



Submission

New Aged Care Act Rules consultation – Release 3 – Relating to Provider Obligations

March 2025

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About Hireup

Founded in 2015 in the disability sector, Hireup now operates nationwide and facilitates more than three million hours of support each year to over 10,000 people with disability and older Australians. To facilitate this service delivery, Hireup employs a similar number of support workers who provide in-home, community and lifestyle support, ensuring that individuals can access care on their terms, with full choice and control.

Hireup stands as a unique case study in the platform category, demonstrating that participant choice, technological innovation and strong regulatory oversight can successfully coexist. Our Platform empowers individuals to take full control of their support arrangements, choosing who supports them, when, and how. At the same time, we are a fully registered NDIS provider, committed to meeting the highest standards of safety, accountability, and workforce protections.

Our operating model and the success we have experienced over the last decade balancing the dual imperatives of choice and innovation on one hand, and responsible service delivery on the other, is clear evidence that strong regulation does not necessarily limit choice or restrict innovation. Indeed, our experience has been that efforts to deliver the highest quality of support has only enhanced trust within the Hireup community, ensured fairness for our clients and workers, and has driven us as a provider to operate in ways which strengthen the integrity of the care economy as a whole.

Executive Summary

Hireup welcomes the opportunity to contribute to the consultation on the New Aged Care Act Rules – Release 3, relating to provider obligations. As Australia's largest registered NDIS platform provider, we strongly support regulatory reforms that enhance participant safety, strengthen market integrity, and ensure a fair and accountable sector.

Lessons from the NDIS demonstrate the risks of incomplete regulation, where loopholes allowed unregistered providers to operate without sufficient oversight. The aged care sector must not repeat these mistakes. While we support the requirement for all government-funded aged care providers to be registered, the proposed rules do not go far enough in addressing third-party contracting risks. Current obligations lack sufficient clarity on how registered providers should manage associated providers who rely on third-party arrangements.

To strengthen safeguards, we recommend additional requirements to ensure registered providers maintain full oversight of all subcontractors. This should include clear accountability structures, contractual safeguards, and reporting obligations,

particularly aligning with Standard 2 (The Organisation) and Standard 3 (The Care and Services) of the Strengthened Aged Care Quality Standards (February 2025).

While constitutional limitations restrict direct regulation of providers without government funding, alternate regulatory mechanisms are necessary to ensure all service providers operate under enforceable standards. A strong, enforceable framework is essential to closing regulatory gaps, ensuring accountability, and preventing failures exposed by the Royal Commission. Without stronger protections, the system risks repeating past mistakes rather than delivering the high-quality care older Australians deserve.

Provider Obligations and Aged Care Quality Standards

Registered provider, responsible person and aged care worker obligations

Hireup welcomes the Department's work to strengthen regulation through the registration of aged care providers and aged care workers. Ensuring that all government-funded aged care providers meet clear obligations is a critical step toward participant safety and sector integrity. We note the provider obligations are distinct from the Aged Care Quality Standards. In terms of the obligations themselves, Hireup has limited its feedback to only those obligations with which we have direct experience (omitting obligations only required by providers registered for residential care, CHSP and NATSIFACP).

We also note that some parts of the provider obligations have not yet been drafted.

1. Subdivision C— Quality indicators

Hireup would value the opportunity to comment on these indicators once drafted.

2. Subdivision D— Complaints and feedback management report

We support this subdivision, however note that the reports to be included in reporting must extend to all entities of a registered provider, and all entities that are part of a support supply chain – including associated providers and the subcontractors of associated providers.

3. Subdivision E—Complaints and feedback information on request

We support the option for the System Governor or the Commissioner to request complaints reports at any time, however as per the above, believe that complaints must be extended to all parts of the supply chain, including complaints made to subcontracted associated providers.

4. Subdivision F—Prudential and financial

Hireup supports the submission of financial reporting to the regulator, and notes that most of this section only applies to residential care providers.

5. Subdivision G—Reportable incidents

We support the requirement to make reportable incidents known to the regulator within certain time frames depending on the level of seriousness of the reportable incident.

