



NDIS Quality and Safeguards Commission

Regulatory Approach

30 January 2023



NDIS Quality
and Safeguards
Commission

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Acknowledgement of Country

The NDIS Quality and Safeguards Commission acknowledges the traditional custodians of the land on which we work. We pay our respects to their Elders past and present, and we believe that as Australians we can all work together to make a meaningful difference to the lives of Aboriginal and Torres Strait Islanders with disability as we work together for a more inclusive society for all.

The artwork pictured was developed during NAIDOC week 2022 by the artist Natalie 'NJ' Mudford. Natalie is a proud Wallabaloola and Pajong woman, from Ngunnawal and Wiradjuri country. Her artwork combines the handprints of the NDIS Commission's Brisbane-based staff and symbols to represent community and connection, and each person's unique contribution. The artwork is reproduced with the artist's permission and licensed for the NDIS Commission's use under the [Creative Commons Attribution 4.0 International License](#).

The NDIS Commission acknowledges the Jagera people and the Turrbal people as the Traditional Custodians of Meanjin (Brisbane), the lands on which our Brisbane office is located and where this artwork was created. We pay our respects to Elders past, present and emerging.

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From the Commissioner

The NDIS Quality and Safeguards Commission (NDIS Commission) aspires to be a contemporary, purpose-centred regulator keeping people with disability at the heart of all we do and every decision we make. As the regulator of the National Disability Insurance Scheme (NDIS), our role is to amplify and uphold the rights of people with a disability. We use a broad suite of regulatory powers to elevate quality and safety and enable consumer independence for participants in the NDIS.

Our regulatory approach shows how we will use our regulatory capabilities and resources to maximise quality and safety across the NDIS. It defines our regulatory intent and how we regulate to improve quality and safeguarding for NDIS participants. It guides us to regulate at multiple levels, using a range of approaches and a combination of levers and tools. It explains to providers, workers, participants and the public, how we will regulate the industry in the best interests of NDIS participants.

It builds on our Strategic Plan 2022-2027 which outlines our vision, purpose and three focus areas: rights of people with disability; quality providers and workers; thriving, diverse markets. It also builds on our five cultural principles: lead the way; build trust; keep learning; bring insight; stay connected.

To support our regulatory approach we will implement a new operating model, to maximise our resources in a way that is focussed on the best outcomes for people with a disability. We will continually assess our progress and effectiveness, focus on our skills and capabilities, and refine our regulatory practice.

We recognise the importance of working together with others to deliver the NDIS as intended. Thank you to everyone who contributed to the development of our regulatory approach. We look forward to working with all our partners and stakeholders to deliver this regulatory approach. Together, our collaboration strengthens the NDIS.

Tracy Mackey

Commissioner

NDIS Quality and Safeguards Commission



NDIS Quality
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Commission

Our strategic frameworks articulate our purpose

Our principles guide our work

Our principles define how we conduct our regulatory activities to ensure we uphold the rights of people living with disability and act as a contemporary, purpose-centred regulator.



Lead the way

We communicate, anticipate and proactively respond to have a positive impact for people with disability



Build trust

We are transparent, confident and effective in protecting the rights and safeguards of people with disability



Keep learning

We continuously invest in our development and build our knowledge to evolve and improve



Bring insight

We use data, technology and collaborate to identify information patterns, act early and influence the National Disability Insurance Scheme



Stay connected

We work as One Commission, as part of the National Disability Insurance Scheme to learn, influence and adapt for regulatory impact

Our strategic plan sets our focus

Summary of our Strategic Plan 2022-2027

Our vision

People with disability achieve their aspirations

Our purpose

To uphold the rights of NDIS participants, to elevate quality and safety and enable consumer independence

Strategic enablers

- ✓ Regulate for positive impact
- ✓ Practice and regulatory excellence
- ✓ Work together to build trust
- ✓ Data and digital approaches
- ✓ Our people

Our focus

Our impact

Rights of people with disability

The NDIS Commission amplifies and promotes the rights of people with disability.

Quality providers and workers

Every NDIS participant has safeguards in place and access to quality services and supports delivered by skilled workers of their choice.

Thriving, diverse markets

The NDIS Commission will enable consumer independence and informed choice for NDIS participants by using regulatory frameworks to promote and remove barriers to quality and safety.

Our Human Rights Action Plan guides us

In partnership with the Australian Human Rights Commission, we have considered how we can further enhance our human rights approach as a regulator.

