



NDIS Quality  
and Safeguards  
Commission

# NDIS Quality and Safeguards Commission

Regulatory Burden Consultation  
Insights Report

July 2023



## Table of Contents

NDIS Quality and Safeguards Commission .....	1
Joint statement from the NDIS Commissioner and NDIS CEO.....	3
Introduction .....	3
Approach to Consultation.....	3
Insights .....	4
Future Considerations.....	6
Appendix A: Challenges and Opportunities.....	8
1.    Supporting Participants .....	8
1.1Challenges.....	8
Access to health services .....	8
Support Coordination .....	8
Training .....	8
1.2Opportunities.....	9
2.    Regulatory Reporting.....	9
2.1Challenges.....	9
Behaviour Support Plans, Restrictive Practices and Reportable Incidents.....	9
Duplication of Regulations.....	10
Registration, Audit and Worker Screening .....	10
Other Regulatory Impacts.....	10
2.2Opportunities.....	10
3.    Information and Resources .....	11
3.1Challenges.....	11
3.1Opportunities.....	11
Text Description .....	12
Table 1 – Attendance .....	12
Table 2 - Summary of Challenges and Future Considerations.....	12

---

# Joint statement from the NDIS Commissioner and NDS CEO

NDIS participants have the right to access quality and safe supports. Regulation of the NDIS market, while still evolving, is a key part of achieving quality and safety in the delivery of supports. However, genuine collaboration and understanding between government, participants and providers is required to achieve greater quality and innovative responses from the market.

The NDIS Quality and Safeguards Commission (NDIS Commission), with the support of National Disability Services (NDS), conducted a series of workshops with providers throughout May and June 2023 to hear about the challenges and opportunities associated with regulatory requirements related to the delivery of NDIS supports.

We are pleased to present this Insights Report which provides a summary of consultation findings and future considerations which will contribute to improving the regulatory arrangements and supporting systems, with the shared goal of enhancing the quality of services to NDIS participants.

## **Tracy Mackey**

Commissioner  
NDIS Quality and Safeguards Commission

## **Laurie Leigh**

Chief Executive Officer  
National Disability Services

## Introduction

Throughout May and June 2023, the NDIS Commission continued to build productive relationships with all providers based on information sharing and learning through a series of workshops held in partnership with peak industry body NDS.

The workshops gave the NDIS Commission an opportunity to hear directly from NDIS providers on regulatory functions, processes and requirements in the NDIS. Providers were invited to discuss regulatory and compliance challenges they were experiencing, as well as opportunities for improvement in regulatory processes, without compromising participant safeguards, rights, and service quality.

During the workshops, the NDIS Commission provided an overview about priorities and the [Regulatory Approach](#), which defines our regulatory intent and how regulatory levers and tools are being used to improve quality and safeguarding outcomes for NDIS participants.

## Approach to Consultation

A range of staff representing providers attended, including Chief Executive Officers, Coordinators and Quality Managers and other senior staff involved in leading, shaping and implementing quality and safeguarding in their organisation and the sector.

Workshop attendees were presented with two questions for discussion:

1. What are the benefits or challenges/burden of regulation?
2. What improvements can be made?

**Table 1 – Attendance at workshops**

[\(Text Description\)](#)

Registrations	Ability First	Alliance 20	Melbourne	Perth	Brisbane	Online (Rural/ Remote)	Total
<b>Date of Workshop</b>	2 May 2023	23 May 2023	6 June 2023	8 June 2023	13 June 2023	7 June 2023	<b>6 workshops</b>
<b>Attendees</b>	13	25	89	81	77	175	<b>460 attendees</b>

Workshops were well attended in Adelaide, Melbourne, Perth and Brisbane with a large online presence including for rural and remote amounting to 460 attendees participating overall.

During the workshops, providers identified a range of issues and suggested solutions to reduce regulatory burden without compromising participant safeguards, rights, and service quality.

