



**A•S•U**

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2017 Price Review  
National Disability Insurance Agency  
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Canberra ACT 2600

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### Re: 2017 NDIS Price Controls Review

The Australian Services Union (ASU) welcomes the opportunity to make a submission to the 2017 NDIS Price Controls Review.

The ASU is one of Australia's largest unions, representing approximately 135,000 members. 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.

We have consulted widely with our members who work as disability support workers on the issues raised in this submission.

#### NDIA Discussion Paper Part 3.1.1: Transparency around inputs and assumptions

The ASU welcomes the NDIA's acknowledgment that there is need for greater transparency on the assumptions underpinning NDIS pricing. We seek the opportunity to work with the NDIA on this, specifically in relation to industrial minimums and standards in the sector. As independent workforce representatives we are well placed to provide detailed and well-informed information as to what is really happening on the ground as the NDIS rolls out.

#### NDIA Discussion Paper Part 3.1.2: Assumptions to be used in the hourly rate model

The NDIA has asked whether the assumptions outlined in Table 2 of its Discussion Paper are appropriate.

The ASU considers that a number of assumptions set out in Table 2 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,<sup>1</sup> 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

<sup>1</sup> NDIA report on the methodology of the efficient price, 2014, p 3.

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, including:

- The need for greater specialisation to reflect individual needs of people with disability (including, for example, menstrual support, nutrition support, music/art/sport therapy and activities).
- The greater need for multi-disciplinary skill sets for workers to be able to specialise across multiple clients – for example a worker may need to be able to work with high needs clients, low needs clients, clients with physical disability, clients with intellectual disability, clients requiring early intervention, and clients also using aged care or mental health services.
- Enhanced relational skills due to the person-centred nature of service delivery, as well as relevant specialisations (for clients who are part of CALD, LGBTIQ or ATSI communities, for example).

All of these skills are properly classified at SACS level 3 or higher. Additionally, the Award does not envisage that level 2 employees will be required to work independently with clients in the community unsupervised. 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. Further, the NDIA has not explained the underpinning evidence or assumptions that have led it to form the view that 3 minutes an hour is adequate for all of this work.

Finally, there are elements of the assumptions that are plainly incorrect. For example, the NDIA has assumed employees take 4 week's annual leave a year. However, full time employees who work 10 Saturdays or Sundays in a year (which would be many employees under the NDIS) are, in fact, entitled to 5 week's annual leave a year.

- 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.<sup>2</sup> Further, the unchallenged evidence before the Full Bench of the then Fair Work Australia in the Equal Remuneration Case<sup>3</sup> was that supervision of such a number of workers is more

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<sup>2</sup> Social, Community, Home Care and Disability Services Industry Award 2010, Schedule B.3.2(i)

<sup>3</sup> Equal Remuneration Case [2012] FWAFB 5184

likely to be properly classified as SACS level 4, rather than SACS level 3.

The assumption is also contrary to the reality of supervision in the disability sector. The ASU, in conjunction with the Health Services Union and United Voice, recently conducted a survey of 1522 disability support workers. Of the 416 respondents to the survey that identified as being supervisors, 65% are supervising 8 or fewer employees (compared to the NDIS pricing assumption of supervisors supervising 15 – 18 employees). Indeed, only 17% are supervising 14 or more employees. Of those supervising 14 or more employees, 83% agreed or strongly agreed that they could not provide proper supervision because they have too many people to supervise.

The ASU supports the inclusion of allowances in its pricing assumptions.

However, overall we are concerned that the pricing assumptions do not meet the minimum Award conditions, nor do they reflect the reality of working in the sector. 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.

*A specific casual rate?*

The ASU does not support a specific casual rate being included in the hourly rate model.

As the NDIS rolls out and competition intensifies for flexible and responsive person-centred service delivery, there has been, and 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, including a rise in casualisation of the workforce as providers shift risks associated with flexible service delivery onto the workers.

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. 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. A copy of that submission can be found here:

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

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.

We are concerned that a specific casual rate would normalise and encourage increased casualisation of the disability support workforce.

However, where is a need for additional allowances or penalties within the price for work to be performed during unsociable hours or at times of high demand, such an allowance should be provided for all workers.


We seek the opportunity to meet with NDIA representatives to discuss the rationale and proposed operation of a casual rate before any decision is made in relation to it.

#### **NDIA Discussion Paper Part 4: Price banding**

We are of the view that this proposal does not resolve the extensive issues that have arisen with the inadequate pricing assumptions to date. In our view it is essential that industrial minimum entitlements, as well as quality standards, are taken into account in determining both the minimum and the maximum rates (as it is essential that the minimum rate can meet industrial minimums). Further, these industrial minimums are not “transitional” and will not reduce over time – they are a constant, and the price both now and into the future must account for them.

We would welcome the opportunity to discuss any of the matters raised in this submission in more detail.

Yours faithfully,

A handwritten signature in blue ink that reads "Linda White". The signature is written in a cursive style with a large initial 'L'.

**Linda White**  
**Assistant National Secretary**