

NDS Submission on the Victorian Secure Work Pilot Scheme

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National Disability Services (NDS) is the peak body in Victoria and Australia for non-government disability service providers, with over 280 members in Victoria and 1,080 members nationally. Collectively, NDS members operate several thousand services for Australians with all types of disability. Along with providing information and networking opportunities to members, NDS provides policy advice to State, Territory and Commonwealth governments. NDS represents a diverse selection of providers across metro, regional and remote regions.

NDS welcomes the opportunity to provide feedback to inform the development of the Victorian Secure Work Pilot Scheme. We make several general remarks and then address the consultation questions.

Introduction

NDS recognises the importance of workers on low incomes and with insecure work remaining at home when they are unwell or have caring responsibilities rather than coming to work. This is critically important in our current COVID-19 context. NDS also recognises that the growth in insecure work in recent years is creating a range of problems and challenges, both at a personal and social level. This has been explored in Victoria with its [Inquiry into the On Demand Workforce](#) and by the federal Select Committee on Job Security which recently published its [First interim report: on-demand platform work in Australia](#).

NDS strongly supports Government initiatives that keep people at home and safe during the pandemic. We are aware that workers in insecure, low paid roles may

require additional incentives to stay at home when unwell or caring for others. The recent JobKeeper payments were highly valued in the disability sector, in part due to their broad applicability, low administrative cost and support for the employer-employee connection. Another recent successful initiative targeting the workforce, was the jointly funded NDIS Victorian Disability Mobility Payments. This helped reduce the mobility of disability workers across residential disability houses. Elements of the Secure Work Pilot Scheme appear to be well suited to supporting low-income workers stay at home during the pandemic.

NDS recognises that the Secure Work Pilot is not designed as part of the COVID-19 response but attempts to ameliorate a problem associated with our growing insecure workforce. We are not convinced that the Pilot will be an effective strategy to do this. It will potentially be complex and cumbersome to administer, be imprecise in its targeting of workers, and potentially lead to unintended consequences. Beyond the duration of the pilot, NDS does not support any additional levies on employers, particularly disability services which are now largely funded by the national NDIS which will not adjust its prices to account for state specific additional costs.

The economic drivers creating insecure work in our economy are multiple and complex, and the impacts of insecure work are far reaching both at the individual and society level. We are aware that there have been several measures in recent years attempting to reduce the incidence of casual work in the economy. For example, changes enacted under the Fair Work Act encourage employers to reduce casual numbers by offering eligible Casuals conversion to Permanent Part Time by September 27 2021. We support such initiatives.

In the disability sector many employers have been working to reduce the proportion of casuals and have supported many staff to transition to permanent part time or full time roles. This has allowed the sector to develop a more skilled workforce able to deliver high quality supports. One driver of this trend in our sector is the widespread workforce shortages, and difficulties in attracting sufficient appropriately skilled workers. Savvy employers are trying to reduce their casual pool to support better

staff retention. That said, casual and part time workers play a key role in disability and provide the high level of flexibility needed by individual NDIS participants. We are concerned that the Pilot could provide an incentive for disability workers to remain as casuals, and counter wider efforts to transition them to ongoing roles.

Proposed levy

NDS does not support employers having to provide a levy to supplement this scheme, acknowledging that any such levy would commence beyond the life of the Pilot. Such a levy would essentially be a doubling of costs for employers. Workers who do not have paid leave entitlement are already provided compensation in lieu of leave entitlements, for example casual employees receive a 25 per cent loading in lieu of leave entitlements, this is 25 per cent more than their part-time and full-time counterparts for the same work being performed. Independent contractors are also compensated on hourly rates well above rates employees, in part to cover their leave costs.

Furthermore, most disability services are funded by NDIS, on a set of national prices which will not be varied to take account of jurisdiction specific additional costs.

Leave versus pandemic support

Employees already have an extensive range of paid and unpaid leave entitlements which are clearly defined. Some individual providers as well as some modern awards and legislatures have put in place temporary or extended measures to include unpaid pandemic leave and other various extensions to leave, such as taking annual or long service leave at double time, half pay. These measures already impact employers. Employers also have many other leave types, paid and unpaid available, as well as a range of flexible working options. These are being offered already to support workers by employers without financial assistance under compressed economic conditions.

