



Inclusion Australia



# **Submission to the NDIS Provider and Worker Registration Taskforce:**

## **An outcomes-based model for NDIS registration**

20 May 2024

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This is a joint submission from Inclusion Australia and Gudrun Gilles of the MARQ Group. This written submission follows from a presentation we gave to the Taskforce on 3 May 2024.

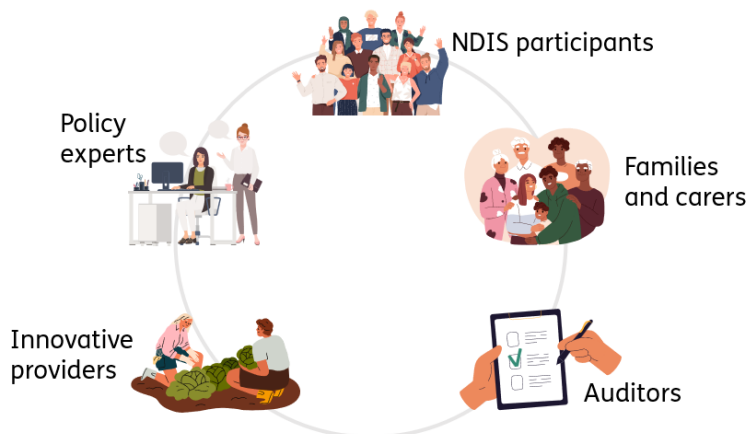
## Our team

Inclusion Australia is the national representative organisation for people with intellectual disabilities and their families. Our policy team includes staff with intellectual disabilities and family members of people with complex support needs. We have direct personal and professional experience with the NDIS.

Gudrun Gilles of the MARQ Group is an experienced management consultant. She brings four decades of disability and mental health sector experience. Gudrun is a certified lead auditor for Quality Management systems and completed the NDIS Quality and Safeguards Commission's auditor training. She has supported hundreds of organisations transitioning and registering as NDIS providers, including providing information and education regarding ongoing compliance requirements.

Leveraging IA's track record in driving policy transformation for the disability community and Gudrun Gilles' comprehensive operational experience in the NDIS landscape, we are working together to offer a well-rounded perspective on the evolution of a spectrum-based registration model.

Our experience covers many parts of the NDIS ecosystem:



### NDIS participants

- Inclusion Australia is the national voice for people with an intellectual disability, representing thousands of NDIS participants across the country.
- Our policy officer, Luke Nelson, uses the NDIS and was involved in developing our ideas.

### Families and carers

- Inclusion Australia also represents the families of people with an intellectual disability and recognises the importance of their experiences and role in sharing the voices of people with complex needs.
- Our CEO, Catherine McAlpine, and Specialist Advisor, Dariane McLean, have adult children who use the NDIS.

### Auditors

- Our expert consultant, Gudrun Gilles, has experience in the NDIS-approved Quality Auditor Scheme.
- She regularly consults with colleagues who are NDIS approved auditors on relevant topics, including audit readiness, risk and compliance management, and continuous improvement.

## Policy experts

- Together we bring decades of experience in disability and social services policy and advocacy, including individual advocacy.
- Several team members were involved in the original campaign to establish the NDIS.

## Providers

- Our team brings innovative provider perspectives.
- Dariane McLean is involved in a service-for-one organisation for her son which is delivering considerable positive outcomes and has led to many changes in his life, including the elimination of all restrictive practice.
- Gudrun Gilles brings over 40 years of experience in the disability and human services sector. Gudrun has supported hundreds of providers transitioning into and operating within the NDIS who offer a wide range of supports and services across diverse organisational and service delivery models

## **Background**

As the national representative organisation for people with an intellectual disability and their families, Inclusion Australia represents many families that run services-for-one for their family members with an intellectual disability. Gudrun Gilles has also worked with services-for-one as a Senior Business Advisor on behalf of the Western Australian Small Business Development Corporation.

We started to work together to explore how a proportionate registration model may work for people with an intellectual disability – especially people with complex support needs, and for people using services-for-one.

### **What is a service-for-one?**

Service-for-one is a term that was developed to cover a unique disability service model in Australia. A service-for-one is an alternative to the mainstream group-based disability service provider system, which has failed many people with an intellectual disability in appalling ways over many years.

The recent Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability highlighted the levels of abuse and violence people have experienced with group-based disability services and the trauma and ongoing impacts for them throughout their lives.

A service-for-one is often set up by families to provide support for people with complex support needs and multiple disabilities. Many people with complex needs in our community have experienced severe neglect and abuse in mainstream disability services, and families developed services-for-one after trying a range of other options. As a result, families have sought out a model that allows their family member to receive the level of tailored and individualised support they need, provided in a way that centres their needs and preferences.