To embed a human rights approach in all of our work, we have adopted the following three human rights duties.



Positive Duty

An obligation for staff to act compatibly with human rights and to consider human rights when making decisions.



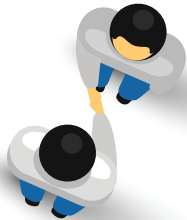
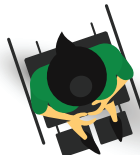
Participation Duty

Ensure the participation of certain groups and individuals in relation to policies and decisions that directly or disproportionately affect their rights.



Duty of Candour

Be open and transparent with people, acknowledging and apologising when something could have gone better, and learning from what happened and preventing it recurring.



Our Human Rights Action Statements guide us

Lead the Way



1. We develop and implement rigorous quality assurance mechanisms, in delivering our regulatory functions to ensure that providers meet their obligations to participants to reach their full potential and to protect the rights and well-being of people with disabilities.
2. We develop and promote resources, training, and support to enhance participant's understanding of rights, and opportunities to actively participate in decision-making processes.

Build Trust



3. We ensure that all communications and information is accessible and provided in formats appropriate to the needs and preferences of individuals with disabilities.
4. We collect, hold, use and/or disclose personal information, in line with the Australian Privacy Principles of the Privacy Act 1988 (Cth) (Privacy Act) and the provisions of the National Disability Insurance Scheme Act, 2013 (Cth).

Keep Learning



5. We involve, collaborate and engage with people with disability and their supports in consultations, forums, and discussions to inform policies, processes, quality requirements and the continuous improvement of the NDIS.
6. We foster innovation, quality and best practice in the provision of supports by collaborating with people with disability, researchers, experts, and relevant stakeholders to identify and disseminate innovative approaches.

Bring Insight



7. We implement monitoring and evaluation processes to assess the effectiveness of supports, this includes collecting data and using feedback from people with disability and providers to inform ongoing improvements and enhance supports.
8. We encourage and promote research initiatives that explore effective strategies for positive personal and social development of people with disability, including the development of early intervention programs for children and young people.

Stay Connected



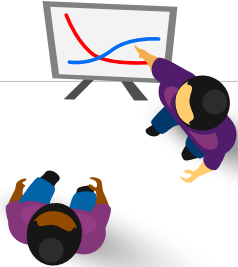
9. We establish fair and transparent processes for people with disability to raise concerns and provide feedback about their experiences in exercising choice and control within the NDIS.
10. We foster collaborations with community organisations, disability advocacy groups, and establish partnerships with mainstream agencies to share information, and promote opportunities for inclusion and enhance the coordination of supports outside of the NDIS.

Our regulatory strategy focuses our regulatory activity

The regulatory strategy cascades from the legislative and strategic frameworks in which we operate.

Key regulatory documents

Element	Description
Legislative and strategic frameworks	<p>Foundational frameworks outlining the NDIS Commission’s powers, vision, purpose and priorities. These frameworks include:</p> <ul style="list-style-type: none">• The National Disability and Insurance Scheme (NDIS) Act 2013• NDIS rules, guidelines and external guidance, and policies• NDIS Commission Strategic Plan• NDIS Commission Corporate Plan.
Regulatory strategy (this document)	<p>Defines the focus of our regulatory activity and the strategies we use to conduct effective and efficient regulation. Outlines our regulatory:</p> <ul style="list-style-type: none">• intent, opportunities and considerations• strategy to achieve our regulatory intent.
Operating model	<p>Describes how we coordinate and deliver our regulatory activity to uphold the rights of NDIS participants. The operating model describes our:</p> <ul style="list-style-type: none">• operating model framework• functions• high-level processes• ways of working.



Our regulatory focus

Our regulatory strategy is articulated in four elements.

Opportunities

The NDIS Commission works proactively to realise opportunities to uphold the rights of NDIS participants by elevating quality and safeguards and addressing barriers to NDIS participants' rights.

Risk priorities

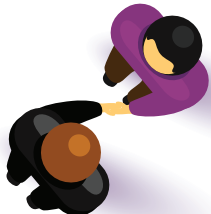
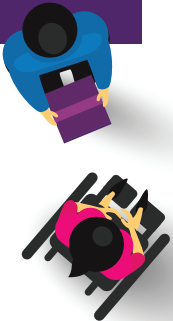
The NDIS Commission has identified five priorities that pose an unacceptable risk of harm for participants if not addressed through policies, procedures and actions.

