



ASU Submission

Inquiry into the NDIS Quality and Safeguards Commission

Joint Standing Committee on the National Disability Insurance Scheme

1. The ASU

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.

Currently 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:

- Disability support
- Social and community 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 South Australia)

The ASU has members in every State and Territory of Australia, as well as in most regional centres. 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.

1. Our submission

The ASU is pleased to provide this submission to the Joint Standing Committee on National Disability Insurance Scheme.

The Australian Services Union (ASU) represents workers throughout the not-for-profit and the NDIS and disability services sector. We are 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.

In 2020 the ASU, in conjunction with HSU and UWU commissioned a survey of 2,341 disability and NDIS sector workers (2020 survey of the Australian disability workforce)¹. These workers were from each Australian state and territory and worked in a range of roles and across disability service settings. The results from this survey and our members' experiences as front line workers, who provide a range of NDIS supports services to people with disability, informs our submission.

We do not intend to address all of the issues outlined in the Terms of Reference (ToF), however wish to respond to those which are most relevant to the experience of ASU members as workers in the NDIS and disability service sector.

Our submission does not go into detail about the issues that have arisen in the NDIS sector due to the COVID-19 pandemic except where they relate to the ToF. The ASU has made a number of

detailed submissions to other Parliamentary Inquiries on issues impacting on our members and the work they do during the pandemic and would be happy to provide a further submission dealing with COVID-19 related issues should the Committee desire.

2. Powers available to the Commission

The powers available to the Commission to monitor, investigate and enforce should be reviewed as gaps or weaknesses in those powers become evident through investigations of incidents, complaints and allegations. Recently, the legislation relating to banning orders was strengthened following the initial investigation into the death of Ms Ann Marie Smith in South Australia. The ASU believes this was an appropriate response when this gap in powers was identified.

A more pro-active approach could be adopted by the Commission through regular or scheduled consultation with NDIS participants and workers. Participants and workers have different perspectives than providers and regulators on the effectiveness of the powers available to the Commission to regulate and improve the quality and safety of NDIS supports and services. The report of the 2020 survey the Australian disability workforce demonstrated that 'workers perspectives are essential sources of information about the operation of the service system.'ⁱⁱⁱ The continued engagement of workers in discussions about the effectiveness of all aspects of the NDIS quality and safeguards framework will help to ensure that the Commission's powers and use of those powers promote high quality and safe supports and services to people with disability.

We recommend regular or scheduled consultation with NDIS workers and NDIS participants to seek their experiences of the effectiveness of the Commissioner's powers to monitor, investigate and enforce Practice Standards and the NDIS Code of Conduct.

3. Improving responses to concerns, complaints, reportable incidents and breaches of the NDIS Code of Conduct and Practice Standards

The Commission's guidance to workers is to report reportable incidents to key personnel of the provider. Registered providers are required to nominate key personnel who are responsible for receiving complaints and reportable incidents and then reporting and acting on them in accordance with the regulations. Workers are also guided to report breaches of the Code of Conduct to providers. There is no specific worker guidance on reporting breaches of Practice Standards, however, it is assumed that workers should follow the general advice to report these breaches directly to the Commission or the NDIA.

The experience of workers who report concerns, complaints, reportable incidents and breaches relating to NDIS participants varies across the sector. In conversations with their union many workers express concern about the lack of feedback they receive about the reports they have made in accordance with the Code of Conduct. Workers who believe an NDIS participant is at risk of abuse or neglect or who are aware of breaches report these incidents to key personnel of the provider, however workers rarely, often never, are advised of the outcome of the report they have made. This leaves workers in a situation of not knowing if they should take further action or if the issue they have raised has been addressed or the risk to the NDIS participant has been eliminated.

The ASU believes that providers should be required to respond directly to workers who have raised concerns, reported incidents and breaches or made complaints. Disability workers, particularly those providing direct care, are best placed to identify unsafe and poor quality services and risks to NDIS participants.

