HSU Victoria Submission

SENATE COMMUNITY AFFAIRS REFERENCES COMMITTEE

INQUIRY INTO THE FUNDING AND OPERATION OF THE COMMONWEALTH/STATE DISABILITY AGREEMENT

Introduction

The Health Services Union of Australia is a specialist health union with over 70,000 members working in all areas of healthcare and human services. The membership of the union includes doctors, nurses and allied health professionals such as physiotherapists, Speech Therapists, Occupational Therapists, Social Workers, Diversional Therapists, Disability and Aged care employees.

In Victoria the HSU is the largest representative of employees in the Non Government disability services sector. The HSU has a dedicated team of workforce representatives with over 40 years experience employed in the disability services sector.

The HSU is currently undertaking an awareness raising campaigning about the pay inequity for employees in the non governments sector, in comparison with the government sector. The funding arrangements under the Commonwealth State/Territories Disability Agreement is, at the very least partially responsible for this inequitable outcome.

The HSU also represents the majority of health professionals employed in the public and private sector's disability services sectors in Victoria. These specialist professional health employees are currently under threat of substitution by generalist assistants, employed by private practitioners, with as little as 20 hours of training through the Vocational Training System. These reforms are being introduced under the auspices of the Council of Australian Government (COAG) and the Productivity Commission. The new 'Assistants' roles have just been introduced into the Industry Skills National Training Package Draft 4.

There is additional pressure throughout the workforce from the combination of services' funding shortages and the government's amendments to the Workplace Relations Act 1996. The amendments effectively reduce the minima conditions of employment for the majority of employees in the disability services sector. Funding shortages increase the likelihood that organisations will feel pressured to reduce terms and conditions of their employees. Victoria's experience in the sector, after major industrial relations changes over the last decade, is that the consequences of this will be increased workforce shortages and growing unmet demand for services.

This Submission aims to inform the Senate Community Affairs References Committee of the workforce impacts of existing funding arrangements and current reforms affecting the disability services sector. It provides the Committee with a number of principles to incorporate into the development of a new funding formula to ensure the sustainability of services to people with a disability.

Terms of Reference

With respect to the Terms of Reference this submission comments on:

- the appropriateness or otherwise of current Commonwealth/State/Territory joint funding arrangements, including an analysis of levels of unmet needs and, in particular, the unmet need for accommodation services and support;

  Namely:

  - Factors contributing to shortages of workforce supply in the disability sector

- an examination of alternative funding, jurisdiction and administrative arrangements, including relevant examples from overseas,

  Namely:

  - Workplace Relations Act 1996
  - Council of Australian Governments Health Funding Agreement

Principles for Funding Arrangements

1. The Commonwealth State/Territories Disability Services Agreement formula is to provide dedicated revenue for service providers to maintain and increase the supply of workers by :

    - Preventing the further reduction in working conditions and income of disability support workers, and
    - increasing the number of full time, permanent part time and qualified employees to health industry or labour market average.

2. The Commonwealth State/Territories Disability Services Funding Agreement formula will explicitly recognise the investment which service providers must make in their workforce to sustain services. This investment in human capital includes:

    - Training
    - Professional Development
    - Career Diversification and Advancement Structure

3. The Commonwealth State/Territories Disability Services Funding Agreement formula will ensure that workers in the disability sector can access employment entitlements such as:

    - Leave Entitlements
    - Parental/Family Leave
    - Salary Packaging
    - Superannuation
    - Occupational Health and Safety Management and Training

4. The Commonwealth State/Territories Disability Services Funding Agreement formula is to provide a commensurate federal subsidy to the public and NGO service deliverers which employ health professionals, as will be provided to private practitioner health professionals, to provide services.

5. The Commonwealth State/Territories Disability Services Agreement formulae will recognise that the savings to the federal Governments from shared residential models will be reinvested in a quality workforce to improve the cost efficiency and effectiveness of services.

6. The Commonwealth State/Territories Disability Services Agreement formulae is to ensure that State Governments cannot elect to only fund ‘cheaper services’ whilst the most high need and vulnerable people do not receive any.

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Chapter 1 – Unmet Needs

This chapter comments on the unmet needs in the disability sector and the relationship with the supply of the workforce. Specifically it responds to the Terms of Reference **b, "…an analysis of levels of unmet needs and, in particular, the unmet need for accommodation services and support.**"

We are cognisant that there are reports which provide more comprehensive detail on service recipient demand[1]. However very few of these reports comment on the supply factors, in particular, the availability of disability support workers and health professionals. In the absence of this information, it is important that the Committee is advised of the relationship between unmet demand and shortages of supply of people to deliver services and the new factors which are likely to impact on supply.

The effect of the Commonwealth State/Territories Disability Agreement **(**CSTDA) on supply has been to enable the reduction in the quantity and quality of employees in the disability services sector. The terms and conditions of employment of employees in the disability sector have declined dramatically in the last decade. This has directly affected the ability of service providers to:

- Retain skilled and experienced staff
- Attract quality people into the disability sector
- Reduce turnover and 'churn' of employees in the sector
- Reduce vacancy rates and under-employment by unqualified people
- Provide for continuity and fulfillment of objectives for service recipients

The Victorian Disability Sector has been transformed since reforms introduced in the early 1990's, including industrial relations changes and government purchasing reforms, and competitive and shorter term funding agreements. The consequence for service providers has been restrained investment in human capital and restrained employment of on-going full time employees. The result has been a huge increase in the casualisation of the workforce and consequential quality and sustainability impacts. The statistics demonstrate how significant the impacts have been.