## Insights

Providers welcomed the opportunity, drawing from their experience, to contribute suggestions for improvement in systems and reporting processes. Providers noted the value of regulation and the role of the NDIS Commission in improving the quality and safety of supports and services for participants. Providers commented that regulation is necessary and a valuable instrument in upholding participant’s rights.

Providers were supportive of the work to date undertaken to better align regulation and reduce duplication across the care and support sectors, such as recognition of worker screening clearances between sectors. Providers were also positive about improvements the NDIS Commission had made in uplifting quality in the sector. For example, many providers commented on the NDIS Workforce Capability Framework as a valuable tool and resource hub that is used across their business and have suggested more resources be developed.

Providers were unified in identifying challenges that were raised in all workshops with some additional challenges in rural and remote areas. While placing value on regulation they expressed frustration engaging with the NDIS Commission’s IT systems, duplication and inefficient regulatory reporting requirements including multiple reporting of Unauthorised Restrictive Practices and Reportable Incidents, lengthy Behaviour Support Plan review times and audit costs. Training and qualifications of staff and the intersection with mainstream services, particularly health was also an area for discussion.

Providers gave examples of how inefficient regulatory processes are impacting on their ability to deliver supports to participants with effects ranging from how they are structuring their operating

models, staff structures, responding to, and reporting incidents. Providers emphasised these need to be reviewed and improved to support the delivery of quality and safe services.

Three key themes emerged from the consultations:

1. Providers role in supporting participants to access other services and supports
2. Regulatory reporting and the administrative burden associated with requirements
3. Information and resources available to support providers

A summary of what we heard from attendees is outlined below in Table 2. A more detailed collation of workshop outcomes by key themes is provided in [Appendix A](#).

**Table 2: Summary of Challenges and Future Considerations**

[\(Text description\)](#)

Topic	Challenges	For Consideration
<b>Supporting Participants</b>	<p>Providers are often left to manage clinical risks and reporting obligations due to a lack of understanding of participant needs by health professionals.</p> <p>Providers identified the variability in quality of support coordinators, often needing to pick up support coordinator responsibilities when supports are poor.</p> <p>Expectations around training of support workers was identified as unclear.</p>	<p>Providers called for greater regulatory oversight and clarity on support coordination roles and responsibilities.</p> <p>There is an opportunity to work with providers and participants to develop individualised resources for certain support requirements and training of support workers.</p>
<b>Regulatory Reporting</b>	<p>Timeliness and cost of engaging with behaviour support practitioners and the development of behaviour support plans were identified as challenges.</p> <p>Providers identified duplicative reporting obligations and additional requirements arising for national providers, due to inconsistencies across States and Territories.</p> <p>Providers discussed the inconsistency, time, cost and administrative impact of audits.</p>	<p>Providers to have greater visibility of all their regulatory information and data to enable compliance and continuous improvement.</p> <p>Improved notification of system or regulatory changes.</p> <p>Improved reporting requirements of unauthorised restrictive practices and behaviour support plans.</p> <p>Compliance monitoring around timeliness of developing behaviour support plans.</p>

Topic	Challenges	For Consideration
<b>Information and Resources</b>	Providers discussed the difficulties faced navigating the NDIS Commission website and how system changes impact their internal administration processes.	Consulting with providers about how to make the website and resources more accessible and adaptable across a range of devices.

## Future Considerations

The NDIS Commission was grateful to have positive conversations and helpful suggestions for improving regulation. We have learnt from providers:

- How we communicate changes impacts provider quality and administrative systems and procedures. We have suggestions of how we can improve our practice in managing communication and lead times and how we construct our website and make information available.
- There is a desire to continue working with the NDIS Commission through workshops or consultations to define preferred communication and engagement methods, timing and guidance.
- There is a desire for the NDIS Commission to provide more support, resources, tools and clarifying information on how to comply with obligations (rather than what the obligations are) including benchmarking and a more collaborative approach to develop capacity in the sector. This includes access to free or funded training for workers and providers.
- Providers want greater visibility and opportunity to provide feedback regarding the NDIS Commission’s regulatory approach in practice, including compliance campaigns and expectations. Insights from the workshop will inform future compliance strategies and the NDIS Commission should consider how providers could support participants to raise issues with the NDIS Commission or raise directly if participants are not receiving quality support from providers.

