

## **Submission to the Royal Commission on the Omicron issues paper**

The COVID-19 pandemic has had a profound impact on the delivery of disability services. The Omicron wave exacerbated several existing issues, and presented new challenges.

At the end of 2021, NDS's survey of members<sup>1</sup> revealed a sector in a state of frustration, pessimism, and distress. The start of 2022 saw the beginning of the Omicron wave, meaning a steep rise in cases, a shift in testing focus from PCR to RATs, and increasing workforce shortages. Disability services began to feel the severe impact just weeks into the new year.

In contrast to previous jumps in case numbers, governments did not opt for lockdowns in response. The result was the virus was able to move around the community with greater ease. Pleasingly, significant vaccination rates in the Australian population meant the impact was not what it may otherwise have been. A positive of this policy shift meant many people with disability were able to access services which they were not able to during lockdowns. However, for those who were not able to be vaccinated and/or were immunocompromised, this renewed ability to access services was more theoretical rather than actual.

This submission considers some central challenges posed through the Omicron wave, as well as some promising responses and opportunities.

### **Access to PPE, testing and boosters**

A primary change in policy at the start of 2022 involved National Cabinet shifting to recognising Rapid Antigen Tests (RATs), effectively overtaking Polymerase Chain Reaction (PCR) tests as the primary form of testing. This shift was appropriate, and would eventually mean both workers and people with disability would only need to wait minutes, rather than hours (sometimes days), for results. Another National Cabinet decision, on 13 January, meant that essential disability workers who were asymptomatic close contacts, and returned a negative RAT, could continue working.

The combination of these changes was intended to minimise the disruption to essential services such as disability supports. Unfortunately, at the time and for many weeks after, the sector struggled to gain access to RATs in any substantial number, meaning the intended impact of the policies was compromised.

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<sup>1</sup> NDS. (2021). *State of the Disability Sector Report*, pp. 4-5.  
<https://www.nds.org.au/about/state-of-the-disability-sector-report>

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NDS lobbied state and federal governments on this issue, urging them to provide priority access to free or funded RATs for people with disability and the disability workforce, as well as to work with providers to establish a distribution system when they became available.

The NDIA announced in February that Supported Independent Living (SIL) providers would be able to access free RATs for workers and NDIS participants. While NDS understood the focus on accommodation as service settings at particularly heightened risk, we continued to advocate for RATs to be made free to all people with disability and the staff who support them.

Further, for non-SIL-related supports, the requirement that RATs be purchased from NDIS participants' core budgets essentially necessitated a negotiation between providers and participants around charging for essential safety measures and equipment — effectively putting participants and families in the position of deciding between receiving support or receiving support safely.

In this vein, NDS welcomed the Victorian government's announcement in April that it would provide free RATs to all disability support pensioners and NDIS participants over 16 years old. More recently, New South Wales has announced a similar policy. Other governments should follow suit.

From early in the pandemic, NDS and its members were strong in advocating for mandatory vaccinations for disability support workers, and support for people with disability to be vaccinated. Where support has been provided by the NDIA — such as the ability for providers to claim for the costs of helping a worker or service user to be vaccinated — this was welcomed. Supports for providers are considered further below.

## **Workforce**

A significant and unique feature of Omicron was the impact it had on the disability workforce. While workforce was affected in many sectors, the impact on the disability sector has been particularly marked due to a combination of factors.

Many disability support workers work for more than one employer, meaning a higher likelihood an employee may carry infection from one workplace to another. Additionally, the nature of work is often in close quarters — for example, two workers supporting a person to bathe or preparing a meal together — meaning a higher likelihood of transmission. The introduction of financial support to remove the perverse incentive for workers to attend work while infectious was welcome. However, such supports have since ceased while some jurisdictions are experiencing their most significant infection numbers since the beginning of the pandemic.

Most fundamentally, many people with disability rely on supports to be able to function day to day. For these people, workforce shortages can mean things such as getting out of bed, showering, dressing and eating become unavailable to them.

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By January 2022, workforce shortages in the disability sector were substantial enough to gain the attention of multiple media networks. Reports from the [ABC](#), [The Sydney Morning Herald](#) and [The Guardian](#) (among others) highlighted the impact of high community transmission in combination with a difficulty in obtaining RATs. In response, many jurisdictions loosened isolation requirements for disability workers who were close contacts.

