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SUBMISSION TO HELP INFORM A POSSIBLE ‘COMMISSIONING’ APPROACH FOR PART OF THE SIL MARKET

Submitted by Inclusive Rainbow Voices, with the support of LGBTIQ+ Health Australia

About Inclusive Rainbow Voices

Inclusive Rainbow Voices (IRV) is Australia’s national Disabled People’s Organisation (DPO) led by and for LGBTIQA+ people with disability. IRV brings lived-experience expertise to policy and systems reform, with a particular focus on the intersecting barriers experienced by LGBTIQA+ people with disability.

About LGBTIQ+ Health Australia

LGBTIQ+ Health Australia (LHA) is the national peak organisation promoting the health and wellbeing of LGBTIQ+ people and populations. LHA provides national leadership in policy, advocacy, research and capacity building, working with its members and partners to improve health and wellbeing outcomes and address systemic inequities.

Why these reforms matter

IRV and LHA welcome the opportunity to contribute to the reform of the NDIS. These reforms will shape how people with disability exercise choice and control over their lives, access support, live safely and participate fully in society.

For LGBTIQA+ people with disability, the stakes are particularly high. Sexual orientation, gender, sex characteristics, disability, relationships and family are not separate parts of a person’s life. Yet LGBTIQA+ people with disability continue to experience discrimination, exclusion and services that do not recognise or respond to the whole person.

The current reforms are an opportunity to change this. IRV brings the lived-experience knowledge and disability expertise of LGBTIQA+ people with disability, supported by LHA’s national health policy expertise and connections across the LGBTIQ+ health and community-controlled sector. Together, we want to see an NDIS in which LGBTIQA+ people with disability can live safely and openly, exercise genuine choice and control, and receive support that respects who they are and the lives they choose to lead.

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IRV is contributing to multiple consultations across the current NDIS reform program. The following section sets out principles, evidence and commitments that are common to our submissions, before we address the specific issues raised in this consultation.

Being LGBTIQA+ is not a luxury

LGBTIQA+ people with disability are too often told, in effect, that being LGBTIQA+ is an optional extra, something to be addressed only once every other need has been met.

IRV rejects that framing. Being LGBTIQA+ is core to a person's sense of self. The ability to express, explore and live as an LGBTIQA+ person safely is not an add-on to disability support. It is part of what health, wellbeing, choice and control must mean under the NDIS.

LGBTIQA+ people with disability do not experience disability separately from sexual orientation, gender, sex characteristics, relationships, family, culture or other parts of their lives. These intersect and shape whether services and supports are genuinely accessible.

For some people, being able to live safely may depend on whether a service recognises a partner or chosen family, respects their gender, provides privacy, understands their body, or creates an environment in which they do not have to hide who they are. A service being technically available does not mean it is accessible, culturally safe, affirming or appropriate.

For some LGBTIQA+ people with disability, family of origin will be an important source of support. For others, those relationships may be rejecting, unsafe or unavailable. NDIS policy and service design must not assume that family relationships are safe or that family members are able to provide support. Carers may themselves be people with disability, and their capacity to provide support cannot simply be assumed to be unlimited.

We ask the Department to treat this as a starting principle for this reform program, not a caveat to it.

The evidence

National data indicate that LGBTIQA+ people are over-represented among people with disability. The ABS Survey of Disability, Ageing and Carers 2022 found that 4.9% of people with disability were LGB+, compared with 3.6% of the general population aged 16 years and over (Australian Bureau of Statistics, 2024a, 2024b). The data also indicate that younger people with disability are significantly more likely to disclose being LGB+ than older people, reinforcing the urgency of ensuring the NDIS and disability services are inclusive (Australian Bureau of Statistics, 2024a). LGB+ people with disability reported disability-related discrimination at more than three times the rate of heterosexual people with disability, 27.7% compared with 8.7% (Australian Bureau of Statistics, 2024a).

Research commissioned by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability provides further evidence of significant inequities. Hill et al. found that 90.9% of LGBTQA+ young people with disability reported high or very high psychological distress, 15.0% had attempted suicide in the previous 12 months, and rates of family and intimate partner violence among LGBTQA+ adults with disability reached as high as 81% (Hill *et al.*, 2022).