In a service-for-one, you become a NDIS provider for a single NDIS participant. Using the participant's funding, you directly employ staff to provide them with the support they require. These supports can be delivered in ways that meet the participant's needs and preferences, which is not achievable through larger service providers.

As a service-for-one, operators must uphold obligations; they may need to register as an NDIS provider, hold appropriate insurance, manage staff, and manage other matters relevant to running a business, such as payroll, human resources, and risk management.

### **What are the benefits of a service-for-one?**

There are many benefits of providing support through a service-for-one model. The overarching benefit is that, because a person can have their supports delivered in a way that meets their needs and preferences, they have a better quality of life.

We hear many stories about people being because a person can have their support to spend time doing what they enjoy for the first time in many years, building relationships and community connections, and starting to heal from trauma when supported through a service-for-one. By providing services tailored to the individual, services-for-one can also specifically foster and support the development of natural supports and community inclusion.

The support services available to someone through a service-for-one can also change with them – as they grow and their preferences, interests, or level of confidence change over time – because support is individualised and there are opportunities for creativity, adaption and innovation that are not available in large service providers.

This flexibility – and the fact that people’s needs are being recognised and met, often for the first time in many years – has also had a demonstrated impact on the use of restrictive practices. Anecdotally, we hear there is a significant reduction or even a complete elimination of restrictive practices in many cases. There is little research available about this so far, but we hope it will be an area of investment in coming years.

Inclusion Australia receives regular enquiries seeking information and advice on the service-for-one model. These enquiries are often motivated by family members who are concerned about the well-being of a family member with a disability currently living in a group home or by parents of people with disabilities who are planning for the future or investigating how they can provide their family member with the best outcomes based on their individual situation.

### **Why did the service-for-one model develop?**

Though it is still not widely understood, the service-for-one model developed before the implementation and rollout of the NDIS.

Since deinstitutionalisation has occurred across Australia, many people with an intellectual disability, especially those with complex behaviour and other support needs, have moved from their family home into a group home, where it was believed they would receive the appropriate care and supports. It was also said that this environment would support their independence as they became young adults. Unfortunately, group homes have rarely led to better outcomes for people with an intellectual disability – and, as shown by the Disability Royal Commission, the environment and experiences people have had in group homes has often directly led to significant harm and trauma.

The service-for-one model developed from the advocacy of a group of families living in states where their state governments provided individualised disability funding pre-NDIS. The families met and shared their concerns about the conditions their family members were experiencing in group settings, and together they petitioned their state governments to enable them to set up a more flexible model. This allowed families to move their family member with disability from their group home into appropriate housing, and directly employ people to provide the supports required.

Participants supported by service-for-one models were some of the first people to transition across to the NDIS when rollout commenced. People involved in this process say that their initial planning meetings were collaborative and purposeful, with families being encouraged to continue to support their family member with disability in an ongoing way through a service-for-one model. However, because the service-for-one model developed organically in specific states, it was not well known across the country, and it is still not commonly recognised or understood.

### **What are the current challenges for the service-for-one model?**

Initially, a key concern raised by families operating a service-for-one was around the new NDIS registration process. While there is typically a reduction and even an elimination of restrictive practices in a service-for-one model, this can take time to happen, and there are cases where these practices must continue to be utilised. Under the NDIS registration approach, providers using behaviour support plans and restrictive practices must be registered. This covered services-for-one where the person with an intellectual disability had a behaviour support plan and restrictive practices in place. At this time, families running services-for-one were concerned that the ‘one size fits all’ approach to provider registrations was not reflective of their unique situation or proportionate to the work they were doing. There were also concerns around the significant administrative burden that such a registration would create.

In 2020-21, due to the concerns, the NDIS Commission funded Inclusion Australia and VALID to explore the issues and provide advice to families and auditors about services-for-one. This led to the development of a suite of information which is freely and publicly available [on Inclusion Australia’s website](#).

As part of this project, a steering group made up of families running services-for-one across Australia was established. This group was interested in continuing to meet after the project finished and has become an ongoing community of practice facilitated by Inclusion Australia. The community of practice meets online monthly and is coordinated by an Inclusion Australia staff member with personal experience around services-for-one.

Concerns around the registration of services-for-one have not yet been resolved. Meetings have been held over the years between families, Inclusion Australia, the NDIS Commission, and the NDIA to raise awareness of the importance of the model and seek a more appropriate 'light touch' registration model, but there are limitations around this within the current NDIS legislation.

