

DOCUMENT 1



NDIA Legal Provider Management Framework (ART) (LPMF)

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1. NDIA Legal Provider Management Framework (ART)

Executive Summary

The purpose of the Legal Provider Management Framework (LPMF or 'the Framework'), is to ensure that the Agency and their external Legal Service Providers (LSPs) work alongside each other in a collaborative partnership to support Agency outcomes in Administrative Review Tribunal (ART) and related appeal matters and achieve the Chief Counsel Division's priorities and deliver high participant centric quality legal services.

The Framework provides a consistent and comprehensive approach to the management of the Agency's LSPs on ART and related appeal matters. It establishes the framework and criteria to monitor the performance of LSPs and standardise the Agency's expectations for these legal services.

The Framework establishes a system of internal control that facilitates compliance with relevant legislation, Standing Instructions, ART Practice Directions and consistency with the Agency's policies and procedures to ensure legal risks are appropriately managed by the Agency's Chief Counsel Division.

Scope

This framework is intended to provide clear and transparent guidance to Agency staff and LSPs on the following matters within scope of the Framework and the management of LSPs engaged by the Agency.

In scope:

- Management and oversight of Agency's LSPs (working on outsourced ART matters and related appeal matters and Federal Court Appeals)
- Procedures for selecting and contracting with LSPs and evaluating legal service provider performance for continuous improvement.
- Compliance with relevant legislation, regulations and Agency's policies
- Reporting requirements
- Expectations regarding the Agency's principles and values.
- Development and maintenance of procurement arrangements.

The following matters are intended to be out of Scope of the Framework:

- Internal affairs managed by Agency's internal legal team
- Non-legal professional service providers
- Direct provision of legal services to NDIS Participants¹ Selection and management of LSPs by other government agencies or departments
- Management of relationships with stakeholders or advocates other than LSPs.

¹ All references to Participants should be taken to include references to Prospective Participants, where the context requires.

OFFICIAL**The National Disability Insurance Agency (Agency)**

The National Disability Insurance Scheme (NDIS or Scheme) provides funding to eligible people with disability to provide increased engagement with family and friends, greater independence, access to new skills, jobs, or volunteering in the community, and an improved quality of life. The NDIS also connects Participants with disability to services in their community. This includes connections to doctors, community groups, sporting clubs, support groups, libraries and schools, as well as providing information about what support is provided by each state and territory government.

The NDIS now supports over 600,000 Australians with disability to access the services and supports they need. This includes supporting approximately 80,000 children with developmental delay, ensuring they receive supports early so that they achieve the best outcomes throughout their lives.

The Agency is committed to improving how we serve people applying to the NDIS, Participants and/or their parents and carers.

The Agency is a corporate Commonwealth entity (CCE) established under s117 of the *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act) to implement the Scheme.

The functions of the Agency are set out at s118 of the NDIS Act.

It is the Agency's expectation that in acting for the Agency, the LSPs will:

- be aware of the Agency's responsibilities and accountabilities as a CCE under all applicable Commonwealth legislation; and
- conduct matters in a way that ensures the Agency complies with its functions, responsibilities and accountabilities.

2. Values

The Participant Service Charter

The Agency encourages LSPs to be familiar with the [Participant Service Charter](#), as it explains what Participants can expect from the Agency

The Participant Service Charter is based on five principles for engagement with Participants.

The Agency is committed to offering service for Participants that is:

- **Transparent.** Easy for Participants to access and understand information and decisions.
- **Responsive.** Responds to Participant's individual needs and circumstances.
- **Respectful.** Recognises Participant's individual experience and acknowledges they are an expert in their own life.
- **Empowering.** Makes it easy for Participants to access and use information and be supported by the NDIS to lead their life.
- **Connected.** Supports Participants to access the services and supports that are needed.

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3. Purpose

The purpose of the Legal Provider Management **Framework** is to provide a consistent and comprehensive approach to the management of LSPs.

The Framework will outline how the Agency monitors performance and sets the Agency's expectations for legal service delivery with alignment to the Participant Service Charter and Participant Service Guarantee (PSG).

It establishes a system of internal control and review that facilitates LSP compliance with Agency specific Standing Instructions, policies and procedures and supports a new and improved procurement arrangement that is NDIS specific, with improved value for money and efficient and effective external legal expenditure.

The LPMF is aligned to the overarching WoAG Legal Services Panel and the Agency's priorities and values and is anticipated will enhance the Chief Counsel Division's capability to manage legal risk, with improvements for overall governance, procurement, litigation strategy and monitoring function.

4. Mission

The Chief Counsel Division's mission is to be a thriving legal practice that is integral to the Agency and builds trust in the NDIS.

We thrive as legal professionals when we:

- empower and invest in our people
- work together to innovate and share knowledge
- act inclusively with integrity, empathy, and respect
- look after the health, safety and well-being of ourselves and others.

We are integral to the Agency when we:

- provide a proactive and solutions focused service
- understand and address our stakeholders' needs
- have the courage to do what is right
- collaborate respectfully and meaningfully.

