



# Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

*Systems and Individual Advocacy for vulnerable People with Disability*

## Joint Standing Committee On National Disability Insurance Scheme Workforce Inquiry

### Submission by Queensland Advocacy Incorporated

**16 April 2020**

“Work is love made visible. And if you cannot work with love but only with distaste, it is better that you should leave your work and sit at the gate of the temple and take alms of those who work with joy.”

Khalil Gibran

“What you are will show in what you do.”

Thomas A. Edison

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

## About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (**QAI**) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland. QAI's board is comprised of a majority of persons with disability, whose wisdom and lived experience of disability is our foundation and guide.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for over a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program and, more recently, the National Disability Insurance Scheme Appeals Support Program, Decision Support Pilot Program, Disability Royal Commission Advocacy Program and Education Advocacy Service. Our individual advocacy experience informs our understanding, and prioritisation, of systemic advocacy issues.

## NDIS Workforce

As part of the committee's role to inquire into the implementation, performance and governance of the National Disability Insurance Scheme (NDIS), the committee will inquire and report on the workforce providing NDIS services (the NDIS workforce), with particular reference to:

- a) the current size and composition of the NDIS workforce and projections at full scheme;
- b) challenges in attracting and retaining the NDIS workforce, particularly in regional and remote communities;
- c) the role of Commonwealth Government policy in influencing the remuneration, conditions, working environment (including Workplace Health and Safety), career mobility and training needs of the NDIS workforce;
- d) the role of State, Territory and Commonwealth Governments in providing and implementing a coordinated strategic workforce development plan for the NDIS workforce;
- e) the interaction of NDIS workforce needs with employment in adjacent sectors including health and aged care;
- f) the opportunities available to, and challenges experienced by, people with disability currently employed, or wanting to be employed, within the NDIS workforce; and
- g) any other matters.



## QAI's recommendations

### QAI recommends:

1. Abolishment of Supported Independent Living (SIL) from plans. SIL funding for NDIS participants should be replaced by open and individualised funding for everyone, including people who wish to share accommodation and support.
2. Restructure pricing for supports at the top and bottom of the market with particular emphasis on mental health supports, therapy supports and services for people with complex needs.
3. Restructure pricing for regional, rural and remote regions to strengthen service delivery which has higher overhead costs than their urban counterparts.
4. Provide adequate funding to participants in regional, rural and remote regions to enable delivery of service.
5. Work with Indigenous councils to train service providers and staff to deliver services, by building the capacity of local people.
6. The NDIA ensure each state and territory has a well-equipped, well trained and person-centred human rights based 'provider of last resort'.
7. Provide both financial and physical support to participants to learn how to self-manage their plan to enable maximum flexibility.
8. Provide support and guidance to self-managing participants to understand Australian Taxation Office rules, Fair Work rules and other employment issues resulting from directly employing staff.
9. Provide information to the mainstream and community on services that can be provided under the NDIS to encourage mainstream services in a disability setting.
10. The NDIA (and Quality and Safeguards Commission) provide assistance to providers and sole traders to participate in the auditing process which can be timely, costly and a hindrance to staying in the NDIS market.
11. The Quality and Safeguards Commission to scrutinise service providers providing housing and supports and restrict registration to ensure no provide is able to provide both functions.



## Introduction

This submission is informed by QAI's experience in delivering non-legal advocacy for people engaging with the NDIS, through its National Disability Insurance Scheme Appeals Support Program and Decision Support Program, as well as our systems advocacy. It is also informed by insights gained through collaboration with our allies in advocacy, and the lived experiences of members and staff.

## The current size and composition of the NDIS workforce and projections at full scheme

The roll out of the National Disability Insurance Scheme has been referred to as “one of the biggest social reforms since Medicare”. With this significant change in how disability services are funded, there have been substantial and often fast paced changes in the delivery of disability services.

With these changes that see considerable increases in disability service funding available, there would be an expectation that the size and composition of the NDIS workforce would increase and become more diverse. However, according to NDIA data, on average 61% of payments from NDIS participants' plans go to the ten largest service providers.<sup>1</sup> This can be attributed to large service providers who have had to move away from a government block funding model, to a consumer-directed funding model, registering to provide multiple types of services under the NDIS. This has seen participants of the NDIS being provided 'wrap around' services such as in-home support, community access, therapies and support coordination from only one service provider. QAI has made submissions to relevant government bodies in relation to these types of services, which we consider prevent participants from exercising their choice and control to engage new and innovative services (indeed, many participants in this situation are still unaware of their right to choice and control over their supports and services).

QAI has previously made submissions to the Department of Social Services in relation to thin markets and some of the challenges experienced in the size and composition of the NDIS workforce.<sup>2</sup> This submission focused on the cohorts of participants who were finding it particularly difficult to engage appropriate workers in the current workforce composition. These cohorts include people with psychosocial disability and complex support needs which are multifaceted and impacted by the lack of skilled workers in the NDIS workforce; simply put, there are not enough skilled workers to meet the demands of the number of people who require high level supports.

