Disability Services Australia

ABN 35 002 507 655

Response to

2017 Price Controls Review

Consultation on NDIS Pricing Arrangements

13th April 2017

DSA commenced in 1957 through a group of parents to create employment opportunities for their sons and daughters with a disability. Today DSA are a large not-for-profit (NFP) organisation employing more than 1,200 people in key regions of New South Wales and the ACT including the Hunter, the Illawarra, Metropolitan Sydney, the Southern Highlands and Southern Ranges.

DSA are a strong advocate for the rights of people with disability to live a life of choice, inclusion and achievement. DSA aim to empower people to make their own decisions and to support people to develop the skills and capabilities they need to participate in society and contribute to the economy. DSA are a registered NDIS provider.

DSA supports people with a disability and their families and carers with employment, at home and in the community.

Price Limits for Attendant Care and Related Individual Supports

When responding to these questions, we are assuming that they are referring to price guide items such as:

- Assistance with self-care activities during daytime week days - $42.79
  (normal hourly rate, adjusted for evenings, weekends etc. per the award)
- Assistance to access community, social and rec activities – individual – per weekday - $42.79
  (adjusted per award as above)
- Assistance with personal domestic activities - $40.60

These items form a significant portion of the funded line items that are provided for in participant's plans.

Traditionally, Attendant Care, by definition, has primarily been considered as functional support.

The latest quarterly report released by the National Disability Insurance Agency (NDIA) to the COAG Disability Reform Council indicated that at this stage of the NDIS roll out, 76.8% of participants have either Intellectual Disability, Autism, Psychosocial Disability or Other Neurological disability. Intellectual Disability is the largest cohort, representing 37.6% of participants.

Participants with disabilities within these cohorts require staff to support them who have adequate training and understanding of their disabilities and associated behaviours, which are often more complex and challenging than physical disabilities.

Participants with these disabilities are also the most vulnerable, and require reliable and trust worthy staff to support them.

DSA believes that within this category, there needs to be differentiation in pricing dependent upon the level and type of disability of the person being supported. Whilst not all participants would fit the definition of "complex", to achieve good outcomes they will need to be supported by staff with appropriate skills and knowledge relating to their disability, and these participants that do not fall in to the complex category would still be considered vulnerable.

Question 1

Prices Charged

As a registered provider of supports, DSA currently charges all its customers in accordance with the NDIS Price Guide, and the funded items allowed for in a participant's plan.

Question 2

Comments on the Current Price Limits

A disability support worker paid under the SCHADS award at Level 2 Pay Point 3 receives $25.30 per hour. This is a low hourly rate compared to other industries ("average weekly wage" hourly rate equivalent for Australia is approximately $30), and it is difficult for employers within the disability services sector to attract skilled staff, with solid experience and a good track record of performance and service quality.

Our experience has been that staff need a significant investment in training and close ongoing supervision and performance monitoring. Working with a person with a cognitive impairment is at times stressful for the support worker, and at times physically strenuous. For this reason, it can be difficult to retain support workers in the industry long term, and our experience is that most organisations within the sector are constantly having to recruit, train, mentor, induct and supervise new staff.

At the current rate of $42.79 for "attendant care" type services, our organisation is unable to provide these services to our customer cohort (primarily intellectual disability, autism and mental health trauma based care) to a level with which we are satisfied. This rate does not allow us to provide sufficient training to our staff, provide adequate supervision, monitor performance, report on incidents, put in place corrective actions where required, and meet the quality and safeguard framework that currently exists within NSW and the subsequent national framework.

Whilst we have been a highly reputable and active provider of services to PwD, supporting them to access the community and in their daily life, we are considering withdrawal from this area of service provision and restricting our focus to the limited number of service areas that we could deliver sustainably in accordance with the NDIS price guide.

Question 3

DSA does not charge a different price for agency managed or self managed customers at this point in time.

Question 4

Comments on the Efficient Cost of Provision

The cost of service provision is not just determined by the efficiency of an organisation, but is also impacted by:

- the disability of the customer/s
- the settings in which services are delivered, and appropriateness of the facilities or accommodation available to the customer/service provider
- the level and capacity of informal supports available to the customer, including carer engagement
- the number of scheme participants the carer supports
- the customer's ability to communicate, and to exercise choice
- the adequacy and appropriateness of the customer's plan
- the customer's previous access to services/ service history
- the ability of the customer to be matched with other customers
- the cultural diversity of the customer
- the life stage of the customer and also the carer/s
- the hours of service provided, and the regularity and recurrence of service requirements
- the effectiveness of the interface with other service systems e.g. Health, education, justice, housing
- the ability to recruit and retain appropriately skilled staff
- workplace health and safety requirements applicable to the service delivery context

These factors are largely outside of the control of service organisations. However, they are not factored in to the efficient pricing model and attendant care rate, and there are many service delivery scenarios impacted by the above factors that cannot be delivered sustainably/profitably with current attendant care pricing.