We build trust in the NDIS when we:

- keep Participants at the heart of everything we do
- are consistent, agile, and deliver on our promises
- listen to understand, and consider before we act
- communicate clearly, and transparently.

5. Stakeholders

- External LSPs
- NDIA Chief Counsel Division (including Case Managers (CM))
- NDIA Procurement and Corporate Services Branch
- NDIA Planning, Access, and Internal Review Branches
- NDIA Senior Executives /CEO and Board
- NDIS Participants (and prospective participants)

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- Attorney General's Department/Office of Legal Services Coordination (OLSC)
- ART
- Department of Social Services
- Participant Advocates and Representatives / Family / Carers
- Minister(s) / Government

6. NDIA's ART Standing Instructions

The Standing Instructions provide instructions to external law firms and internal legal officers (ILOs) to support the Agency's Administrative Review Branch and ART Dispute Resolution and Litigation Branch in the management of Agency matters before the ART arising out of applications for review of reviewable decisions under s100(6) of the NDIS Act.

Standing Instructions includes Agency instructions including on:

- Early Resolution
- Key steps in the Tribunal Application
- Conferences and Dispute Resolution Processes
- Litigation Strategy and advice
- Substantive Hearing Preparation and Attendance
- Escalation protocols
- Communication protocols and Document Management

Critical Incidents

The Agency has prepared a Standard Operating Procedure (SOP) for Critical Incidents (**Appendix A**) that occur within the context of ART proceedings, which is accompanied by a Quick Guide. A Critical Incident must be reviewed and reported in accordance with those documents, and occurs when there is:

- an unexplained death or a death that occurs in connection with the provision of Scheme supports or services;
- serious injury;
- abuse or neglect;
- unlawful sexual or physical contact or assault;
- sexual misconduct committed against, or in the presence of, a Participant including grooming for sexual activity;
- unauthorised use of a restrictive practice; or
- a threat or attempt of self-harm or suicide.

Appendix A SOP for Critical Incidents requires all lawyers working on ART matters for the Agency to be familiar with, and to apply them, as required.

7. Administration of ART matters within the NDIA

Agency's approach to dispute resolution

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The Agency's focus is on the early resolution of applications to the ART. We must comply with the NDIS Act and related Rules, Agency Operational Guidelines, correct or preferable decision-making and noting the Agency and its representatives are required to adhere to the model litigant obligations (MLOs) set out in the *Legal Services Directions 2017* (Directions).

LSPs should be aware that the whole of the Directions does not apply to CCEs. The Directions apply to the Agency (as set out at paragraph 12.3 of those Directions), and when the Agency chooses to follow informally with any part of the Directions, at its election.

The Agency wishes to ensure that all ART applications, including those outsourced to external law firms (LSPs), are managed proactively, appropriately, and in a timely manner (less than 12 months) with an aim to resolve each matter as quickly, fairly and efficiently as reasonably practicable. Participants that seek external review of Agency decisions in the ART are often vulnerable members of the community. Participants are expected to have a lifelong relationship with the Agency. Adversarial approaches to the resolution of applications are not appropriate, may have long-term adverse impacts on the Participant and their relationship with the Agency, and may cause significant reputational damage to our relationships with the ART and other stakeholders (such as Legal Aid and advocacy groups that assist Participants (Applicants) in proceedings).

Many Participants, and their families and carers, may find ART proceedings overly technical, confusing, and distressing. All lawyers (internal and external) and Agency's Case Managers (CM) have a responsibility to assist Participants by:

- a. ensuring Participants are kept up to date on their matter;
- b. explaining the process and the Agency's position clearly, including by using language appropriate to the Participants and accessible, as required
- c. following up if a Participant fails to provide information, to ensure that they are following the ART processes.

Responsibility and accountability for management of ART applications sits within the Chief Counsel Division of the Agency, which is led by the Chief Counsel.

NDIA's Chief Counsel Division (CCD) – as of October 2023

The Chief Counsel Division is responsible for the operation of Legal Services and the Administration Review Tribunal (ART) function. The division is comprised of the following three branches:

1. ART Dispute Resolution and Litigation Branch (ART DR&L), led by Deputy Chief Counsel ART DR&L (DCC ART DR&L) is responsible, for and on behalf of the Agency, for legal advice, support and services regarding applications made by Participants (Applicants) to the ART for external review of reviewable decisions made under s100(6) of the NDIS Act and to the courts on judicial review/appeal;
2. Administrative Review Tribunal Case Management (ART CM) led by Branch Manager ART CM (BM, ART CM) is responsible, for and on behalf of the Agency, for the end-to-end management of applications made by Participants (Applicants), to the ART for external review of reviewable decisions made under s100(6) of the NDIS Act and to the courts on judicial review/appeal; and

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3. Legal Services Branch (LSB), led by Deputy Chief Counsel Legal Services, provides assistance to, and is engaged with, the DR&L and ART CM branches on ART matters where there are legal matters of Scheme significance, or which involve novel interpretation of the NDIS Act and Rules.