- In the decade between 1993 and 2003 the number of full-time positions in the disability sector almost halved, from 65% of the workforce to 34%. [2]
- The average income of employees in the disability accommodation sector has fallen to $15,000 - $20,000 per annum.
- Over 27% of workers employed in the disability sector now work more than one job.[3]

[1] This includes 'Unmet need for Disability Services: Effectiveness of funding and remaining shortfall', Australian Institute of Health and Welfare, 2002 and unmet demand statistics held by State Registries.
[2] Department of Human Services, Disability Services Workforce Study, Draft Report 2004 pp.15
[3] Victorian Disability NGO Workforce Analysis Project, VICROD, ACROD and CIDA 2003 pp 50-53

Unmet need & unfilled vacancies

The gap between needs and available supply is already high, as demonstrated in the Victorian Disability Services Division's Needs Registry. The Disability Services Division service needs register records the support needs of people with a disability who are waiting for services. The following table shows the latest reported unmet demand in Victoria in December 2005.

Figure 1. The Number of Requests for Services on The Service Needs Register

The Number Of Requests For Services On The Service Needs Register [4]				
	Urgent	High	Low	Total
Home First	1,024	183	83	1,290
Shared Supported Accom'	1,051	555	953	2,559
Day Programs	377	100	17	494

The following table is the last reported percentages of unfilled vacancies in the Disability Sector in Victoria in 2003.

Figure 2. Vacant Positions in Non Government Disability Sector[5]

Vacant Positions in Non Government Disability Sector			
Type of Service Provision	Total number of vacancies by category	Total Positions	Percentage of Positions Unfilled
Home Support	104.5	400.5	26
Shared Supported Accom'	89	16792	5
Day Programs	16.5	102.5	16

It is noteworthy that the areas of highest area of demand (total positions) are in accommodation support services.

These vacancy rates however conceal a deeper problem of workforce shortages, because many positions are being 'under-filled' by people without the experience or training to be fully contributing to service objectives. This is a serious issue in the disability sector given the vulnerability of many service recipients. The lack of pre-requisites for disability support workers, such as qualifications or registration, simplifies opportunities for unprofessional and unethical appointments, such as people with criminal histories. Anecdotal evidence of our membership indicates there are incidence of supervisors and managers employing their friends, irrespective of their interest in the field or the clients. This is an extremely undesirable consequence of shortages.

[4] Victorian Disability Services Division's Needs Registry
[5] Department of Human Services, Disability Services Workforce Study, Draft Report 2004

There is a concern that the current funding context in Victoria has resulted in waiting rates for 'Share Supported Accommodation' are twice as high as Home First waiting lists because of the $5 difference in direct hourly unit costs[1]. This direct hourly cost difference does not explicitly acknowledge commensurate savings to the State Government in the contribution it would make to residential overheads, including discounts and subsidies for a disability pensioner living in their own home, as well as ambulatory, medical and other support services. The failure to recognise the cost effectiveness of shared accommodation services, once concessions and subsidies for alternative care have been calculated, could be distorting patterns of delivery.

The new funding formulae must recognise the commensurate savings to State Governments from shared residential models which reduce concessions payable and services required to people on disability incomes living in alternative settings.

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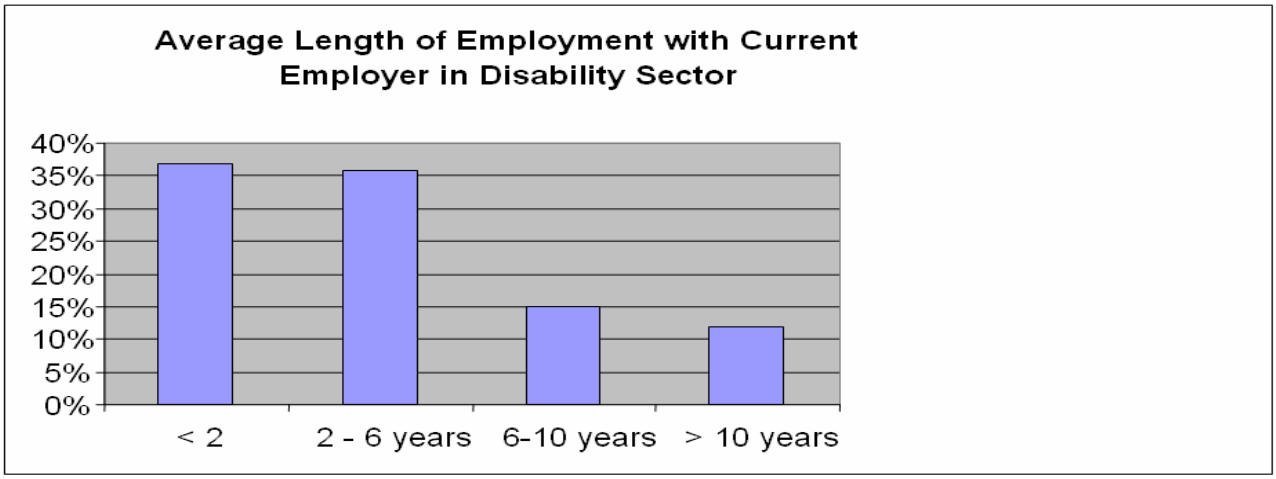
The new funding formulae must prevent State Governments from electing to only fund 'cheaper' services whilst the most high need and vulnerable people do not receive any.

The average length of employment with current employer shows that employers have difficulty retaining staff. This shows the major operational constraints placed on service providers by having to maintain low wages and casual staff to operate within available funding, predominantly determined by the government.

Figure 3. Average length of employment with Current Employer



In addition to the impact on service recipients and staff, the level of turnover increases the cost of maintaining a stable workforce. According to workforce employer estimates, it costs approximately $3,000 to replace a staff member. If 15% of staff leave their employer annually, this amounts to over $5,000,000 per annum to replace staff. It is the opinion of the majority of stakeholders that these funds would be more efficiently and effectively utilised if directed towards improving pay and conditions to retain existing staff.

Given that one fifth of the workforce will leave their current place of employment in any year, the likelihood that they will continue to be covered by the same terms and conditions of their existing employment is severely reduced (new agreements and awards will be more limited in scope – refer

to the Workforce Relations Act 1996). This will compound existing problems with the supply of a quality workforce.