However, the rules do not state any timeframe requirements for the associated provider or their subcontractors to make reportable incidents known to the registered provider, and indeed, the time frame begins when the registered provider is made

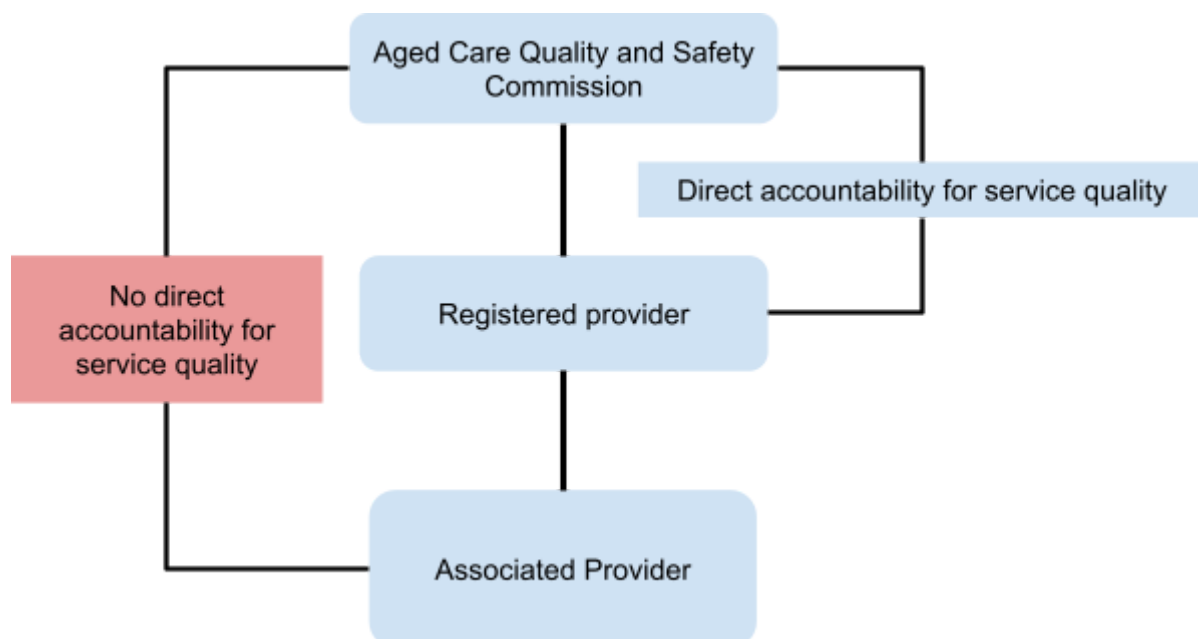
aware of the incident, not when the incident actually occurs. **Therefore, it is conceivable that if a registered provider is never made aware, then the reportable incident is never reported.** Further safeguards are required to apply conditions whereby a registered provider faces serious penalties if a reportable incident is not made to them from a subcontractor. Under current frameworks, it will become the registered providers responsibility to ensure they have visibility of all incidents within their supply chain to ensure compliance to reporting requirements.

Aged Care Quality Standards

In relation to the strengthened Aged Care Quality Standards, we support the use of a tiered model of registration, whereby providers are held to different Aged Care Quality Standards depending on the type of support they deliver. However, the responsibility of registered providers to oversee subcontractors represents an outsourcing of regulatory enforcement that may weaken accountability.

It is our position that for registered providers who also deliver support, these standards are sufficient to ensure the providers responsibilities are known, and offers clear standards by which to measure the quality of the support they deliver.