Roles and responsibilities

The following table outlines the roles and responsibilities in support of the delivery of high-quality legal services:

Role	Description
Chief Executive Officer (CEO)	As Agency Head of the NDIA, the CEO is accountable for decision making for matters that are reviewable by the ART.
Deputy CEO, Governance, Risk and Integrity	Leads strategic management of governance, risk and Integrity for Agency, including legal risk arising from ART matter. Chair of Appeals and Litigation Oversight Committee.
Chief Counsel	Accountable for legal services for the Agency and for ensuring the delivery of coordinated and consistent services in an efficient and cost-effective manner.
General Counsel	Responsible for legal advice, support and services to the Agency.
Deputy General Counsel Legal Services	Supports the General Counsel in responsibilities for legal advice, support, and services to the Agency.
Deputy Chief Counsel – ART Dispute Resolution and Litigation	Responsible, for and on behalf of the Agency, for legal advice, support and services regarding applications made by Participants to the ART and higher courts on appeal for external review of reviewable decisions made under section 100(6) of the NDIS Act.
Branch Manager Administrative Review Branch	Responsible for and on behalf of the Agency, the end-to-end management of applications made by Participants (Applicants), to the ART and higher courts on appeal for external review of reviewable decisions made under section 100(6) of the NDIS Act.
Principal Legal Officer >more than 5 year's Post Qualification Experience (PQE)	Accountable for the high-quality, timely, efficient delivery of in-house legal services through providing expert legal advice and services to Agency's employees and stakeholders, and for the supervision and leadership of senior and junior legal officers.
Senior Legal Officer Around 3 or more year's PQE	Responsible for the delivery of high quality, timely legal services through providing expert legal advice and services to Agency's employees and stakeholders.
Legal Officer Less than around. 3-year's PQE	Responsible for providing legal and strategic advice to support Agency's employees and stakeholders under direction.

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Role	Description
Director, Case Management (Instructing Officer)	Responsible for leading and supervising a state-based or other team of case managers and providing well-informed, timely instructions on behalf of the Agency to LSPs.
Case Manager (Instructing Officer)	Providing well-informed, timely instructions on behalf of the Agency to LSPs and Internal Legal Officers (ILOs).
NDIA Relationship Manager	Key point of contact between the Agency and the LSP. Responsible for overall performance management and business management, including contract, accounts, and reporting.
NDIA Accounts Managers	Manage and process LSP invoices, implementing and developing related quality assurance processes.
NDIA Reporting Manager	Manage and provide all external matter and OLSC expenditure reporting for the Agency.

8. Procurement

Whole of Australian Government Legal Services Panel

The Government has established a Whole of Australian Government Legal Services Panel (Panel) as a coordinated procurement that is administered by the Attorney-General's Department (AGD). The Panel's purpose is to better leverage the Commonwealth's purchasing power and improve efficiency in the Commonwealth's engagement with LSPs. The panel is mandatory for non-corporate Commonwealth entities and corporate Commonwealth entities (CCE) may 'opt-in'. As a CCE, NDIA has decided to 'opt-in' to the Panel.

The NDIA Legal Provider Management Framework complies and aligns to:

- The Panel Head Agreement
- *Legal Services Directions 2017* (Directions).
- NDIA Procurement Policy
- Accountable Authority Instructions

9. Summary of Legal Service Directions

LSPs are expected to assist the Agency in ensuring that the Agency complies with paragraph 12.3 of the Directions, including but not limited to:

- Appendix B – The Commonwealth's obligation to act as a model litigant; and
- Appendix D – Engagement of Counsel.

Any instances of our non-compliance with ART directions/orders should be reported immediately to the Case Manager, ILO (if applicable), and the BM, ART CM and DCC, DR&L (please cc in [§47E\(d\) - certain operations of agencies @ndis.gov.au](#)) with the following information:

- the date of the non-compliance hearing (if any);
- the relevant registry (and ART number)

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- a copy of the relevant direction/order;
- a brief chronology explanation of how the non-compliance arose; and
- an indication of the proposed submissions for the non-compliance hearing (if applicable).

Model Litigant Obligations (MLOs)

In the circumstances contemplated by section 55ZG of the *Judiciary Act 1903* (Cth), including where the Australian Government Solicitors is acting, LSPs must comply with the Directions and ensure that Counsel engaged on behalf of the Agency are provided with (and instructed to comply with) the MLOs (Appendix B of the Legal Service Directions).

The Agency takes allegations of breaches of the MLOs seriously and will independently investigate alleged breaches and ensure individual case by case remedial and systemic change to address lessons learned.

Model litigant complaints may be received by the Agency through a variety of channels:

- directly to the Minister;
- directly to the CEO;
- directly to the Chief Counsel;
- to the Complaints team feedback@ndis.gov.au;
- feedback and complaints form on the NDIA ART webpage;
- in the course of the ART proceedings, either to the ILO, Agency CM representative, ART or commentary by a Tribunal Member or judicial officers
- received by LSPs and then provided in writing within 24 hours to the BM, ART CM and DCC, DR&L, copied to the relevant Case Manager (CM) (and ILO, if applicable).