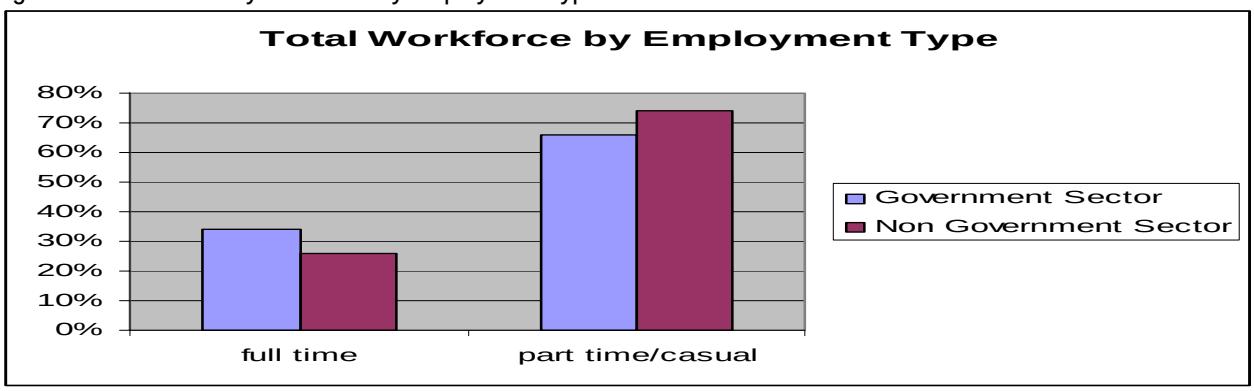
A key reason for the shortages of the workforce required to deliver services is due to the unlivable wages in the sector. This is supported by the Victorian Disability NGO Workforce analysis project survey, which found the most significant cited reasons for leaving were[6]:

- Poor Wages
- High expectation levels
- Lack of recognition of some qualifications
- Inability to put together sufficient part time hours to make a viable income

Turnover rates in the disability sector are highly unreliable because of the high proportion of casual workers. A casual worker can remain 'on the bank', appearing to be employees, while their availability may be extremely limited. However it is notable that employee turnover, from employers and the industry, is half as great for people who have a qualification.[7] The higher turnover rates are directly attributable to the increase in employment of people with no experience of qualifications in disability services, as well as a reduction in terms and conditions of employment, including income.

The two major Government and Non Government studies into the disability workforce determined that income-related factors were outside their scope and therefore did not investigate it as the reason for attraction and retention of staff. This was notwithstanding that in their survey of workers, 'poor wages' was cited as one of the main reasons for leaving the sector.[8] The income factor is also demonstrated by the distribution of employment and income in the sector. The figure below demonstrates that less than 30% of the workforce has full time employment.

Figure 4. Total Disability Workforce by Employment Type

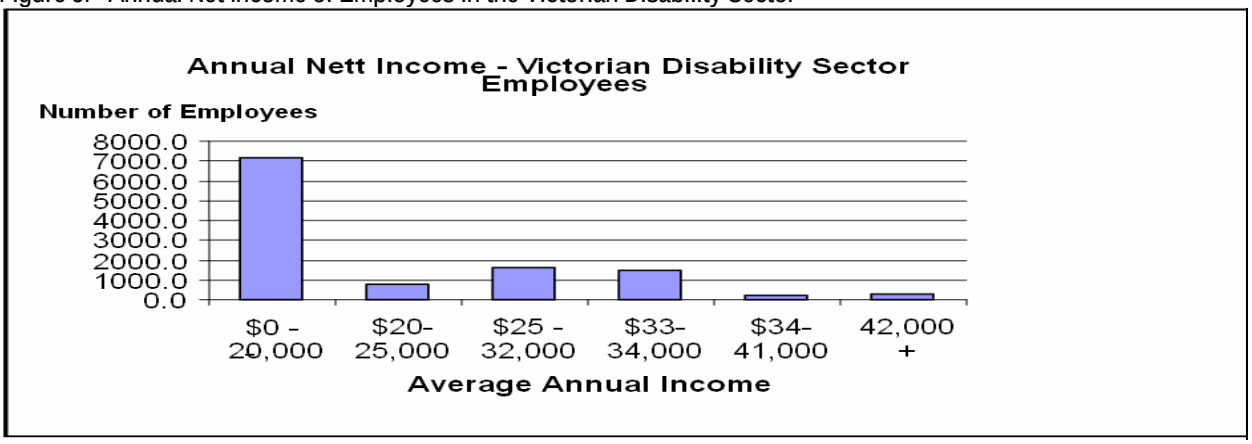


The majority of employees are now casual and part time. A major consequence of the high casualisation of the workforce is a reduction in the average mean earnings of people employed in the sector. The current income range of staff currently employed in the disability sector is depicted

[6] Victorian Disability NGO Workforce Analysis Project, VICRAID, ACROD and CIDA
[7] Ibid.
[8] Victorian Disability NGO Workforce Analysis Project, VICROD, ACROD and CIDA 2003