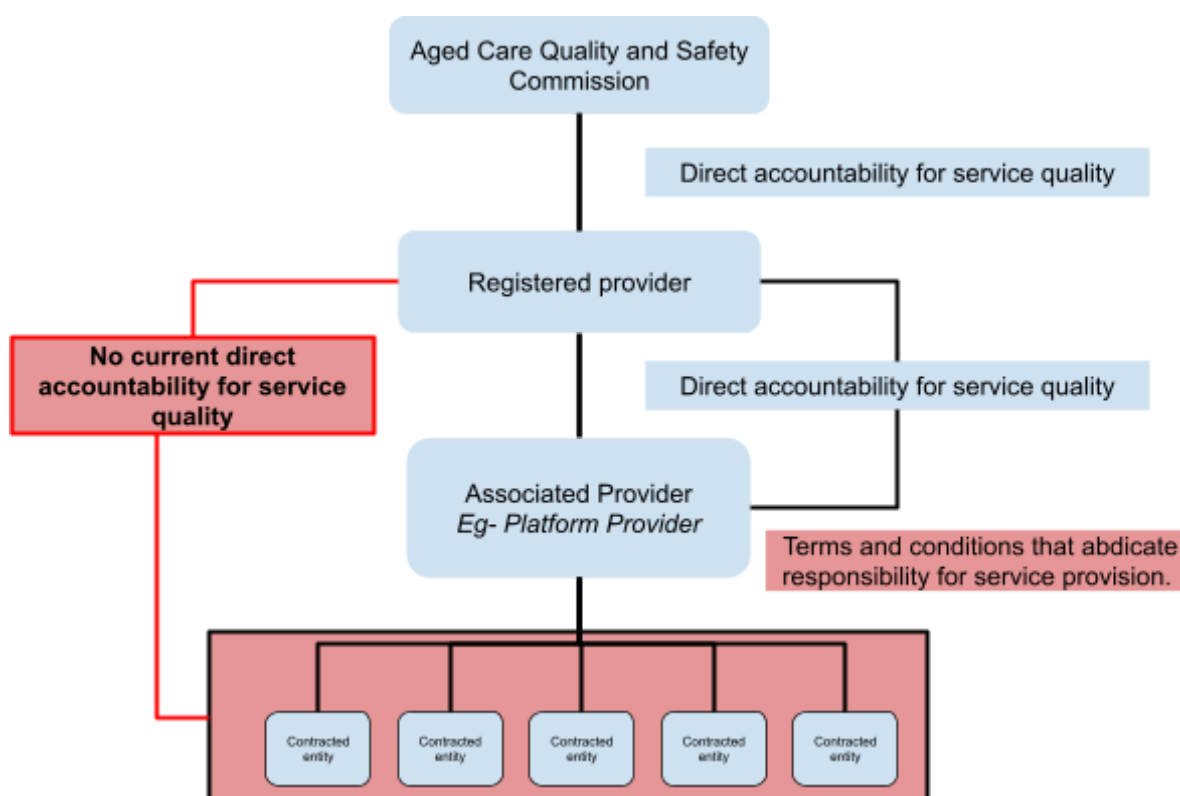
However, this does not go far enough. The idea that registered providers must regulate the work of the associated providers who they choose to partner with demonstrates an outsourcing of regulator responsibility that we believe will lead to the same failures in the NDIS regulatory framework. As demonstrated in the chart below, the regulator currently has **no direct oversight** over the service quality or conduct of the associated provider.



Further reforms are needed to close third party contracting loopholes.

While it remains a key flaw in the regulatory system, we acknowledge the Commonwealth's limited capacity to regulate providers that do not directly receive funding. Holding registered providers accountable for the support delivered by the entities with which they enter subcontracting relationships does create a form of quasi-regulation that, in theory, helps maintain safety across the market. It assumes that the registered provider will go to all necessary lengths to ensure the associated provider is delivering safe services, because it is the registered provider that will be held accountable if it does not.

While this may work in direct subcontracting relationships—where the registered provider contracts directly with the support provider—it breaks down when subcontracting extends further. If an associated (or subcontracted) provider subcontracts again, the registered provider loses direct oversight of the individual's care and the workers delivering support. This is demonstrated below.



Hireup acknowledges and supports the provisions in the Aged Care Act that address aged care workers acting as subcontractors to associated providers. We are pleased to see these safeguards included in the legislation. The lack of oversight of ABN workers in the NDIS has resulted in widespread market fragmentation, opaque accountability, unclear complaint pathways for participants, and less safe services.