## Challenges in attracting and retaining the NDIS workforce, particularly in regional and remote communities

With the evolution of disability services, there are multiple challenges in attracting and retaining people in the NDIS workforce. These challenges are exacerbated in regional, rural and remote communities. The following challenges have been reported by QAI clients, as

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<sup>1</sup> National Disability Insurance Agency 31 December 2019, The NDIS market, report.

<sup>2</sup> Queensland Advocacy Incorporated 23 August 2019, NDIS thin markets submission.



well as services that support QAI clients. This is consistent with other reports of challenges in the NDIS workforce.

Since moving to the funding model that the NDIS operates under, service providers no longer have guaranteed incomes (contrast the certainty provided under block funding arrangements). Participants of the NDIS are free to 'shop around' to find a service which meets their needs, and free to leave a service that they feel does not meet their needs. This is a welcomed change for participants, as it enables them to gain control over services they previously lacked. With the previous guarantee of funding, clients and family members reported feeling like a 'cog in the machine' with no individual focus on their needs; what was good for one, was good for all. However, with this new focus on individuals and their needs, and the ability for a participant to leave a service with 14 days' notice, service providers do not have the assurance of continuous income. This has seen an increase in casualisation of front line workers. The insecurity and vulnerability of casual work has long been documented.<sup>3, 4</sup> The increasing casualisation of front line support workers means front line workers are experiencing increased stress and irregular working hours.<sup>5</sup> Casualisation, irregular hours and poor communication between managers, workers and clients can lead to workers seeking employment either with a different service provider or branching out as a sole trader. This cycle continues, with the participant being left to continuously recruit staff to fill gaps.

Another challenge in attracting and retaining staff is the lack of training, supervision and ongoing mentoring provided to front line workers by both their employer and the NDIA. As people move through the sector, they gain invaluable experience working with people with different impairments and needs, however too often this is left to 'on the job shadow shift' training, which sees employees with minimal experience thrown into the deep end with a sink or swim mentality. For some employees, this sees them rising to the challenge, for others, the work is too stressful, overwhelming and results in them moving on. What is overlooked throughout this process though is that the employee is ill-equipped to work with the person with a disability and the person with a disability may or may not have the skillset to teach the employee what they require. The onus should not be on the participant, a fee-paying consumer to teach an employee the basics of a human rights care approach. Training and upskilling is something that needs to be made available to NDIS workers, without out of hefty out of pocket expenses.

A further by product of this cycle is the inconsistency of workers for NDIS participants. There is an underrated value in people with disabilities having the ability to establish trusting relationships with their workers. People who experience intellectual or cognitive impairments and those with psychosocial disability. By building these relationships, people with disability may be able to work more collaboratively with their staff to express their wishes in relation to their support and daily needs.<sup>6</sup> Further, "right relationships' can restore

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<sup>3</sup> MacDonald, F, Bentham, E & Malone, J 2018, "Wage theft, underpayment and unpaid work in marketised social care", The Economic and Labour Relations Review.

<sup>4</sup> Chan, S & Dale, T 2015, "Precarious work and reproductive insecurity", Social Alternatives.

<sup>5</sup> The Centre for Future Work at the Australian Institute September 2019, Precarity and job instability in NDIS support work, report.

<sup>6</sup> Reuzel, E, Bosman, A, Embregts, P, van Nieuwenhuijzen, M & Jahoda, A 2017, "Perceptions and expectations of regular support meetings between staff and people with an intellectual disability", Journal of Intellectual and Developmental Disability.



equity to the power imbalance often exerted over people with high levels of vulnerability and marginalisation.<sup>7</sup>

Thin markets contribute to the lack of skilled NDIS workers, and people who identify as Aboriginal and Torres Strait Islander peoples have reported significant difficulty in employing culturally competent and culturally appropriate staff.<sup>8</sup> This is again exacerbated by the change from block funding to consumer-driven funding, a lack of financial means to initiate a service and a fee structure which does not take into considerations the overhead costs of running a remote service .

### **The role of Commonwealth Government policy in influencing the remuneration, conditions, working environment (including Workplace Health and Safety), career mobility and training needs of the NDIS workforce**

The Commonwealth Government has an important role in influencing policy which positively enables the development and growth of the NDIS workforce. The Department of Social Services' 'Growing the NDIS and Workforce' report, which outlines four priority areas, is welcomed. However, there is a focus on outsourcing roles of importance that we submit should be left within the government such as regional coordinators and specialists coordinators.<sup>9</sup>

The Commonwealth Government must ensure policy and procedures that are developed strike the balance between NDIS participants having choice and control over their services, and NDIS workers being valued and supported.

### **The role of State, Territory and Commonwealth Governments in providing and implementing a coordinated strategic workforce development plan for the NDIS workforce**

The State, Territory and Commonwealth Governments must continue to develop and implement a coordinated strategic workforce which is consistent across all areas. There has historically been a discrepancy in disability services provided between different states and territories. States which have been at the forefront of human rights implementations such as Victoria and Canberra should utilise their learnings and share these learnings with other states and territories to ensure mistakes that have previously been made, are not made again.