Importantly for these reforms, the research also identified barriers within services themselves. Only 21.5% of LGBTQA+ young people with disability felt being LGBTIQA+ was supported by the NDIS or disability services, while only 34.5% of LGBTQA+ adults with disability felt accepted when accessing a health or support service. The Royal Commission-commissioned research consequently recommended clear expectations that NDIS providers deliver culturally safe and affirming services, alongside resourcing to build provider capability (Hill et al., 2022).

This is not a marginal issue. It is core disability policy.

The Disability Royal Commission recognised that people with disability have a fundamental right to choose where they live, with whom they live, how they live and who provides their daily living and community participation supports. It emphasised that home is central to dignity, autonomy, independence and wellbeing, and identified the particular risk that people with higher support needs can have fewer housing and support options and consequently less autonomy and choice. It also demonstrated the risk of violence, abuse and neglect that can accompany particular models of housing and support delivery for people with disability, especially where housing and support services are delivered by the same service or on a shared contract (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2023a).

The Royal Commission also demonstrated why recognition of intersectionality matters to supported living. In its consideration of cultural safety for First Nations people with disability, it found that cultural safety is contextual and varies according to people's particular cultural and other needs, including gender, age, First Nations language identity, LGBTIQA+ identity and geographic status. It recorded an example of a First Nations woman placed in SIL accommodation as the only woman living with five men, despite her not wanting to remain there (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2023b).

The National Disability Insurance Agency (NDIA) itself recognised the importance of intersectionality in its 2020 LGBTIQA+ Strategy, Our bodies, our genders and our relationships. The Strategy committed to cultural safety, respect for people's bodies, genders and relationships, improved engagement, increased representation and participation, and improved data collection and evaluation (National Disability Insurance Agency, 2020). It remains unclear how much of this has been achieved, as the Strategy's implementation has not been evaluated.

The NDIA subsequently undertook further consultation towards a renewed LGBTIQA+ Strategy, including a national summit in 2024. That renewed Strategy has still not been released. At a time of substantial reform to the NDIS, the commitments made through that process must not be lost.

The current reforms also need to align with the Australian Government's *National Action Plan for the Health and Wellbeing of LGBTIQA+ People 2025–2035*. The National Action Plan provides a whole-of-government framework for addressing health and wellbeing inequities experienced by LGBTIQA+ people, including through accessible and inclusive care, workforce capability, improved research and data, and stronger leadership and accountability (Department of Health

and Aged Care, 2024). These commitments are directly relevant to LGBTIQA+ people with disability and need to be reflected across the design and implementation of NDIS reforms.

What we are asking for across every consultation in this reform program

Before addressing the specific issues raised in this consultation, IRV asks the Department to adopt seven commitments across the NDIS reform program.

1. Build an explicit assessment of impacts on LGBTIQA+ people with disability into the design of every consultation and policy in this reform program as standard practice, rather than relying on DPOs and advocacy organisations to identify these impacts after proposals have been developed.
2. Establish and properly resource an ongoing LGBTIQA+ disability advisory mechanism, led by LGBTIQA+ people with disability, with authority to contribute across NDIS reform workstreams and to hold government accountable for implementation.
3. Provide dedicated Disability Representative Organisation funding to adequately resource IRV and other LGBTIQA+ DPOs to participate meaningfully in NDIS policy development, co-design, implementation and evaluation. Specialist DPOs cannot be expected to contribute lived-experience knowledge and expertise across multiple simultaneous consultations without adequate resourcing.
4. Publicly report on implementation of the NDIA's 2020 LGBTIQA+ Strategy and urgently finalise, release and implement the renewed LGBTIQA+ Strategy developed following consultation with LGBTIQA+ people with disability, with clear actions, responsibilities, timeframes and public accountability.
5. Mandate consistent, safe and voluntary collection of sex, gender, variations of sex characteristics and sexual orientation data across relevant NDIA systems and reform monitoring, aligned with the *ABS Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables, 2020* (Australian Bureau of Statistics, 2021). The NDIA must be transparent about why information is collected, how it will be used, who it may be disclosed to and when it will not be disclosed. People must retain control over disclosure where sharing information could place their privacy or safety at risk. These data must never be used as a gatekeeping or eligibility mechanism.
6. Fund LGBTIQA+ and disability-led participatory research to address significant evidence gaps, particularly for trans and gender diverse people and people with innate variations of sex characteristics with disability.
7. Embed LGBTIQA+ cultural safety and workforce capability across the NDIS and associated services, including through training developed and delivered with LGBTIQA+ people with disability and their representative DPOs. This must extend beyond awareness training to organisational practice, safeguards and accountability.