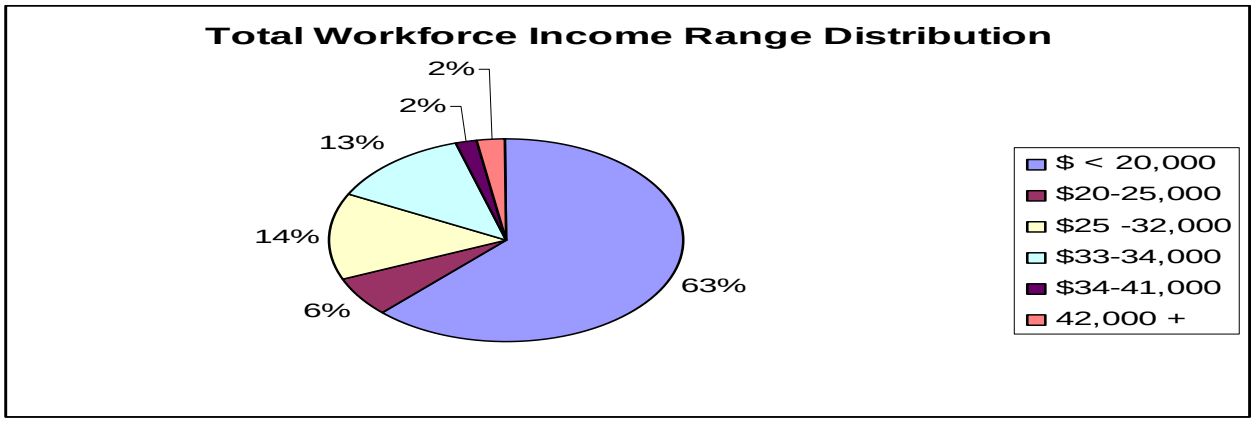
in figure 5 below:[9] These incomes compare with the average full time adult earnings in August 2005 (public and private sectors) $53,144.[10]

Figure 5. Annual Net Income of Employees in the Victorian Disability Sector



In percentage terms, over 63% of the workforce earn under $20,000. The opportunity for them to reach the average mean income of $53,000 in the disability sector in one job, is approximately 2%.

Figure 6. Total Workforce Income Range Distribution[11]



The Federal/State Funding Agreement formula must provide sufficient income for service providers to:

- **ensure that there is no further reduction in working conditions and income of disability support workers**
- **increase the number of full time and permanent part time employees to health industry or labour market average.**

[9] For more detailed information see Appendix E.
[10] ABS Catalogue 6302 'Average Weekly Earnings' August 2005
[11] Victorian Disability NGO Workforce Analysis Project, VICROD, ACROD and CIDA 2003

However income is not necessarily the sole or highest priority for people who work in the disability sector. According to our most recent survey of our disability workforce, the issues which are also important to workers relate to those aspects of their employment which they have lost through casualisation[12]. The table below shows the results from a recent survey of disability support workers surveyed, who were asked to identify the issues most important to them, from a list of 14 workplace issues.

Figure 7. Issues of Highest Importance to Disability Workforce

Issues of Highest Importance to Disability Workforce	Median Score
Professional Development	11.00
Parental Family Leave	10.00
Salary Packaging	9.00
Superannuation	9.00
Career Structure	9.00
Leave Entitlements	7.00
OHS	7.00

These facts demonstrate the necessity for the Senate Committee to ensure that the funding formulae explicitly recognise the investment which service providers must make in their workforce to sustain services. This includes:

- **Training**
- **Professional Development**
- **Career Diversification and Advancement Structure**

The committee needs to ensure that the model provides for adequate funding to enable better access for disability workers to workplace entitlements such as:

- **Leave Entitlements**
- **Parental/Family Leave**
- **Salary Packaging**
- **Superannuation**
- **OHS Training**

[12] In June 2006 the Health Services Union began distribution of Surveys to its membership. The initial responses of over 100 respondents from the disability sector showed the highest mean average responses to the question 'What issues are most important to you' from a list of 14 work related issues as at July 29 2006. Final Publication of Survey and Report Pending.

VICRAID, the peak organisation representing non-profit disability accommodation and support services across Victoria, supports the findings of the workforce. The NGO Disability Workforce Study in 2003 found that the funding formulae & resulting revenue has resulted in:

- Loss of hours of essential direct care services to people with disabilities and their families
- Loss of rostered staff hours in community residential units, which are the homes of people with disabilities [13]
- Less staff hours to provide accommodation and out reach services for young people who are desperately in need of this support
- Reduction in educational, recreational and personal development programs provided in over 100 ATSS day services for people with disabilities in so many communities across Victoria
- Reduction in staff time available in community housing services lessening the support available to vulnerable tenants and the necessary monitoring and upkeep of this housing stock [14]

The position of the NGO's was validated by a Victorian Treasury and Department of Human Services commissioned study of disability service providers undertaken by KPMG in 2003. In it they found:

- Financial management in the sector is quite strong and there is no evidence of over-heavy management structures.
- Agencies have been efficient in coping with management and cost pressures due to Workcover increases.
- More agencies are reporting losses or reduced surpluses than in the past.
- Reporting and compliance requirements (under the purchaser/provider model of shorter term tenders for services) have placed added pressures on administrative resources that are generally lean.
- Agencies are increasingly addressing funding shortfalls by using reserves and this could only be considered a short- term strategy.
- Some agencies have moved out of providing some services because they did not have the resources to provide a quality service.
- Innovative strategies have been adopted by agencies to generate income in the face of financial pressures.
- Increased costs particularly due to loss of some tax concessions particularly around vehicle purchase as a result of the taxation regime changes [15]

[13] This amounts to a significant reduction in the quality of life for a person receiving services. For example, the current funding model for supported residential services, facilitates a maximum of 5 days per year of support for the clients to stay home during the day. The remaining days they must attend their day activity, including work. This number of recreation and sickness days diverges so substantially from non-disabled peoples' entitlements to annual, holidays, sick leave etc, that the outcome appears extremely discriminatory.

[14] Victorian Non Government Report into disability services 2003

[15] Victorian Treasury and DHS commissioned study of disability service providers undertaken by KPMG in 2003

Unmet need & costs other services

Our members are not only concerned about their own welfare, but the welfare of their clients. There is real concern amongst our membership that the funding arrangements act to reduce the quality of life of people with a disability. The people who are providing the support to people with a disability are the critical link to the achievement of their independence and other objectives. A short term contingent workforce directly affects the consistency and quality of support to a person with a disability.

There is major concern that funding for residential services will be further reduced for short term fiscal reasons, notwithstanding the benefits achieved across society in the medium to long term from this model of support. Supported accommodation services for many individuals with disabilities, in particular intellectual and acquired brain injuries, provide the most appropriate systems for support and development for individuals, whose alternative is often homelessness, prison or another institutional facility.