Given the situation was one in which there were very few options available, and the impact of workforce shortages on service users potentially severe, these changes seem appropriate. Nonetheless, it would be overly naive to presume this issue was one attributable to Omicron (or even COVID-19) alone, given a longstanding recognition of the need to increase worker numbers in the sector. A recent report from the Joint Standing Committee on the NDIS noted an estimated 83,000 workers will be required to support all NDIS participants by June 2024.<sup>2</sup> This is not a new realisation, however. As far back as 2017, the Productivity Commission highlighted the need for the workforce to increase by as many as 90,000 full-time equivalent workers.<sup>3</sup> Ideally, the sector would have access to a sufficiently-skilled surge workforce to respond in situations such as the Omicron wave — however, the reality is that workforce numbers are far below what is required, even during times of relative stability. NDS welcomed the release of the Department of Social Services' NDIS Workforce Plan: 2021-25. It remains as important as ever that aspirations for a competent, experienced, skilled and reliable workforce are driven through practical and measurable interventions.

NDS's Workforce Census provides data and analysis based on survey results from members on workforce issues. Data pertaining to the time period of the Omicron wave are yet to be collected, but NDS would be happy to provide them to the Royal Commission at a later date.

### Impact on disability supports

Governments and the NDIA introduced a number of time-limited initiatives to help ensure participants and staff received vaccinations, were protected by PPE and had improved access to PCR and RATs. Nonetheless, the pandemic's impact on some providers was substantial.

A small sample of providers was surveyed earlier this year to understand the magnitude of the Omicron wave impact over the period 20 December 2021 to 31 January 2022. The survey was conducted as a collaboration between Ability First

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<sup>2</sup> Joint Standing Committee on the National Disability Insurance Scheme. (2022). *NDIS Workforce Final Report*, p. 7.

[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024621/toc\\_pdf/NDISWorkforceFinalReport.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024621/toc_pdf/NDISWorkforceFinalReport.pdf;fileType=application%2Fpdf)

<sup>3</sup> Productivity Commission. (2017). *NDIS Costs: Productivity Commission Study Report*, p. 323. <https://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs.pdf>

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Australia, Alliance20 and NDS. The providers surveyed were primarily from New South Wales, Victoria and Queensland and included some multi-state providers.

The most substantial impacts were associated with either:

- the higher direct costs associated with the employment of staff, due primarily to the high use of overtime or labour-hire staff to cover shifts of workers who were COVID-19 positive or were furloughed due to being a close contact; or
- losses from cancellations and service closures.

The size of the impact varied depending on the location of the service and type of supports being delivered. All costs are net of additional COVID-related payments (for example, \$1,200 worker payments and funds received for some PPE costs).

The overall average net negative impact of Omicron in the December–January period for providers of SIL was more than 11 per cent; for supports such as community participation (including in a group) and in-home personal care, it was about 22.5 per cent; and for therapy supports it was about 15 per cent.

Parts of the disability service system are under significant financial strain. They cannot increase their prices, as was witnessed in other markets, so have requested additional funding from the Australian Government. To date, this request has gone unheeded.

In addition to the financial impact, service providers reported continuing disruptions in day-to-day supports, often associated with a lack of clarity regarding changing restrictions. For organisations working across multiple states and territories, maintaining an up-to-date understanding of restrictions and expectations in each jurisdiction at any given time was a significant, resource-intensive task.

As an example of ongoing disruption, NDS has received anecdotal reports from providers that attendance to some day services have not returned to pre-pandemic levels, despite restrictions on them having eased. This is a complex area. As NDS has previously noted to the Royal Commission,<sup>4</sup> some unplanned changes to routines have been welcomed by participants. If this apparent reduction in return to day services is a legitimate exercise of participant choice and control — to consider other activities in the community, for example — it should be welcomed. However, if it means these NDIS participants are spending time at home instead, potentially without appropriate supports, this is a significant concern.

The sense of collaboration and camaraderie among service providers during the pandemic has been commendable. Many examples exist where providers shared their experiences, in dealing with positive COVID cases, openly and generously to allow other organisations to draw on lessons learned. This collaboration was often despite lack of substantial direction or support from key agencies. A notable contrast to this is where state governments funded forums for sharing good practice. Victoria

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<sup>4</sup> See NDS's [Response to the Emergency Planning and Response Issues Paper](#) (pp. 3-4).