Supported Independent Living: choice and control must extend to a person's whole life at home

IRV supports the objective of improving the quality, safety, innovation and sustainability of Supported Independent Living. Greater government stewardship of the SIL market has the potential to address poor-quality services, strengthen safeguards and improve access where the market is not delivering appropriate supports.

However, commissioning will only represent an improvement if it increases, rather than diminishes, the power that people with disability exercise over their own lives. Australia has a long history of people with disability being segregated in institutional settings, where people were denied choice and control over where and how they lived and were exposed to violence, abuse, neglect and exploitation (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2023c). It is vital that we learn from this history to ensure that greater government stewardship does not recreate institutional features or undermine the broader intent of the NDIS: to realise the human rights of people with disability and support choice and control over our own lives.

A person's home is not simply a location at which disability supports are delivered. It is where people live their relationships, express their gender, exercise privacy and intimacy, spend time with partners, friends and chosen family, make everyday decisions and, fundamentally, live their lives.

For LGBTIQA+ people with disability, choice and control must therefore extend beyond choosing between available providers. It must include meaningful control over where and with whom a person lives, who enters their home, who supports them, their daily routines, relationships, privacy, gender expression and how openly they can live as themselves.

The central test of any commissioning model must be whether participants themselves experience greater safety, autonomy, choice and control.

Who could benefit from commissioning?

The consultation asks which SIL participants could benefit most from additional government oversight. IRV considers that commissioning has particular potential where existing market arrangements provide the least meaningful choice.

This includes participants in 'thin markets'. While this term has become used particularly in rural, regional or remote areas, where there are few providers, it also applies to the 'thin markets' of responsive, appropriate and culturally safe providers for participants who experience intersectional marginalisation, including LGBTIQA+ people with disability. For these participants, the problem may not simply be that too few providers exist. It may be that the available providers or workers cannot offer culturally safe, affirming or appropriate support.

Commissioning therefore needs to distinguish between provider availability and genuine participant choice. A participant who technically has access to one or more providers but must tolerate discrimination, conceal their sexual orientation, gender, or bodily variation, accept workers who do not respect their relationships, or remain in an incompatible household does not have meaningful choice.

Where commissioning is targeted, IRV proposes prioritising cohorts for whom existing market arrangements systematically restrict access to appropriate supports. Success would then be measured not primarily by whether a service has been commissioned or a vacancy filled, but by whether participants report greater choice, cultural safety, stability, autonomy and control over their lives.

What does high-quality SIL look like?

High-quality SIL enables a person to live a life of their choosing in their own home.

For LGBTIQA+ people with disability, this means being able to live openly without fear of discrimination or judgement; have our sexual orientation, gender and sex characteristics respected; maintain intimate relationships; spend time with partners, friends and chosen family; exercise privacy; choose how we dress and present; and make ordinary decisions about their household and daily routines.

These are not specialist additions to otherwise adequate disability support. They are part of what person-centred, rights-based support means.

Quality requirements under a commissioning model therefore need to explicitly include LGBTIQA+ cultural safety and affirming practice. Providers need organisational policies and workforce capability that translate these requirements into everyday practice.

Importantly, cultural safety cannot be established simply by a provider declaring itself inclusive or demonstrating that workers have completed a training module. The experience of the participant is critical. Commissioning and performance monitoring need to include participant-reported measures of whether people feel respected, safe, able to exercise choice and able to live openly as themselves.

Shared support arrangements require particular attention. Sharing a home or support worker cannot mean surrendering privacy, autonomy or relationships. Nor can the preferences of one participant automatically override another participant's right to live openly in their own home.

Safeguards must protect the whole person

IRV supports stronger safeguards in SIL. However, safeguards must extend beyond preventing overt violence, abuse, neglect and exploitation. They must promote dignity, privacy, bodily autonomy, relationships, supported decision-making and freedom from discrimination, harassment and identity-based abuse.

Participants need safe and accessible mechanisms for raising concerns about workers, providers and other people with whom they live. Critically, making a complaint must not place a participant's housing or essential supports at risk.