There are some positive changes underway as a result of the uplift in the 2023-2024 Budget allocation that will see improvements to the NDIS Commission’s regulatory operating model. Some of these improvements will address the challenges raised through the workshops and feedback provided through the workshops will inform this work as it is implemented. This includes establishing a number of new roles within the regulatory function that will reduce registration times, practices and procedures being reviewed, changes to the NDIS Commission’s website and the Data and Regulatory Tools Project (DART).

There are a number of matters relating to the policy settings in the legislation, which are currently under consideration by the NDIS Review. Therefore, the insights from these workshops can inform any work following NDIS Review outcomes.

There are also some implications from what has been raised by providers on the reporting obligations contained in the NDIS (Restrictive Practices and Behaviour Support) Rules 2018, NDIS (Incident Management and Reportable Incidents) Rules 2018 and the NDIS (Provider Registration

---

and Practice Standards) Rules 2018 and associated audit requirements. These will require further consideration regarding potential changes to legislative instruments, and any ensuing amendments may take some time.

The NDIS Commission will continue to work with providers through the challenges raised and opportunities proposed to improve systems and resources with the shared aim of providing quality and safe supports to NDIS participants.

---

## Appendix A: Challenges and Opportunities

### 1. Supporting Participants

We heard a range of issues from providers associated with supporting participants to access quality services that impact on them meeting their regulatory obligations. In particular, examples of the interaction with health services was a recurring theme throughout the sessions.

#### 1.1 Challenges

##### Access to health services

Supporting participants to access health services and communicate with general practitioners and other health providers was identified as challenging. In particular, where there is a lack of understanding by health service providers about the needs of people with disability, there is an impact on providers managing clinical risks in the participant's support environment.

Decisions made by participants with their GPs/medical practitioners regarding prescribed medication, which meets the definition of chemical restraint, was also raised as a concern given the reportable incidents obligations related to the use of unauthorised restrictive practices. This issue was of particular concern during the rural and remote workshop with attendees citing a lack of awareness by general practitioners of the NDIS Commission or regulatory requirements related to the use of restrictive practices.

##### Support Coordination

Providers identified variation in the quality of support provided by support coordinators (registered and unregistered), assisting participants to navigate a range of services, including health as key to mitigating associated risks. This issue was identified as having a flow on financial impact to providers delivering supports. Providers noted the day-to-day risk of a person becoming unwell sits with them and they are often tasked with picking up support coordinator responsibilities when medical or hospital visits are required at short notice. Delaying visits would increase the risk for participants of deteriorating health.

Providers also called for greater clarity around what Support Coordination looks like calling for more consistency and regulatory oversight of the quality of those supports. Support Coordination is currently defined by a table of activities with 3 levels of support from Support Connection to Specialist Support Coordination.

##### Training

Providers raised issues regarding unclear expectations and funding arrangements around training of support workers particularly regarding capabilities to deliver culturally safe supports, as well as how to best support participants with health and medical conditions. It was suggested that training for workers needs to be individualised to participants for certain support requirements and that funding is needed to train workers in common capability support types. Providers also expressed concern there is a mismatch of requirements with the High Intensity Skills Descriptors and skills of the current workforce.



---

## 1.2 Opportunities

- Providers called for greater clarity around what Support Coordination looks like, key functions and responsibilities and more consistency and regulatory oversight of the quality of those supports.
- There is an opportunity to work with providers and participants to develop specific resources for Support Coordination on what quality looks like and how that links to participant safety.