The State, Territory and Commonwealth Governments must also look at a nationally consistent approach towards worker screening to ensure the safety of all people with disability. A nationally consistent, nationally recognised data base will assist with ensuring people who are qualified, competent and of good character are able to be employed in positions where support is provided. It will also ensure people who do not meet the minimum standards for providing such services are unable to operate; mitigating risk of harm, abuse, exploitation and neglect of people with disabilities.

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<sup>7</sup> <https://www.personcenteredplanning.org/Estab%20Right%20Relationships%20M.Kendrick.pdf>

<sup>8</sup> Centre for Health Policy at the University of Melbourne May 2019, Understanding disability through the lens of Aboriginal and Torres Strait Islander people – challenges and opportunities, report.

<sup>9</sup> Department of Social Services 2019, Growing the NDIS market and workforce, report.



The States and Territories must work with the Commonwealth Government in establishing a provider of last resort in as many areas as possible. Traditionally, participants with higher support needs could rely on their respective state or territory government to provide care when no one else could, however this is not something that has been effectively maintained during the transition to the NDIS. This results in service providers struggling and scrambling to meet participants' needs, and at times put frontline workers under immense pressure. To alleviate this pressure, governments should also work collaboratively to provide support and guidance to self-managed participants on how they can best implement their Plan through direct employment. This is a complicated process to navigate, particularly for the first time, and providing participants with case managers or case coordinators to help establish these arrangements would benefit the participant with continuity of support, but also NDIS workers with stable working arrangements.

### **The interaction of NDIS workforce needs with employment in adjacent sectors including health and aged care**

Many people who live with disability also have interactions with the health and aged care sector. Unfortunately, there is disconnect between a person's health needs, disability needs and age-related needs. As much as NDIS workers require training, upskilling and support, so do health workers and aged care workers. Although there is some expectation that people who work in caring roles should have understanding of people with disability, people with disability often report feeling excluded and unsupported in hospitals and aged care settings. This may be due to barriers such as workers being unaware of different communication methods, making inaccurate assumptions about a person's capacity to make decisions, or lacking a basic understanding of the type of support required.

There should be a focus on cross training the NDIS workforce across health (where applicable) and aged care, and vice versa. This training will provide workers with valuable skills that can be shared across different sectors, whilst also equipping them to respond to Australia's aging population.

### **The opportunities available to, and challenges experiences by, people with disability currently employed, or wanting to be employed within the NDIS workforce**

The latest data available from the NDIA in relation to employment outcomes of scheme participants was reported in 2018.<sup>10</sup> With the rollout of the NDIS occurring from 2016 to 2020, it can be assumed this data may not be accurate as of 2020. Nevertheless, it is important to note that, as of 2018, 23% of NDIS participants were in a paid job. The data reported is concerning though, as of the 23% of NDIS participants engaging in paid work, only 41% of individuals aged between 15 and 24 and 33% of individuals aged 25 years and over were in open employment under full award wages. 35% of individuals aged 15 to 24 and a staggering 49% of individuals aged 25 and over were employed in Australian Disability Enterprises.

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<sup>10</sup> National Disability Insurance Agency 30 June 2018, Employment outcomes for NDIS participants, report.



Australian Disability Enterprises employees are paid a supported wage, which is linked to the person's work capacity.<sup>11</sup> A person is paid a percentage of the minimum which corresponds to their outputs. A person with a disability may only earn \$87.00 per week under this arrangement. This type of payment adds barriers to people with disability earning a proper wage for work completed, as there is an assumption made by employers that they can legally pay a person less as they have a disability. QAI submits that all workers should be paid at least the minimum wage.

### **Any other matters**

The NDIA and the Quality and Safeguards Commission have taken a 'hands off' approach towards developing the workforce, particularly in relation to providing training to disability service support staff, such as support workers, allied health workers and support coordinators. This has seen service providers struggle to understand NDIS language, reporting requirements, what they can deliver under the NDIS and how best to support people with disability. This is further exacerbated by the 'hands off' approach taken towards assisting participants of the NDIS to understand and implement their plans. Participants are either given a Local Area Coordinator through a government contract or a support coordinator through their plan, that is designed to assist with implementing the plan. Local area coordinators do not have the time, knowledge or sector understanding to assist participants to implement their plans, let alone connect them to service providers who can meet their needs; they are unable to recommend any service, even if they know the service has the ability to provide a quality service. Similarly, support coordinators are funded to assist participants with implementing their plan, however the NDIA and Q&S Commission do not have any training or resources for support coordinators to understand what their role is and how best to assist participants. Support coordinators and participants are reliant on peer support and making multiple enquiries with different departments to obtain relevant information. This includes contacting the Fair Work Commission and Australian Taxation Office in relation to employment conditions for workers and consulting one another on workplace health and safety standards.

### **Conclusion**

QAI thanks the Joint Standing Committee for the opportunity to contribute to this inquiry. We are happy to provide further information or clarification of any of the matters raised in this submission upon request.

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<sup>11</sup> Fair Work Ombudsman 2020, Employees with disability pay rates, <https://www.fairwork.gov.au/pay/minimum-wages/employees-with-disability-pay-rates>