The efficient cost of provision model effectively discriminates against those with cognitive impairment, and those with low levels of informal supports.

Questions 5

Organisational Response to Change in Attendant Care Price

If the attendant care price is not changed or is reduced in the next price guide, it is likely that DSA will withdraw from provision of services funded at this rate.

Question 6

Access to Labour

As previously mentioned, our experience is that staff we recruit need a significant amount of training, induction and supervision to deliver services to our customer base to a level with which we

are satisfied. The current attendant care rate does not adequately fund this training, induction or supervision.

Whilst we are currently able to recruit staff, it is difficult to attract and retain good quality staff at the SCHADS award rate. We are experiencing a trend toward longer "time to fill" rates, and we expect that it will be increasingly difficult to recruit good quality direct support workers as the NDIS rolls out and there is greater demand for services.

It is also worth considering the tension between the promise of the NDIS to participants in relation to choice, control and flexibility, and the implications this will have for the disability work force. This tension is well illustrated in an article published in "The Conversation" on 22nd August 2016:

> *"The pressures on service providers to be competitive, flexible and responsive in the new market readily translate into pressures for more flexible working arrangements for the frontline disability support services workforce.*
>
> *This flexibility is likely to mean more fragmented working time and reductions in the working conditions of this highly feminized workforce. For example, employers are asking the Fair Work Commission for reduced minimum engagement periods that could see disability workers being engaged to work a single hour at a time.*
>
> *Changes to shift arrangements could have disability support workers working multiple short periods in a single day with large gaps of time in between. These jobs are not highly paid and the gendered undervaluation of support and care work due to its association with women's unpaid care work has been widely acknowledged, including through the 2012 Social and Community Services Equal Remuneration decision. Much care and support work is already short hours and the risk is that more of these jobs will become casual, with unpredictable working time and with workers unable to get enough work to make a living.*
>
> *The NDIS, along with the introduction of individualised consumer-directed care in home care services for elderly people, have also brought about a new demand for services to be provided by self-employed support and care workers.*
>
> *For an individual with disability who is managing their own funding, engaging a support worker as an independent contractor is likely to be much easier than becoming an employer with all the responsibilities that entails. However, self-employed contracting is in itself a form of employment in which low-paid workers can be highly vulnerable. Self-employed contractors take on individual responsibility for managing many of the risks of their employment and they have few of the protections and benefits of wage earners. The 'gig economy', where consumers access services directly through technology platforms (think Uber), also might change the landscape for disability support and other care services. It could fuel a growth in the risky self-employed contracting form of employment.*
>
> *There are a variety of new technology-based businesses in Australia's disability services market already. While some are acting as employers of support workers, others have adopted the Uber model by simply providing matching services for consumers and support workers, with workers left with all the risks of running their own businesses.*
>
> *The individualisation of social support and care is bringing much needed opportunities for control, choice and participation for people with disability. However, there is an urgent need to consider how to ensure the protection of care workers in this new system and provide them with decent work in the future."*

NDS research published on 7th September 2016, titled "NDIS Growth Requires an Investment Plan", states:

> *"If the NDIS is to meet the reasonable needs of almost 460,000 people with severe disability around Australia, it will require the employment of 70,000 new staff and a doubling in the supply of disability supports."*

To attract new workers to the disability services sector, in addition to an investment in training and supervision, service providers will also need to offer employment contracts and working conditions that are at least as favourable as other sectors. Lower than average wages and casualised employment arrangements (required to meet consumer demand for flexibility and the unrealistic 95% billable time assumptions) will not allow the growth in staff required to meet the demands of 460,000 NDIS participants.

DSA believes the efficient pricing model and the under pinning assumptions are driving a strong risk of market failure.

Question 7

N/A – for Participants

Question 8

Efficient Cost Assumptions

Note – DSA has included a suggested model for the attendant care rate at Appendix I.

Base hourly rate (SCHADS 2.3)

A disability support worker paid under the SCHADS award at Level 2 Pay Point 3 receives $25.30 per hour. This is a low hourly rate compared to other industries ("average weekly wage" hourly rate equivalent for Australia is approximately $30), and it is difficult for employers within the disability services sector to attract skilled staff, with solid experience and a good track record of performance and service quality.

