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NDIS Review Secretariat
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Submitted online: <https://www.ndisreview.gov.au/have-your-say>

Dear NDIS Review Secretariat

Australian Psychological Society Submission on the NDIS Quality and Safeguarding Framework

The Australian Psychological Society (APS) welcomes the opportunity to provide a submission to the NDIS Review in relation to the NDIS Quality and Safeguarding Framework (*the Framework*). As the peak body for psychology in Australia, we are dedicated to advancing the scientific discipline and ethical practice of psychology in the communities we serve and to promote good psychological health and wellbeing for the benefit of all Australians.

The Framework is a product of its time. It is an ambitious and wide-ranging but ultimately unfocused policy statement which was developed in the context of emerging issues in the early years of the Scheme's implementation.

As such, the APS agrees that the Framework should be reviewed and redesigned to provide a contemporary policy position that has evolved just as providers and the Scheme have evolved. The review of the Framework provides a significant opportunity to address long-standing operational and strategic concerns held by both providers and participants. We therefore recommend a principle-based redesign of this key regulatory document.

In this submission, we set out three considerations focusing on NDIS providers and workforce issues. These considerations are informed by the results of our recent survey of almost 800 APS members about their experiences of working with the NDIS.

1. The Framework should promote a generative and relational approach to quality and safeguarding

Problem:

The Framework places little value on the role of regulation in encouraging the active development of competent, high-performing and high-quality providers. The laissez-faire and market-led approach for providers has not been successful in terms of promoting quality and has instead led to significant regulatory burden for providers which may ultimately undermine quality and safety.

Survey Insight 1: Many NDIS psychologists have significant expertise and experience working with people with disability

- Registered psychologists who took part in our survey had an average of 5 years of experience working in the NDIS.
- More than three-quarters (78%) of members who provide NDIS services also provide non-NDIS disability services, with an average of 14 years of experience providing disability services as a psychologist.

APS Recommendations:

- 1.1 A revised Framework should have, as one of its core aims, the development of a competent, professional and flourishing workforce. This recognition is essential for other policy objectives to be achieved.
- 1.2 The taxonomy of *Developmental, Preventative and Corrective* measures in the current Framework should be revised to affirm the contribution of competent and experienced providers. While we note that the current approach may be appropriate for some providers (especially unregulated professions who work exclusively within the NDIS), for experience and regulated providers, this approach is biased towards a risk-averse, top-down regulatory approach and contains little to encourage performance, retention and generativity (i.e., the sharing of wisdom and provision of support for other providers).
- 1.3 To give effect to this, the revised Framework should consider regulatory and non-regulatory approaches beyond setting standards, imposing administrative requirements and penalising non-compliance. These include designing strategies and policy settings which:
 - Motivate experienced, competent providers in regulated professions who are not currently providing NDIS services to work within the NDIS. As part of a coordinated workforce strategy, this would help address provider shortages in key areas of the NDIS.
 - Encourage high-quality and competent NDIS providers to continue to provide NDIS service. This would help to address the retention and attrition issues in the NDIS workforce.
 - Support good providers to become better, including by providing funded opportunities for these providers to support the development of other providers, and by having access to ongoing and targeted education and training.
- 1.4 The revised Framework should emphasise quality as a relational phenomenon, rather than just as an attribute of individual providers. Quality in the NDIS can be promoted at a systems-wide level by strengthening providers' network of supports and the availability of opportunities for learning, supervision and development. Specifically, the APS recommends:
 - Working with relevant professions and professional bodies to find opportunities for intra/interdisciplinary learning, supervision, and ongoing engagement with others within the NDIS to share best practice.
 - Leveraging the skill and expertise of psychologists in facilitating communication and optimising group dynamics to support initiatives in coordinated care. Consultation and partnership with the APS could empower providers across all disciplines to work together more effectively, which directly works towards our shared goal of achieving safe and effective coordinated care for NDIS participants.

2. The level of regulation anticipated by the Framework should be proportionate and responsive

Problem:

The Framework envisaged a proportionate approach to regulation, with escalating levels of regulatory engagement. However, this has not been properly implemented. There is a high but inconsistent level of regulatory burden for providers which is not clearly linked to quality outcomes and is not tailored to providers' existing regulatory requirements. Current regulatory settings have also created unintended operational consequences, including disincentives to register as a NDIS provider.

Survey Insight 2: NDIS registration requirements are experienced by psychologists as burdensome and unnecessary

- 86% of psychologists who are NDIS registered providers agreed that the NDIS registration process is time-consuming. 74% agreed that the registration process is expensive, and 66% reported that the cost of maintaining NDIS registration is disproportionately high.
- 72% felt that registration and compliance processes are unnecessary because of their duplication with existing registration and professional standards as a psychologist.
- Only 25% felt that registration as a NDIS provider helped them to provide safer and higher quality services to people with disability. Very similar perceptions were held by psychologists who are unregistered NDIS providers, where only 12% intend to become a registered provider in the future.
- 30% of survey respondents who are current or previous Behaviour Support Practitioners (BSPs) reported that their BSP application process took over 9 months to finalise.