### **The current registration debate.**

Since the NDIS Review's final report was released in December 2023, there has been much discussion about how to develop an effective regulatory approach and registration system for the NDIS.

Inclusion Australia is a strong defender of the service-for-one model. We have seen, and firmly believe in, its ability to provide truly person-centred supports to people with an intellectual disability, especially people who have higher and/or more complex support needs who are often even further marginalised.

While we remain committed to promoting its value and benefits, we are aware that there is still work to be done across our community to ensure consistently safe and high-quality care is provided to people with disability, and to bring a level of visibility and accountability to providers that does not currently exist.

We are aware that individual arrangements around services-for-one vary (for example: non-profit organisations, companies limited by guarantee, self-managers) and that there may be different practices and different levels of understanding around compliance requirements and continuous improvement.

However, the current registration process for services-for-one is not fit-for-purpose and does not reflect their unique situations. Inclusion Australia has provided feedback to the NDIS Review Registration Taskforce on this matter and called for the co-designing of a more proportionate registration process while still upholding the highest levels of participant safety and well-being.

Services-for-one are identified by name as a consideration in the terms of reference for the NDIS Provider and Worker Registration Taskforce. This was an important step as it affirmed that unique elements of the service-for-one model need to be considered in the regulatory approach for the NDIS, and that these are different to other provider and service models.

We are keen to work with families running services-for-one, people with an intellectual disability, and other stakeholders to co-design a practice model that incorporates:

- Best practice standards
- Recognition, management, and mitigation of conflicts of interest
- Participant safeguarding
- Value for money
- Promotion of participants' rights and autonomy.

Building greater community awareness of services-for-one and improving visibility of the model will provide more opportunities to build effective partnerships and collaboration, share lessons and good practice, and support ongoing learning and innovation. This will help practice innovation for existing services-for-one and support the establishment of new services-for-one around the country.

## Our ideas

In working together to explore a new model for NDIS registration, our goals are to:

- Optimise outcomes for individuals with complex needs and their families who direct and manage their NDIS funded supports and services.
- Support the development and sustainability of a diverse range of NDIS providers, including small organisations, and encourage innovation.
- Ensure compliance with regulatory frameworks throughout the provision of NDIS funded services, supports and products.

We believe registration requirements should support continuous improvement, education, and information and focus on the outcomes of NDIS participants. This is in line with the NDIS Quality and Safeguards Commission's [Principles for Audit Reports delivered following audits undertaken in accordance with the National Disability Insurance Scheme \(Approved Quality Auditor Scheme\) Guidelines 2018](#).

## Our thoughts on Recommendation 17

The model proposed by the Review would introduce a structured four-tier system for provider registration. We recognise the clarity this tiered system offers, and the risk-proportionate approach in the model resonates with us.

However, we are concerned that members of our community, particularly people with an intellectual disability with more complex support needs, would be 'automatically' considered to be higher risk and that this may jeopardise the innovative service-for-one models that are delivering extremely positive outcomes for them. It is not clear where services-for-one would fit under the model suggested in Recommendation 17.

A registration model with only four categories may not sufficiently reflect the diversity and complexity of the industry due to the nuanced nature of risk profiles associated with different providers. This includes:

- **Variability in services offered:** Providers in the industry offer a wide range of services, from basic care to specialised medical treatments. The risks associated with these services can vary significantly, requiring more finely graded categories to assess and manage these risks accurately.
- **Diverse operational scales:** Providers range from small, community-based organisations to large, multi-facility operations. A limited number of categories may not capture the varying degrees of complexity and risk inherent in operating at different scales.
- **Differences in participant populations:** Providers serve diverse client populations with unique needs and vulnerabilities. The risk profile for a provider serving high-needs or high-risk populations differs considerably from one serving a more stable, less vulnerable demographic.
- **Compliance and governance structures:** The effectiveness and sophistication of a provider's governance and compliance structures can significantly influence their risk profile. Providers with robust systems might pose lower risks than those with less developed structures, necessitating more granular categorisation.
- **Evolving regulatory and market environments:** The external environment in which providers operate—including changes in regulations, funding, and technology—can alter risk profiles over time. A registration model with only a few categories may lack the flexibility to adapt to these changes efficiently.
- **Demonstrated outcomes:** The impact of the services provided, as measured by outcomes for participants, can also affect risk profiles. Providers demonstrating consistently positive outcomes might represent a lower risk than those with less proven or variable outcomes.



- **Organisational management and development:** The provider's organisational management activities, including efforts towards improvement, growth goals, maturation of the entity, and changes in structures and offerings, also significantly contribute to the risk profile.