Our experience has been that staff at this level need a significant investment in training and close ongoing supervision and performance monitoring.

95% Billable Time for Support Staff

Our experience has been that staff at grade 2 pay point 3 need a significant investment in training, and close ongoing supervision and performance monitoring. Not all training can be delivered during customer facing hours, and the span of control at 1:15 certainly does not allow for mentoring and training of staff during support delivery hours.

The 95% billable time expectation does not allow for an adequate level of corporate induction, values based training, skills based training, training around quality and safeguards, systems and processes. As mentioned above, the span of control does not allow for this type of non-customer specific training to be delivered during customer facing time and it would not be appropriate to do so.

In addition, this billable time expectation does not provide staff with sufficient time to meet recording and reporting requirements required under the quality and safeguards framework.

Evidence of likely outcomes when there is insufficient training, performance monitoring and compliance with the quality and safeguards framework was aired on the Four Corners Program relating to incidents that occurred in supported accommodation models managed by Lifestyle Solutions.

We suggest that 85% billable time would be the maximum achievable within this sector.

90% Billable Time for Management Staff

Staff working in management/supervisory roles will have insufficient time to monitor performance of direct support staff or provide training or performance management at the required level, if 90% of their time is required to be billable to a customer.

These workers will be at a higher grade than grade 2 pay point 3, and their costs could not be recovered from the attendant care rate. If they are working with a direct support worker with a specific NDIS participant for one hour, and for that one hour the participant is charged for two hours to recover the cost of the additional worker, the cost recovery would still be insufficient for the service provider. The NDIS participant would need to have some higher priced line items in their plan, and there would need to be agreement between the participant and the service provider that supervision and training of direct support staff by this manager could be recovered at a higher rate.

Our experience is that most customers believe this training and supervision cost should be borne by the organisation. As there is insufficient margin within the attendant care rate to adequately train and mentor staff, organisations will either cease providing this type of service, or provide attendant care services with staff that have a minimal level of training and supervision, and with a low level of compliance with the quality and safeguards framework that will only be evident once incidents are made public.

The Manager may recover their costs through the provision of support coordination or capacity building activities, but in doing so will only have 10% of their time to actually "manage" staff in a service delivery context, which we believe is insufficient to provide the appropriate level of oversite and service quality in most instances.

NDIS participants who have active and engaged informal supports or who are high functioning and can supervise and direct their own staff, would be in a position to engage attendant carers at a lower rate, and through unregistered providers with flexible models of engagement.

Participants with low levels of informal support, and who have some level of cognitive impairment need staff with the appropriate level of skill, experience and training, and appropriate levels of oversite and supervision to ensure safeguards are adequate.

As previously mentioned we believe the efficient pricing model discriminates against NDIS participants with a cognitive impairment.

1:15 Management Span of Control

As previously mentioned, DSA believes a Management span of control set at 1:15 is insufficient to provide appropriate levels of oversite, performance management, training and compliance with the quality and safeguards framework.

During the current transitional phase to the NDIS, Managers are also having to take on additional responsibilities relating to changes in business process around time capture, portal bookings and billings, and where they have service area responsibility, take greater responsibility for the financial sustainability of their area. They are having to learn new skills, and are having to drive cultural and attitudinal changes with front line staff.

For example, traditional service models allowed over servicing to meet unfunded customer needs, and cross subsidisation to allow unsustainable but necessary services or facilities to be provided to meet customer need. Managers and front line staff are now having difficult conversations with customers and carers around perceived reductions in services, to align with funded hours in a participants plan.

Organisations are having to support many "unfunded" hours for front line staff and managers to navigate and embed changes required by the NDIS, eroding already minimal levels of working capital.

We believe a span of control at 1:15 will represent significant risk to NDIA participants after full roll out of the NDIS, and during the transitional period (roll out and period to market maturity) a span of control at this level will be unobtainable by most organisations resulting in erosion of service provider working capital as they funded the shortfall in margin. As most organisations have limited working capital – as reported in the NDS 2015 State of the Disability Sector Report, 67% of organisations had less than the recommended 3 months of cash flow in reserve, there is significant risk of market failure if this assumption is maintained in the efficient price model.

We believe a span of control of 1:8 is the maximum achievable for this sector.

