



16 April 2020

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

Dear members of the Joint Standing Committee on the NDIS

Re: Inquiry on the NDIS Workforce

The Office of the Public Advocate is a Victorian statutory body, independent of government and government services, that works to safeguard the rights and interests of people with disability. As Public Advocate, I am appointed by the Governor in Council and am answerable to the Victorian State Parliament.

My Office provides a range of services including guardianship, advocacy, and investigation services to people with cognitive impairment or mental illness. In 2018-19, my staff were involved in 1,823 guardianship matters (978 which were new), 404 investigations, and 258 cases requiring advocacy.

I am supported by more than 700 volunteers across four volunteer programs, including the Community Visitors Program. Community Visitors are empowered by law to visit Victorian accommodation facilities for people with disability or mental illness at any time, unannounced. They ensure that the human rights of residents or patients are being upheld and that residents are not subject to abuse, neglect or exploitation. In 2018-19, Community Visitors completed 5,527 statutory visits across 1,446 facilities in Victoria.

I appreciate the continued efforts of your Committee to improve the NDIS and I welcome the opportunity to respond to your latest inquiry on the NDIS workforce. My Office has contributed written submissions to past inquiries¹ and I have appeared as a witness before the Committee on two separate occasions.²

The role of disability workers in preventing and responding to abuse of people with disability

The mission of my Office is to safeguard the human rights of people with disability and to work to eliminate violence, abuse, neglect and exploitation. The disability workforce plays a valued and critical role in advancing these objectives within the sector more broadly.

¹ NDIS planning (August 2019), Supported Independent Living (August 2019), Market readiness for provision of services under the NDIS (September 2018), Transitional arrangements for the NDIS (February 2018), and Provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition (August 2017).

² In the context of the Committee's inquiry on services for people with psychosocial disabilities related to a mental health condition (hearing held on 12 May 2017) and the inquiry on transitional arrangements for the NDIS (hearing held on 8 November 2017).

When well-resourced, qualified, and supported, staff in disability services can contribute to fostering positive outcomes for people with disability.

You may be aware that in 2015, the Australian Senate Committee on Community Affairs led an inquiry into the abuse of people with disability in institutional and residential settings. In its final report, the Senate Committee identified a number of systemic workforce issues that contribute to the continuation of violence and abuse against people with disability, such as the institutional nature of disability service provision, low pay levels of the workforce, and lack of appropriate pre-employment and ongoing worker regulation.

The Senate Committee made the following recommendation to this effect:

The Australian Government establish a scheme to ensure national consistency in disability worker training, to include the elements of:

- *mandatory rights based training to develop core competency skills in recognising and reporting violence, abuse and neglect of people with disability;*
- *review of current training and qualification levels to be conducted in collaboration with people with disability and the disability sector, with a view to increasing requirements;*
- *increased levels of training requirements to work with people with disability who have greater needs or vulnerabilities; and*
- *consideration of the need for an independent training program accreditation agency or body to oversee the scheme.*³

It is disappointing that this recommendation, made now nearly 5 years ago, has not been implemented to its full extent, and I put it forward to you as OPA's recommendation in this area.

It is implied that NDIA staff, and particularly planners and Local Area Coordinators (LACs), form part of the disability workforce. Planners and LACs are effectively a participant's point of entry to the scheme. They are crucial to the participant experience and yet, OPA staff and volunteers see staff who struggle to support people with cognitive impairment. This is unacceptable, especially when considering that between 20 to 30 per cent of NDIS participants have an intellectual disability.⁴

Importantly, the 2015 Senate inquiry led to the establishment of the Royal Commission into violence, abuse, neglect, and exploitation of people with disability and in the time since the above recommendation was made, the NDIS has fully rolled out. Nonetheless, in this time, Community Visitors have continued to document inadequacies in staff training.

I appreciate that disability service providers and staff are still adapting to the marketised approach of the NDIS. While it is true that their familiarity with NDIS safeguarding framework is improving, I am apprehensive of the NDIS policy and Code of Conduct, which do not replicate Victoria's zero tolerance approach towards abuse of people with disability.

