

# Deaf Australia’s Submission in Response to the Proposed Model of Provider and Worker Registration for the NDIS.

## May 2024

### About Deaf Australia:

Deaf Australia acknowledges the Traditional Owners and Custodians of the lands on which we work and pay our respects to Indigenous Elders past and present. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

We recognise the past atrocities against Aboriginal and Torres Strait Islander peoples of this land and that Australia was founded on the genocide and dispossession of First Nations people. We acknowledge that colonial structures and policies remain in place today and recognise the ongoing struggles of First Nations people in dismantling those structures; and especially that of Deaf, Deafblind and hard of hearing First Nations peoples.

Deaf Australia was founded in 1986 as a not-for-profit organisation that represents all Deaf, Deafblind, and hard of hearing people, and others who are fluent and knowledgeable about Auslan. The focus has and continues to be on developing access to information and accessible communication. We work with Australian governments and collaborate with key stakeholders to make sure that Australia complies with the United Nations Convention on the Rights of Persons with Disabilities. The UN Convention and the National Disability Strategy guides our work; we aspire to achieve equity for Deaf people across all areas of life.

Deaf Australia advises that this document may be publicly distributed, including by placing a copy on our website.

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### Introduction:

Deaf Australia is pleased to take the opportunity to provide a submission into the proposed model of provider and worker registration with the NDIS. This model was proposed by the NDIS Review in 2023, as one initiative to reduce the risk of violence and exploitation of NDIS participants. Deaf Australia is concerned that this model will be presented as the key response to risk; we argue that as worthy an initiative as it stands, it is not enough on its own.

Please note that, in this submission Deaf Australia will use deaf person/people/community to refer to all deaf, Deafblind, and hard of hearing people who use Auslan as their language to communicate in, unless otherwise stated. Deaf Australia writes broadly about signing deaf people, yet recognise that deaf people are intersectional beings, and that this paper was written by a white Deaf person, so important nuances covering Aboriginal and Torres Strait Islander Peoples, BIPOC and all other intersecting identities are likely to be missing from this paper.

### How do you currently engage with the NDIS?

Deaf Australia is arguably one of the most active advocacy organisations working on behalf of Auslan users Deaf Australia is the peak advocacy body for all deaf, deafblind, deaf and disabled, hard of hearing people who use Auslan as their language to communicate in. We were one of the most active groups of deaf people who provided feedback to the review into the NDIS in 2023, hosting [this many] face to face workshops around Australia, seeking feedback into participants’ experiences with the NDIS. We also hosted a roundtable asking people who lived in regional, rural and remote communities about their experiences with the provision of NDIS in their communities earlier this year and submitted the resulting report in February.

Deaf Australia provides advocacy support to NDIS participants, particularly when they are fronting the Administrative and Appeals Tribunal (AAT). We collaborate with NDIS working groups to acknowledge that Auslan for Families is a key support and essential to families with deaf children plans. Deaf Australia has also participated in the co-design of the recent release CALD Strategy and Action Plan 2024-2028.

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

The NDIS Review acknowledge that this alone does not prevent criminal conduct or violence towards people with disabilities and deaf people; registration of service providers is a starting point. There are over 154,000 unregistered providers within the NDIS, with only 16,000 in comparison registered. This is a significant gap between the two and the establishment of a provider registration system can only go some way in narrowing this gap. Certainly, the registration of service providers can add legitimacy to those who do provide genuinely high-quality services. The data collated from having a formal registration system can provide valuable insight into the dominance of key sectors over others; the demand and supply of service providers and the quality of the workforce.

The matching of service providers and participants will go some way in providing oversight and ensuring that service providers are providing the services they are registered to do. Deaf Australia has long been aware of the gaps in oversight of higher-risk supports, and it has been a significant concern that highly vulnerable sections of the Deaf community – such as deaf and disabled participants in the NDIS - are being exploited, their budgets drained, and services not provided being paid for.

While the graduated scaling of provider registration is common sense, there are questions that remain and must be answered through co-design with the disability and the deaf sector. For example, how does one decide which service and service provider is high risk and which is not? How does a support worker, for example, who may provide both low-risk and high-risk support register on the graduated scaling? If an Auslan interpreter is registered automatically through an interpreting agency and yet is not registered as a freelance, does that mean all interpreting bookings must be made through agencies?

Who will pay for the registration? Will this cost be shifted onto clients? Given the disparity between those who are registered and those who are not, it is not unreasonable to question this. If the cost is shifted onto clients who will monitor this to make sure that it’s not an unreasonable and unnecessary burden? Just as the banks charge businesses for each EFTPOS transaction which is then passed onto the consumer, it is likely that registration charges will be passed onto NDIS participants.

Deaf Australia, as previously mentioned, hosted a roundtable earlier this year exploring the experiences of deaf people and their access to the NDIS in regional, rural and remote areas. The information shared did not make for a pretty story; getting any level of access to essential services, including Auslan interpreters was a highly stressful experience for those who had NDIS funds. It is unlikely that many of the service providers in regional, rural and remote communities are registered; how likely is it that these services will be registered under the new model? What is likely to happen is that the new model will further thin out these services especially if the cost of registration is prohibitive leaving NDIS participants further stranded.

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

**Quality and Safeguard Commission:**

Registration itself as the Review as said cannot be the only tool to lessen the risk of violence and other illegal behaviour towards NDIS clients. Look at any industry where registration is required before being allowed to work such as psychologists and teachers, and it’s easy enough to find examples of registered workers who engaged in criminal behaviour.