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is a key example of this, and is considered in more detail below. Examples of practical outcomes included providers sharing information, practices, resources and sometimes emotional support for leaders.

### Supports for providers

NDS acknowledges the supports made available to disability providers throughout the pandemic. In particular, providers overwhelmingly reported Jobkeeper as a 'lifeline' which prevented many from shutting their doors permanently. However, service providers in jurisdictions outside of New South Wales and Victoria have raised their dismay at having to 'go it alone' during Omicron. That is, Omicron was for many jurisdictions the first time COVID-19 was moving in a significant way through their communities, but without Jobkeeper to soften the blow.

Where supports have been provided by government agencies, sometimes after significant lobbying from the sector, they have often been limited. While an announcement that SIL providers would be provided with free RATs for workers and participants was welcome, NDS was disappointed to note provision for this arrangement in the Federal Budget extended only to June 2022. As noted previously, NDS continues to advocate for provision of free RATs to all NDIS supports. Further, while the base NDIS price was temporarily increased to nominally offset provider costs of PPE, the actual amount of increase is insufficient to have an effect. Providers suggest a more useful option would be the ability to claim the cost of PPE directly from the NDIA.

NDS previously highlighted to the Royal Commission a lack of flexibility in the NDIS Commission's response to the pandemic.<sup>5</sup> Unfortunately, this continues to be an underlying theme. While the level of detail in the information provided by the Commission has since improved, its approach continues to bely a preference for information provision and sanction, rather than a spirit of collegiality and collaboration. There is no doubt that the pandemic has produced some particularly complex quality and safeguarding issues; however there is a sense from the sector that acknowledgement of the difficulty of the situation would have been welcome instead of what appears to be a compliance- and reporting-focused response.

### Duplication and ambiguity in reporting requirements and practice standards application

In November 2021, the NDIS Commission introduced a new NDIS Practice Standard on the planning providers must undertake in managing and responding to emergency and disaster situations. The NDIS Commission noted the standard was a response to evidence and recommendations from this Royal Commission. NDS recognises the context of increased likelihood of disasters and the need for clarity around what is expected of service providers in preparation and response. However,

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<sup>5</sup> See NDS's [Response to the Emergency Planning and Response Issues Paper](#).

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in applying the emergency preparedness standard, providers note a lack of clarity regarding which organisation is to take the lead responsibility — especially in comparison to the previous state-funded disability service system, which provided more concrete guidance on the lead agency. While there may be a temptation to consider all providers responsible to some extent, if the result is numerous emergency management plans for the same participant in the same context, the effect may be heightened confusion — particularly if the plans are not aligned with one another. Given most participants with complex needs are likely to have a support coordinator, it may be the case that this is the most appropriate role to take lead responsibility.

Reporting of positive COVID-19 cases, while an important part of understanding the virus's spread, has been duplicative from service providers' point of view. Reporting requirements vary between jurisdictions; we have taken the example of Victoria, which experienced a significant brunt of the Omicron wave. During the peak of Omicron, a Victorian disability provider experiencing a single positive case may be required to undertake all of the following:

- Report to the Victorian Department of Health
- Report to the Victorian Department of Families, Fairness and Housing
- Complete a Victorian Government COVID-19 Notification form
- If a registered NDIS provider, report to the NDIS Commission via a 'Notification of event form'
- Prior to 14 January, employers or self-employed workers had to report positive worker cases to WorkSafe Victoria.

Overwhelming feedback from Victorian providers was that the above was onerous, duplicative and confusing. NDS heard reports from state departments of under-reporting, likely due to a combination of fatigued providers and/or lack of clarity over where to report. While NDS continues to advocate for a streamlined process, we understand sharing of data between agencies faces barriers in the form of strict privacy legislation. The Senate Select Committee on COVID-19 recently recommended strengthened data sharing between Commonwealth and state and territory governments.<sup>6</sup> NDS supports this recommendation.

### **Example of good government response: Victoria**

To support the disability sector to respond to COVID-19, the Victorian government funded NDS to deliver the 'Safer and Stronger' project from 2020, providing practical information and ongoing support to Victorian disability service providers on infection control and business continuity. It has displayed an innovative, proactive model of support, enabling providers to respond and adapt

<sup>6</sup> Senate Select Committee on Covid-19. (2022). *Final Report*, p. 66.  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/COVID-19/COVID19/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Report)



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to COVID-19 and to continue to deliver high quality services to people with disability.

