



NDIS Quality
and Safeguards
Commission

Next steps – regulation for in-home and housing supports

Discussion paper

Plain English version

August 2024

Why are we getting feedback?

In August and September 2024, the NDIS Commission will get feedback from people with disability, their families, carers, and representatives, NDIS providers, and academics and experts. We want to discuss 3 issues:

- reviewing the NDIS Practice Standards
- NDIS Practice Standards for providers of in-home supports in a group arrangement
- separating in-home supports and accommodation supports.

What's in this paper?

This paper gives some background information about these 3 issues. For each issue, we explain some ideas for changes. Then we ask questions about what you think about these issues and ideas.

Other versions of this paper

This is a **plain English** version of the standard discussion paper. You can find the standard version and an Easy Read version on our website: www.ndiscommission.gov.au. All versions of the paper cover the same key information.

Key terms

We use these 3 key terms in this paper.

In-home supports

In-home supports are when someone helps or supervises a person with their daily and personal tasks. This helps a person to be as independent as possible. There are different types of in-home supports. This paper focuses on supported independent living (SIL). The NDIA says SIL is 'for people with higher support needs, who need some level of help at home all the time'. SIL is also for people who need 'a significant amount of help throughout the day, 7 days a week'. This includes overnight support.

In-home supports in a group arrangement

In this paper, in-home supports in a group arrangement (IHSGA) includes ongoing shared supports for 3 or more participants living in one dwelling. It does not include short-term and medium-term accommodation, respite, Disability Support for Older Australians, or residential aged care.

We base this on the definition of supported accommodation in the [*Own motion inquiry into aspects of supported accommodation*](#) (pages 9 to 10).

Specialist disability accommodation

Specialist disability accommodation (SDA) is a housing support for people with extreme functional impairment or very high support needs. SDA dwellings have accessible features to help residents be more independent. They also allow other supports to be delivered better or more safely. In this paper we refer to SDA as used in the NDIS.

Why now?

We are asking for your feedback now to help us improve the NDIS. We are looking at different ideas, based on recent inquiries and changes in the market.

Responding to the inquiry into supported accommodation

In 2021 we ran [an inquiry](#) to look at issues in supported accommodation in the NDIS. In the inquiry 'supported accommodation' means a place where 3 or more participants live together and share supports. The NDIS Commissioner asked us to run this inquiry. This is why this kind of inquiry is called an 'own motion inquiry' (OMI).

What the OMI found:

- We need specific rules about supported accommodation to improve the quality and safety for people with disability.
- We need to involve people living in supported accommodation more to support them to have choice and control.
- Workers not having the rights skills or attitude is the cause of many of the issues we find in supported accommodation.
- There can be issues when the same provider provides supported independent living and specialist disability accommodation services to one participant. This affects how easily participants can make changes to the way they live.
- We need to better understand the supported accommodation system and how people use it. This includes by improving how we collect, monitor and assess data.
- Health and supported accommodation systems often do not work together well. This creates issues accessing healthcare for many people living in supported accommodation.

In 2023 we created an [Action Plan](#) to respond to the recommendations of the OMI into aspects of supported accommodation.

We are getting feedback to support our response to the ideas that came out of the OMI. In the longer term, our aim is to:

- improve the quality and safety of supported independent living services
- support and promote the voice of people with disability living in supported accommodation
- improve the NDIS so participants living in supported accommodation have as much choice and control as possible
- improve the NDIS so participants have a better experience.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability talked about risks in supported accommodation. The NDIS Review and the NDIS Worker and Registration Taskforce also recognised high risks in these supports.

Responding to changes in the market

The NDIS Commission has been running for 6 years. Over that time, there has been a lot of change and growth in the number, types and size of NDIS providers and services. We keep track of these changes in the NDIS market. We also look at how we might need to change our rules, standards and practices so they best support quality and safe services.

The [NDIS Practice Standards](#) (the Standards) are a service quality framework for NDIS providers. The NDIS Commissioner assesses how well an organisation meets the Standards when they decide whether to register a provider. We also use the Standards when we monitor the NDIS system overall.

With the NDIS Code of Conduct, the Standards aim to:

- help participants be more aware of what quality services and supports look like
- give guidance to providers about quality factors in supports and services
- set a bar for ongoing quality improvement
- be a tool for us to assess if providers meet the rules.

What participants and providers expect continues to change. We must make sure our rules and processes meet everyone's needs.

