



A•S•U
Australian Services Union

ASU Submission

Inquiry into transitional arrangements for the NDIS

Joint Standing Committee on the
National Disability Insurance Scheme

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1. Introduction

The Australian Services Union (ASU) is one of Australia's largest Unions, representing approximately 135,000 members.

The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare workers, information technology workers and transport employees.

Current ASU members work in a wide variety of industries and occupations because the Union's rules traditionally and primarily cover workers in the following industries and occupations:

- Social and community services, including mental health services
- Local government
- State government
- Transport, including passenger air and rail transport, road, rail and air freight transport
- Clerical and administrative employees in commerce and industry generally
- Call centres
- Electricity generation, transmission and distribution
- Water industry
- Higher education (Queensland and SA)

The ASU has members in every State and Territory of Australia, as well as in most regional centres as well. Around 50% of ASU members are women, the exact percentage varies between industries, e.g. in social and community services around 70% of our members are women.

2. Who we represent in disability services

The ASU is the largest union of workers in the social and community services sector, which includes workers in disability support services across the country. We are the major NDIS union in Queensland, New South Wales, ACT, and South Australia. We also represent public sector disability support workers in Queensland.

The ASU's expertise in disability arises from representing the disability support workforce working in a range of different jobs roles including disability support work, care management and coordination, disability advocates, Local Area Coordinators, team leaders, and managers in disability providers.

3. The Inquiry

The ASU is pleased to provide this submission to the Joint Standing Committee's inquiry into the transitional arrangements for the NDIS.

We do not intend to address the issues outlined in the Terms of Reference. We do however wish to bring to the Committee's attention to two transitional issues that are of concern to the ASU and its members, as follows:

1. Uncertainty in relation to mental health supports; and
2. The capacity to attract and retain a workforce of the size required to roll out the NDIS.

4. Uncertainty in relation to mental health supports

Currently, funding from a number of state and federal programs is used to support people experiencing a psychosocial disability, but this will be rolled into the NDIS.

However not everyone who is currently receiving support from these programs will be able to access the NDIS, due to NDIS eligibility requirements. The ASU is concerned people living with a psychosocial disability may not be eligible for NDIS funding, as their mental health issues are not “permanent”.

Most people experiencing mental health illnesses will not qualify as they live with a moderate and/or episodic mental illness and rely upon support programs that may not meet the eligibility criteria for the NDIS. Many people with psychosocial disability have needs and impairments that change in severity and in nature over their lifetimes, sometimes changing very quickly.

Further, supporting people experiencing mental health issues often focusses on ‘recovery’, rather than on the condition or disability itself. The very notion of people with mental health issues needing to go through a process to demonstrate that they are in fact effectively permanently disabled in order to be eligible for NDIS funding is at odds with the approach adopted by support services.

People who do not qualify for the NDIS access requirements will need to rely on existing support services, however the funding for these very same support services are, in many cases, being subsumed into the NDIS. There is currently no commitment from government to continue to fund these services. Accordingly, the ASU is gravely concerned that people living with mental health issues could be left entirely without access to adequate support to support their recovery.

We are strongly of the view that state and federal governments must guarantee ongoing funding for mental health services for people who are not eligible for the NDIS without delay.

5. The capacity to attract and retain a workforce of the size required to effectively roll out the NDIS

The ASU is concerned that the current NDIS price settings undermine the capacity to attract and retain an NDIS workforce that is required to deliver a quality NDIS. We are also concerned that the price settings are facilitating the proliferation of insecure work in the sector.

The NDIS will double the number of people with disability currently receiving support and total government funding will increase from \$7 billion per year before the scheme commenced to over \$22 billion annually by 2020.

In order to meet the increased demand for person-centred, individualised supports the disability sector workforce will also need to double by 2020.

5.1 A decent safety net of pay and conditions to attract, retain and value the workforce

It is estimated that at least an additional 100,000 workers need to be found to support people with disability in the NDIS. In order to attract sufficient workers to meet this demand, disability support jobs must be secure and well paid, with career paths to retain workers in the sector.

We believe the current NDIS pricing regime does not provide for this. It is based on assumptions made about the nature of disability support work without any consultation with frontline workers, people with disability or their representatives.