However, while the Act establishes that registered providers are responsible for the service quality of their associated providers, including third party providers, the current provider obligations and quality standards do not go far enough in setting clear requirements for managing these relationships.

Hiruep recommends expanding the rules to include specific measures to ensure these relationships are being properly managed in practice.

Recommendations

1. Transparency of service delivery

Registered providers must ensure that older Australians receiving support are notified when services are being delivered through third party subcontracting arrangements. The associated provider should be required to provide the registered provider with a clear outline of their corporate structure and identify the provider that is delivering support for each individual.

2. Incident reporting

Further to comments made regarding *Subdivision G—Reportable incidents* the registered provider must impart obligations on their associated providers to report all incidents within a certain timeframe. To ensure the ongoing safety of individuals, reporting timeframes should not only relate to when the registered provider is made aware of an incident, but to when the incident actually occurred.

3. Operational compliance

The registered provider must impose systems and processes to check that their associated providers, and any third party workers comply with all relevant screening, qualification and safety requirements for aged care workers.

4. Managing conflicts of interest

The associated provider model poses significant conflict of interest risk, particularly when a registered provider is a wholly owned subsidiary of an associated provider. In these cases, the registered provider is effectively overseeing its own affiliate, creating a disincentive to report compliance failures. This structure enables regulatory evasion, undermining the Aged Care Quality Standards and participant safety.

To respond to this risk, the registered provider must enforce a requirement that their associated providers give the individuals they support, clear, plain language communications regarding:

- The relationship between the registered provider, associated provider and any subcontracted workers.
- Clear advice that individuals have the right to choose an unaffiliated associate provider for service delivery.

- Fee structures, including inter-provider referral fees and a clear description of the total fees that are paid to the entire corporate entity by the client. For example, if a registered home care provider is the owner of platform that subcontracts to ABN workers, the individual must be made aware that the:
 - Registered provider charges the 10% care management fee;
 - Platform charges a client platform fee based on the hours of support booked through the platform (uncapped under the Aged Care Act - some platforms are currently charging up to 12% to clients);
 - ABN subcontractors charge an hourly rate and a percentage of the hourly rate is paid to the platform (approx. 8%); and
 - In some cases, the registered provider also charges a brokerage fee on top of the hourly rate charged by the subcontractor.
- Complaints processes for the registered and their affiliated associated provider, and any subcontracted workers.
- Accountability and processes followed by each party during incidents and other issues, including how and where issues can be escalated if they are not dealt with to the individual's satisfaction.
- Who holds responsibility as the person conducting business or undertaking (PCBU).

To strengthen transparency, any financial or corporate affiliations between registered and associated providers must be declared to the Commission, along with a conflict mitigation plan.

5. Maintaining care standards with a contracted workforce

It is the responsibility of the registered provider to ensure all workers within their supply chain have the appropriate skills to manage the support of their clients.

This requirement should be strengthened to ensure associated providers give individuals a service description and a clear understanding of their support needs. Providers must also demonstrate a proven track record in delivering suitable care (e.g. registered under AHPRA, NDIS, or Aged Care (or similar scheme). Additionally, they should show how their workforce's skills align with the needs of older Australians.

6. Compliance with Quality Standards relating to employment

If a registered provider engages an associated provider who then outsources to ABN contractors, they must demonstrate efforts of the associated provider to also comply with the Quality Standard 2.8.1.e - *use direct employment to engage aged care workers whenever possible, and minimise the use of independent contractors and agencies providing contractors.*

The registered provider must provide justification for why employment of the workforce was not feasible for the associated provider and how they are mitigating risks associated with contractor arrangements while maintaining service quality and worker protections.

7. Regulatory 'Look-Through' Powers

The regulator should have the ability to audit and request records not just from the registered provider but also from any subcontracted entities in the supply chain.

This would ensure that compliance isn't just monitored at the top level but extends to all those delivering care.