Regulatory intent

We proactively use all our regulatory levers and tools to uphold the rights of NDIS participants, ensuring high quality and safe services and supports, and enabling consumer independence and choice.

Regulatory focus considerations

The NDIS Commission will be satisfied that it has delivered against its regulatory intent if it makes decisions in accordance with and works to achieve each of its regulatory considerations.



Our regulatory opportunities

Opportunities to strengthen the NDIS



Our regulatory approach considers and responds to five key opportunities to strengthen delivery of the NDIS system.

System

Ensuring that all parts of the system place the rights and voice of participants at the heart of NDIS work.

Market

Fostering a market capable of offering NDIS participants a meaningful choice of best practice supports and services.

Participants

Encouraging and supporting NDIS participants, their carers, families, advocates and the community to be informed consumers.

Culture



Embedding a principles-based culture of proactive quality, compliance and continuous improvement to ensure the whole system can give effect to the rights and choice of people with disabilities.

Providers and workers

Building a resilient network of providers and workers that have the skills, capability and capacity to offer high quality and safe supports and services to an appropriate standard.

Our risk priorities

The NDIS Commission has identified five priorities that pose an unacceptable risk of harm for participants if not addressed through policies, procedures and actions.

 Priority	 Risk
<p>Uphold participants’ rights, dignity and aspirations, and promote participants’ health safety and wellbeing.</p>	<p>Participants’ rights and ability to exercise choice and control in pursuit of their goals and the planning and delivery of their supports may be denied or undermined by provider or worker failings or misconduct, failure to support adequate decision making capacity or inadequate regulatory responses.</p>
<p>Safeguard participants against (i.e. identify, prevent and respond to) all forms of violence, exploitation, neglect and abuse including sexual violence and misconduct.</p>	<p>Participants’ safety may be put at risk and participants may be subject to violence, exploitation, neglect or abuse due to deliberate actions by providers, workers or support persons, or due to inadequate systems, knowledge or training.</p>
<p>Ensure providers and workers act with integrity, honesty and transparency and are suitable to enter, or remain in, the NDIS market.</p>	<p>Unsuitable persons may gain access to or remain in the NDIS market, causing harm to participants and undermining the integrity of the NDIS.</p>
<p>Promote quality by maintaining appropriately robust governance, records and operational management systems.</p>	<p>Participants may experience harm due to the failure of providers to implement and maintain a complaints management and resolution system or the failure to operate effective reportable incidents and information management systems or maintain appropriate and accurate records.</p>
<p>Deliver effective oversight to address NDIS market challenges.</p>	<p>Participants’ access to services and supports may be compromised by market challenges impacting growth, diversity, quality, cost of or accessibility to services and supports, or by inadequate stewardship, such as if the NDIS Commission does not work in collaboration with other regulators.</p>



Our regulatory intent

We proactively use all our regulatory levers and tools to uphold the rights of NDIS participants, ensuring high quality and safe services and supports, and enabling consumer independence and choice.

Our work involves engaging with participants, oversight of providers, and workers. We use data and intelligence to inform our regulatory activities and use multiple regulatory responses to support quality and safeguarding to uphold the rights of people with disability, ensuring quality providers and workers, and promoting a thriving, diverse market.




Our strategy to achieve our regulatory intent.

<h3>Regulating at multiple levels</h3> <p>The NDIS Commission regulates at multiple levels to promote quality and safety, acting proactively to drive good practice and minimise risks and acting reactively to mitigate risks and learn lessons when issues occur.</p>	<h3>Regulatory approaches</h3> <p>The NDIS Commission meets its regulatory intent, and considerations, through three regulatory approaches: high intensity responses to risks or harm; proactive, targeted campaigns; ongoing regulatory activities to NDIS participants' rights.</p>	<h3>Regulatory levers and tools</h3> <p>The NDIS Commission draws on all available regulatory levers and tools to meet its regulatory objectives. These levers and tools are used individually and in combination to drive quality and safeguarding across the system.</p>
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Our regulatory considerations

Our regulatory considerations align with our areas of focus as detailed in the Strategic Plan.