APS Recommendations:

- 2.1 The revised Framework needs to adequately consider the professional context in which NDIS providers are operating. For regulated professions, this includes recognising the primacy of providers' professional obligations and ethical standards (e.g., through AHPRA registration) through efforts aimed at avoiding duplication or inconsistency.
 - 2.2 Similarly, the revised Framework should recognise that for many regulated professionals (including psychologists), NDIS participants only form part of their caseload. The Framework should not erroneously assume that regulated providers are only working with NDIS participants. Where there are existing standards and professional obligations, NDIS regulatory requirements should be proportionate and make it easier for experienced professionals to work with the NDIS, including as a registered provider.
 - 2.3 The revised Framework should promote consistency in regulatory requirements across professions. In particular, we contrast the high requirements for psychologists to register as a NDIS provider with the self-assessment process for becoming a Behaviour Support Practitioner (BSP). We note, along with our members (including psychologists who also work as BSPs) that the low registration requirements for becoming a BSP raises concerns in relation to their level of training, clinical competence and professional standards – and therefore their ability to provide safe and high-quality services.
 - 2.4 The revised Framework should harmonise registration requirements within the NDIS. This includes enabling psychologists who are NDIS registered providers to register as a BSP without having to undergo a separate but lengthy application process.
 - 2.5 The revised Framework should increase provider confidence in relation to the audit process. This includes ensuring that auditors take a proportionate, incremental and developmental approach to audits (i.e., assessing for changes since previous audit, rather than starting again each time). The revised Framework should also ensure that auditors have a good understanding of the provider's profession, rather than inappropriately applying a one-size-fits-all template across professions. The development of peer auditors could be one solution to these concerns.
 - 2.6 Care should be taken to ensure that anticipated changes to NDIS provider compliance are appropriate and responsive. For the vast majority of providers, compliance activities should be focused on education, support and making it easier to deliver effective treatment and support. Psychologists report that requests for reasonable psychological services are already heavily scrutinised, often without good reason. The revised Framework should guide the design of compliance strategies to be mindful of the detrimental impact of inappropriate or overly-broad and punitive strategies on effectual providers.
3. The administrative burden arising from the Framework should be identified and eliminated

Problem:

In addition to the high but inconsistent level of regulatory burden as noted above, there is significant everyday administrative burden for providers working within the NDIS. There has been limited consideration of the full regulatory impact of the Framework's initiatives at a whole-of-system and operational level. In addition to

deficiencies in regulatory design, this problem also stems from a general lack of understanding of the work, scope and operational demands of providers, including psychologists.

Survey Insight 3: Psychologists experience administrative and informational barriers at every stage of their work in the NDIS

- Only 5% of psychologists who are NDIS providers (the lowest level of agreement in the survey) agreed that becoming a registered NDIS provider was an easy process.
- 7% felt that the NDIA provides timely information to psychologists about providing NDIS services.
- 9% agreed that the NDIA and NDIS planners have a good understanding of psychologists work and role.
- 17% of respondents said that it was easy to find information about providing psychological services through the NDIS.
- 90% of psychologists who are not currently providing NDIS services said that simplifying NDIS administrative requirements would encourage them to work with NDIS participants in the future.

APS recommendations:

- 3.1 The redevelopment of the Framework should include a 'sludge audit'. 'Sludge' is defined as 'excessive or unjustified frictions, such as paperwork burdens, that cost time or money; that may make life difficult to navigate; that may be frustrating, stigmatizing or humiliating; and that might end up depriving people of access to important goods, opportunities and services'.¹ There is considerable sludge in the NDIS not just for participants but also for providers. Identifying this sludge through a systematic and behaviourally-informed audit process is essential before initiating new reforms. The implementation of a new Framework should not result in providers (and participants) being subject to unnecessary new layers of regulation without cleaning up what is already in place.
- 3.2 The revised Framework should be developed using effective regulatory co-design methods in close collaboration with providers and relevant professional bodies. That is, the process should be characterised by an ongoing working relationship with professional bodies to ensure that providers' experience, problems and proposed solutions are heard and shape the decision-making and implementation process beyond merely relying on ad hoc, reactive consultations.

In summary, psychologists have a low level of confidence that the products of the Framework are aligned with its objectives of promoting safety and quality for NDIS participants. Moreover, the omission or misalignment of regulatory aims has led to considerable burden being imposed on psychologists (particularly those who are registered NDIS providers), while also discouraging other psychologists from providing NDIS services despite wishing to do so.

The review and redevelopment of the Framework is therefore a unique opportunity to correct these policy failures and to establish a positive, realistic and proportionate pathway towards increasing the quality and safety of NDIS services through collaborative design and engagement. The APS looks forward to contributing to this process.

Thank you again for the opportunity to provide a submission on the NDIS Quality and Safeguarding Framework. If any further information is required from the APS, I would be happy to be contacted through our National Office on (03) 8662 3300 or by email at: z.burgess@psychology.org.au

Yours sincerely

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¹ Sunstein, C. R. (2022). Sludge Audits. *Behavioural Public Policy*, 6(4), 654–673. <https://doi.org/10.1017/bpp.2019.32>