



Submission to the Senate Community Affairs Legislation Committee

National Disability Insurance Scheme Amendment (Integrity and Safeguarding)

Bill 2025

Winner: 2025 NT Human Rights Award for Social Change

Executive Summary

The Disability Advocacy Service (DAS) welcomes the National Disability Insurance Scheme Amendment (Integrity and Safeguarding) Bill 2025 as a necessary reform to strengthen scheme integrity and participant protection. However, we submit that the Bill's enforcement and regulatory framework, as currently drafted, presents significant risks for disadvantaged regions particularly remote and very remote areas of Australia such as the Northern Territory and Central Australia where thin markets, workforce shortages, and competing vulnerabilities already constrain service access.

DAS strongly supports the Bill's core objectives: tougher penalties for serious misconduct, expanded enforcement powers for the NDIS Quality and Safeguards Commission (the Commission), and enhanced participant safeguards. However, we recommend the Committee consider amendments and implementation guidance to ensure that the Bill's strict liability provisions, information-gathering powers, and administrative burden do not inadvertently reduce provider capacity in already-vulnerable regions or create perverse incentives that harm the cohorts most in need of protection: First Nations people with disability and remote participants.

This submission draws on DAS's direct experience advocating for people with disability in the Northern Territory, where the NDIS market approach has demonstrably failed, leaving participants without choice, providers in crisis, and fundamental human rights at risk.

1. Support for the Bill's Core Intentions

DAS supports the Bill's primary objectives:

1. **Strengthened penalties and enforcement** are necessary to deter and punish serious misconduct, abuse, neglect and exploitation in the NDIS market[1].
2. **Expanded NDIS Commission powers** to detect, investigate and ban unsuitable persons are essential protective measures, aligned with the Disability Royal Commission findings[2].
3. **Enhanced participant safeguards** around scheme withdrawal and information transparency improve participant agency and protection[3].
4. **Anti-promotion orders** targeting misleading marketing about support eligibility are appropriate measures to combat fraud[4].

These reforms reflect evidence from the Independent Review of the NDIS (2023) and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023)[1][2], both of which identified serious gaps in regulatory oversight and provider accountability.

DAS is not opposed to raising compliance standards. Participants particularly vulnerable cohorts deserve strong protections from predatory or negligent providers.

2. The Remote and Rural Compliance Paradox: A Northern Territory Case Study

However, DAS observes a structural tension in the Bill that policymakers must address: **the same enforcement mechanisms that protect participants in well-resourced urban and regional markets risk accelerating provider withdrawal in thin markets, leaving vulnerable people with fewer or no options.**

2.1 Thin Markets in the NT and Central Australia

The NDIS Review (2023) and the AMSANT/Disability Services research (2024–2025) confirm that:

- **80% of the NDIS's thinnest markets are located in rural Australia**, with Central Australia (including Alice Springs) among the most severely affected[5].
- In regions outside Darwin (Alice Springs, Katherine, Tennant Creek, regional areas), the market approach is failing due to insufficient provider numbers and capacity[6].
- First Nations participants in remote areas face "culturally thin markets" a complete absence of culturally safe, Aboriginal-led providers compounding access barriers[7].
- **Workforce turnover in remote healthcare services reaches 148% annually for some roles**[8], meaning that attracting and retaining compliant, trained staff is already near-impossible for small NT-based providers.

2.2 The Burden Paradox

The Bill introduces **new civil penalties** for:

- Failing to provide information or documents to the Commission within specified timeframes (14 days minimum)[9].
- Providing false or misleading information[10].
- Unauthorised disclosure of Commission information[11].
- Serious contraventions attract penalties up to **10,000 penalty units** (\$2.5 million for corporations)[9].

For a small organisation in Alice Springs or a remote community already struggling with:

- High staff turnover (no continuity in administration or compliance roles);
- Limited local accounting and legal expertise;
- Difficulty recruiting workers with compliance qualifications;
- Participants with complex needs requiring rapid documentation and reporting; these penalties create a **compliance tax** that disproportionately affects small, remote providers relative to large, well-resourced urban organisations.

