

# **Submission: Inquiry into the Victorian On-Demand Workforce**

National Disability Services

February 2019

## Executive Summary

NDS recognises a need for the rapid expansion of the disability workforce and supports innovative and new approaches to providing support for people with disability - especially approaches able to offer more flexibility to workers, and flexibility, choice and control to people with disability. However, we have concerns that, whilst significant regulation and safeguards exist for “traditional” not-for-profit service providers (most of which are NDIS-registered), the on-demand workforce has the potential to circumvent many of these safeguards and thus poses a risk to people with disability who may be particularly vulnerable<sup>1</sup>. This workforce model caters for short “gigs” which do not recognise that much of the work done in disability support requires long and strategic work; and, from a workforce sustainability perspective, potentially poses risks to the longevity and quality of disability service provision. We welcome the Government’s focus on this area as one which is expanding in the disability space, and would welcome further consultation with NDS and our members regarding what constitutes high quality disability service provision, to ensure the rights of both workers and people with disability are protected.

## Disability Workforce: The Current Landscape

### *The NDIS and the disability workforce*

The Victorian rollout of the NDIS is currently scheduled to be complete by 30 June 2019. A skilled, sufficiently large and diverse disability workforce is critical to the delivery of high quality services and to the success of the NDIS. To meet demand, this workforce will need to double in size from beginning of rollout to 2019<sup>2</sup>, and be capable of providing high quality support. The Productivity Commission warned in 2017 that “the disability care workforce will not be sufficient to deliver the supports expected to be allocated by the NDIA by 2020”<sup>3</sup>. Given this, NDS welcomes activity which supports the attraction and retention of workers to the sector, and has been funded by the Victorian Government to deliver several projects to this end.

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<sup>1</sup> It is important to acknowledge that, while not all people with disability are necessarily vulnerable, some people’s disabilities make them more vulnerable.

<sup>2</sup> National Disability Insurance Agency (April 2016) Victoria Market Position Statement, p 27. <https://www.ndis.gov.au/html/sites/default/files/documents/Market%20Position%20Statement/Victorian-MPS.pdf>

<sup>3</sup> Productivity Commission (October 2017) Study Report: National Disability Insurance Scheme (NDIS) Costs, p336. <https://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs.pdf>

A pivotal change to service provision under the NDIS is that the scheme is intended to support people with disability to have choice and control over the way, and by whom, services are provided.

In line with this, the profile of the disability workforce is changing, as many people with disability are choosing workers on the basis of their values, attributes and “soft” skills over formal qualifications. This change is, on one view, positive, insofar as it means people with disability are more likely to be supported in a way that they want, safely and sustainably.

NDIS funding is also allowing more people with disability to choose when and where they receive supports. There is anecdotal evidence of an increase in demand for short shifts - for example for one to two hours spread over a wider span of time (such as on weekends and early mornings as compared to the 9am to 3pm of traditional day services). At times it appears that workers are not paid for their travel between these shifts.

This trend is occurring concurrently with the rise in online platforms, which are enabling people with disability to have more choice over which worker supports them during a shift.

Such developments leave many disability service providers attempting to achieve a balance between offering flexibility and choice to NDIS participants, offering sufficient ongoing work to support workers, and achieving financial sustainability in the context of lean prices under the NDIS.

We have seen the rise of a number of new service providers employing online platforms to match workers with disability support roles. Such organisations use a variety of employment mechanisms, with some employing workers directly, and others using a contract worker model.

### *Safeguards*

While NDS is committed to seeing the NDIS working as was intended, we do not believe that current market forces are sufficient to guard against abuse and neglect. The NDIS Quality and Safeguards Commission, which will be active in Victoria from 1 July 2019, only has jurisdiction over NDIS-funded organisations. Non-registered NDIS providers are required only to adhere to the National Code of Conduct and obey the law. There are also disability organisations which are not NDIS-funded, and therefore not covered by the Commission. Examples which operate in the on-demand space include Mable and Carer Solutions Australia.

NDS also notes the percentage of inactive registered providers continues to sit at around 55% in Victoria<sup>4</sup>. This suggests the disability market is one in which a sizeable number of organisations are sitting on the sidelines, watching how the NDIS plays out for existing organisations, and ready to move into this space. NDIS participants are only able to engage unregistered providers if they self-manage or plan-manage their funds (i.e. outsource the management of funds to a third party). This percentage of NDIS participants is currently at 28%<sup>5</sup>, and it is the NDIA's intention for this proportion to grow.

