

Privacy Collection Statement and Consent

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If you require further information or assistance, please contact the NDIS Commission at 1800 035 544 before proceeding with the submission form.

Submission Form - NDIS Act (Bill No 2) Quality and Safeguarding Measures

Name:Katie Snell

Date and time submitted:13/12/2024 2pm

How do you identify (participant, worker, provider:)Peak body with member organisations that are NDIS providers

Organisation name (if applicable) :MS Australia

Key Questions

We want to hear from you, including your views on the questions set out below.

Penalty framework and statutory requirements – to ensure a fit-for-purpose penalties and offences framework to deter people doing the wrong thing

We have proposed the following questions to consider in your response.

1. Do you support the two new proposed statutory duties for NDIS providers and their key personnel?
2. Do you think the proposed new statutory duties for NDIS providers and their key personnel should be more or less expansive, or revised in other ways?
3. Do you support the proposed new and increased penalties and offences framework?
4. Do you think the proposed new and increased penalties and offences framework should be revised in any way?
5. Do you support the proposed anti-promotion orders powers?
6. Do you think the proposed anti-promotion orders powers should be revised in any way?
7. Do you have any concerns about the proposal to enable evidentiary certificates signed by the NDIS Commissioner to be prima facie evidence of matters specified in the certificate? (If so, what are your concerns?)

- We support the two new proposed statutory duties for NDIS providers and their key personnel, particularly the emphasis on accountability. These align with our member organisations' commitment to ensuring compliance with obligations and safeguarding participants.
- These proposed statutory duties should be accompanied by the following:

- Guidance and resources to assist providers in the practical implementation of these duties, especially smaller providers and providers offering complex supports such as SIL and SDA
- Support for unregistered providers who make find these new statutory duties an impediment to becoming registered providers
- Clear guidance on who qualifies as 'key personnel', under this new legislation. For our member organisations these changes may significantly impact the recruitment of key personnel including Board Members. If there is uncertainty surrounding the breadth of this law's application, it could deter potential candidates from accepting these roles. A clear understanding of which sub-set of key personnel the new law would apply to would be helpful for reducing ambiguity and provide confidence, especially with people volunteering their time as Board Members.
- Relevant mandatory training for key personnel
- A safe and clear reporting framework for key personnel to use when reporting/addressing systemic risks.
- We welcome the strengthened penalties to deter misconduct, especially given the potential for harm to NDIS participants, however, we would like to note the following considerations:
 - Penalties must be proportionate to the misconduct, intent and size of the organisation.
 - There must be a clear definition of 'serious failure' to ensure consistent interpretation and application.
 - There must be clarity for providers around the enforcement processes and how the Commission will engage with them.
 - There must be clear guidance and support for providers to avoid unintentional breaches. Consideration must be given to not imposing penalties when providers make genuine mistakes and/or face exceptional circumstances.
 - There must be clarity on accountability in situations where providers are waiting long periods of time for a participant's change in circumstances to be approved. For our member organisations, these long wait times can place them in a precarious position in terms of ensuring the health and safety of participants, especially SIL participants. Providers will try to fund the gap in services where possible but this is a not a viable long-term solution.
- We believe the proposed anti-promotion orders are a necessary step to address misleading marketing practices that could undermine participant confidence in the NDIS. Our member organisations have observed examples of exaggerated claims within the SDA market, which can lead to participant and investor distrust. Clear definitions of prohibited conduct will ensure fairness in implementation.
- We see the practical value in enabling evidentiary certificates as it will significantly reduce the current administrative burden on the NDIS Commission. It should, however, include safeguards to ensure the accuracy of certificates and transparent processes for contesting them if necessary.

Safeguarding – to ensure unsuitable persons can be excluded from the NDIS by adding categories of people who a banning order can be imposed against

8. Do you support the proposed expansion of categories of people against whom a banning order may be imposed; i.e. beyond NDIS providers and workers, to include NDIS auditors and consultants?
9. Are there additional categories of people involved in the NDIS that you think the NDIS Commission should be able to impose bans against?

