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12 October 2022

Joint Standing Committee on the National Disability Insurance Scheme
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ndis.joint@aph.gov.au

Dear Joint Standing Committee,

The Australian Services Union (ASU) represents workers throughout the community and disability services sectors. The Union has members throughout the disability services sector in every state, territory, metropolitan, regional and remote community across Australia. Our members are skilled professionals, who work in roles including as disability support workers, Local Area Coordinators, Support Coordinators, individual and systemic advocates, team leaders, managers, community based mental health workers and other allied professionals. They are employed by local community services, national, regional, and state-wide organisations, community partnerships and hubs, all major charitable organisations and trusts, sector peaks and all of the major faith-based organisations.

The ASU is therefore in a unique position, representing professional disability workers in almost every non-government organisation in Australia. We understand that some of our members and the organisations for which they work have made their own submissions to this Inquiry, based upon their own professional expertise and organisational experience. We respect the experience and skill of our members expressed in those submissions. Where relevant to the Committee's deliberations, it is our members who are best placed to address specific issues of law and of professional clinical practice. We acknowledge and honour the skill and dedication of our members in community and disability services that underpin this submission. We particularly take this opportunity to thank those who have shared their expertise and experience with us as an essential part of preparing this document. Where we have included reference to case studies, we have de-identified those workers, their workplace and location.

While we address the Committee's terms of reference in relation to implementation, performance and governance of the NDIS, with respect, our submission is also a statement about broader workforce issues associated with in the disability sector as a public issue. In so doing, we are responding most particularly to the following terms of reference in relation to the capability and culture of the National Disability Insurance Agency (NDIA):

(b) the impacts of NDIA capability and culture on the experiences of people with disability and NDIS participants trying to access information, support, and services from the Agency

In specific terms, our submission will address issues associated with the role of Local Area Coordinators within the NDIS.

In the wake of funding cutbacks and reforms to the NDIS over almost a decade under previous governments, this Inquiry comes at a very significant time. We take this opportunity to thank the Committee for conducting this very important Inquiry and for providing an opportunity to the ASU to contribute to the process. We hope to make a positive and constructive contribution to your deliberations and would be pleased for an opportunity to address the Committee should that be appropriate. We look forward to hearing from you.

Yours faithfully

Emeline Gaske
ASSISTANT NATIONAL SECRETARY



ASU Submission

Joint Standing Committee on the NDIS

Inquiry into the Capability and Culture of the NDIA

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The ASU

The Australian Services Union ('**ASU**') is one of Australia's largest unions, representing approximately 135,000 members. ASU members work in a wide variety of industries and occupations in both the private and public sector. Relevantly, we represent more than 50,000 workers in the community and disability sector (including mental health and aged services).

Our members predominantly work in non-government, not-for-profit and faith-based organisations that support people who are participants in the National Disability Insurance Scheme (NDIS) and those with disability who are not participants in the NDIS, including many people who are living with mental health and psychosocial issues.

Our members work throughout the disability sector across a wide range of providers, as sole traders and platform workers, as disability support workers, local area coordinators, service coordinators, team leaders, in residential and independent supporting living services, and a range of other roles. These ASU members are highly skilled practitioners. We are therefore uniquely placed to contribute to the work of this consultation process.

Executive summary and recommendations

The NDIS is founded upon the principle of choice and control for people with disability. From conception, the role of the Local Area Coordinator (LAC) has been both critical and central to this fundamental principle of ensuring choice and control to people with disability, their families, and communities.

Since it was first funded and established, the NDIS has experienced an exponential increase in demand without a concomitant increase in funding. The failure of funding for the NDIS to maintain services and roles, including but not limited to Local Area Coordinators has meant that there has been a very significant increase in the workload of all workers within the NDIS workforce.

The use of competitive tendering as a procurement model by the NDIA for allocating funding to organisations that provide Local Area Coordinators is fundamentally flawed, reinforcing excessive workloads, unrealistic timeframes for delivery of services, risk shifting between providers and workers, inadequate resources to ensure best practice services necessary for genuine choice and control.

As workloads have increased across the NDIS workforce, there has been a reduction in the capacity of those workers to fulfil their role as it was intended. There has also been a 'blurring' of roles as key workers are forced to fill gaps in services for people with disability due to skills shortages and excessive workloads.

The blurring of roles and inadequate resources, including lack of skilled workers has meant that the NDIS ecosystem that was intended to ensure people with disability genuinely could exercise choice and control over their own lives is critically fractured.

A clear case in point demonstrating the impact and implications of this fracturing is the role of the Local Area Coordinator.