## 2. Regulatory Reporting

What we heard consistently from providers were the requirement for longer lead times when changes are being implemented by the NDIS Commission and the NDIA. Issues were raised in relation to regulatory reporting and timeliness of authorisation of regulated restrictive practices; difficulty meeting obligations with behaviour support plans; and the system and processes regarding Reportable Incidents. Another concern was the financial and resource implications where duplication from state and territory regulatory reporting requirements occur. Providers also told us of the administrative burden associated with mid-term audits and their experiences of inconsistency between auditors when being assessed.

### 2.1 Challenges

#### Behaviour Support Plans, Restrictive Practices and Reportable Incidents

Providers told us that the timeliness of engaging a NDIS behaviour support practitioner and the time taken by practitioners to develop both interim and comprehensive behaviour support plans, may cause non-compliance with prescribed timeframes. This issue also extended to the time taken by public guardians providing approval for behaviour support plans and regulated restrictive practices.

The variable quality of behaviour support plans raised concerns about further impacts authorisation timelines and therefore compliance with the associated Rules. Further, some providers advised that behaviour support plans were sometimes 30-40 pages long, in language that was inaccessible to families and workers and did not contain practical information on how to best support participants.

Providers delivering specialist behaviour support services held views that NDIS pricing does not align with the time required to develop behaviour support plans. Providers generally raised issues about clarity on the definition of restrictive practices, particularly when supporting children and young people.

On reportable incidents, providers said it often was not clear when the NDIS Commission closed reportable incidents. This had an effect on providers own internal reporting to Executives and Boards. Since the process can be long and difficult, providers asked for better clarity about the process. Other issues regarding reportable incidents related to the type and number of information requests by the NDIS Commission in between the 1 and 5 day reports, the reporting requirements when multiple providers support the same participant and questions about reporting participant risks that may not be 'in connection' with NDIS supports.

A key issue identified by providers is the obligation to report the use of regulated restrictive practices against the lodged behaviour support plan (monthly) and concurrent reporting of any

---

unauthorised restrictive practices through reportable incidents (each use of the unauthorised restrictive practice).

### **Duplication of Regulations**

Outside of the NDIS, state and territory governments hold responsibility for delivering many of the key mainstream service systems that support all people, including people with disability, such as child protection, disability, education, health, justice, transport and housing. As such, States and Territories maintain primary responsibility for regulating these mainstream systems.

Providers told us of challenges where they are impacted by duplicate reporting obligations from State and Territories, and the regulatory requirements associated with work, health and safety. Other concerns were raised about the complexity of meeting NDIS and child safe standards, particularly when supporting children and young people also accessing supports funded through States and Territories.

Providers operating nationally raised the difficulties and additional administrative requirements arising from inconsistencies between States and Territories regarding authorisation of restrictive practices arrangements.

### **Registration, Audit and Worker Screening**

Providers discussed challenges with the audit process and inconsistent practice with auditors in regards to the interpretation of practice standards, in some cases between auditors within the same company. The timing and administrative impact of mid-term audits was a consistent issue raised in workshops, along with the timeliness of audit feedback and cost. The coverage of auditors in all States and Territories was also raised in the context of the additional costs required to pay for travel and accommodation.

Risks identified with Worker Screening were raised with regards to delays, lack of clarity on how to manage compliance when workers move interstate, inconsistent timeframes for approvals and costs for multiple probity checks.

### **Other Regulatory Impacts**

The time and administrative impact associated with some complainants – including the reporting obligations triggered through the NDIS Commission complaints process was cited as a concern by providers. Providers also raised questions about how to raise complaints about other providers while upholding a participant's right to privacy.