We believe that a new registration system should support creativity and innovation in providers and be centrally focused on the *delivery of good outcomes for people using NDIS services*.

Therefore, we have devised an alternative registration model that operates on a spectrum rather than using specific tiers. This allows a proportionate approach to risk management that can adapt to each participant's and provider's unique service and support requirements.

## A proportionate, outcomes-based approach to provider registration

We propose a model designed to enhance self-direction for people with an intellectual disability and their families and to support a maturing provider market offering diverse support and service models.

Our registration model is constructed on a spectrum basis, enhancing flexibility and responsiveness to different providers' unique needs and risks, supporting adaptation to various provider capabilities and risk levels. Utilizes a sliding scale of oversight that is finely tuned to match the provider's size, complexity, business model, and service types. This system allows providers to adjust their position on the registration spectrum based on their proven governance, service delivery effectiveness, and participant outcomes, promoting continuous improvement and accountability.

### Underpinning principles

Three key principles underpin the model:

- **Participant-centred:** The model maintains a strong emphasis on ensuring that all registration levels prioritise the individual needs and rights of NDIS participants, including during evaluations.
- **Flexible and responsive:** The model is designed to rapidly adjust to sector changes, including shifts in market demands or the introduction of innovative new services. It will also accommodate changes in provider practices through customised oversight.
- **Incentivised quality:** The model has an in-built focus on quality improvements, encouraging providers to enhance their services and safety measures through a system that rewards improvements, fostering a culture and practice of continuous improvement.

### Core components

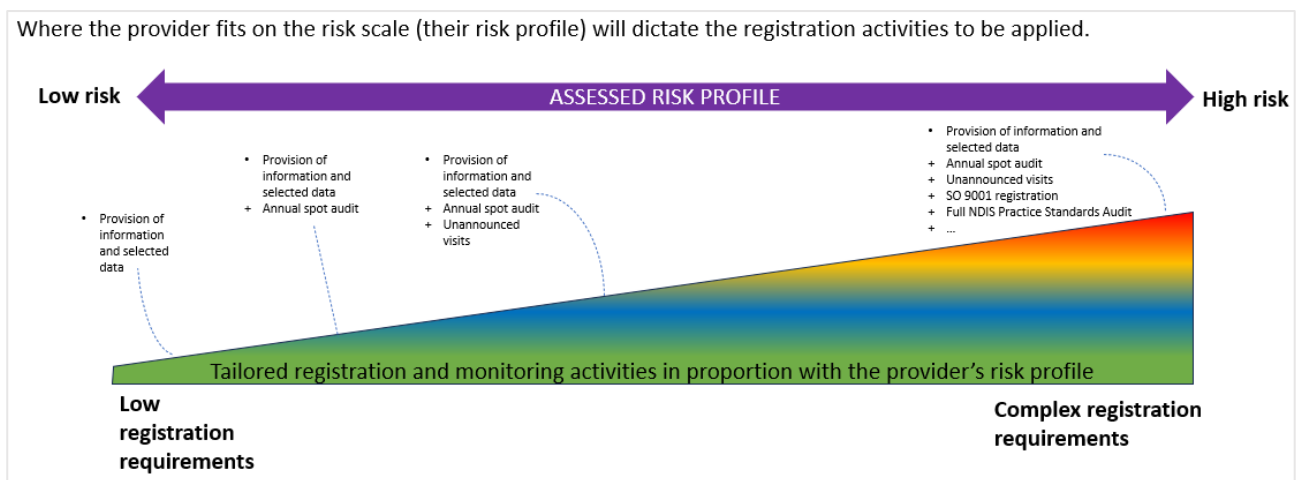
The core components of this approach are:

- **Universal enrolment:** All providers delivering services and receiving NDIS funding must enrol in the system. This ensures comprehensive coverage and compliance.
- **Risk profile assessment:** Involves a two-stage assessment of each provider's risk profile, ensuring that regulatory demands are specifically tailored and proportionate to the risks each provider presents.
  - **Initial risk assessment:** Providers submit initial information and data highlighting key risk indicators upon enrolment. This forms an indicative risk profile that guides further explorations of the provider's registration requirements – which may mean no further actions are required and the provider is enrolled or identifies the need for further analysis of the provider's risk profile to confirm their placement on the registration spectrum further.
  - **Detailed questionnaires:** Tailored questionnaires based on the provider's initial risk profile focus on governance and operational practices. The provider's size, maturity, and complexity determine the scale of the questionnaires, with specific roles within the organisation (e.g., Director, Operations Manager, Support Worker) responsible for their completion. This ensures an accurate assessment of the provider's practices, service outcomes achieved and regulatory compliance.
  - **Confidentiality of questions:** Questions will not be disclosed publicly in advance, and questionnaires are compiled from an ever-evolving pool of questions randomly chosen for each questionnaire to ensure that responses authentically reflect current practices., and questionnaires.
  - **Further risk assessment:** Responses are analysed alongside key metrics such as size, location, complexity, business model, services offered and other information available to

the NDIS commission, such as reportable activities and complaints received to refine the provider's risk profile.

