required is:

- Better consumer information which means more accurate, detailed, consumer-generated resources about provider services and products
- Transparent service comparison tools
- Strong independent advocacy
- Clear complaints pathways
- Rapid response mechanisms when harm occurs
- Education to help participants identify and exit poor services

Participants need tools to locate good services and remove bad ones quickly rather than regulatory approach which removes agency, choice and control from consumers.

The objective of improving safety and integrity across the NDIS is critical and widely supported. However, if the legislative definition of “NDIS provider” is amended without careful safeguards, it risks:

- Undermining safe self-directed arrangements
- Breaking the fidelity of the Scheme by removing the agency of consumers to direct choice and control and making this the job of the Agency and regulators who do not have a good track record around these decisions
- Misclassifying participant-governed structures as service providers
- Increasing regulatory burden without proportional safety gain
- Discouraging innovation and community-led support

Reform must protect participants from harm without destabilising the very arrangements that many have built to stay safe.

Thank you for considering this submission. Please contact me, at Craig@advocacyforinclusion.org, or our Senior Policy Officer, Harry Lomas, at Harry@advocacyforinclusion.org, if you wish to discuss this submission further.

Regards,



Craig Wallace
Head of Policy
Advocacy for inclusion
3 March 2026