Our membership is also acutely concerned that an increasing number of clients can only receive appropriate services after major critical events have occurred, including through the juvenile justice system criminal justice system, and hospitals following preventable accidents. These events are many and distressing. Alternatively, ageing parents are resorting to physically leaving their adult children at a DHS facility.

It would seem meritorious for the Committee to consider explicit calculation of total costs of residential treatment and care compared to alternative lifestyles and pathways to residential care. Non- government organisations should be funded for additional savings they provide to the State for facilitating cost reductions to public subsidies and services from the 'independent living' alternative.

This also suggests that there should be the opportunity to divert funding from the criminal and justice sectors, through appropriate mechanisms to redirect to more appropriate and cost efficient services. Some clients may be rated as 'low need' on the basis of their major issue being a low IQ, and 'savings' are achieved by not delivering services to them. From a cost benefit perspective, the lack of support services for a person who is unable to interpret what is acceptable behavior or not can be extremely costly to individuals and society. This includes resources spent on the child protection, police and criminal prosecutions and prisons.

In consideration of these facts, the Committee should undertake further investigation of the cost shifting from other Commonwealth and State funded public services, concessions and subsidies, when developing the level of funding to disability service providers. This includes an analysis of cost reduction to acute health, juvenile justice services, criminal and justice services, public housing, utilities concessions, ambulatory and travel services, etc.

Unmet need & improved cost-effectiveness of therapeutic treatments by qualified staff

A 'clinical dynamic', which the funding arrangements have not acknowledged, is that the level of support and assistance required for a person with an intellectual or duel disabilities can decline considerably for every person who receives *appropriate* support. Trained and experienced people are required to provide the level of therapeutic support to assist people to modify their lifestyles and behaviours and live more independently.

The intent of the Disability Services Act in Victoria is to provide the least restrictive care to service recipients. It is the experience of our members that where support workers have less training or commitment to their work they are more likely to support sedation and other medications over behavioral management. Under current funding arrangements, there is an incentive for the State, as the major service provider, to cost-shift to the Commonwealth, by over-utilising sedation and medications, instead of employing the requisite number of people to provide adequate support and supervision.

This is supported by one of the key findings of the Productivity Commission's recent report into the 'Impacts of Advances in Medical Technology in Australia'. Finding 4.3:

> The division of funding responsibilities in the health sector influences expenditure on new technologies (*including pharmaceuticals*).
>
> The technology choices of individual public agencies and institutions are often constrained by short-term budget caps. Hence, they have little incentive or ability to take into account the impacts of their treatment choices on either their own future spending or on consequent expenditure in other parts of the health system.[16]

The current funding model gives service providers the incentive to increase the medications of patients as a less costly solution to behavioral problems than human behavioral modification interventions. The quantum of the cost shifting is difficult to quantify, but its significance is indicated by the following tables.

The following is a table of the frequency of functions performed by disability support workers

Figure 9. Functions Performed on a Regular Basis by Disability Support Workers

Personal Care	**76%**
Clients with Challenging Behaviors	**72%**
Clients with Complex Medical Needs	**53%**
Administer Medication	**78%**

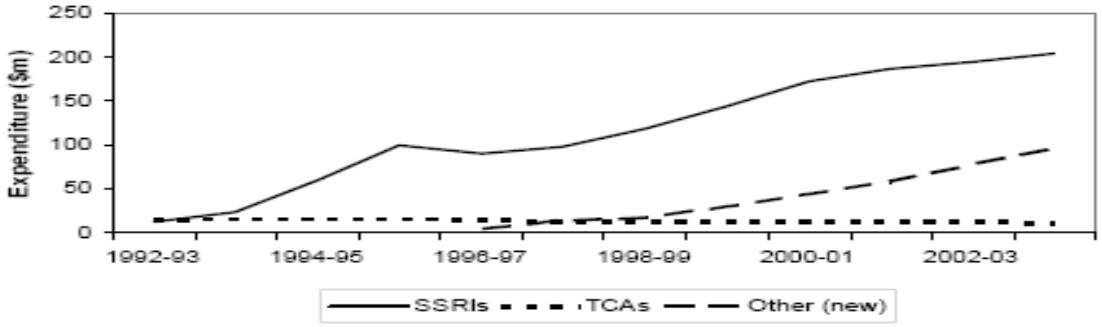
As per the general population, the use of newer, more expensive anti-depressants, anti-psychotics, Attention Deficit Disorder drugs and sedatives have increased exponentially in recent years. An indication of the quantum impact of the cost to government from increased prescription of these

[16] Productivity Commission Research Report 'Impacts in advances in medical Technology in Australia" August 2005. LVII

new classes of drugs is presented in the table below. SSRI's represent the new class of anti-depressants.

Figure 10. PBS/RPBS Expenditure on Anti-depressants 1992-93 – 2003-4[17]

PBS/RPBS expenditure on antidepressants, 1992-93 to 2003-04[a,b,c]



[a] Other (new) includes *venlafaxine* and *mirtazapine*. The first PBS/RPBS scripts for *venlafaxine* and *mirtazapine* were filled in 1996-97 and 2000-01 respectively. [b] The data do not reflect PBS/RPBS scripts that are priced below the relevant patient co-payment amount. [c] Expenditure on antidepressants in 2004-05 is not presented because consistent data on the average dispensed price of the antidepressants were not available.

Data source: HIC (2005b).

Evidence from our membership indicates that the proportion of use of these drugs is much higher for recipients of disability services. This is also supported by the table of recipients by income below.