Our focus	Our considerations
 <p>Rights of people with disability</p>	<p>Participants’ rights, dignity and aspirations are upheld and are kept at the heart of the sector.</p> <p>Participants’ choice and control is respected and supported.</p>
 <p>Quality providers and workers</p>	<p>Participants are free from harm and active safeguarding is in place across the system.</p> <p>High quality service provision, good practice and skilled workers are in place across the system.</p>
 <p>Thriving, diverse markets</p>	<p>Participants are empowered to make informed choices and are involved in matters that affect them.</p> <p>A market of diverse, effective and safe providers and workers, that is viable, accessible and thriving</p>

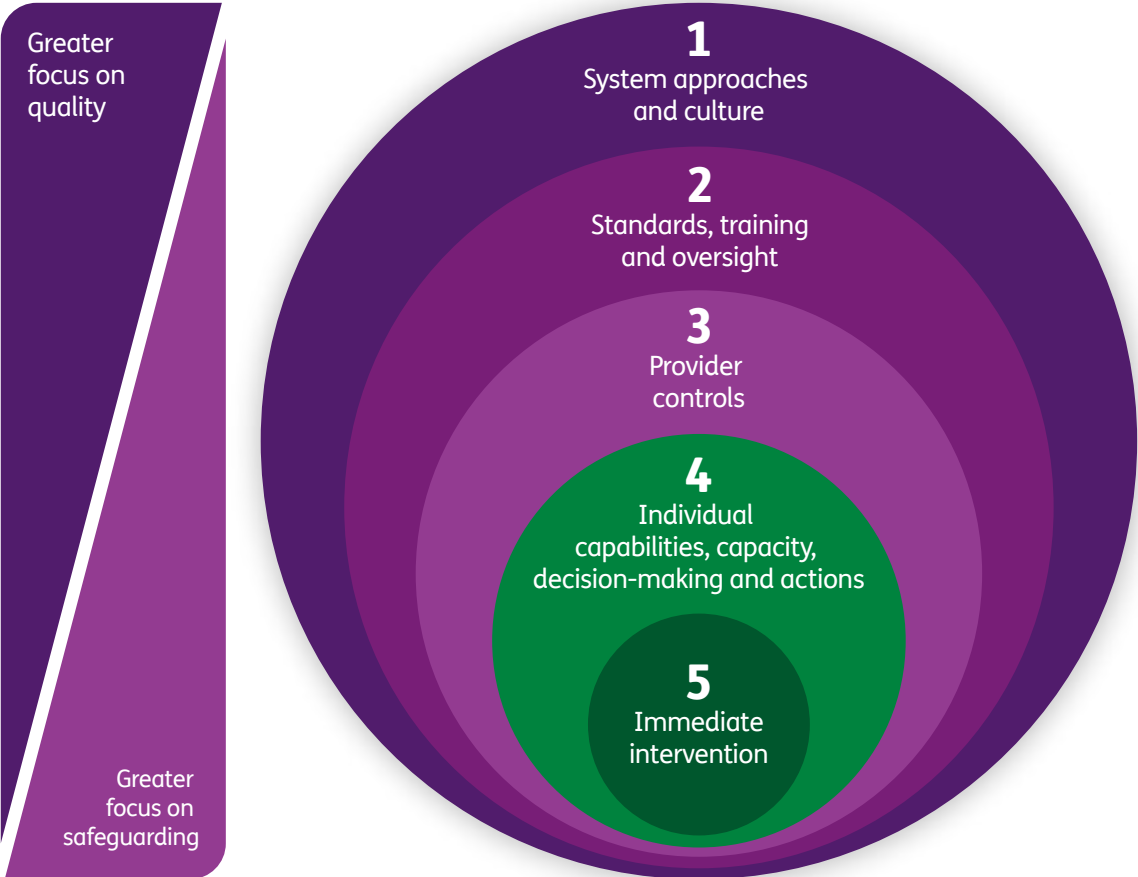


We work across multiple levels, approaches and levers, to achieve our regulatory intent

Our regulatory strategy includes working at multiple levels of quality and safeguarding. We think about the whole NDIS system as well as the experience and actions of individual participants, providers and workers. This puts NDIS participants at the centre of all we do.

We work systemically to strengthen approaches and culture and we provide clear standards, training and oversight. We also work directly with individual providers, workers and in individual matters to proactively improve practice, amplify the voice of the participant and ensure safeguarding.

Levels of regulatory intervention



1. We strengthen system approaches and culture

The NDIS Commission takes proactive steps to build system approaches and a system culture that put the rights and voice of participants first. We encourage leading practice approaches across the system that provide participants with a meaningful choice of high quality and safe services and supports. We take system-wide action to address emerging risks that may give rise to harm to participants or challenges for the sector.