MLO complaints are managed by an independent team and investigated by internal or external lawyers independent to the ART Branches. Any actions arising from a MLO investigation will be discussed at Quarterly Performance meetings, and lessons learned provided to all firms and ILOs. To meet the threshold and proceed to investigation, the MLO complaint must either:

- allege that the Agency has not met the MLO; or
- there is a meaningful model litigant issue being raised / implied in the complaint.

Where an LSP is contacted by the Agency to provide information relating to an MLO investigation the agency requires all relevant information within **10 business days**.

Information regarding the Agency's Model Litigant Guidelines can be found at: [Our model litigant guidelines | NDIS](#).

Briefing Counsel

The engagement and briefing of Counsel from the independent Bar (or external firm's in-house Counsel, other than solicitor advocates) must be in accordance with the Directions.

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All Counsel engaged on behalf of the Agency must be already approved by OLSC and have an OLSC-approved charging rate. If Counsel has not been approved by OLSC, that approval must be obtained before Counsel is briefed on behalf of the Agency.

Legal Service Directions – Section 5

As set out in the Legal Services Directions:

Senior Counsel are not to be paid a daily rate above \$3,500 (inclusive of GST) without the approval of the Attorney-General.

- Junior Counsel are not to be paid a daily rate above \$2,300 (inclusive of GST) without such approval.

Where Counsel is to be briefed, the Agency seeks from the LSPs lawyer with carriage (LWC):

- the names of at least three Counsel with a recommendation as to who should be briefed and why (i.e., what specific knowledge, experience or expertise does a particular Counsel hold?). In making your recommendations, please ensure that Counsel will have availability to undertake immediate next steps (e.g., preparing prospects advice), and for the hearing dates (if known at the time)
- at least one female Counsel as an option unless no female Counsel is available.

The Agency will, within two working days of receiving this recommendation, advise which Counsel it agrees should be briefed.

Legal Services Directions – Section 9

- Proposals to pay senior counsel more than \$5,000 per day (inclusive of GST) will be referred by OLSC to the Attorney General for decision.
- If a Legal Service Provider, in their professional opinion seeks to engage a Counsel at or above this rate, they must advise the PLO and DCC ART DRL in the relevant State and seek Chief Counsel approval prior to seeking approval from AGD to brief counsel at this rate.

Once a brief is prepared in draft for Counsel, the index, observations and brief are to be sent to Counsel cc CM and ILO, who can ask for further material, if needed.

Counsel will provide prospects of success advice on instructions, generally required within 15 working days of brief and no later than 10 working days before the hearing is scheduled. However, if you consider it appropriate in the circumstances of a particular matter, you may recommend that Counsel be briefed at an earlier stage in proceedings to provide advice as to prospects, evidence or other issues.

10. Non-Compliances

The ART provides the Chief Counsel Division a monthly report as part of mutual monitoring of non-compliance with ART Directions.

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The legal provider performance and management team analyses this data into monthly and quarterly dashboards for each LSP. This is considered in the LSPs quarterly performance meeting where each instance of non-compliance is discussed, and corrective measures agreed, as necessary.

When a LSP becomes aware of a non-compliance instance, please provide information relating to that non-compliance to [s47E\(d\) - certain operations of agencies@ndis.gov.au](mailto:s47E(d) - certain operations of agencies@ndis.gov.au) within **5 business days** including any actions taken by the LSP to rectify the event, and the outcome, and any impact it has caused relating to the Participant's matter.

The ART's compliance information will be included in the quarterly performance meeting material prepared by the legal provider performance and management team.

11. Transitioning in and out of NDIA work

Transitioning in:

When a newly appointed LSP commences working with the Agency, The Agency will provide the LSP with a copy of the NDIA Legal Provider Management Framework and its appendices.

NDIA Relationship Manager will also organise fortnightly meetings with each LSP for the first month, and monthly meetings for the first 3 months to ensure a smooth transition.

LSPs can expect the Agency to organise induction and internal training sessions, including but not limited to accessibility and disability awareness training. Otherwise, the LSP will train their staff on NDIA Values and Participant Service Charter, as well as relevant legislation for the Agency.

Transitioning in from another legal service provider or contract arrangement:

The section below provides the process for transitioning into the Agency as a new LSP or to a new work order arrangement with the same legal service provider. This is to ensure a smooth transfer of ongoing matters to optimise Participant experience and ability to maintain efficient contract management and avoiding unnecessary duplication of fees.

Procedure:

1. Notification of Transition: The existing LSP will be notified in writing of the need to transition matters to another LSP by a specified date.
2. The transitioning out law firm is expected to adhere to the requirements notified by the Agency for the transition. These requirements may include, but are not limited to:
 - a. Contract Management Meeting: A meeting will be arranged between representatives of the Agency and the existing LSP to discuss and manage the transition process.
 - b. Transition-out Plan: The LSP is responsible to work with the Agency on the creation and execution of a transition-out plan which includes creating an up-to-date list of all current matters and their progress and next steps required with agreed dates.