The 2020 survey of the Australian disability workforce asked a series of questions about safety at work and reporting incidents. Workers identified employers' responses, or lack thereof, as a major barrier to reporting. Many commented that their reports were rarely followed up, despite persistent reporting.

'I have reported such things both internally and externally and nothing changes.'

'Never receive much follow up on incidents. But if it's something big maybe or obvious it might be dealt with.'

'It feels like there is NO point reporting things. Nothing is ever done about it. Even if you're reporting an injury that happens again and again.'

Disability workers want their workplaces to be safe for workers and clients. While some workers commented that clients faced a unique but similar set of risks as workers do if incidents are not acted on, others were more confident that they would be supported if they reported critical incidents.

'We can complete incident reports, but that doesn't mean they are recorded to DHS or that family members are made aware of events that have occurred.'

'Higher levels of management always appear more concerned protecting themselves & the organisations reputation than the safety & wellbeing of both residents & staff.'

'Managers often ask staff to change incident reports and risk matrix.'

'We have been told not to document. Manager [is] sick of paperwork.'

Disability workers are an invaluable source of information on the quality and safety of NDIS services and supports. The NDIS complaints management system should give worker confidence that their reports of incidents, breaches and complaints will be listened to, acted on and outcomes communicated back to them.

4. Worker Screening

The ASU recognises the need for a national NDIS Worker Screening Check (WSC) for all who work within the NDIS to exclude any person who poses a risk to the safety of NDIS participants. We believe that worker screening checks should be undertaken for all workers, volunteers and contractors who deliver NDIS services that require contact with participants whether they are engaged by a registered provider or a non-registered provider. We believe that the status of the provider's registration does not reduce the risk a person may pose to the safety and well-being of NDIS participants and that the NDIS WSC should be universal.

The current interim arrangements for NDIS WSC in most states and territories were expected to be replaced in July 2020 by the permanent checking processes to be carried out on behalf of the Commission by the relevant state and territory agencies, however this has not occurred.

Consequently, the interim arrangements remain in place and it is unclear when the permanent processes will commence. We understand that the management of the COVID-19 pandemic has had an impact on all aspects of government and non-government service delivery, it would be helpful if workers an indication of when the permanent NIDS WSC will commence in their state or territory. To date there has not been any advice of a new expected commencement date. Workers and providers need notification of the commencement date to ensure they have the necessary documentation and administrative systems in place to meet the requirements of the WSC process.

5. Communication and engagement between the Commission and state and territory authorities

The ASU believes that there needs to be clearer guidance from the Commission relating to State and Territory Public Health Orders during COVID-19. States and territories have been issuing public health orders, directives and advice to disability service providers within their jurisdictions on COVID-19 related matters such as PPE, exclusion of visitors from particular outbreak areas and local government areas (LGA), requirement for workers residing or visiting particular outbreak areas and LGAs to wear masks at all times when at the workplace.

In our conversations with workers the ASU has found that a number of workers have not been advised of these public health orders and directives. The ASU believes it is important that workers can access this information via the Commission's webpage.

The Commission's dedicated COVID-19 webpage did not refer to State or Territory Public Health Orders until the recent Victorian outbreak. Notwithstanding this change the Commission's webpage currently only refers to Victoria and no other state or territory. We believe this is an omission that should be rectified immediately to reflect the latest public health orders and directives in each state and territory.

6. A greater focus on quality of NDIS supports and services

The ASU believes there needs to be a greater focus on the quality of supports and services provided under the NDIS. In the 2020 survey of the Australian disability workforce workers answered a series of questions relating to service quality. Just 27% of respondents agreed that participants received good quality services under the NDIS. Workers' responses indicate there are a number of ongoing issues that affect service quality, including unmanageable workloads, staff shortages and lack of training. The following comments from workers illustrate some of the issues that impact on the quality of services provided to NDIS participants:

'Workload is increased when short staffed which is always.'