In an ideal society the quality and safeguard commission would act in a proactive manner to lessen risk to NDIS participants yet as the NDIS review noted, these safeguard mechanisms tend to be reactive rather than proactive. How is it fair to NDIS deaf participants who must navigate complex pathways to making complaints as people who use Auslan as their language to communicate in and where English may not be the best second language to communicate with?

Even then, Deaf Australia is aware of examples where deaf people have approached the Quality and Safeguard Commission to make an official complaint against an unregistered provider, alleging unsafe and unethical practices, causing significant harm. The response has been ridiculously slow from the date of complaint to the response from the Quality and Safeguard Commission and no action at this time of writing has taken place at all. How then are we as deaf NDIS participants to have any confidence that the Quality & Safeguard commission will act upon complaints rapidly and take steps to remove those who are acting illegally, causing significant harm and exploiting their clients’ lack of fiscal awareness and skills?

Having said that, it is critical that there are multiple opportunities to communicate in Auslan to the Quality and Safeguard Commission and be given more powers to act more swiftly on complaints made to them.

We note in the Review that it was stated:

*The NDIA, along with other government and non-government actors, should take an individualised and participant-led approach to assessing and responding to risk. Based on this, participants should have access to a suite of general and targeted safeguards to support them to manage the risks they face and build their capacity (p. 204).*

Deaf Australia agrees with this approach yet caution that it should not be left to the participants to shoulder the responsibility of reporting criminal and/or violent behaviour. The emphasis must be on building participant led approaches in co-design and co-production WITH the participants, NOT merely consultation, and engaging highly qualified and experience people to support this approach. It is vital to adopt this approach with deaf people; use a culturally and linguistically safe approach with deaf people and engage to communicate with them in their preferred manner of communication.

**Data Collection:**

It is intriguing to take note of how many within governmental organisations rely so heavily on numbers to help make decisions for them; yet quantitative data only tells part of the story – maybe. The NDIS Review report falls into the same fallacy, with, for example:

*Recommendation 15, action 15.3: developing and overseeing a data strategy which incorporates* ***data collection*** (our emphasis) *and demand and supply projections (which should be shared with industry to support providers, training organisations and workers to be responsive to changing market conditions).*

The collation of data with the registration of all NDIS providers will tell part of the story. How does one know that the data accurately represents a situation? Quantitative data is easy to collect, easy to manipulate and lacks context. Qualitative data is more expensive, more time-consuming, yet will be more holistic combined with quantifiable data. No smart government would ever commit to undertake action based on an incomplete story or report – why do the same with incomplete data based on quantities only? Going forward with data collection it is essential that when looking at gaps in service provision, demand and supply, that qualitative research is also an inalienable part of the whole information gathering process.

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

One of the pressing concerns we have about the registration model proposal is that it will inevitably thin out service providers. It will also make the provision of services in the regional, rural and remote regions wither to skeleton services or, more likely, wither to nothing. We invite you to read our submission we wrote based on feedback we received with gratitude from those who participated in our roundtable exploring the experiences of accessing the NDIS from regional, rural and remote regions. This submission is available on our website; please click here for further reading here. <https://deafaustralia.org.au/wp-content/uploads/2024/05/NDIS-Participant-Experience-in-the-regions-of-Australia.pdf>

We also urge that however the registration model is established, that it complies with the UN’s Convention on the Rights of People with Disabilities. Particularly pay attention to Article 21, namely the right to freely express own views and opinions and have access to information. This means making all interactions with the NDIS, whether this is through feedback channels, making a complaint, requesting assistance, for example, that there is the opportunity to do so in the language of Auslan. That means being able to communicate with deaf people using Auslan when they make clear that is how they communicate, particularly when building models of risk assessment and adjustment. If the registration process is only in English, that makes it almost impossible for CALD communities as well as deaf businesses whose language of communication is Auslan, to be able to fulfil their obligations in registration if they so choose to.

### In your view, how can the proposed model uphold the rights of people with disabilities, including the right to live independently and be included in the community, be free from violence, abuse, neglect and exploitation, have an adequate standard of living and economic and social participation?

Disability is viewed as an individual trauma to a singular family rather than viewed as it really is: a collective, common and normal experience of all families. We challenge the readers of this submission to demonstrate a family that does not have a member – either immediate or extended - with a disability. It is frustrating to see good intentions doing the opposite of what was intended because intentions and actions often do not align.

The cliche ‘The road to hell is paved with good intentions’ is a cliche because it’s true and it’s ubiquitous. We recognise that the government is trying to uphold the rights of people with disabilities to live independently, be a fully involved citizen/s in their communities, be free from violence, abuse, neglect and exploitation, live a full life of their own choice. Yet as the government at the time of writing is attempting to do the same for women in Australian society with the scourge of domestic violence impacting so many, trying and targeting a narrow road is not enough.

Just as Chanel Contos wrote in The Saturday Paper (4th May, 2024) on the topic of domestic violence, throwing money at a select few initiatives will not achieve much on its own. The proposed provider and worker registration model on its own is not enough. It solves one symptom of the cause, and it must be reinforced that cause/s and symptoms are two very different things.

It needs to marry other initiatives, such as the Disability Rights Act as proposed by the Disability Royal Commission. It needs to really address the underlying causes of violence, discrimination and exploitation of NDIS participants and develop policies to address these causes. It needs to be co-designed and co-produced with invested organisations such as Deaf Australia. **Especially** Deaf Australia, because no disability organisation can and should not ever assume they can speak on behalf of deaf people who use Auslan.