³ Senate Committee on Community Affairs (Government of Australia) *Violence, abuse, neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability* (November 2015) xvi.

⁴ National Disability Insurance Agency, *People with an intellectual disability in the NDIS 31 December 2019* (March 2020).

My Office recently published a report which explores the impact of the NDIS on the disability workforce, in the context of violence in group homes. The report, entitled *I'm too scared to come out of my room*, was submitted to the Royal Commission into violence, abuse, neglect, and exploitation of people with disability. It incorporates the voices of people with disability, including people who are supported by my Office. Chapter 4 of the report is of particular relevance to this inquiry and makes four recommendations relating to workforce issues. I **enclose** a copy of that report for you.

A shared workforce

The Committee is no doubt aware that there are three concurrent Royal Commissions relating to three social care sectors, namely disability, aged care, and mental health (in Victoria). Their co-occurrence points, in my view, to a real crisis in social care services. While I am hopeful that we have reached a turning point, it is yet to be determined how much consideration each Royal Commission will give to cross-sector workforce issues.

Recent data provided to me by the Community Visitors Program shows workforce shortages are amplifying as the scheme matures. There is a noticeable increase in staff turnover within disability residential services, resulting in discontinuation of services to the dissatisfaction of participants. In practice, the impact on the everyday life of participants is real. For instance, Community Visitors observe some providers who fail to forewarn participants (and house staff) of changes in scheduling or cancellation of services, leaving participants without the supports they require. Other OPA program areas observe scarcities in the supply of workers with higher levels of skill and expertise required to effectively support participants with complex needs. This is coupled with a growing reluctance of some providers and workers to support participants of this cohort.

In more recent developments, I have very real concerns in relation to the ongoing COVID-19 pandemic. I fear the disability and the social service workforces may be drained and that these sectors will face novel challenges in attracting and retaining workers in the aftermath of the pandemic. More immediately, I am highly concerned about the impact of the pandemic on people with disability and the disability workforce. Like others, I fear that that people with disability will be disproportionately affected, and that enduring issues affecting the under resourced, inadequately trained and poorly supported disability workforce will become even more critical.⁵ The sector has called for a targeted response to COVID-19 for people with disability, their families, and the disability service sector.

The Productivity Commission was clear, in its conception of the scheme, on the immense growth that would be necessary within the disability workforce to ensure the success of the scheme. In its 2017 study on NDIS Costs, the Productivity Commission identified a number of challenges in growing the workforce, including “ensuring that there are enough qualified workers to provide a reasonable quality of care” and a realisation that the sector would be competing with a coinciding growth in demand for aged care, mental health, and acute health.

It is imperative that the Australian Government consider ways to stimulate the workforce across social service sectors. This was well expressed in a recent submission published by counsel assisting the Royal Commission into Aged Care Quality and Safety where the following recommendation was made:

⁵ Centre of Research Excellence in Disability and Health, *An important message about people with disability and the COVID-19 response* <<https://credh.org.au/news-events/covid-19-and-people-with-disabilities/>> 15 March 2020.

"The Commonwealth should lead workforce planning for the aged care sector, and should identify an agency or body that has overall responsibility for aged care workforce planning."⁶

I draw your attention to one of several key actions identified by the counsel to achieve the above. Most relevant in the context of your inquiry is the impetus to "facilitate the migration of health professionals and care workers to Australia to address identified health, aged care and disability workforce needs."⁷

I endorse this recommendation and consider it relevant to two of your inquiry's terms of reference: "the interaction of NDIS workforce needs with employment in adjacent sectors including health and aged care" and "the role of the Commonwealth Government in influencing policy developments" related to the NDIS workforce.

Thank you for your continued efforts to improve the NDIS.

Yours sincerely,

Dr Colleen Pearce AM
Public Advocate

Encl.

⁶ *Royal Commission into Aged Care Quality and Safety, Counsel assisting's submissions on workforce* (March 2020), 20.

⁷ *Ibid.*