This is particularly important where housing and support arrangements are closely connected. A participant who experiences homophobia, biphobia, transphobia or other discriminatory treatment must not face the impossible choice of tolerating that treatment, or losing their home or essential support.

Participants must be able to request a different worker or change provider where support is discriminatory, culturally unsafe or otherwise unsuitable, with continuity arrangements that prevent disruption to essential support.

There also need to be effective responses to violence within shared SIL homes. Family and domestic violence, sexual violence, coercive control, harassment and identity-based abuse, including hate speech, can occur between people sharing a home. Commissioning arrangements need clear protocols that prioritise the immediate safety and housing stability of

the victim-survivor rather than making the person experiencing violence responsible for leaving their home.

Where separation is necessary, there must be an alternative pathway to appropriate support and housing for the person using violence rather than defaulting to displacement of the victim-survivor.

Innovation must be judged by outcomes

IRV supports innovation in SIL where it expands participants' options, autonomy and quality of life. Commissioning could enable more flexible support models, better workforce arrangements and new approaches in thin markets.

However, government needs to avoid defining innovation too narrowly or creating commissioning arrangements that reward compliance with prescribed processes rather than better lives.

The test of innovation needs to be its outcomes for participants: does it increase choice? Does it make it easier to change arrangements? Does it provide greater privacy and independence? Does it create access to culturally safe support? Does it enable relationships and community connection? Does it reduce the institutional features that can emerge in shared living environments? The evaluation and monitoring processes used must also be accessible and disability-responsive, utilising the best research practice in engaging with people with disability.

Commissioning arrangements need enough flexibility for providers and participants to develop different models in response to people's circumstances, while retaining clear rights, quality and safeguarding expectations.

Innovation also needs to include mechanisms that allow arrangements to change. Participants who initially choose to share supports may later want something different. A group of participants accessing SIL together need to be able to change the composition of the group, and participants need a pathway to move to more individualised support without unreasonable delay or automatically being required to leave their home.

Flexibility of this kind is itself an important measure of whether SIL is genuinely participant-centred.

Participant choice and control

The consultation appropriately identifies participant choice and control as including decisions about supports, daily routines, living arrangements, housemates, support workers and providers. IRV strongly supports this broad conception.

Commissioning must not replace an imperfect market with a system in which government makes more decisions on participants' behalf. Greater stewardship can be valuable where it creates options that would otherwise not exist, establishes minimum expectations and intervenes where markets fail. It becomes problematic if commissioning restricts which provider a participant can use or locks people into arrangements that are difficult to leave.

Participants need meaningful choice at each level: choice about their home; choice about whether and with whom they share it; choice about whether supports are shared; choice of

provider; meaningful input into which workers enter their home; and the ability to change those arrangements.

Compatibility between housemates cannot be treated merely as an administrative or vacancy-management question. People sharing a home do not need to share the same identities or beliefs, but every participant needs to be able to live safely and without discrimination. A participant cannot be expected to conceal their sexual orientation, gender, relationships, bodily variation or other aspects of themselves in order to make a placement "work".

Thin markets make this harder, not less important. Commissioning in regional, rural and remote areas needs to actively increase the range of suitable options rather than accepting a lower standard of choice because few providers currently operate there. Indeed, in thin markets, commissioning may support whole-of-organisation improvement in the responsiveness of the organisation to people with disability who experience intersectional marginalisation.

This is where specialist organisations have an important role. Commissioning could support partnerships between SIL providers, LGBTIQA+ community-controlled organisations and specialist DPOs to build workforce capability, develop culturally safe service models and provide pathways for advice and referral. These organisations need to be resourced for that contribution.

Provider sustainability and workforce capability

High-quality SIL depends on sustainable providers and a capable, stable workforce. IRV recognises the pressures associated with workforce shortages, thin markets, vacancies and the complexity of delivering 24-hour support.

Sustainability, however, cannot be measured only in financial terms. A provider model that remains financially viable by reducing participant choice, imposing inflexible shared-support arrangements or treating people as interchangeable occupants of vacancies is not sustainable in the sense that matters to participants, or in terms of fulfilling the promise of the National Disability Insurance Scheme.

Commissioning and pricing arrangements need to recognise the real costs of delivering individualised, culturally safe support. This includes workforce development, supervision, safeguarding, supported decision-making, responding appropriately to discrimination and violence, and enabling changes to arrangements when they are no longer suitable.