The project has provided support to Victorian disability providers through:

- Providing good practice advice
- Facilitating online webinars and communities of practice
- Developing key resources – such as disability-specific infection prevention and control training, podcasts focusing on effective outbreak management and sharing of providers' lessons from COVID-19
  - Development of social stories for vaccination – including for [children with Autism](#) and CALD communities
- Timely, concise news updates – ensuring providers were able to understand and implement the latest government advice
- Good-practice advice and guidance, provided by the Safer and Stronger team, on topics such as infection prevention, outbreak management, isolation and vaccination
- 'Living with COVID-19' webinars held in collaboration between NDS, Victorian departments, the NDIA and service providers. These occurred during numerous peaks of COVID-19, including Omicron, and gave up-to-date disability-specific guidance as well as an opportunity for providers to ask questions of government and access critical information to ensure continuity of supports.

The following statistics provide an indication of the appetite for these resources in the Victorian sector. As at March 2022:

- Videos and podcasts were accessed over 24,000 times
- 173 webinars, forums and meetings attracted over 12,500 attendances<sup>7</sup>
- News updates were viewed over 100,000 times

NDS leads the Victorian Disability Vaccine Collaborative (DVC), a group consisting of eight disability advocacy organisations designed to increase vaccination of people with disability. The project recognises that vaccination rates for people with disability are lower than the rest of the Australian population and focuses on overcoming identified barriers to vaccination. NDS facilitates fortnightly meetings and provides coaching and support in between meetings, strengthening collaboration and building capacity with the advocacy sector. The successful Infection Prevention and Control workshop, delivered to more than 300 disability workers during 2020, is now available as an online training program.

NDS also runs a national COVID 19 Vaccination, Infection Control & Outbreak Management Community of Practice bringing together providers from across the country to discuss current good practice related to COVID-19 management. While NDS's work outlined above is available to all disability providers, it is overwhelming NDIS-registered providers who access it. NDS is not aware what, if any, similar supports are being accessed by the majority of unregistered providers.

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<sup>7</sup> Some of these may have been the same attendee attending more than one event.

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### Looking forward

As at the end of April 2022, COVID-related restrictions continue to ease in most jurisdictions while case numbers hold steady — in New South Wales and Victoria, in the thousands per day. Media reports continue to recognise the shortage of workers.<sup>8</sup> However, as Australia heads into winter, the prospect of another significant increase in case numbers is a distinct possibility. Indeed, the Australian Health Protection Principal Committee has specifically noted the challenges the winter season may present in disability services – especially those in residential care, who the Committee notes are among the most vulnerable to severe outcomes from COVID-19 and influenza.<sup>9</sup> In this vein, the Senate Select Committee on COVID-19, writing earlier in April 2022, noted the emergence of an Omicron sub-variant ‘BA.2’, and highlighted early data suggesting it is ‘inherently more transmissible than BA.1’.<sup>10</sup> The disability sector has showed agility, resilience, ingenuity and resolve throughout the pandemic thus far, but will require support to head off yet another wave.

### Conclusion

More than two years into the pandemic, COVID-19 continues to deliver new challenges for the disability sector. To date, providers have shown a remarkable level of agility and resilience in the face of disruption and uncertainty – and a willingness to learn from one another in preparation for future challenges. Where support has been provided to the sector – in the form of resources, forums or opportunities for sharing good practice – it has been embraced wholeheartedly. There are lessons here that governments and their agencies should invest in the sector now and into the future as the story of the pandemic continues to unfold.

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**National Disability Services** is the peak industry body for non-government disability services. It represents service providers across Australia in their work to deliver high-

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<sup>8</sup> For example, this 7.30 Report story: <https://www.abc.net.au/7.30/shortage-of-disability-support-workers-becoming-a/13838182>

<sup>9</sup> Department of Health (2022) *AHPPC statement on winter season preparedness*. <https://www.health.gov.au/news/ahppc-statement-on-winter-season-preparedness>

<sup>10</sup> Senate Select Committee on Covid-19. (2022). *Final Report*, p. 5. [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/COVID-19/COVID19/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Report)



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quality supports and life opportunities for people with disability. Its Australia-wide membership includes almost 1200 non-government organisations which support people with all forms of disability. Its members collectively provide the full range of disability services — from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.