## **NDS's Position**

The disability sector is undergoing transformational change. Many in the sector are treating this as an opportunity to reconsider their approach to service provision; we are also observing new entrants into the market. There is potential for on-demand approaches to realise fundamental NDIS principles of participant choice and control, as well as potentially drawing workers to, and retaining them in, the sector. At the same time, challenges exist from the perspective of NDIS participants (and families and carers) in verifying workers' credentials<sup>6</sup> (both qualifications and checks) and thereby ensuring their own safety. From the worker's point of view, a number of risks emerge, many of which are associated with "sham contracting" - by no means a new phenomenon - including a lack of entitlements, training and security<sup>7</sup>.

In 2017, NDS interviewed a number of disability workers about their attitudes towards on-demand work ("digital platforms" was the term used for these interviews). Responses are summarised below.

Advantages included:

- Workers' ability to use the digital platform to complement insufficient work hours with a "traditional" provider - thus potentially retaining workers who may have otherwise left the sector due to insufficient hours
- Ease of entry to working in the sector - particularly for those only able to work a small number of hours per week

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<sup>4</sup> National Disability Insurance Agency (September 2018) COAG Disability Reform Council Quarterly Performance Report - Victoria, p3. <https://www.ndis.gov.au/media/1118/download>

<sup>5</sup> As of September 2018. Ibid, p 14.

<sup>6</sup> For at least [one](#) on-demand provider, the onus is on the client to ask the worker for a police check and to contact referees.

<sup>7</sup> A recent example from the disability sector is outlined here: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2018/3771.html>

- Freedom (at least perceived) to work in a more person-centred way with the ability to focus on the needs of the person first, rather than organisational rules or procedures

Disadvantages included:

- Concerns regarding the safety of service users - especially with regards to difficulties (with some platforms) in verifying the claims made by a worker about their skills and qualifications
- Issues regarding lack of comprehensive insurance, superannuation, and leave entitlements
- Concerns regarding worker safety - especially when supporting people with challenging behaviours
- Lack of stability in comparison to working for an organisation - especially regarding rostering and regularity of clients
- Lack of continuing professional development
- Extra resources associated with finding work (and in other administration, including completing tax, superannuation, etc.), in comparison to working for an organisation, which ordinarily would complete these on the worker's behalf

The majority of workers concluded that digital platforms had a potentially valuable role to play, as long as protections for clients and workers were not eroded.

Based on NDS's research, it appears the majority of on-demand disability platforms are not NDIS-registered, and so are only available to those participants who self-manage their funding. As such, the only requirement these platforms must fulfil with regards to the NDIS Quality and Safeguarding Commission is to comply with the NDIS Code of Conduct and Australian laws. Additionally, while some platforms require workers to have minimum qualifications, others require only a police check.

## **Conclusion**

NDS welcomes the opportunity to comment on the on-demand workforce and the Government's focus on this area as one which is slowly gaining traction in the disability space.

NDS does not support additional regulations *per se*, however we would encourage further consultation - with workers, organisations and people with disability. In particular, we would welcome further consultation with NDS and our members regarding what constitutes high quality disability service provision, to ensure the rights of both workers and people with disability are protected into the future. Finally, NDS encourages the Victorian Government

to release any available data it may have regarding the on-demand disability workforce to the broader sector, to allow stakeholders to make informed decisions as Victoria moves towards full NDIS rollout.

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**About NDS**

National Disability Services (NDS) is the peak body in Victoria and Australia for non-government disability service providers. NDS has more than 200 members in Victoria and almost 1,000 members nationally. NDS provides information and networking opportunities to its members and policy advice to state, territory and Commonwealth governments. We have a diverse and vibrant membership, comprised of small, medium and larger service providers supporting thousands of people with disability. Our members collectively provide the full range of disability services, from accommodation support, respite and therapy to community access and employment. Our members employ over 8,000 people in Victoria alone and are supported by countless volunteers in delivering vital services to Victorians with disability.

NDS is committed to improving the disability service system to ensure it better supports people with disability, families and carers; and to building a more inclusive community. NDS has a deep commitment to supporting the implementation of a successful National

Disability Insurance Scheme (NDIS) and is supporting service providers across Victoria as they complete their transition to the new Scheme and attempt to thrive in a new landscape.