Figure 11 Rates of use of new antidepressants by socio-economic status[18]

Rates of use of new antidepressants by socioeconomic status, 2002 to 2004[a,b]

	2002		*2003*		*2004*	
	SSRIs	*Other (new)*	*SSRIs*	*Other (new)*	*SSRIs*	*Other (new)*
	Persons taking antidepressants per 1000 population[c]					
1 (Most disadvantaged)	47.7	12.1	49.5	15.8	48.4	17.9
2	51.8	13.0	53.8	16.9	53.0	19.1
3	52.4	12.8	54.9	16.8	54.2	19.0
4	49.0	11.8	51.3	15.4	50.8	17.4
5	46.8	11.0	49.2	14.3	48.4	16.1
6 (Least disadvantaged)	47.3	11.3	50.1	14.6	49.0	16.2
Ratio 5/1	0.98	0.91	0.99	0.90	1.00	0.90
Ratio 6/1	0.99	0.93	1.01	0.92	1.01	0.90
Total[d]	49.5	12	51.8	15.7	51.0	17.7

[a] Based on socioeconomic index of relative disadvantage (ABS 2001). [b] Other (new) includes *venlafaxine* and *mirtazapine*. [c] Population by postcode based on 2001 census. [d] Total use rates vary for some of the tables in this appendix because the classification systems used (for example, socioeconomic status and remoteness area) had different missing data.

Sources: ABS unpublished data from the 2001 census; HIC unpublished data.

[17] Productivity Commission Research Report 'Impacts of advances in Medical Technology in Australia" August 2005.p.419

[18] Productivity Commission Research Report 'Impacts of advances in Medical Technology in Australia" August 2005.p.417

There is also a high level of concern amongst our membership that these medications are being over-prescribed or used experimentally as an alternative to behavoural therapy. This concern is widely shared, as expressed by the Productivity Commission:[19]

> Over-prescribing of medication, including for mental illness and attention deficit and hyperactivity disorder (ADHD), has also generated debate. – SSRIs have proven very effective for a number of people with depression, and their use (for an increasing number of indications) is growing. Questions are mounting, however, about whether the 'right' people are receiving the treatment, particularly as the severity of potential side effects (such as increased risk of suicide and symptoms of psychiatric disease) is coming to light. SSRIs are not recommended for younger people, for example, even though they are being prescribed antidepressants, while counselling has been suggested as a more appropriate alternative for milder cases (Dr Yolande Lucire, sub. PR47; Bell 2005; Macken 2005). The efficacy of cognitive behaviour therapy (face-to-face and over the internet) and other talk therapies, for instance, has been demonstrated in trials.

There is concern amongst our membership that there is too little monitoring of the effectiveness of the newer drugs on individuals, especially in relation to the interplay of multiple medications and a person's individual disability. This is supported by a recent survey of the use of anti-psychotics for people with 'challenging behaviors' demonstrates the cost-ineffectiveness of this treatment. "The term 'challenging behaviour', in the absence of psychiatric disorder, encompasses a wide range of behaviours that may be harmful to people or property, may be difficult to manage and may limit access to community facilities. Antipsychotic medications have been used to modify such behaviours in people with learning disability, but there is little evidence to suggest that the benefits outweigh the risks."[20]

The high turnover of staff facilitates over-prescription of medication. This is because there is reduction in people who can observe ongoing and longer term impacts of the medications on individuals. Experienced and trained support providers also know theoretical and individual behavoural modification therapies and techniques. This is a core element of their expertise which facilitates access to the community for people with profound or complex behavoural issues associated with their disability. It is therefore natural that a reduction in trained people working in the disability residential support sector will result in an increase in pharmaceutical usage.

There is a real concern that the reduction in the quantity and quality of staff for recipients of disability residential support services is resulting in 'chemical institutionalisation'.

It should also be noted that people with a disability are more vulnerable to any unethical and personal incentive-driven prescribing practices by GP's.

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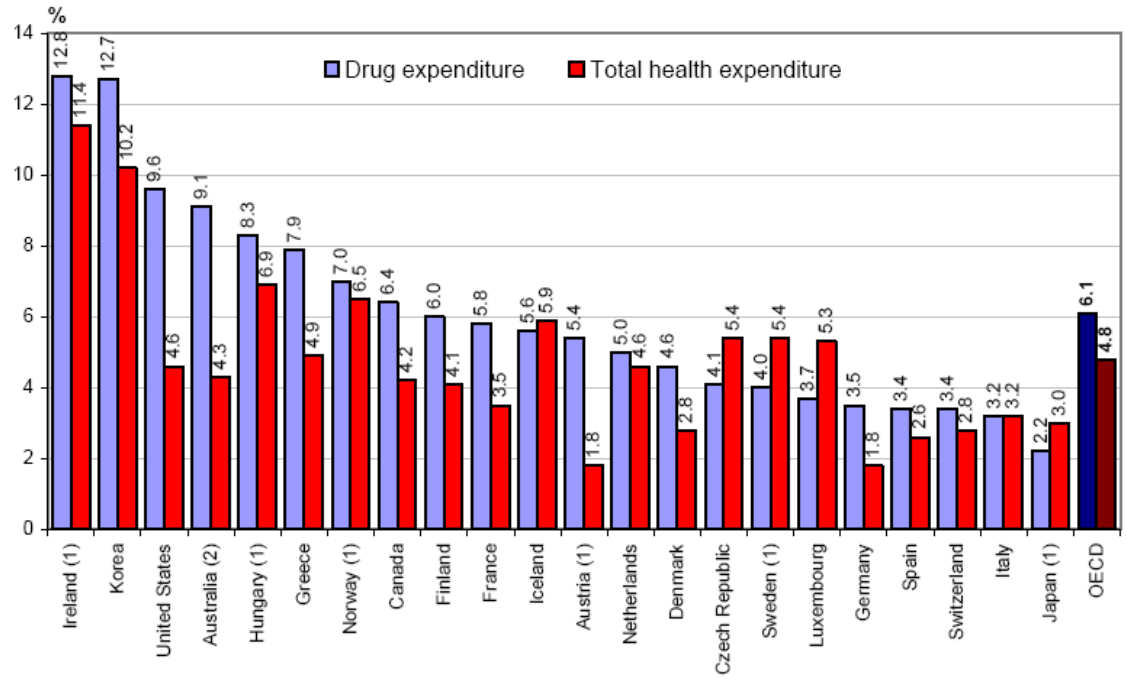
[19] Productivity Commission Research Report 'Impacts in advances in medical Technology in Australia" August 2005.p. 123

[20] The Cochrane Database of Systematic Reviews 2006 Issue 3 Copyright © 2006 The Cochrane Collaboration. Published by John Wiley & Sons, Ltd.