Timeline for the consultation

The feedback process should be well underway by the end of 2024. We will share information with the public about the results and next steps near the end of 2024.

Ideas and questions to discuss

1. A new structure for the NDIS Practice Standards

Providers have told us they would like guidance and examples of good practice. These would help providers and workers to understand how they can give supports that are higher quality and safer. People with disability told us they want supports that:

- are person centred – they put the person first
- focus on human rights.

What we propose for the new Standards:

- a. The new Standards will still have a strong focus on the human rights of participants.
- b. We will move from 'service outcome' to 'participant outcome'. This means more focus on the person and what they get from the support. This is in line with the standards of other similar regulators. For example, the Care Quality Commission in the United Kingdom and the Aged Care Quality and Safety Commission.

- c. There will continue to be a series of quality indicators. These will help auditors assess whether the provider is giving the outcomes participants want.
- d. For higher risk support types like in-home supports in a group arrangement, we will create practice guidance. These guides will help show workers, providers and people with disability what good practice looks like.

Questions to discuss

Q1. How can we make sure that the NDIS Practice Standards help providers deliver safe and quality supports in the way participants choose?

Q2. What do you think about the idea that the new NDIS Practice Standards should focus on what participants want from their supports?

Q3. What things help participants know if they are getting quality and safe supports from a provider?

Q4. How can we help providers and workers make sure participants get quality and safe supports?

2. Proposed approach to in-home supports in a group arrangement and NDIS Practice Standards

Providers, workers and participants are experiencing a lot of change in the NDIS market. We know to improve the quality of services often means more money and time for providers.

The NDIS Provider and Worker Registration Taskforce was set up by the government. It looked at ways to improve how we register and check providers and workers.

The NDIS Provider Registration Taskforce Report found many of the same things as the OMI. This includes that we need stronger rules and frameworks to support the human rights of participants living in IHSGA.

What people with disability told us

In late 2023 we spoke to 120 people with disability living in supported accommodation. Their providers were 6 of the 7 providers who were part the OMI.

This is what participants told us they wanted from the Standards for IHSGA:

- Supports should be **participant centred**. Providers should tailor supports to personal goals, needs, likes and values rather than the service setting.
- Providers should have a focus on the **human rights of people with disability**. This includes using supported decision-making in daily living.
- Active support should make sure participants who live in groups can feel **comfortable and at peace in their home**. This includes having the right to choose where they live and who with.
- Supports should respect and think about the **privacy of participants**, including those living in groups.

- Providers should use workers that **have the right training and are suitable** to deliver services in a supported accommodation setting. Providers should check with participants to make sure their workers are a good fit
- Providers should put **participant and worker safety first**. Providers should understand supported accommodation settings must be safe and supportive to build worker skills and quality.

Questions to discuss

Q1. What do you think might stop providers from following the new NDIS Practice Standards for supported accommodation?

Q2. What support do you think providers might need to deliver safe and quality services to people with disability in supported accommodation?

Q3. What do organisations do well to support participants in supported accommodation?

Q4. There are people who check if shared supports for people in supported accommodation work well. What should they do to make sure participants in supported accommodation are safe and get the best supports?

3. A plan to separate housing and living supports

People with disability have the right to have choice about how they live. This includes where and when they get housing and living supports and who provides them. Nothing should limit or influence this choice.

For this discussion, we focus on issues that come up when one provider offers both SDA housing and living supports to the same participant.

Why separate housing and living supports?

Many advocacy groups and reviews recommend separating housing and living supports. This would mean participants can choose different providers for these supports. This is to:

- support the rights of participants
- give participants choice and control to change living support providers
- deal with provider conflicts of interest.

Participant rights, choice and control

A key focus of this idea is to support the rights of participants. The right to have a choice about living arrangements is in line with the United Nations Convention on the Rights of Persons with Disabilities. A core principle of the *NDIS Act 2013* is to support people with disability to choose and have control over their supports. The Standards also require this.

Concerns about provider conflict of interest

Different reviews and inquiries have raised concerns about conflict of interest when housing and living supports come from the same provider.

A conflict of interest can be real – you know about it now. Or it can be potential – you think it could happen. A conflict of interest can happen when a provider delivers multiple supports to the same participant. The problem is that it can influence, limit or affect the way a provider delivers supports to that person. For example, a provider might not tell the participant about other available services because they want to keep all the business for themselves.

This kind of conflict of interest can affect:

- participant choice and control over their supports
- quality of the support
- how suitable the supports are that the provider recommends.