Overheads, allowances and adjustments

The current assumptions for corporate overhead in the efficient price model are unachievable for service providers during the transition to the NDIS. In addition to maintaining current service levels, service providers are having to:

- understand and interpret the changing requirements of the NDIS
- re-engineer internal systems and processes
- interpret and adjust to an inefficient NDIS payment portal with the requirement for additional administrative resources and a negative impact on working capital
- implement new and upgrade existing ICT systems
- deploy and maintain "cultural change" programs
- revise work force policy to meet customer requirements for flexibility, choice and control and undertake work force restructures (including negotiation with unions, rewriting position

descriptions and renegotiating contracts of employment, revision of recruitment policies, managing an increase in workers compensation claims relating to stress that are often a result of workforce restructures etc.)

- review strategies for effective workforce utilisation (rostering to customer demand for service as opposed to service area funding agreements), and deploy systems and training to support new strategies
- review strategies for deploying cost effective training that fits with the requirements of the billable hours assumption in the efficient price model, whilst managing organisational risks and meeting the quality and safeguarding framework (have yet to come up with a satisfactory strategy)
- re-write procedures and work instructions to support the new way of working within the NDIS environment, and educate the work force on changes to the quality system and practice manuals
- undertake detailed reviews of financial sustainability of different service areas as customers transition to the NDIS taking in to account:
  - customer demand for the service
  - the number of funded hours the customers have to access the service
  - whether the customers have sufficient funding for transport to access the service
  - the hourly rate for the service (1:1 and group scenarios)
  - the lack of funding for facilities and vehicles, and whether or not the particular service can be delivered without facilities and vehicles
  - the existing employment conditions of staff engaged to deliver the service, and whether current contracts will meet the assumptions for billable hours included in the efficient price model

  If it is determined that a service cannot be delivered in a financially sustainable way with achievable increases in efficiency, plans need to be developed to devolve the service and notify customers and carers that the service will no longer be provided.

- undertake increased levels of administration, including:
  - new service agreements for all customers as they transition to the NDIS, and at each plan review
  - portal bookings for each customer
  - managing customers and their corresponding plan detail and service schedule within the CRM
  - service delivery confirmation at service level, through to review, claiming via bulk upload, trouble shooting claim errors, and reconciliation of cash receipts

  Some of this administration is best completed at the front line (for example, customer level service bookings on the NDIS portal and CRM record maintenance), but difficult to complete with the prescribed 95% billable hours assumption in the efficient price model. With customers with a cognitive impairment this type of work is difficult to complete during customer facing time, and it is our experience that customers do not expect to pay for this type of administrative work.

Most of these additional tasks require skilled senior employees with considerable experience within their areas of expertise. Organisations are having to increase rather than decrease levels of corporate overhead to be able to navigate the transition to the NDIS.

As previously discussed, organisations are having to fund this investment in change from working capital, and most organisations within the disability services sector have less than adequate working capital reserves.

Post full roll out to the NDIS and as the market approaches maturity, organisations will need to compete in an open market. Very few organisations are able to operate with the level of corporate overhead prescribed by the NDIS, so the result may be that many organisations chose not to register with the NDIS, and market their services to customers who either self manage or plan manage and can access unregistered providers.

Again, this will discriminate against participants with a cognitive impairment and low levels of informal support, who may not be in a position to self manage or plan manage. They will have fewer providers to choose from.

It will also increase the level of risk to people with disability, as unregistered providers will not need to comply with the quality and safeguards framework to the level of registered providers.

Question 9

Modelling Approach and Cost Catergories

The attendant care rate and the efficient price model has been used as a basis for more than just 1:1 support, it has also been used as the basis for centre based supports.

This model makes no allowance for any assets or facilities required to deliver services to those with the most complex behaviours and highest levels of disability. Whilst there may be some level of philosophical opposition to centre based services in a facility and congregate support models at a philosophical level, if purpose built facilities are not made available to participants with the highest levels of disability, these participants will not be able to leave their homes. They will be denied the choice of some level of reasonable social inclusion currently enjoyed.

Without purpose built facilities, these participants will not experience any level of social engagement other than with their families, co-residents if in a group home, and their support workers. Our experience is that our customers who access our centre based services look forward to these outings and the connections they have made with other participants, and these services also provide valuable respite to families and carers.

Some of the modifications required to provide services to participants with the highest level of disability include:

- hoists and reinforced ceilings to enable participants to access amenities
- amenities that are fully accessible, and include showers and adult change tables
- sensory spaces for participants with severe autism so they can manage their own behaviours
- "zoned" spaces to allow participants to be in a group, but have a level of separation as required so that participant behaviours do not negatively impact on other participants

- Modified facilities and equipment to allow learning and capacity building. For example, accessible kitchens with lowered benchtops, appliances and whitegoods with visual cues etc.

There is nothing in the efficient pricing model to allow for the development or maintenance of any of these modifications, or even the most basic of facilities.