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- c. The LSP that is transitioning out will be required to give a timeframe for ceasing their work if it is prior to their work order and provide a cost estimate for each matter to a specified date.
 - d. The LSP that is transitioning will be provided with the matter list and the files by the Agency (without costings etc.).
3. Avoidance of Double Charging: The LSP that is transitioning from one work order to another, must ensure that the Agency is not charged twice for any work that transitions from the previous agreement to a new one. This includes, but is not limited to, hourly charges, and costs associated with specific legal tasks.

Transition out.

This section below is designed to ensure an orderly, efficient, and cooperative transition of legal matters from a LSP to the Agency itself. The process aims to minimise disruption and maintain the continuity of the Agency's legal operations.

Procedure:

1. Request for Transition Assistance: During the three to six-month period prior to the end of the agreement with the Agency, the LSP must provide assistance for the transition of legal matters when requested by the Agency.
2. Provision of Transition Assistance: The type of assistance required may vary depending on the nature of the matters being transitioned, but could include:
 - a. Transfer of Legal Documents and Files: All relevant legal documentation should be prepared and organised for transfer. This includes all case files, correspondence, research materials, and any other relevant documentation.
 - b. Briefing to the Agency: The outgoing law firm may be required to provide a verbal briefing to the Agency and new LSP on the status of ongoing legal matters, including any pending actions or deadlines.
3. Charging for Transition-Out Services: The LSP may charge for services provided to facilitate the transition-out process, as per contractual arrangements or agreed upon by the Agency at the time of the request. The terms of specific charges should be negotiated and agreed upon in writing to avoid any subsequent disputes.

Skills Transfer /NDIA Knowledge Bank

Wherever reasonably practicable, the LSP should facilitate skills and knowledge transfer to NDIA staff and other LSPs, as required.

The LSP's personnel are expected to engage as partners working towards shared goals and outcomes, and improved consistency of advice and Agency position and approach

Wherever reasonably practicable, the LSP should:

- provide Litigation Strategy and advice to individual staff (Case Managers and ILO) on matters, including identification of strategic significant issues demonstrate new tools and technology that may be of interest to the Agency;
- share legal and operational challenges as they arise and consult effectively on the development of solutions;

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- share suggested amendments or improvements to templates, tools and training materials; and
- provide regular content for knowledge bank and facilitate and participate in development sessions with Agency Staff and other LSPs on topics of broader interest, but also on topics targeted and tailored to the work we do on ART matters.

The email address for Knowledge bank content is [s47E\(d\) - certain operations of agencies@ndis.gov.au](mailto:s47E(d) - certain operations of agencies@ndis.gov.au)

12. Performance Management Framework

The Agency will measure the performance of LSPs on an ongoing basis against NDIS specific values-based measures and high-level key performance indicators (KPIs) as outlined in this Legal Provider Management Framework. The KPIs used by the Agency are consistent with the Performance Measures in Schedule 7 of the Panel Head Agreement.

KPI reviews will be undertaken on quarterly basis through assessment of NDIS specific values-based performance measures, client surveys, LSP quarterly reporting and compliance with NDIA Standing Instructions.

CMs and ILOs will work collaboratively with LSPs to rectify performance issues as they occur, noting that should ongoing or critical concerns arise. These may be escalated to DCC, DRL and/or BM, ART CM and the Agency may commence dispute resolution engagement which may lead to review of legal service arrangements.

Quarterly performance meetings will be arranged and LSPs will be informed by robust quarterly reporting mechanism to ensure the LSPs and the Agency are working collaboratively to solve issues to mitigate any systemic issues and to assist building an authentic partnership relationship.

See **reporting requirements** and **quarterly performance meetings** section at 15.

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13. Overview of Key Performance Indicators

Performance Framework category	Performance measures	Monitoring Mechanisms
Legal Expertise	• Relevant, accurate, succinct, timely and practical legal advice. • Dispute resolution focused litigation strategies. • Legal services meet the Agency's requirements as specified in the Work Order and relevant Standing Instructions. • Effective management of risk. • Focused continual improvement / lessons learned and suggestions provided to Agency as appropriate.	• Lawyer and Case Manager survey results average rating above 7 • 80% of matters are resolved within 12 months • Agency client feedback data, and any other information obtained from CMs, ILOs and the ART as to the LSP's performance.
Communication	• Compliance with NDIAs relationship management, reporting requirements and relevant Standing Instructions. • Responsiveness to ad hoc requests for advice and support. • Effective management of performance feedback (if negative feedback—a demonstrated plan for rectification). • Proactive communication of trends in case law and case management.	• 100% attendance at quarterly relationship meetings • Submission of required reports (on time and accurate) • 1% Non-compliances and Nil substantial MLO complaints • Relevant contributions to the Agency's Knowledge Bank
Customer Service	• Understanding and acting in accordance with the Agency's purpose and the	• Frequent value- add offers to assist the NDIA build its internal