Result: Rational economic behaviour by remote providers may be to withdraw from the market to avoid regulatory and financial risk. This harms the participants these providers serve.

2.3 Evidence from DAS Experience

DAS has documented instances where:

1. **Provider withdrawal due to regulatory burden:** Small disability services in remote NT have cited rising compliance costs and regulatory uncertainty (prior to this Bill) as key reasons for closure or service reduction[12].
2. **Unintended consequences of strict liability:** When providers face criminal or civil liability for documentation errors (even minor ones), they become risk-averse and may deny services or impose unnecessary gatekeeping to avoid exposure[13].
3. **Inaccessible support coordination:** First Nations participants in Central Australia report difficulty accessing plan coordination support itself a funded NDIS support because there are no local First Nations coordinators, and mainstream coordinators lack cultural safety training[7].

When the Bill raises penalties without corresponding support for remote providers to meet compliance standards, it may accelerate these harms.

3. Specific Recommendations

3.1 Strengthen Support for Remote and First Nations Providers

Recommendation 1: Amend the Bill or accompanying implementation guidance to:

- Provide exemptions or adjusted compliance timeframes (e.g., 21 days instead of 14) for providers in geographic areas where local expertise (legal, accounting) is unavailable[14].
- Create a "**provider development fund**" within the NDIA budget to co-fund compliance systems, training, and dedicated compliance officers for remote and First Nations organisations particularly those serving thin markets.
- Ensure that First Nations organisations and community-controlled providers receive priority access to this support.

Rationale: The Bill rightly targets bad actors, but remote providers in thin markets are not typically bad actors— they are under-resourced, isolated organisations doing vital advocacy and support work. The compliance regime should account for this reality.

3.2 Expand and Clarify Anti-Promotion Order Powers

Recommendation 2: The Bill's anti-promotion order powers are necessary but may be underutilised in remote areas. The Committee should recommend:

- Clear guidance from the Commission on how anti-promotion orders will be applied in thin markets where misinformation about support accessibility is especially common[4].
- Proactive Commission action against providers making false claims about the likelihood of plan funding in remote areas (e.g., "the NDIS will fund all your supports" in areas with known thin markets).
- Enhanced consumer education in remote communities about legitimate supports and realistic funding limits.

Rationale: In Alice Springs and remote NT, many First Nations people with disability are unsure what supports the NDIS will fund. Predatory providers exploit this confusion. Strong anti-promotion action is essential, but must be paired with accessible, culturally appropriate education.

3.3 Information-Gathering Powers and Remote Contexts

Recommendation 3: The Bill expands the Commission's power to require information and documents within short timeframes. The Committee should recommend:

- Guidance clarifying that the Commission will exercise these powers with flexibility in remote areas where communications infrastructure is unreliable and document generation requires travel or external expertise.
- Clear protocols for what happens if a provider fails to meet a 14-day deadline due to factors beyond its control (e.g., internet outage, staff illness in a community with no backup).
- Exemption or extended timelines for organisations serving predominantly First Nations cohorts, to avoid punishing providers for working in challenging environments.

Rationale: A 14-day information deadline, applied rigidly in a remote community where a provider's only admin staff member may be on leave, creates perverse incentives and is neither proportionate nor fair.

3.4 Prioritise Workforce Support and Incentives

Recommendation 4: While outside the Bill's direct scope, the Committee should recommend that Government:

- Establish a **Remote NDIS Provider Support Service**—a helpline and online resource to help small providers navigate compliance and reporting obligations.
- Expand TAFE and RTO disability support training in the NT, with placement guarantees and retention bonuses for remote providers.
- Introduce relocation incentives and housing support for compliance officers and support workers willing to work in Alice Springs and other remote service centres.

Rationale: The Bill's enforcement regime will only work fairly if remote providers have access to the skilled people and systems needed to comply. Current workforce shortages make this nearly impossible.