The high aggregate inflation in drug expenditure in Australia, compared to other countries, demonstrates that there could be a substantial benefit in looking at the funding arrangements and the incentive for service providers to decrease pharmaceutical use.

Figure 8. Annual Growth in Drug Expenditure and in total Health Expenditure 1998-2003



Note: Countries are ranked from left to right by annual growth of per capita pharmaceutical expenditure.
(1) 1998-2002. (2) 1997-2001.
Source OECD HEALTH DATA 2005, June 05

This evidence all suggests that the funding arrangement should positively reward service providers who reduce the use of pharmaceuticals where therapeutic treatment alternatives are demonstrated to be more effective. Given that the State Government is the major service provider, this needs to be explicitly included in the funding formulae arrangements. The budgetary incentives for States to develop methods of service delivery which maximize their subsidy from the Commonwealth is obvious. The incentive for States to increase pharmaceutical interventions over employing experienced and qualified support workers need to be considered in the development of the funding formula.

Chapter 2 – Alternative Funding and Administrative Arrangements

Terms of Reference

a. an examination of **alternative funding, jurisdiction and administrative arrangements**, **including relevant examples from overseas**

- ***Workplace Relations Act 1996***
- ***Council of Australian Government (COAG) Health Funding Agreements 2006***

The inquiry needs to examine of the introduction of an alternative funding and administrative mechanisms affecting the disability sector, in particular COAG funding reforms and industrial relations administration.

Workplace Relations Act 1996.

Historically, the relationship between 'service providers' as organisations and 'service providers' as individuals/staff, has been governed by Awards and Enterprise Bargaining Agreements (Agreements), the majority of which incorporate components of the Award.[21] Typically when an Enterprise Bargaining Agreement is being negotiated in the disability sector, the base terms and conditions of the Agreement are the terms and agreements in the Award. Organisations may vary components of the Award in their Agreement in order to meet organisational specific outcomes, but the terms of the Award form the basis of minimum terms and conditions, and many clauses in Agreements refer directly to provisions in the Award.

Awards have played a central 'quality standards setting' role in the disability sector. This is due to the lack of accreditation for disability service providers, as organisations or the registration of the workforce. Unlike other health and community services support providers with a high level of personal responsibility for the duty of care of vulnerable people (children, physically or mentally acquired illnesses or elderly people), disability sector support providers are not required to have a minimum level of education, or to be registered.

Unlike other in-house support services in the health and aged care sectors, disability service providers, are not required to:

- undergo an accreditation process which specifies minimum quality standards required to be met by a service provider (such as suitability of facilities and qualifications and competencies of staff), or
- employ people who have attained minimum qualification, such as is required for registration of other health sector related workers.

[21] The majority of registered agreements applying in this sector have been negotiated with the Health Service Union Branch 1 and have incorporated a broad range of award conditions. This includes references and wage related allowances which were increased in accordance with Safety Net Adjustments determined by the full bench of the Australian Industrial Relations Commission.

In lieu of these mechanisms to manage the quality of services in the disability sector Awards and collective agreements have played a uniquely central role in defining and regulating industry standards of competency, safety and quality of care.

The framework for recognising skills and experience of staff providing services is provided by the Residential and Support Services (Victoria) Award 1999. The competency framework is supported by frameworks for skills recognition and career and income advancement opportunities in Agreements. They currently form the only competency based framework in use across the disability sector to define and recognise the competencies required to provide the appropriate level of support services to disability services' clients.

The minimum standards of competencies contained in the Awards, will be eroded by the new industrial laws.[22] The skill-based classification structures in the Award, which also underpin the skills framework in agreements are 'non-allowable'[23]. Whilst they may be preserved in the short term as preserved APCSs (see Part 7 subdivision 1 of the Workplace Relations Act), in the long term they are set to be varied by the AFPC, with no assurance that they will retain existing classification structures and frameworks. It is conceivable that they will be replaced by a single minimum wage without reference to skills.

In principle, Victoria's Disability Plan, aims to achieve a minimum qualification of Certificate 4 in disability studies for employment in the disability services sector. However, funding for this has been insufficient to secure this, or any other, minimum qualification for disability support workers.

It is beyond the scope of this Submission to explicitly cost the impacts resulting from a less qualified workforce. The cost factors, however, are significant and include:

- Higher incidents and accidents and injuries among client group
- Higher use of sedation and medications instead of behavioral modification interventions
- Reduced development and achievement of 'living independently' of clients
- Higher incidence of physical abuse and neglect of clients
- Higher property crime and crimes against clients
- Higher rate of occupational health and safety injuries [24]
- Higher expenditure on avenues for redress for harm caused by misconduct

Further, earlier this year Victoria introduced a new Act governing Disability Services which:

24The impact of the Federal Government's Workplace Relations Reforms by Dr Graham Smith Partner, Clayton Utz. Paper to Hutchins Law Institute of Victoria, November 2005.

[25] Classification Structures have not been defined as one of the 13 'allowable matters' in Award. The 'Award Simplification Taskforce' is currently reviewing Awards for their allowable matters. For further discussion see' The Social and Community Services Sector: An analysis of the Impact of the Federal Government's Proposed Industrial Relations Changes", ASU-NSW, 2005.

[24] This is a very real issue. OHS premium payments following one or two injuries can, and has, resulted in up to 80% of a 'Community Residential Unit' budget being spent on Workcover insurance payments. They are technically bankrupt, and can be forced to close by the service provider, affecting the lives of all the people residing in the unit.