We consider that a number of key assumptions underpinning the NDIS unit price are flawed, in particular:

- Classification and pay level of disability support workers

NDIS pricing assumes that disability support workers are employed at a SACS level 2.3 under the *Social, Community, Home Care and Disability Services Industry Award 2010* (the Award). However, this is, even in the eyes of the NDIA,¹ the rate that reflects the minimum level of experience and qualifications required of a disability support worker. Not only does this mean the price does not allow for any career advancement for employees who are employed at this minimum, but many disability support workers are required to have skills and experience well above the minimum, and many support workers are presently employed at SACS level 3 or above.

Furthermore, as supports are made individualised under the NDIS, a higher level of skills will be required to support the various needs of people with disability. This will require a higher classification of work for many disability support workers.

- Client-facing time

NDIS pricing assumes that only 5% of time excluding leave (which works out to just 3 minutes an hour) is not directly with participants or travelling between clients. This simply does not adequately allow for the necessary administration, training, peer support, team meetings, and supervision that is required in the role of a disability support worker.

- Span of control

NDIS pricing assumes that a supervisor is employed at SACS level 3.2, and a workforce ratio of 1 supervisor to 15 employees (to increase to 18 employees).

This is contrary to the Award provisions – a graduate with a 3 year degree should be employed at a minimum of SACS level 3.3, and should only supervise a “limited number” of lower classified employees.²

We are concerned that these pricing assumptions do not meet the minimum Award conditions, nor do they reflect the reality of disability support work. In response, many providers are seeking to reduce NDIS workers’ pay and conditions either through restructures or setting up new organisations to deliver disability support. This will only exacerbate the workforce shortages in the sector, and mean less quality and continuity in support for people with disability.

5.2 Secure jobs at the centre of service delivery

As the NDIS rolls out and competition intensifies for flexible and responsive person-centred service delivery, there has been, and we anticipate there will continue to be, will be a rise in insecure work arrangements in the sector. The traditional model of permanent employment with a single service provider will be eroded by alternative employment models, in particular:

- A rise in the casualisation of workforce as providers shift risks associated with flexible service delivery onto the workforce;
- A rise in instances of employment across multiple disability service providers as workers try to maximise a stable income in the face of provider hesitancy to embrace permanent full-time work under the NDIS;
- A rise in self-employment as a sole trader providing services directly to clients as workers seek to cut out the “middle man” of a controlling employer limiting their own hours and flexibility;
- A rise in “gig-economy” work as platform services (e.g. uber style services) enter the market; and
- A rise in people with disability wanting to employ directly their own support workers to have greater control over the type of support they want and when they want it.

Retaining and attracting workers to the sector is crucial for the NDIS to be a success. Quality, responsive supports for people with disability will not be available if the workforce is insecure and therefore unstable, and if the workforce is unable to develop and refine the skills and qualifications necessary to meet the needs of people with disability.

Further, People with Disability Australia (PWDA), a national cross-disability rights and advocacy organisation run by and for people with disability made a submission to the Fair Work Commission in relation to an application made by employer groups to amend the part time employment provisions of the Award.¹ In that submission PWDA set out the risks that arise to people with disability of the disability support workforce being employed in predominantly insecure employment arrangements, as follows:

“Devaluing the work of disability support workers devalues the lives of the people with disability they support

13. The proposed changes to the definition of part time work are dangerous to the success of the NDIS, specifically by threatening the quality of staff and thus services on offer to people with disability. Limiting the hours required to be specified on part-time contracts, say to 4 hours (even if more is expected) creates insecure employment. A person in this position would be in a financially worse position than a casual doing the same hours as casuals receive additional loading. It also risks the introduction of zero-hour contracts as has occurred in other jurisdiction such as the UK.

14. Low pay and insecure employment would make disability support work an increasingly unattractive career path and lower the level of skills and commitment in the already strained workforce. This is at a time when the workforce should be expanding, diversifying, and upskilling to adapt to the new environment and provide innovative solutions to people with disability. Disability support work is a challenging and rewarding career path, it should not be characterised as a fall back, or stop gap career for people unable to secure alternative better paid work with more standardised working conditions.

15. The proposed changes will create a category of worker who is offered insecure, low paid employment specifically because they work with people with disability. The inference being that people with disability somehow still require something ‘different’ than others in the community, and cannot be served by mainstream style supports. The NDIS challenges this perception, and it is the service sector that must respond by changing working cultures, raising expectations, and rewarding good staff as opposed to targeting the workforce for cuts and placing the responsibility for this on people with disability who are merely seeking the choice and control experienced by others in the community.