## **2.2 Opportunities**

- Enable the system to give providers greater visibility of all their regulatory information and data to enable compliance and continuous improvement.
- Make provider data more available, identifying best practice through data and establishing quality benchmarks for quality improvement.
- Consider longer lead times and improved notification of system or regulatory changes.
- Consider proportionality reporting for small providers, and staggering timing for mid-term audits.
- Consider system changes to Reportable Incident notifications such as:
  - simplified reporting forms;

- 
- automated functions;
  - development of a provider reporting app.
  - Extend timeframes to submit reportable incidents proportionate to participant risk.
  - Consider less duplication in reporting if system can enable reporting just through reportable incidents.
  - Combined Unauthorised Restrictive Practices and Behaviour Support Plan reporting.
  - Provide clarification on definitions associated with what constitutes a Regulated Restrictive Practices to reduce unnecessary reporting of Unauthorised Restrictive Practices.
  - Compliance monitoring regarding timeframes for developing behaviour support plans that contain the use of Regulated Restrictive Practices.

## 3. Information and Resources

Providers identified a number of challenges and areas for improvement in the timeliness and distribution methods of information and resources.

### 3.1 Challenges

It was noted by providers that a large amount of information and guidance is available on the NDIS Commission website; however, it is sometimes difficult to navigate and identify the right resource in certain circumstances.

Providers experience frustration with the NDIS Commission's Operating System functionality such as the lack of an automatic save option and the regular timing out.

Providers experience impact on their own systems and internal administrative processes when the NDIS Commission or the NDIA make system changes, in some cases with short lead times.

### 3.1 Opportunities

- Consulting with providers (users) about how to make guidance more accessible on the NDIS Commission website and considering how to summarise longer documents to make key requirements information clear.
- Website and resources to be more adaptable to viewing on a range of devices including mobile phones.
- Using a system similar to the Aged Care Serious Incident Response Scheme (SIRS), which has a supported decision making tool.



## Text Description

### Table 1 – Attendance

#### Registrations

- Ability First
  - Date of Workshop: 2<sup>nd</sup> May 2023
  - Attendance: 13
- Alliance 20
  - Date of Workshop: 23<sup>rd</sup> May 2023
  - Attendance: 25
- Melbourne
  - Date of Workshop: 6<sup>th</sup> June 2023
  - Attendance: 89
- Perth
  - Date of Workshop: 8<sup>th</sup> June 2023
  - Attendance: 81
- Brisbane
  - Date of Workshop: 13<sup>th</sup> June 2023
  - Attendance: 77
- Online (Rural / Remote)
  - Date of Workshop: 7<sup>th</sup> June 2023
  - Attendance: 175
- Total
  - Workshops: 6
  - Attendees: 460

[Return to Table 1 - Attendance](#)

### Table 2 - Summary of Challenges and Future Considerations

#### Topic: Supporting Participants

##### Challenges:

Providers are often left to manage clinical risks and reporting obligations due to a lack of understanding of participant needs by health professionals.

Providers identified the variability in quality of support coordinators, often needing to pick up support coordinator responsibilities when supports are poor.

Expectations around training of support workers was identified as unclear.

##### For Consideration:

Providers called for greater regulatory oversight and clarity on support coordination roles and responsibilities.

---

There is an opportunity to work with providers and participants to develop individualised resources for certain support requirements and training of support workers.

**Topic: Regulatory Reporting**

**Challenges:**

Timeliness and cost of engaging with behaviour support practitioners and the development of behaviour support plans were identified as challenges.

Providers identified duplicative reporting obligations and additional requirements arising for national providers, due to inconsistencies across States and Territories.

Providers discussed the inconsistency, time, cost and administrative impact of audits.

**For Consideration:**

Providers to have greater visibility of all their regulatory information and data to enable compliance and continuous improvement.

Improved notification of system or regulatory changes.

Improved reporting requirements of unauthorised restrictive practices and behaviour support plans.

Compliance monitoring around timeliness of developing behaviour support plans.

**Topic: Information and Resources**

**Challenges:**

Providers discussed the difficulties faced navigating the NDIS Commission website and how system changes impact their internal administration processes.

**For Consideration:**

Consulting with providers about how to make the website and resources more accessible and adaptable across a range of devices.

[Return to Table 2 - Summary of Challenges and Future Considerations](#)