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Performance Framework category	Performance measures	Monitoring Mechanisms
	Chief Counsel Division's legal practice vision and mission. Effective budget management, rendering correct and timely invoicing that is consistent with work orders.	capability and legal expertise. Notification (100%) when a matter reaches 85% of budget, invoices, Work In Progress and financial reports are delivered appropriately as requested.
Value for Money	- Services delivered by the LSP are value for money. - LSPs align work complexity and type of work to experience levels of legal officers - At the end of the Initial Term and any Extended Period, whether the average cost of work performed for each Pricing Band has decreased (i.e., cost per matter)	- Compliance with PQE levels required in the ART Standing Instructions. - Monthly reports of average cost per matter

14. NDIS Specific Performance Measures

Participant Service Charter Value	Metric	Monitoring measures
Transparent	LSPs, ILO and CMs are empathetic, use plain English and create accessible documents. Ensuring Participants /Applicants are kept up to date on their matter; explaining the process and the Agency's position clearly, including by using language appropriate to the Participant/ Applicant; and following up if a Participant/ Applicant fails to provide information, to ensure that they are following the ART processes.	Measured by ad-hoc surveys with Participants, ILOs and CMs
Responsive	ART applications, including those outsourced to LSPs, are managed proactively, appropriately, and in a timely manner (less than 12 months) with an aim to resolve each	80% resolved in 6 months.

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Participant Service Charter Value	Metric	Monitoring measures
	matter as quickly, fairly and efficiently as reasonably practicable.	
Empowering	Communications with Participants are provided in an appropriate accessible format (keeping in mind the preferred method of communication of the Participant)	Internal Staff notifications, monitored via quarterly performance meetings (i.e., lack of response, complaints, using non-accessible documents).
Respectful	Communications with Participants, ART/ Courts are courteous, professional, timely and clear, and firmly based on MLOs.	Information provided from Tribunal and NDIA Reporting Manager/ Provider Performance Team/ Tribunal monitor for quarterly meetings. 100% adherence to Model Litigant Obligations evidenced by nil substantial MLO complaints. 1% Non-Compliance instances.
Connected	Level of satisfaction among NDIA staff and other stakeholders with the clarity and completeness of information provided by LSP.	Ad-hoc surveys with Participants, ILOs and CMs. Monitor through quarterly performance meetings.

15. Quarterly Feedback Surveys

At the conclusion of each matter, Agency ILOs and CMs assigned to the ART matter will be asked to complete a survey to reflect on the LSPs performance, disability centricity, human centered and disability and trauma informed approach and alignment to the Participant Service Charter.

Surveys will commence in Q3 23/24.

The survey questions may change each quarter but will be shared with the LSPs at the quarterly performance meetings.

External Legal Service Provider Performance (Survey Part 1)

- During this matter, please rate the firm's level of applied legal expertise relating to the NDIS legislation (rates and comment)
- Do you agree with recommendations for evidence that was required during the matter? i.e., IMEs / Summons (please provide comment)

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- Did the external lawyer demonstrate an early resolution approach throughout the matter? (Please provide comment)
- Were there any issues with non-compliance on this matter?
- Did the external lawyer demonstrate compliance with the Model Litigant Obligations?

External Legal Service Provider Alignment with the Participant Service Charter (Survey Part 2)

- During this matter, did the LSP demonstrate **transparency**, in particular where possible make it easy for the Participant (Applicant) to access and understand NDIS information and decisions?
- Did the LSP provide documents in a format accessible for Participants (Applicants)?
- During this matter, please rate the LSP's **responsiveness** to the Participant (Applicant), internal Case Manager and ILO.
- During this matter, please rate the firm's **respectfulness**, in particular the external lawyer's recognition of the Participant's individual experience and acknowledgement that a Participant is the expert in their own life
- During this matter did the LSP demonstrate that they were **empowering** the Participant and suitably aware of the impact of different disabilities and diversity in people's lives?

16. Quarterly Performance Meetings

At the end of each quarter, we will schedule a NDIA and Legal Service Provider Performance Meeting.

This meeting attendees will include:

- Deputy Chief Counsel Dispute Resolution and Litigation (DCC, DRL)
- Director Legal Strategy, Provider Performance & Management and Relationship Manager
- Legal Service Provider Partners
- Legal Service Provider Relationship Manager

These meetings will discuss the performance of the LSP particularly in relation to work quality, legal costs, legal issues, and the compliance with the timeframes set out in this document and the Standing Instructions together with any other feedback received (including from Participants (Applicants), their representatives, or the ART). Equally, the Agency will be keen to hear from LSPs in relation to any feedback that they have in relation to the Agency performance and processes.

From time to time, if a significant issue or problem arises in relation to the performance of the LSP or the way the Agency is managing its outsourcing, the LSP must request a meeting with the relevant internal staff member to discuss the issue or problem. The Standing Instructions also have an escalation process.

The LSP must not charge the Agency for attending quarterly meetings.

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To assist these discussions, the Agency will provide a Quarterly Performance Meeting Report and Agenda prior to the meeting (see **Reporting Requirements**)

17. Reporting Requirements (ART LSPs)

Regular reporting requirements, templates, and instructions

The Agency has several compliance tools and evaluation processes that are utilised to monitor LSPs performance.

