

Friday, 2 October 2020

Joint Standing Committee on the National Disability Insurance Scheme

Committee Office, Department of the Senate
Suite SG.54 Parliament House
Canberra ACT 2600

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Responses to Questions on Notice, NDIS Workforce Inquiry

Dear Committee Secretariat,

Please find the Health Services Union's responses to the Committee's Questions on Notice that were put to the union on 15 September 2020.

If you require further information, please do not hesitate to contact Mark Farthing, HSU National Campaigns and Projects Officer by email:

This inquiry was launched before the COVID pandemic was declared. But considering the experiences of the workforce since February with COVID, what lessons are there that we need to learn about supporting the workforce into the future?

In responding to this question, the HSU would like to share with the Committee the results of a survey undertaken by the HSU Victoria No. 2 Branch (trading as the Health and Community Services Union [HACSU]). This branch represents over 7,000 frontline NDIS workers in the State of Victoria. In September 2020, they surveyed members working in residential disability services about their experience of COVID-19 during the state's second wave. In total, 932 members responded to the survey. These members worked across a range of service providers – large and small, for-profit and not-for-profit, regional and metro. Their responses illuminate the ongoing challenges of the COVID-19 pandemic on the NDIS workforce.

- Despite experiencing a significant second wave of COVID-19, only 61.75% respondents reported that they had a specific COVID-Safe Plan for their workplace (as opposed to a generic plan). 1 in 5 (21.88%) stated that they did not have a workplace-specific COVID-Safe Plan, whilst 16.38% of respondents were unsure.
- Access to personal protective equipment (PPE) was mixed. Over 90% of respondents indicated that they had an adequate supply of gloves (94.94%) and surgical masks (91.70%), however, access to N95 masks was much more limited, with only 1 in 3 (33.41%) reporting adequate supply at their workplace. Of further concern was the fact that 60.37% of workers reported not having access to a clinical waste bin in their workplace, bringing into question the effectiveness of proper infection control practices.
- Training in the proper use of PPE was also lacking, with nearly 2 in 5 workers (38.94%) advising they had not been taught how to fit-check a mask by anyone in their workplace.

These experiences demonstrate that the disability sector workforce has not been adequately supported throughout the pandemic and that the reliance on a fragmented, casualised workforce



that has seen a reduction in training and ongoing supervision as consequence of unrealistically low capped NDIS prices has not been equipped to properly support the needs of people with a disability during a crisis. The lessons taught by the COVID-19 pandemic are that quality service delivery cannot be achieved through a race to the bottom on wages and conditions for the disability workforce and that the voice of the workforce is essential to craft policy responses to crises.

Would paid pandemic leave be useful/relevant in the disability sector?

As Victoria's second wave has shown us, insecure work and multiple job-holdings is a key contributing factor to the spread of COVID-19. Indeed, the resilience of the disability sector and the health of people with a disability is threatened where workers continue to work when (and do not disclose that) they are displaying symptoms of COVID-19 or are in other circumstances which would create an obligation to self-isolate or quarantine. Ensuring economic security for self-isolating disability support workers should form part of the public health response to COVID-19. If the disability support workforce is granted paid pandemic leave, they will be less likely to violate self-isolation requirements due to economic hardship and comply with public health directives.

The HSU would note that a Full Bench of the Fair Work Commission have agreed that:

“There is a very real risk that employees who have no paid leave entitlements to access (whether because they cannot access their personal leave, or have exhausted their leave entitlements, or are engaged on a casual basis) in the event they are required to self-isolate, may not report any COVID-19-like symptoms or contact with someone suspected of having COVID-19 out of concern that they will suffer significant financial detriment. This presents a significant danger to infection control at workplaces covered by the Health awards.”¹

In the HACSU survey referenced above, respondents were asked “Do you have access to sufficient leave entitlements, in the event that you are required to self-isolate for any period of time?” Despite being a union sample from residential disability services—which typically reflects above average industry conditions—almost a third of workers (32.65%) stated that they did not have sufficient leave or were uncertain if they would have enough.

We submit that paid pandemic leave for the disability sector not only useful and relevant, it is essential.

What measures could be taken by the Commonwealth Government to better attract workers to the NDIS and keep workers in the NDIS?

The impact of wages, conditions and insecure employment on workforce attraction and retention cannot be overstated. International research suggests that the intrinsic benefits of disability support work—that is, the personal nature of the work and relative autonomy for workers—are not strong enough to overcome negative extrinsic factors such as poor pay, limited career paths and institutional undervaluation.