Workforce capability requirements need to explicitly include LGBTIQA+ cultural safety and affirming practice. Training and capability development need to be co-designed and delivered with LGBTIQA+ people with disability and specialist DPOs, including IRV, with adequate resourcing for that expertise.

Measuring whether commissioning works

The Department proposes that commissioning could involve clearer expectations for quality, safety, outcomes, provider capability and service availability, together with stronger performance monitoring. IRV supports stronger accountability, but what is measured and how will matter enormously.

Performance measures need to look beyond service inputs and procedural compliance. They need to ask participants whether they are safe, whether they have meaningful choice, whether their privacy is respected, whether they can maintain the relationships that matter to them, whether they can change workers and providers, and whether they feel able to live openly as themselves.

This is particularly important for populations experiencing intersectional marginalisation. Aggregate measures of participant satisfaction can conceal significant differences in experience between groups.

The Disability Royal Commission identified significant gaps in data about LGBTIQA+ people with disability. Monitoring and evaluation of commissioning provides an opportunity to address this. Where demographic information is collected, collection needs to be safe, voluntary and consistent with the ABS Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables, 2020. Participants need to understand why information is collected and how it will be used, and retain control over disclosure where it may affect their safety or privacy.

The ultimate measure of successful commissioning cannot be that government has designed a more orderly SIL market. It must be that people with disability experience better lives.

Recommendations

In addition to the seven commitments IRV seeks across the NDIS reform program, IRV recommends that the Australian Government:

1. Make participant outcomes the central test of SIL commissioning, with success measured by whether participants experience increased safety, autonomy, cultural safety, choice and control, including for cohorts experiencing intersectional marginalisation.
2. Require any SIL commissioning model to protect genuine participant choice and control over living arrangements, housemates, support workers, providers, relationships, visitors, privacy and daily life.
3. Include explicit LGBTIQA+ cultural safety and affirming practice requirements within definitions of SIL quality, commissioning requirements, workforce capability expectations and provider performance measures, developed with LGBTIQA+ people with disability and specialist DPOs.
4. Ensure participants can safely raise concerns and readily change support workers or providers where services are discriminatory, culturally unsafe or otherwise unsuitable, without jeopardising their housing or continuity of essential supports.
5. Ensure participants sharing SIL arrangements can change those arrangements, including the composition of the group and moving to more individualised support, without unreasonable delays or an automatic requirement to change housing.
6. Establish explicit safeguards for violence, abuse and identity-based harm within shared SIL homes, including family and domestic violence, sexual violence, coercive control, harassment and hate speech, with responses that prioritise the safety and housing stability of the victim-survivor and provide an alternative pathway to appropriate housing and support for the person using violence.

7. Require shared SIL arrangements to protect privacy, relationships, autonomy and participants' right to live openly as themselves, including meaningful control over visitors, partners, chosen family and everyday household decisions.
8. Ensure commissioning arrangements recognise that provider availability does not constitute genuine participant choice, particularly in thin markets, and actively improve access to appropriate, culturally safe and affirming providers and workers for participants experiencing intersectional marginalisation.
9. Design commissioning to enable innovation through participant outcomes rather than prescriptive process compliance, allowing flexible and individualised models while maintaining strong rights, quality and safeguarding requirements.
10. Resource LGBTIQA+ community-controlled organisations and specialist DPOs to contribute their expertise to provider capability building, commissioning design, implementation and evaluation, including through partnerships with SIL providers.

Conclusion

IRV welcomes the Government's willingness to consider a more active role in improving the quality, safety and sustainability of SIL. There is an opportunity through commissioning to address failures in the existing market, particularly for people who currently have the least genuine choice. But commissioning must not simply produce a better managed market. It needs to produce better lives.

For LGBTIQA+ people with disability, that means being able to live safely and openly in our own homes, exercise privacy and intimacy, maintain relationships and chosen family, express our gender/s, choose who supports us and have meaningful control over who we live with and how we live.

The Disability Royal Commission's starting point is the right of people with disability to choose where they live, with whom they live, how they live and who provides their support. IRV asks the Government to make that principle the foundation of any future SIL commissioning model.

A person's home must remain their home, not become a service setting in which their rights are secondary to the convenience of the system.

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