This can lead to poor outcomes for participants and services that are less tailored for the person. It can also lead to a greater risk of violence, abuse and neglect.

NDIS providers must manage, record and avoid conflicts of interest. These are the rules under both the Practice Standards and Code of Conduct. Providers must act with integrity, honesty and transparency.

The disability community has criticised the current way we ask providers to manage conflicts of interest. There is a lot of concern about people having less choice and control over how their supports are delivered, being locked into a specific type of support, and providers having influence in a person's life.

What the royal commission and NDIS Review recommend

The Disability Royal Commission and NDIS Review recommend we move away from letting the same provider deliver SDA and living supports. These reports call for stronger standards and greater separation between service providers. This is to:

- increase quality of the services
- remove the conflict of interest
- make sure participants can have real choice and control.

Separating housing and living supports will help to meet these needs. It will also:

- promote a rights-based approach to providing supports
- make sure changes in a person's living supports do not affect the quality of their housing supports
- promote providers to specialise and build skills in housing or living support, which can lead to better quality.

When separating supports is not possible

There may be cases when it is not possible to separate these supports. For example, in rural and remote areas where there are not enough providers. Or when it is better not to separate housing and living supports for cultural reasons.

A participant may also want the same provider for more than one service to suit their needs, likes and goals. Participants must have clear information about their options and what the different arrangements mean. They must also have access to support for decision-making if they need it. The challenge is making sure the participant has the information and support to make their own choice.

Options and next steps

On 30 January 2024, the Minister for Social Services and Minister for NDIS announced funding to design a way to separate living supports from housing. The design will include both the legal and practical plans.

We are looking at different options to meet the goal of separating housing and living supports. We plan to have many more conversations about the approach we need to take. We have included details of 3 options below.

Each option includes:

- what the Disability Royal Commission and NDIS Review recommend
- a short summary of the suggested change
- how the approach aligns with the goals of the government.

Option 1 – Change for providers

Recommendation	Option for change	How it aligns with government policy goals
<p>Recommendation 7.41(a), DRC: Group home changes – move away from same provider offering SIL and SDA.</p> <p>Action 9.7, NDIS Review: Stronger rules around SDA and must separate SIL and SDA.</p>	<p>Changes to rules so providers cannot register to provide both housing and living supports.</p>	<ul style="list-style-type: none">• Would address conflict of interest.• Aims to centre the participant.• We can monitor and enforce changes to registration.• Does not capture participants receiving SIL and residing in a non-SDA homes rented or owned by the same SIL provider – the SIL homes issue will continue to grow.

Option 1 answers all the recommendations.

Option 2 – Change for participants

Recommendation	Option for change	How it aligns with government policy goals
<p>Rec 7.41(a), DRC: Group home changes – move away from same provider offering SIL and SDA.</p> <p>Action 9.7, NDIS Review: Stronger rules around SDA and must separate SIL and SDA.</p>	<p>Changes to the rules so providers cannot provide both housing and living support to the same participant.</p>	<ul style="list-style-type: none"> • Would address conflict of interest. • Aims to centre the participant. • Does not capture participants receiving SIL and residing in a non-SDA homes rented or owned by the same SIL provider – the SIL homes issue will continue to grow.

Option 2 answers some of the recommendations.

Option 3 – Changes to managing conflict of interest

Recommendation	Option for change	How it aligns with government policy goals
<p>Rec 7.41(a), DRC: Group home changes – move away from same provider offering SIL and SDA.</p> <p>Action 9.7, NDIS Review: Stronger rules around SDA and must separate SIL and SDA.</p>	<p>Changes to strengthen conflict of interest arrangements when providers provide both housing and living support to the same participant.</p>	<ul style="list-style-type: none"> • Does not meet the goal of the recommendations to separate SIL and SDA. • Does little to better protect participants. • Does not capture participants receiving SIL and residing in a non-SDA homes rented or owned by the same SIL provider – the SIL homes issue will continue to grow.

Option 3 does not do much to answer the recommendations.

Questions to discuss

Q1. Think about the 3 ways we said we could separate home and living supports. How do you think each of these would make it easier or harder for participants? Do you think there is another way we can separate home and living supports?

Q2. Do you think there are times we should let the same provider deliver home and living supports? How do you think we can protect the rights of participants when they use the same provider for home and living supports?

Q3. What do you think we can do to make sure these changes to the rules happen without any issues?