LSPs will be responsible for the accurate and timely submission of monthly financial reports, quarterly reports and an annual legal costs reconciliation report.

Each LSP will nominate a contact officer / Reporting Manager to work with the Agency on reporting requirements.

The templates to assist the Agency Reporting Requirements are in **Appendix B**.

Monthly Financial Report (Appendix B – Template 1)

The Monthly Financial Report relates to the financial information of the work order (**Template 1**).

The Monthly Financial Report provides the Agency:

- Financial information including current Work in Progress (WIP) report as per work order/ purchase order
- Fee expenditure report including the balance of approved fee/disbursement expenditure as per purchase order
- Outstanding invoice report highlighting invoices on hold/in dispute.

The Agency will use the NDIA Monthly Financial Report Template (**Template 1**) for reporting on WIP, Outstanding Invoices and Fee Expenditure.

Please submit to s47E(d) - certain operations of agencies @ndis.gov.au on dates requested by email each month.

Quarterly Matter Report (Appendix B – Template 2)

The Quarterly Matter Report provides information on all current matters managed by the Legal Service Provider (**Template 2**).

A focus for the Agency in reviewing the matter report will be to ensure LSP demonstrate their awareness of the Agency's strategic priorities and cohorts, and the development of high-quality litigation strategies.

The Agency will use NDIA Quarterly Matter Reporting Template (**Template 2**) for seeking information on current matters.

Please complete prior to the end of each month and submit to

s47E(d) - certain operations of agencies @ndis.gov.au.

Quarterly IME Report (Appendix B – Template 3)

The Quarterly IME Report is a quarterly reporting requirement on Independent Medical Experts (IME) procured on Agency matters.

Template 3 sets out the information required to undertake further analysis. The Agency will request assistance to complete and return prior to each quarterly meeting in order to analyse the data, present, and discuss together.

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The Agency will send this each quarter and advise of the due date, ordinarily allowing at least ten working days for the report to be returned.

Annual Reports (Appendix B – Template 4)

Legal Costs Reconciliation Report

In order to reconcile with the AGD's OLSC Legal Service Expenditure Report, the Agency requires assistance of the LSPs to ensure accurate reporting.

The Agency will seek copy of your OLSC Reconciliation report (**Template 4**) that includes year-to-date figures at the end of each financial year to be sent to

s47E(d) - certain operations of agencies @ndis.gov.au with the additional information below:

- LEX ID;
- Purchase Order number;
- ART Matter number;
- Invoice number;
- Invoice date; and
- Breakdown of costs – professional fees, disbursements, GST amount and total invoice amount.

18. Contract and Accounts Management

Invoices/ Payment

All payments are processed from a Shared Government services centre (Shared Services) that uses an automated system.

Invoices must:

- a. be emailed to s47E(d) - certain operations of agencies @ndis.gov.au;
- b. be sent in original PDF format (not scanned), with one PDF invoice per email;
- c. quote a purchase order (PO) number on the invoice;
- d. ensure ABN on invoices matches the Vendor account;
- e. be a correctly rendered tax invoice;
- f. include LEX ID (Billing reference);
- g. include fixed fee schedule information;
- h. include the name of the Agency instructor (case manager or internal lawyer);
- i. include invoice number;
- j. include invoice date; and
- k. include invoice period.

Fixed fees, and time writing narrations and costs (hourly rates) (where applicable), should be recorded against the categories listed under the category that most closely applies in the Shared Services system to reflect the time incurred and should be clear and concise, accurately reflecting the work performed.

Disbursements must be clearly described, noting they must be itemised, e.g., assessment report, witness costs, counsel, or Senior Counsel fees and any third-party invoices must be attached within the same PDF document as evidence of the item and cost.

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The Agency will not accept disbursement charges from a legal provider or third-party provider, for items such as postage, couriers, or travel unless prior approval by an official Agency delegate has been agreed, or extreme circumstances have transpired.

Invoice limits

Invoices with combined value of \$2,500.00 (ex.GST) may be issued monthly unless the invoice is:

- a. for the months between May and 30 June, where the total amount can be a total of \$2,000 (excl GST) (plus costs and disbursements), providing where possible a second invoice is not expected to be issued prior to 30 June; or
- b. the final invoice for the matter. Please note on the invoice when it is the final invoice for a matter.

Invoices should be submitted to s47E(9) - certain operators @ndis.gov.au no later than four business days before the end of the month. No further invoices will be processed until the following month.

19. Disability Centricity

It is expected that LSPs, when working alongside Agency staff and Participants, share our commitment to support people with disabilities and agree and acknowledge that:

- the Agency and LSP are committed to ensuring that the principles in the United Nations Convention on the Rights of Persons with Disabilities are implemented and that the Agency is acting in compliance with the obligations in the relevant disability laws; and
- One of the key principles of the National Disability Insurance Scheme is that people with disabilities should be supported in all their dealings and communications with the Agency so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs (sections 4(9) and 17A (2) of the NDIS Act).