2. We provide standards, training and oversight

We set standards, deliver and encourage appropriate training, and provide regular oversight. We support providers in adopting best practice approaches and taking steps to ensure appropriate skills and capabilities.

3. We establish provider controls

We work with providers to improve the systems and controls they have in place to address emerging risks at an entity level. We ensure that providers and their workforces take an appropriate, rights-based approach to engaging with participants. We establish the processes and checkpoints necessary to ensure all services and supports meet appropriate standards.



4. We monitor individuals' capabilities, capacity, decision-making and actions

We intervene directly with providers, and their workforce, as they deliver services and supports, to ensure that they have the right capabilities, capacity, decision-making skills and perform the correct actions. This provides location or individual specific intervention to address emerging risks.

5. We conduct immediate intervention

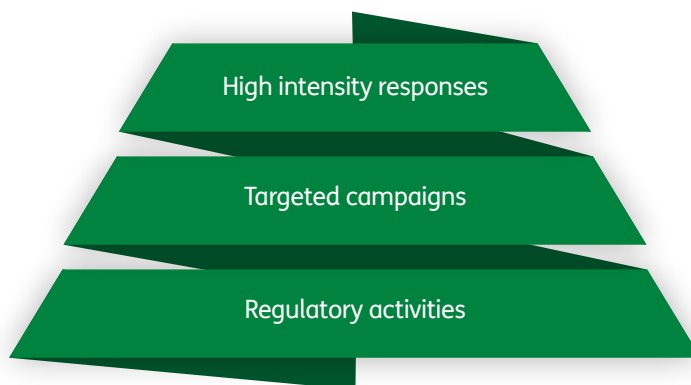
We conduct immediate intervention in response to potential harm to participants or issues with the system. This provides an instance specific intervention to prevent risks emerging. The NDIS Commission intervenes to protect participants from harm and to preserve quality and safeguarding in the system.



We engage in three key regulatory approaches

The NDIS Commission focuses on three key regulatory approaches – high intensity responses, targeted campaigns and regulatory activities. We aim to direct substantial effort into targeted campaigns to reduce the effort required for high intensity responses and regulatory activities over time.

Regulatory approaches



Our high intensity responses address urgent risks to participant rights and critical sector issues

From time to time, despite best efforts to drive quality and safeguarding, the NDIS Commission may become aware of critical or imminent risk to participants, workers or the system. In these circumstances, we use all relevant tools, rapidly and in a coordinated way to ensure that participants' rights are upheld and risks, issues and harms are addressed as quickly as possible.

Our targeted campaigns avert potential risks to participants and address emerging sector issues

The NDIS Commission actively compiles and monitors data and intelligence to identify targeted systemic opportunities to drive quality, safeguarding and consumer independence. We shape proactive, targeted interventions to maximise these opportunities.

Our regulatory activities provide ongoing sector regulation and oversight

The NDIS Commission acts as a regulator for the NDIS system. This means that we are responsible for proactively and reactively addressing a range of ongoing regulatory and compliance matters, such as managing provider registration, monitoring the system and provider operations, and resolving participant complaints. We do so with a view to ensuring key drivers of quality, safeguarding and consumer independence are in place, and any risks to these are identified and addressed as early as possible. The NDIS Commission invests a significant portion of its effort in this work.