- **Customised regulatory actions:** A dynamic registration spectrum allows for customised registration and monitoring processes based on the provider's risk profile. This allows for more targeted and efficient regulatory oversight and focuses resources on areas of greatest need. Options may include ISO 9001/27001 certifications, monitoring visits, unannounced inspections, and formal and informal auditing activities.
- **Dynamic registration spectrum:** The providers' positions on the registration spectrum are based on their demonstrated governance and operational effectiveness and the outcomes achieved for participants. They are adjusted during each registration period according to the provider's risk profile at the time of re-enrolment or registration.

This is illustrated in the diagram below.



The model incentivises quality, recognising and rewarding providers for improving their services and safety measures, fostering a culture of continuous improvement. Because of the adaptive approach and the timely and relevant questionnaires, there is in-built flexibility and responsiveness. The model can rapidly adjust to changes within the sector, including shifts in market demands or the introduction of new service innovations.

### Disclaimer

This submission presents a proposed model to demonstrate potential operational methods. Our team is ready to provide further details and engage in deeper discussions once it is confirmed that this concept is under consideration for further development. We acknowledge that transitioning from the current registration model requires substantial revisions and enhancements to existing processes and systems. Additionally, this transition will necessitate a thorough review and adjustment of the NDIS Approved Quality Auditor Scheme and the financial mechanisms governing enrolment, registration, and monitoring activities. Aligning these components with the new model is essential for its successful implementation and integration.

## Key considerations for the Taskforce

We urge the Taskforce to advocate for a registration model that is both flexible and adaptive, empowering NDIS participants and their families to take a more active role in directing their care, thus enhancing their autonomy and control. This model should prioritise a person-centric approach at all levels of registration to ensure that individual needs and rights are at the forefront of provider evaluations. Additionally, the recommendations should emphasise incentivising providers to raise care standards continuously through mature monitoring and audit activities carried out by professionals with audit qualifications and operational expertise.

It is critical that the Taskforce also recommends a comprehensive review and realignment of the NDIS Approved Quality Auditor Scheme and the financial mechanisms governing enrolment, registration, and monitoring activities. By aligning these elements with the new model, we can establish high-quality, participant-focused care as the standard and foster a culture of innovation and excellence in service delivery, allowing participants to lead more autonomous and fulfilling lives.

## Next steps

We ask the Taskforce to advise for decisive action to develop a registration framework that champions fairness and adaptability and meets the dynamic needs of NDIS participants and providers.

We believe that any new approach to registration should start by ensuring it meets the needs of NDIS participants with high and/or complex support need. This would begin with identifying the specific needs of participants with complex needs and their families, particularly those in a services-for-one-provider model, to establish a foundation for scaling the framework to suit a diverse range of participants and service models. If the framework effectively supports the most complex and innovative provider scenarios, it will be inherently responsive and adaptable to all provider models and situations.

We recommend the development of a proportionate risk assessment approach aligned with human rights that supports desired outcomes and test these rigorously with a diverse range of stakeholders, including families and self-managing participants. We believe that this should involve engagement with on-the-ground stakeholders such as Inclusion Australia and the MARQ Group to leverage specialised knowledge and insights. A stakeholder project group comprising representatives from across the sector could be convened to ensure a broad array of perspectives guiding the model's development.

We also suggest:

- Comprehensive research and a viability study to be undertaken to assess the model's potential impacts thoroughly.
- Engaging in policy discussions will be crucial to secure the legislative support necessary for the framework's implementation.

These steps will ensure that the new model is robust, participant-focused, and capable of adapting to future challenges and innovations in service delivery.

## **Conclusion**

We appreciate your consideration of our proposed model and look forward to the possibility of further discussions and collaborations to refine and implement a registration framework that meets the evolving needs of all stakeholders within the NDIS. Should you require any additional information or wish to discuss the proposal in more detail, please do not hesitate to reach out.

### ***Contact information***

Please feel free to contact Inclusion Australia Senior Manager Maeve Kennedy:

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Thank you once again for your attention and consideration. We are eager to contribute to the development of a NDIS registration framework that ensures quality and equity for all participants.