Recommendations:

1. There should be a Ministerial Review of the NDIS and NDIA with a view to considering funding arrangements and their implications for the delivery of best practice services for people with disability, underpinned by genuine choice and control.
2. There should be an end to competitive tendering for the delivery of services to people with disability within the NDIS and NDIA.
3. There should be a review of recruitment and retention practices at the NDIS and NDIA, including a review of career pathways and induction practices.
4. There should be a review of the personnel structure delivering NDIA services to ensure that there is a sustainable workforce, with safe and sustainable workloads and clear positions descriptions that are well understood and respected across the organisation.
5. There should be a commitment by the NDIA to ensure access to ongoing training and professional development opportunities for all NDIA personnel to encourage individual skills and knowledge as well as an understanding of interdisciplinary practice.

The National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) is one of the most important social reforms in Australian history, delivering choice and control for people with disability and driving economic improvements by creating new business and employment opportunities.

To assist providers to deliver these services, the NDIS has become one of the largest job creation opportunities in Australia. Through this growth, the NDIS also provides a unique opportunity to build a diverse workforce, which reflects the needs of all NDIS participants. As a result of the reforms to how disability supports are delivered, the NDIS is expected to deliver huge benefits for the country at a time when this is important not only as part of the recovery from twelve months of ongoing natural disasters, the global pandemic, but also for its value in supporting a professional standard of service to participants of the NDIS and their families, particularly in regional areas.

Disability sector workforce profile

Data obtained through the National Disability Services (NDS) confirm that the disability support workforce is extraordinarily concentrated in casual, part-time, and very insecure positions.

- Less than 10 percent of the disability support workforce is employed on a full-time, permanent basis
- 81 percent of the workforce is in part-time positions
- 42 percent of workers fill casual jobs
- Average hours worked in a week is low and falling to around 20 hours
- Staff turnover is extremely high: around 25 percent per year for the workforce, and over 35 percent per year among casual employees
- Many workers work irregular hours in multiple locations
- Many do not receive minimum legal compensation (including for time spent traveling between locations, and other essential job functions)
- There is a high concentration of women workers, and older workers. 70 percent are women, and 44 percent are 45 years or older. This is particularly the case in regional areas.

The impact of COVID on NDIS workforce

After a Summer of natural disasters, including drought, fire and flood we were confronted with the COVID-19 pandemic. This resulted in a significant increase in demand for workers across the sector notwithstanding the underlying exponential increase in the workforce as the NDIS rolled out across the country. As the pandemic spread, social distancing provisions and other health regulations enforced and public transport reduced, NDIS participants saw group programs close, and in isolation. The Disability Royal Commission reported a significant number of complaints from people living with a disability who were unable to access basic living essentials because of a shortage of disability support workers and other services during the COVID pandemic.

While the official response to the pandemic has recently been to reduce constraints and controls, people with disability and their families remain rightly concerned about issues arising from community transmission of infection. The extensive period of official restrictions and appropriate levels of concern by people with their disability, their families, and key stakeholders, including allied professionals has imposed a very significant increase in the workload of Local Area Coordinators whose role is central to the coordination of services that underpin genuine choice and control for people with disability and their families.

The NDIS website sets out the role of the Local Area Coordinator in terms that makes clear their central and critical role in coordinating services and ensuring genuine access, choice and control for people with disability.¹

Many people employed as LAC's have a background in the disability sector and many have their own personal experience of disability. In practical terms the LAC is the one-stop professional contact for people with disability and their families as they try to navigate the NDIS, as well as for those people with disability and their families who are not NDIS participants. This is highly skilled, emotionally, and physically demanding work.

LACs contact participants as soon as they have been approved for participation in the NDIS. They assist those people and their families to understand their rights and responsibilities as participants, complete myriad formal documentation requirements and ultimately to understand how to participate in the NDIS.

While it was not originally envisaged as their role, increasingly LACs have become responsible for developing the participants individual plans. LACs work with participants, based upon their life choices, balanced with practical needs and available resources. LACs have an in-depth knowledge of the National Disability Insurance Scheme Act 2013. This important role requires the LAC to be highly skilled in facilitating people to consider an infinite range of possibilities and then sourcing and assessing potential providers that will enable the person with disability to realise their plan in a practical way within the available resources. When the plan is submitted to the NDIA for final assessment and approval, LACs are often advocates for their participants, as they seek to assist those participants to realise a range of complex choices.