Consultation Feedback

1. What jobs and industries should be included in the Pilot?

NDS has reservations about the disability sector participating in the pilot. It is possible that the Pilot may counter the efforts of disability employers to encourage workers to become permanent part time rather than casual. The disability sector already reports much higher rates of casualisation (34 per cent) (NDS Workforce Census 2020) than similar sectors such as aged care (14 per cent). This impacts on actual and perceived job security, and workforce retention (Department of Health Aged Care Workforce 2016).

Furthermore, we would not support a levy on employers following the pilot.

2. What rules should be used to determine whether a worker is eligible?

It is important that in the development of the Pilot, the government provide very simple and clear guidance on eligibility, which relies on easy to obtain data from workers.

3. How should the number of days be calculated and made available to eligible workers?

NDS recommends the Pilot lean on existing, well understood employment principles rather than create new definitions that may be confusing to workers.

NDS suggests a possible measure might be the income earned over the proceeding four weeks or a 'less than 25 hours per week' approach might be considered. These types of eligibility examples could be framed on being closely aligned to when the absence occurs and as a result eligibility directly correlates to the impact of the lost income that will be or has been experienced. Measures of this nature might influence the worker's decision or not whether to continue working.

The five days could be converted to hours based on a standard working day, each day comprising of the standard 7.6 hours resulting in the maximum number of hours claimable capped at 38 hours. Representing the entitlement in both days and hours hourly may be preferred offering flexibility, enabling workers who work non-standard hours, such as a 10 hour shift for example not being disadvantaged.

The Scheme reference to 7.5 hours per day or 37.5 per week as outlined in section 3 of the Consultation paper does not appear to align to any employment standard either at a State or Federal level. For example, the National Employment standards for personal/carers leave is based on a 7.6 hour day. This definition also assumes that vulnerable and disadvantaged workers are all casual or parttime and that these workers do not work a full day of 7.6 hours, nor does it take into consideration that some workers may work up to 10 or 12 ordinary hours in a day.

4. Is how we define sick and carer's leave appropriate?

NDS recommends that the proposed Pilot lean on existing well understood employment principles, and specifically, the Personal/Carers Leave provisions under the National Employment Standards. The intention of the program is to reduce workers presenting for work who may be ill or have caring responsibilities and this Leave definition covers the field in most aspects including family and domestic violence and mental health and wellbeing which NDS acknowledges has been significantly impacted by the COVID-19 pandemic.

5. How should eligible workers access and receive payments?

NDS is aware of the benefits of the recent JobKeeper Scheme, which paid additional payments to workers via their employers, and in doing so supported the existing employer-employee relationships. One positive aspect of the Scheme was its relatively light administrative burden.

NDS would generally support payments from initiatives such as the Secure Work Pilot going via employers but is concerned about any possible complex, costly and

administratively cumbersome requirements on employers. If the Pilot decided to direct funds via employers, it is recommended that there be funding to employers to administratively resource this function.

6. What evidence should eligible workers provide to receive payment?

Evidence for eligibility can be aligned to the evidence requirements prescribed in the Personal/Carers Leave provisions in the National Employment Standards to demonstrate illness or caring responsibilities which has broad meaning and understanding.

To evidence loss of earnings (the absence because of illness/caring responsibilities) either a roster from their employer and/or four weeks of payslips, or earnings immediately prior. Payslips provide evidence of not only patterns and number of hours worked but income being earned.

NDS notes that evidence requirements for independent contractors/sole traders may be more difficult given they must raise invoices for the period not being worked and these are not always raised in a timely manner but similar evidence of income could be required.

7. What worker protections need to be considered?

General protections provisions under the Fair Work Act and other legislation, like anti-discrimination laws provide a wide range of protections. Workers already have rights to be absent in relation to illness and caring responsibilities. NDS supports the use of national existing safeguards rather than state specific requirements, as much as possible. Many of our members work across state boundaries.

Please contact Graeme West if you wish to discuss any of these points further.

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