3.5 Implement Staged Enforcement with Capacity Building

Recommendation 5: The Committee should recommend a **staged transition** for the Bill's implementation in remote and First Nations contexts:

- **Phase 1 (Months 1–6):** Commission provides pro-bono compliance audits, training, and technical support to remote and First Nations organisations to identify gaps and build systems before penalties apply.
- **Phase 2 (Months 7–12):** Lower-tier civil penalties (rather than maximum penalties) apply as organisations implement reforms; full penalties only after 12 months of compliance opportunity.
- **Phase 3 (Month 13+):** Full enforcement regime, with escalating penalties only for organisations showing persistent non-compliance despite support.

Rationale: This approach protects participants from serious misconduct while giving well-intentioned but under-resourced providers a fair chance to meet the new standards.

4. Participant Protections and Safeguards: Fully Endorsed

DAS strongly supports the Bill's participant-focused provisions:

- **90-day cooling-off period for scheme withdrawal** ensures that people exiting the NDIS have time to consider alternatives and access advocacy support[3].
- **Enhanced requirements for information prior to funds release** reduce the risk of participants unknowingly authorising payments for unsuitable or unsafe supports[9].
- **Stronger banning orders** (including auditors and consultants) ensure that conflicts of interest do not compromise oversight[15].

These measures are essential protections, particularly for First Nations participants and people with cognitive disability who may be vulnerable to manipulation or coercion.

5. Avoiding Unintended Harm: A Northern Territory Example

Consider a hypothetical scenario relevant to Alice Springs:

A small Aboriginal community-controlled organisation provides disability advocacy and coordination to 30–40 First Nations participants with complex, intersecting needs (disability, intergenerational trauma, substance use, housing insecurity). The organisation has 5 staff: a Program Manager, 2 Coordinators, 1 Admin Officer (part-time), and 1 part-time Finance Officer.

Under the Bill's strict liability framework, if the Admin Officer (the only person with NDIS claims experience) takes leave, and the organisation misses a 14-day information deadline due to insufficient backup, the organisation faces civil penalties up to 10,000 penalty units (\$2.5 million). The board and Program Manager face personal criminal liability.

Outcome: The organisation faces financial ruin, staff resign due to personal liability risk, and the 30–40 First Nations participants lose their primary advocacy contact. Services collapse.

This scenario is not hypothetical. Small remote providers have been destabilised by far less regulatory burden. The Bill must account for this reality.

6. Alignment with the Royal Commission and NDIS Review Recommendations

DAS notes that the Bill responds to the Disability Royal Commission's findings regarding inadequate accountability and oversight[2]. We fully support this alignment. However, we note that the Royal Commission also found:

"The failure of market-based approaches in thin markets is a systemic flaw in the NDIS design. Government must take active market-stewardship roles in regions where competition cannot ensure service access and participant protection." [2][5]

The Bill strengthens enforcement but does not address market stewardship. The Committee should consider whether the Bill needs to be paired with complementary measures such as expanded government-supported "provider of last resort" services in thin markets to ensure that enforcement does not leave vulnerable people worse off[16].

7. Conclusion

The Disability Advocacy Service supports the National Disability Insurance Scheme Amendment (Integrity and Safeguarding) Bill 2025. The Bill's core objectives, tougher penalties, expanded Commission powers, and enhanced participant protections are necessary and evidence-based.

However, we urge the Senate Community Affairs Legislation Committee to recommend amendments and implementation guidance that:

1. Provide capacity-building and exemptions for remote and First Nations providers;
2. Clarify how anti-promotion, information-gathering, and enforcement powers will be applied fairly in thin markets;
3. Support workforce development and retention in remote areas;
4. Implement staged enforcement with transition support for under-resourced organisations; and
5. Pair enforcement with active market-stewardship measures to ensure that vulnerable participants are not abandoned when providers withdraw.

Without these safeguards, the Bill risks creating a two-tiered NDIS: one where urban participants benefit from stronger protections and competitive markets, and another where remote and First Nations participants face both regulatory barriers and continued service scarcity.

The people of Alice Springs and Central Australia deserve neither less protection nor less access to services. Careful implementation of this Bill is essential to honour that commitment.

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