16. Moreover, the changes will disproportionality affect women who make up the majority of the current disability support workforce. It will also create a further barrier to employment for people with disability themselves who could be using their skills and expertise to increase their economic participation and strengthen their economic security by working in the sector.

17. Creating systemic employment discrimination problems for disability support workers discriminates against people with disability too by indirectly channelling potential staff into other industries with better working conditions. Devaluing the work of disability support workers devalues the lives of the people with disability they support.

18. Furthermore, there is considerable evidence linking underpaid, unmotivated, undervalued staff to violence, abuse, neglect and exploitation of people with disability especially those living in residential institutions or receiving personal care in their own homes. Research demonstrates that violence, abuse and neglect tend to occur where work is precarious, unstable or contingent (Mayhew and Quinlan, 2000 Both PWDA and the ACDA have advocated extensively on this topic, most recently in evidence to the Senate Community Affairs Inquiry into Violence, Abuse and Neglect Against People with Disability in Residential and Institutional Settings (2015). The Senate Report made specific recommendations around

¹ PWDA submission found here: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/am2014196-witness-pwda-22022016.pdf>

workplaces and worker practices with regard to addressing violence committed by staff. 19. Attractive working conditions for disability support workers are essential in order to support the paradigm shift embodied by the NDIS, encourage the development of a high quality market for disability supports which meets the needs of consumers, and to ameliorate the risk of violence towards people with disability.”

5.3 Workforce development and training

Greater choice and control for people with disability over the types of supports they want and need will mean that the NDIS workforce needs to be supported to continuously develop new skills and qualifications relevant to diverse needs of individual clients.

In particular under the NDIS there will be:

- Need for greater specialisation to reflect individual needs of people with disability (e.g. menstrual support, nutrition support, music/art/sport therapy and activities);
- Need for greater multi-disciplinary skill-sets for workers to be able to specialise across multiple clients (e.g. being able to work with high needs and low needs clients, with physical and intellectual disability, early intervention, aged care / mental health interface); and
- Focus on person-centred service delivery (e.g. importance of relational skills and relevant specialisation e.g. CALD, LGBTIQ, ATSI).

The NDIS will therefore provide opportunities for workers to have more diverse and fulfilling work and career paths, to better recognise and reward person-centred skill development, and to develop new qualifications / specialisations in the sector.

However, there is currently no person-centred professional development plan for the NDIS workforce. Disability sector workers are highly skilled and passionate about what they do – but their capacity to have their skills recognised, to develop new skills and to attain relevant person-centred qualifications is severely limited.

Furthermore, continuing professional development, in-house training and induction, and access to study leave is limited and varies across providers. As the sector becomes more competitive with the entrance of large for-profits in the market, access to these supports by workers will be further diminished as providers drive to reduce costs and increase profits.

Accordingly, we see a need for the establishment of a fund workers can access for RPL, formal qualification attainment and ongoing professional development in specialist skill acquisition relevant to the needs of people with disabilities.

6. Conclusion

The transition to the NDIS is presenting significant risk to the continuity and adequacy of mental health support for people that need it. This has led to extreme uncertainty for consumers and support workers, and threatens to undermine the quality of support. Governments need to provide certainty in relation to ongoing mental health funding without delay.

Further, the pay and conditions of workers in the disability sector has a direct correlation with the quality, availability and diversity of the support offered to people with a disability. A system of poorly paid workers with no training opportunities cannot give each client the quality individualised supports they need, nor will it attract the workforce required to meet demand for person centred services. This can be addressed by:

1. Reviewing NDIS pricing

Currently the NDIS pricing model does not deliver enough funds to cover minimum award wages and leave entitlements, with some organisations restructuring to create a “two tiered” workforce to employ workers on less pay and conditions. The current NDIS pricing arrangements reflect systemic undervaluation of disability support work. We call on the government to review the NDIS pricing model to ensure the NDIS will not only maintain but attract disability workers to the sector.

2. Developing a workforce plan

There is presently no comprehensive plan that deals with careers or training for disability support workers under the NDIS. This, along with pricing that supports decent pay and conditions, is essential to attracting and retaining a stable and skilled disability support workforce. Furthermore, workers must be provided access to education and training opportunities in disability support work.