Increasing wages and improving working conditions is critical to grow and sustain the disability workforce. It is not an accident that disability support work is poorly remunerated. Rather, it reflects the way these jobs have been designed, such as minimising formal skill requirements and narrowing career pathways, thereby keeping wages low (in addition to being a female dominated industry, which has traditionally been considered an extension of the women's work at home.) Furthermore, the high availability of vulnerable populations (specifically, women and migrant labour) who often take these jobs act as an additional brake on wage increases. Whether this is sustainable is highly

¹ [2020] FWCFB 3561 at [123]



questionable. Our belief is that the use of “bad job” characteristics (low pay, poor conditions, limited/no skills utilisation) to control costs may ultimately make organisations less competitive and raise labour costs over time, as employers are faced with high levels of frontline worker turnover and a contingent workforce that is underprepared to meet critical skills gaps. The HSU strongly believes that any policy conversation about attraction is not worth having unless the core issues of wages and conditions are on the table.

In addition to wages and conditions, there is a need to raise the respect and value attributed to this work. Disability support must be a career of choice is workforce development is to be considered a priority. Some specific measures that could be taken by the Commonwealth Government include:

Introduction of a portable long service leave scheme

One key initiative to improve retention levels would be the introduction of a national sector-wide portable long service leave (PLSL) scheme. The HSU notes that the marketization of disability support being driven by the NDIS is likely to lead to increased structural labour mobility. This will deprive workers of access to long service leave for reasons beyond their control, despite working in the sector for a prolonged period. PLSL has numerous benefits, including:

- Improving worker retention in industries with high levels of labour mobility. This has benefits for employers by increasing the overall supply of skilled workers.
- Providing the flexibility for workers to take time out of the workforce to improve their skills through formal education and training or to take on caring responsibilities.
- Productivity gains as a result of workers being able to take a sustained break from a long period of work.

These benefits, in particular industry retention, must be seen in the context of the huge workforce expansion required by the NDIS. It should be noted that both the ACT and Victoria have PLSL schemes for the NDIS workforce and the NDIA have incorporated this legislative change into pricing models. Expanding this entitlement to the entirety of the NDIS workforce would expand the benefits currently received by workers in Victoria and the ACT.

Establishment of a Disability Workforce Sustainability, Training and Development Fund

The Commonwealth Government can assist provider readiness and improve workforce outcomes by investing in a Disability Workforce Sustainability, Development and Training Fund (the Fund). The HSU believes this could be modelled along the lines of the former Commonwealth Government’s Aged Care Workforce Supplement with the key difference being that the Fund is to support workforce professionalization, training provision, qualification attainment, continuing professional development (CPD) and could include a nominal increase in wages that supports the implementation of enhanced classification/career structures.

The Fund would be created to support and enable service providers to pursue workforce innovation, development of workforce support structures and access to in-service training programs with respect to a direct and substantial connection to the implementation of the NDIS. Employers would access the Fund based on set criteria for the recurrent project funding over the operational period of an enterprise bargaining agreement (EBA) to implement agreed workforce sustainability and development initiatives contained in a completed and endorsed EBA. The period would be aligned to the life of the agreement (maximum of 4 years). Access to the Fund would be restricted to applications from employers who have developed the proposed initiatives via an EBA to which the relevant union(s) is a party and involved in the negotiation, development and endorsement of the agreement by the workers themselves.

Benefits of the Fund would flow to clients by improving workforce quality for NDIS participants receiving services; improving consistency of practice and focusing on prevention and reporting of abuse. It would also benefit providers by facilitating affordable access to training and enabling them



to better skill their workforce and possibly improve retention rates and support workforce continuity. Finally, if operating as intended, the Fund would encourage co-operative relationships between employers and unions, creating a space to explore innovative service delivery options with a view to building sustainable sector development and workplace capacity.

Implementation of a mandatory registration and accreditation scheme for the disability workforce

The HSU submits that a Disability Workforce Registration and Accreditation Scheme is a key component for developing and ensuring the quality of the disability sector workforce. Our position is that any registration and accreditation scheme must be mandatory. A voluntary scheme would fail to make the much-needed structural and systemic improvements to workforce quality and professionalization that were the underpinning rationale for our original proposal. The key benefit of a registration and accreditation scheme is that it will provide a much-needed layer of quality assurance to a sector that has been unregulated. It would improve the quality and skills of workers and safety of participants, particularly those who are highly vulnerable and unable to self-advocate. The scheme could also assist in improving perceptions of the sector by prospective workers by demonstrating that it recognises the skills inherent in delivering supports to people with disability and requires a skilled and qualified workforce. The Commonwealth could deliver leadership in this area by developing a scheme managed by the NDIS Quality and Safeguards Commission in consultation with workers, providers and people with a disability.

Yours sincerely,

Lloyd Williams
National Secretary
Health Services Union