- Expanding the scope of banning orders to include auditors and consultants is appropriate given their influence on service quality and compliance. This aligns with our member organisations focus on maintaining high standards across all service areas.

Information gathering – strengthening the NDIS Commission’s powers to obtain relevant information from NDIS providers and other persons within appropriate timeframes

10. Do you have any concerns about the proposed measures to strengthen the NDIS Commission’s powers to obtain relevant information from NDIS providers? (If so, what are your concerns?)

- Clarifying obligations for providers to provide information and reducing timeframes where necessary will strengthen safeguarding measures. However, given the operational demands of SIL and SDA providers, we recommend clear communication and adequate flexibility for providers to meet shorter timeframes without compromising participant care.
- Requiring data to be stored in Australia is a sensible and practical step to ensure accessibility and participant safety. For our member organisations this is consistent with existing practices, but potential cost implications for smaller providers may need to be considered.
- Delegating rule-making powers to the NDIS Commissioner is a logical and efficient step that aligns with other regulatory frameworks. Ensuring consultation with providers and participants before making new rules will support fairness and transparency.

NDIS Participant Demographics

The following questions are optional. If you do not wish to complete any question, please respond with “prefer not to answer” or skip the question.

By answering these questions, you are helping the NDIS Commission evaluate all NDIS participant responses.

1. How would you describe your disability or the disability of the person you care for?

We are asking this question because we want to make sure we collect and understand views that reflect the diversity of disability.

- | | | |
|--|---|--|
| <input type="checkbox"/> Autism | <input checked="" type="checkbox"/> Other neurological disability (e.g. epilepsy, acquired brain injury cerebral palsy) | <input type="checkbox"/> Psychosocial disability or mental health condition (e.g. depression, anxiety) |
| <input type="checkbox"/> Intellectual Disability | <input type="checkbox"/> Blind or low vision | <input type="checkbox"/> Not applicable |
| <input type="checkbox"/> Learning disability (e.g. dyslexia) | <input type="checkbox"/> Deaf or hard of hearing | <input type="checkbox"/> Other |
| <input type="checkbox"/> Attention Deficit Hyperactivity Disorder (ADHD) | <input type="checkbox"/> Other sensory disability | <input type="text" value="Multiple Sclerosis"/> |
| <input type="checkbox"/> Physical disability | | |

2. What is your (the NDIS participant) age range? Select one.

- | | |
|--|--|
| <input type="checkbox"/> 0 to 6 years | <input checked="" type="checkbox"/> 35 to 44 years |
| <input type="checkbox"/> 7 to 14 years | <input checked="" type="checkbox"/> 45 to 54 years |
| <input type="checkbox"/> 15 to 18 years | <input checked="" type="checkbox"/> 55 to 64 years |
| <input type="checkbox"/> 19 to 24 years | <input checked="" type="checkbox"/> 65+ years |
| <input checked="" type="checkbox"/> 25 to 34 years | <input type="checkbox"/> Prefer not to answer |

3. What is the gender you (the NDIS participant) identify with?

- Male
- Female
- Non-binary

Other

Prefer not to say

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4. Do you (the NDIS participant) identify as a member of any of the following groups? Select all that apply.

- First Nations Person (Aboriginal or Torres Strait Islander)
- Person from a culturally and linguistically diverse background (CALD)
- Person who identifies as LGBTQIA+ (lesbian, gay, bisexual, transgender, queer, intersex, asexual)
- None of the above
- Prefer not to answer

5. Which of the following best describes how your funding in your NDIS plan is managed?

- Self-Managed
- Plan Managed
- Agency or NDIA Managed

6. Where are you located?

- Regional
- Remote or Rural
- Metropolitan
- Prefer not to answer

7. What language do you speak at home?

Free text response