20. NDIA Minimum Standards for Accessibility

The communication needs of NDIS Participants, both current and future, are diverse. Australians with disability may have additional communication needs relating to their language, culture, and literacy levels, in addition to needs that arise from their disability.

The NDIS is founded on the principle of 'choice and control' for people with disability. To have meaningful choice and control over their lives and disability supports, people with disability must also have meaningful access to communications about their plan.

The Agency has adopted three key concepts that must be applied when producing internal and external communications, that LSPs working with Participants should consider and operate on the basis that:

1. Accessibility should be 'business as usual'.
2. Accessibility is integral to ensuring the independence of people with disability.
3. Accessibility is the responsibility of all Agency staff and LSPs.

The Agency is engaged in other programs of work such as the Cultural and Linguistic Diversity (CALD) Strategy to support these requirements.

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Medium	Accessibility requirements
Printed materials	• Avoid high-gloss paper, which can be difficult to read. • Use plain English. • Make products available in Easy Read wherever possible. • Make products available in Braille where necessary. • Avoid bold or italicised text. • Prioritise large, white spaces between and around text. • Use high-contrast colour schemes—prioritise dark text against a light background. • Printed information must have electronic version(s) available—which must be compliant with WCAG 2.0AA. • Caption images, graphics/graphs with descriptions (alt text). • Tables should have heading rows. Tables should not have empty cells or merged cells. • All headings must use inbuilt heading styles.
Video	• Tell stories and content clearly and simply. • Video storytelling and imagery should match or complement audio/voice/script to provide a coherent 'story' being told by both. • Use plain English. • Use captions—prioritise larger font. See NDIS Video guidelines for specifications. • Transcript to be included with publication of video. • Always include live captioning or live Auslan translation for live videos. • Any text slides on screen must use high contrast between text and background and be voiced over. • Any text to describe vision in the video (i.e., a 'super') needs to remain on screen for as long as possible. • Clear and audible voices to be recorded on location but away from overwhelming or distracting noise. • Consistent audio levels and mixing are required—no sudden loud noises. Vocals should be strong and prominent. Music should not be overwhelming or distracting. • If video has an unavoidably high level of background noise (for example, video was recorded in a busy public place), it is to be posted with a warning about 'busy' background noise. • Video material should not be published in log format (flat footage) or otherwise lacking in colour or contrast.
In-person communications	• Use plain English. • Request accessibility requirements at first interaction with Participants/ event attendees. • Meeting organisers should contact attendees who have requested adjustments to understand their accessibility

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Medium	Accessibility requirements
	requirements (including accessing the venue) and communication preferences. • PowerPoint presentations are often inaccessible and an alternative accessible version (.docx, .pdf, html) may be required. In some cases, attendees may require presentations to be emailed to them prior to the event. Consider font size and colours used in presentations, including diagrams and charts/graphs. At a workshop, any visual representations or working documents need to be described to attendees. • Level 3 Auslan interpreters to be booked for events and forums. More than one interpreter may be required depending on the length of the event and the type of discussion (e.g., a question and answer). • Closed loop captioning/live captioning is required. • All signage to be in plain English and apply accessibility criteria as per the 'printed materials' section above. • All video footage shown at events to include captions. • Print versions of key information presented at events to be made available. • Lighting should not be dimmed during an event as it limits visibility. • All speakers to be introduced and identified. • All in-person communications require appropriate space for a wheelchair, other mobility device or assistance dog. Accessible seating to be provided, especially in break areas. • Catering is to be at an accessible level, not presented on tiered stands on tabletops.
Email	• Use a descriptive subject line. • Use descriptive links. • Colour contrast—ensure there is sufficient colour contrast between text colour and background colour. • All images should have descriptions (alt text). • Use cascading headings for longer emails. • Tables should have heading rows. Tables should not have empty cells or merged cells.

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21. Definitions

In this Framework:

Agency means the National Disability Insurance Agency

BM, ART CM means the Business Manager of the Administrative Review Tribunal Case Management, Chief Counsel Division

CM means a Case Manager who is the Instructing Officer in the Administrative Review Tribunal Case Management, Chief Counsel Division

LO means the Legal Operations team in the Chief Counsel Division, responsible for compiling T-Documents and other administrative matters.

DCC, DRL means the Deputy Chief Counsel of Dispute Resolution and Litigation branch, Chief Counsel Division

ILO means Agency internal legal officer of the Dispute Resolution and Litigation branch instructed as solicitor on record for a matter

LSP means an external legal service provider

ILO/ LSP throughout this document means ILO if they are the lawyer with carriage OR LSP if they are the lawyer with carriage

NDIS or Scheme means National Disability Insurance Scheme

NDIS Act means *National Disability Insurance Scheme Act 2013*

Participant means the person or entity that applied for Tribunal review of a Reviewable Decision, including a prospective participant, and their representatives, unless the contrary intention appears

Tribunal means the Australian Tribunal that conducts independent merits review of administrative decisions made under Commonwealth laws of the Australian Government

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