DSA has engaged with the NDIA on this issue on a number of occasion, providing tours of facilities, case studies and detailed costings. However, as there has been no movement in this area, we are starting to put in place planning for the devolvement of a significant number of our centre based services.

Question 10/11

Group and Centre Based Activities

DSA strongly disagrees with the assertion that the distinction between community based and centre based supports is arbitrary as the costs are similar. This assertion would only be true for relatively high functioning participants who do not require facilities with special modifications. These participants can and should receive community based services as far as is appropriate for the individual.

However, for those participants who's level of disability – either behavioural or physical, is so great they find it difficult to access the community for significant periods of time, the cost of providing support in a centre is significant and goes well beyond the labour component due to the special modifications required.

At a minimum, additional costs required to maintain a centre include:

- Rent and outgoings
- Utilities
- Fit out expenditure and depreciation
- Specialist equipment

Community based support may require some expenditure on transport, but in no way would it equal the quantum of expenditure required to maintain a specialist centre based facility.

For this cohort of complex customers, support ratios are not static. They may require 1:1 support for most of their support time, but 3:1 support for personal care/accessing amenities. During this period of additional support requirement, staff cannot necessarily be taken away from other highly complex customers to assist with this activity. Additional staff beyond the normal support ratio for each customer are generally required in these complex group scenarios for personal care activities. This is not taken in to account in the proposed pricing models.

Question 12.

Pricing Rules

We have no specific comments in relation to pricing rules.

Question 13/14

Price Banding

We believe that the price banding approach as proposed is inappropriate, as in our opinion, the methodology relating to efficient costs of providing reasonable and necessary care is flawed.

This approach will reduce the quality of care and support, and make it virtually impossible for organisations to:

- Comply with the quality and safeguards framework
- Attract and retain quality staff
- Provide adequate training for staff
- Provide adequate supervision of staff
- Undertake the administrative tasks required to operate in an NDIS environment

As previously mentioned, participants with a high level of capacity or highly engaged and capable carers can access unregistered providers by self managing or plan managing. They can access labour through "gig economy" style web based platforms, and roster, supervise and train their own staff. They can negotiate lower rates, as they are undertaking many of the tasks that a service provider would undertake.

Participants with a higher level of disability, and without highly engaged or capable carers, need staff that are trained, supervised, and who operate within the quality and safeguarding framework. It will be difficult for these participants to distinguish between low quality and high quality service providers, so they are most likely to go for the low priced providers. They will experience and learn about "low quality" during the provision of their supports – at what risk and impact to the person with disability?

Whilst the NDIA suggest that competition must be sufficiently strong for price banding to work, the sophistication of the NDIS participant as a consumer is even more important. After many years of receiving block funded "welfare" style services, NDIS participants do not necessarily understand the dynamics of a competitive, consumer driven disability market. It will take some time for participants to have the appropriate level of experience to be able to make informed decisions around price versus quality.

Appendix I

Suggested Model and Assumptions for Attendant Care Rate

Assumptions		Rates Allocated	Standard Support	% total Cost
Support Worker:				
Grade	2.3			
Rate with all On Costs		$ 33.22		
Billable Hours	85%			
Effective Labour Cost			$ 39.08	
Team Supervision				
Grade (with on costs)	3.4	$ 38.11		
Workers Supported	8			
Allocated Cost at 1:8 Ratio			$ 4.76	
Regional/Service Area Supervision				
Salaried - Hryl with all On Costs ($90K plus travel allowance)		$ 61.20		
Workers Supported	80			
Allocated Cost			$ 0.77	
Total Direct Labour			**$ 44.61**	86.0%
Technology allowance				
$1200p.a. over billable hours			$ 0.77	
Corporate and Other Regional/Service Overhead			$ 6.50	12.5%
Total Cost to Deliver 1 hour of support			**$ 51.89**	
Sustainability Margin @ 5%			$ 2.59	
Sustainable Attendant Care Rate			**$ 54.48**	

Oncost Assumptions for Award Staff

Grade	Ordinary Rate	First Aid Allowance	Final Hourly Rate	Annual Leave	Leave Loading	Sick Leave	Long Service Leave	Super Base	Super	Workers Comp Base	Workers Comp	Fully Costed Rate
2.3	$25.30	$0.46	$25.76	$2.11	$0.37	$1.05	$0.21	$25.76	$2.45	$31.94	$1.28	$33.22
3.4	$29.07	$0.46	$29.53	$2.42	$0.42	$1.21	$0.24	$29.53	$2.81	$36.64	$1.47	$38.11