The time constraints imposed upon this early process are such that LACs need to have a very detailed knowledge and access to information about services and other resources in the community that are appropriate for their participants. This also means being able to manage conflicts between participants with disability, their families, and other key stakeholders so that choice and control is retained by the person with disability. Increasingly it has also meant that LAC's need to be aware of

¹ <https://www.ndis.gov.au/understanding/what-ndis/whos-delivering-ndis/lac-partners-community>

potentially disreputable service providers that may seek to take advantage of people with disability who are looking for providers of basic or unusual services.

Jenny is a very experienced LAC who works in regional NSW:

'The LACs are the backbone of the system as we are the front-line staff. We are the ones who deliver the good news or bad news, we are the ones who either get thanks or abused. We hear the tears, the fears, the frustration. Participants and providers have our real names and work numbers. Our administration role has tripled, our role changes every week with changes, adding to our already stretched role. We meet people face to face in their homes, schools, hospitals, and workplaces. We deal with all sorts of disability and mental health issues.

We see the participants who are targeted, whose funding is being stolen from them leaving them with no services. We are the ones who support these people and try and assist anyway we can. We see those who are targeted and then try and pick up the pieces for them.'

The exponential increase in the numbers of people seeking to participate in the NDIS has meant that there has emerged a huge backlog in work for NDIS Planners who assess individual plan proposals lodged by LACS. Because of their very high level of professional commitment to their participants, in a genuine attempt to deal with this backlog in the best interests of their participants, many LACs are taking on a much greater and very time-consuming role in developing very detailed plans for their participants prior to lodgement with the NDIS Planners.

This certainly has assisted with processing plans for people with disability. However, it has also meant that LAC's have far less time to undertake all of their other roles, including sourcing, meeting, and assessing new service providers, undertaking complex sourcing of unusual resources and providers, particularly in regional, rural and remote areas and arranging timely follow up for people with disability to ensure that plans are working as expected and providers are operating at best practice standards. These issues are compounded by urgent demands for plans, including those from other agencies.

LACs are also responsible for ensuring the integrity of the system, providing their participants with at least three options for providers and services and taking whatever action is necessary to ensure that people with disability are assured of genuine choice with accountability and transparency when engaging services.

LACs have continued to deal with these rapidly increasing workloads by working unpaid overtime hours, limiting their breaks, and often taking calls from participants in their own time. While the caseload for LACs was intended to be around 120 to 140 participants, ASU members have reported their caseloads to be in excess of 200 in some instances. By any measure this is an impossible caseload to manage professionally or effectively.

The NDIA competitive tendering procurement model is particularly problematic for LACs. While sourcing and arranging a warm referral for a participant can be straight forward, this is often not the case.

Miriam is an experienced LAC in metropolitan NSW who works with many people with disability who are from diverse language and cultural backgrounds:

Many of the people I work with do not speak, read or write in English. Many of them cannot use a computer. I need to arrange an interpreter, but this is not within our budget. It also means that I really do need to meet with these people in person. It won't work in any other way. This is very time consuming and means it is hard to manage the huge caseload that I am carrying in the way that I think it should be done. I know that our service had to compete to get this contract and the

best way to do that is to do it at a cheaper rate than the other services. But in the end, this just means cutting back on what we can do and leaving us with impossible caseloads.

It also means that some providers pay their LACs better than others. This does not seem fair. We all do the same work, and all have the same issues to deal with. It is also the reason that people are leaving this work and don't want to work as a LAC, even though we love our work and our clients.

Because of the highly vulnerable nature of their participants and their families, many LACs worked remotely during COVID. In many instances this still applies, despite a public return to pre COVID working arrangements. While LACs are efficient, productive, and effective doing their work remotely when this is necessary, lengthy periods of isolated work has exposed them to a higher risk of workplace health and safety issues, including mental health issues arising from their frequent and compounding exposure to trauma and stress.

The Disability Royal Commission has regularly referred to the higher risk of sexual, family, and criminal violence and trauma experienced by people with disability.² As the only or most regular contact for many people with disability, LACs are often exposed to highly traumatic disclosures from their participants. They are also often themselves exposed to violence and trauma in their role as they are required to deliver difficult or unwanted information to people and their families. High workloads, pressing time demands and the inherently stressful nature of their work and a lack of professional supervision or control over their own workflow exacerbate these issues for LACs.

The NDIS has been nothing short of life changing for hundreds of thousands of people with disability and their families. It is working to change the culture, life experience and hopes of those people as well as our society. The NDIS also has profound implications for the workers who are employed to deliver its promise of choice and control. Having lived with the practical reality as well as the vision of the NDIS, it is now time for reform, based upon genuine consultation with those workers and their practical experience.

² <https://disability.royalcommission.gov.au/news-and-media/media-releases/people-disability-face-much-greater-risk-violence-people-without-disability>