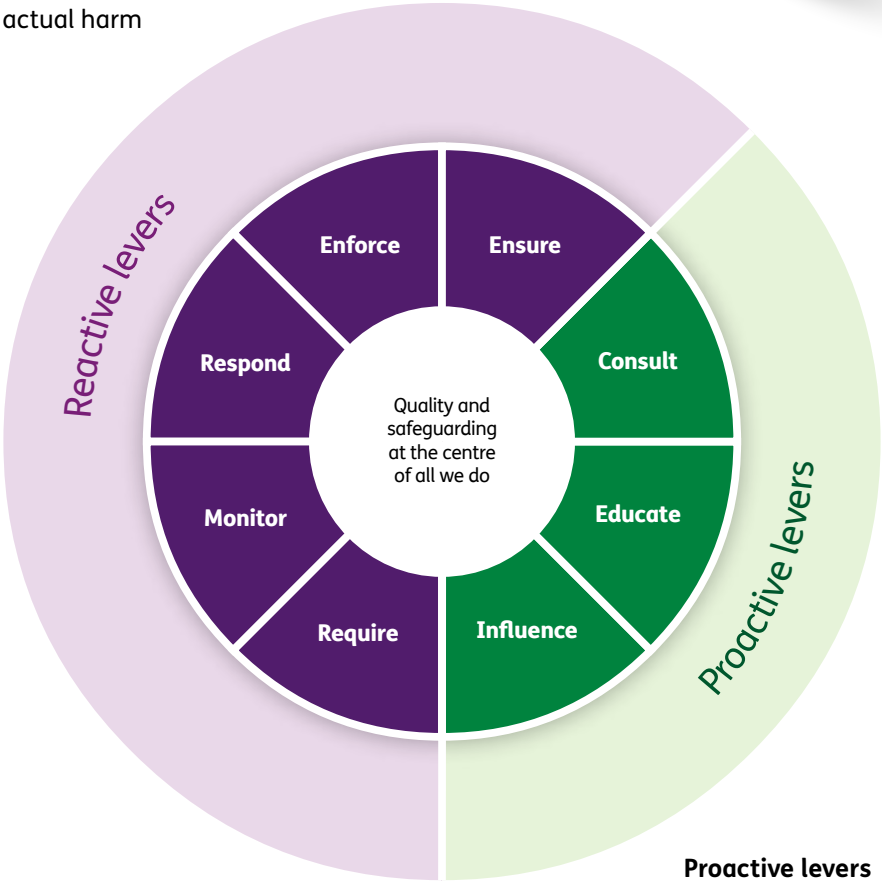
We use a suite of levers and tools to conduct proactive regulation

The strategy encourages the NDIS Commission to use all of its levers to ensure that regulatory intent is met. The NDIS Commission actively uses a range of levers, each of which puts the rights of participants at the centre of the action we take. These levers are almost always used in combination to address risk and provide quality and safeguarding support.

Regulatory levers and tools

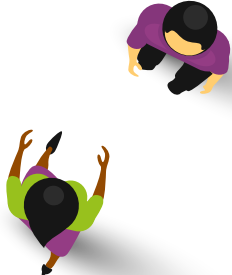
Reactive Levers

Levers to identify and respond to drivers of risk and anticipated or actual harm



Proactive levers

Levers to promote quality and participant safety



Levers to identify and respond to drivers of risk and anticipated or actual harm

Where necessary we use our powers to ENSURE all providers and workers understand, and respond to, key drivers of risk to the system and comply with the law, in a way that minimises harm to participants and the system. We actively investigate and take action against those who don't comply.

We ENFORCE relevant laws and standards by using our powers to sanction providers and workers as required. This is done sparingly, as needed to ensure the safeguarding of participants. We partner with the NDIA and other regulators to ensure any enforcement activity has the greatest possible effect.

We RESPOND to all complaints and incident reports in a manner that aligns to the risk (and considers participant perspectives, including by contacting them as appropriate). We investigate issues and use the full scope of our powers. We work with stakeholders to get the best outcome for the participant, address the immediate risk or actual harm and identifying the causes of the risk that occurred.

We MONITOR the quality of services and the treatment of people with disability through a system-wide lens. We pay particular attention to monitoring high-risk activities (i.e. restrictive practices) and monitor for risks to the NDIS system and market.

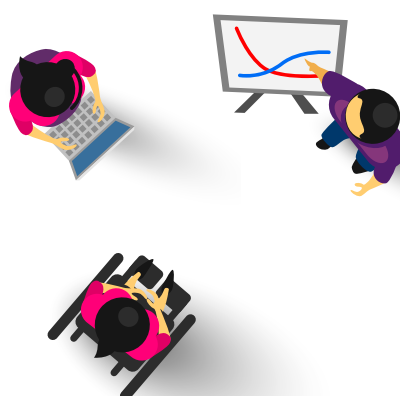
We REQUIRE businesses and individuals who participate in the market to meet a certain standard of quality and safety. We control who can and cannot provide certain services and ensure that registration requirements reflect the services provided.

Levers to promote quality and participant safety

We CONSULT and cooperate with participants, supporters, community, providers and others to improve the experience of participants and the quality of services. We actively involve people with disability in matters that affect them. This informs our regulatory practice.

We EDUCATE the widest possible audience about the rights of people with disability in the context of the NDIS. In particular, we support providers to understand good practice and work to build their capabilities to provide the best possible supports to participants. We also provide guidance, training and information to participants and providers to help make informed decisions.

We exert INFLUENCE across the sector, leading by example in embedding a culture of excellence, innovation and continual improvement among providers. We assist participants, providers, and others to understand their role in the system to uphold the rights and wellbeing of people with disability.





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