'My workload is far too high for my hours and nobody cares or monitors.'

'High volume of work with strict KPI targets and understaffed environment which lead to increased stress levels, overworked staff and staff burn out.'

Respondents also reported unmanageable workloads led to a lack of supervision of workers providing direct care. Many disability support workers did not receive appropriate inductions, peer support, guidance with important decision making or one to one support, with 59% of respondents agreeing that they have to make decision about client safety, care and support on their own and 53% of team leaders saying they do not have enough time to provide proper supervision.

'We have not had supervision in 4 years.'

'There is minimal supervision, and I have constant trouble contacting management when needing support, [meaning I] need to make own judgement calls.'

'There are policies and procedures in place for support and supervision but in reality it doesn't happen.'

'No support given. Only hear from manager when things go wrong.'

'As a casual in my current organisation there is no supervision or support for me.'ⁱⁱⁱ

The issue of unmanageable workloads in the NDIS sector is a constant concern of workers in their conversations with their union. Workers want to deliver high quality and safe services to NDIS participants, to do this they must have manageable workloads and regular supervision.

'Since NDIS, the company has lost its quality and training of its workers, employing anyone so they can fill the shifts. The company have got rid of house managers, team leaders, to save on money. No communication books, so all feedback is put online, but one cannot go online at the start of shift as this is a critical time for the client.'

'So much effort and time of the provision of services is centred around NDIS procedure; the paperwork, auditing and administration, that it is taking away from supporting clients.'

A standard for participant/staff ratio in the NDIS sector should be developed in consultation with participants, workers and providers to ensure workloads in all NDIS settings, roles and service types are sustainable and safe.

Many NDIS participants with complex and multiple needs require skilled and competent support workers to ensure their needs are met. NDIS workers recognise the importance of training and believe it is essential to their capacity to deliver personalised, high quality care. The 2020 survey of the Australian disability workforce also highlighted the lack of access to training in the NDIS sector, the following comments illustrate this point:

'Information can be lost or forgotten if relaying it back to the team is required. If our workforce is universally trained, we'll see a lot less errors made. Knowledge is crucial.'

'Staff need urgent training in quality safeguards.'

'Staff cannot continue to provide quality care if we aren't trained to carry out tasks allocated. Computer training is also required as this has become an integral part of staffs shifts now.'

Reduced access to training, how training was delivered, affordability and quality of training, and specialised training were also commented on by workers:

'We were getting good training but all of a sudden it has stopped not even new staff are getting appropriate training and orientation and are put on shift with no med training or Peg feed training with customers that require these services.'

'Tick and flick online training is a joke, you don't learn anything satisfying as pass on a computer screen. This does not translate into practical skills such as manual handling, etc.'

'More training is being done on line. It's expected to be done at work. This causes stress as you know you are neglecting people with needs.'

'I would like to get paid for training I do on my own time, sometimes we do but things like first aid we are made to attend on our own time and also pay for most of it.'

'More training in all aspects of Mental health especially residents that have... dual diagnoses of mental health and ID [intellectual disability]'

The delivery of safe and quality NDIS services is dependent on a skilled workforce and training is essential to skill development. It is concerning that 26% of workers in the 2020 survey reported receiving less than one day of training in the last 12 months and only 51% of support workers said they received the training they needed to do their job safely.

A key principle of the NDIS is that people with disability should have greater choice and control for over the types of supports they want and need. For this to be realised the NDIS workforce needs

to be supported to continuously develop new skills and qualifications relevant to diverse needs of individual clients.

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 has become more competitive with the entrance of large for-profits in the market, access to these supports by workers has been 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.

7. References

ⁱ Cortis, N., & van Toorn, G. (2020). Working in new disability markets: A survey of Australia's disability workforce Sydney: Social Policy Research Centre, UNSW Sydney <http://doi.org/10.26190/5eb8b85e97714>.

ⁱⁱ Ibid

ⁱⁱⁱ Ibid