- Does not set a framework for minimum standards of service delivery
- Imposes higher costs in dispute investigation and resolution
- Imposes higher penalties on organisations and individuals
- Does not include consideration of impacts on employees in dispute resolution procedures

The consequences of these will need to be factored into funding arrangements. In particular this is so in relation to the extent to which the State Government is earning revenue from the Non Government sector through the model of service delivery monitoring it has adopted in its legislation. The cost to the State Government from regulating the sector through fines and penalties is negligible, because it is a 'round robin' for government. The State imposes fines on itself and receives the income. The NGO's do not receive any supplementation for fines imposed, but are not necessarily funded to a standard to reduce incidents.

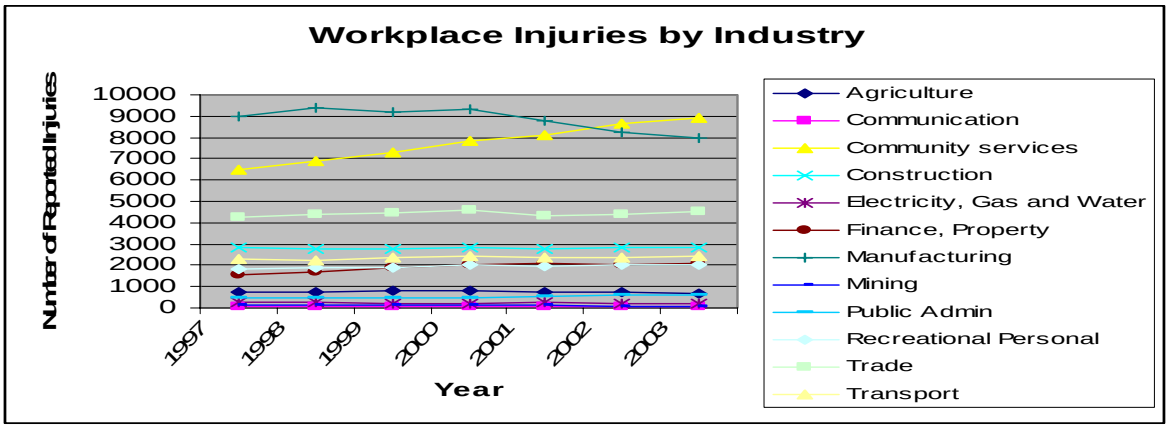
The Non-Government Disability Sector should not be expected to fund the monitoring arrangements for the entire industry. This is especially the case if the Government refuses to 'set and monitor standards' which would reduce the likelihood of incidents, the majority of which are out of the control of the service provider within their funding levels (for example, if there is insufficient revenue to employ more qualified people).

The increased costs from occupational health and safety also deserve special attention. A significant proportion of the content in Awards and Agreements are directly related to guaranteeing the safety of staff and clients, such as training, hours of duty, staffing levels, shift lengths and rosters, OHS procedures, and grievance procedures. These sections are in jeopardy, and employers in the disability sector will become increasingly capable of employing staff outside of these terms and conditions. This means that the government needs to be responsible for ensuring continuity of the minimum standards contained in the Awards and Agreements.

Federal and State Governments have a duty and responsibility to ensure that disability services staff work in as safe an environment which can reasonably be provided. Rising accidents and injuries in this sector suggest that government is failing to protect health and community services workers. It would be unconscionable of government to permit the further reduction of the rights workers which relate to maintenance of their health and safety.

Inadequate training in any sphere, from the operation of hoists to the symptoms of prevalent disorders or the properties of medication, can be extremely dangerous to clients, staff and the community. While there is no transparent data on the level of incidents with clients in Victoria, the evidence from Worksafe indicates that the level and escalation of serious incidents and injuries is a very serious problem – and demands greater attention by government. At the same time, it places undue financial pressure on non-government organisations through higher Worksafe premiums.

Figure 9 Workplace Injuries by Industry 1997-2003



Framework for quality workforce

In lieu of minimum qualifications, Awards and Collective Agreement have been the method of underpinning a quality framework for employing disability workers across the sector. Awards and agreements have developed classifications of workers and remuneration according to their skills and experience. These classifications were built on principles which assisted in underpinning the provision of a health workforce in the disability sector.

It is the vulnerability of the client group which demands that there are concrete measures to underpin a minimum quality of support workers. This is not, and will not be achievable, under existing funding arrangements.

Under workchoices, the Awards are going to be 'simplified'. This means that the primary agreed benchmark for recognising and retaining workers of a high quality, are going to be removed. As noted above, even preserved APSCSs may be varied to remove skill and classification structures. Therefore funding minimum qualifications of employees needs to incorporated into the service delivery funding principles.

The consequence of not doing so will result in those organisations which have the capacity to pay employing good people. Those organisations who do not have that capacity will employ untrained, inexperienced and unqualified staff. There will become a distinct difference in the quality of care between providers according to their ability to pay, and potentially clients' capacity to pay. Meanwhile the cost of having unqualified staff will increase the cost to the State and Commonwealth governments from other services and interventions.

If this is not an intended objective for the disability sector, the Senate Committee will need to find a means of funding which supports a qualified workforce.

The Award and Agreements have also been central to attracting and retaining a quality workforce and the sustainability of the disability services sector. Awards and Agreements contained higher classifications and rates of pay for more trained, qualified and experienced staff. This encouraged

skills acquisition by individuals and increased their incentive to stay in the sector. Under the new Workchoices legislation fewer employers will be compelled to adhere to the pre-March 2006 Award and Enterprise Agreements provisions and employers will be able to evade award requirements by compelling employees to sign AWAs which provide lesser conditions.[25] In an environment of inadequate funding employers in the sector will be driven to take advantage of any ability to drive down wages and conditions. This will fundamentally affect the incentive for people to gain any skills or qualifications. Without the confidence of increased remuneration from more qualifications and experience, which the Award and collective agreements provide, there will be little incentive for individuals to be trained or remain in the disability sector.

The workforce has also lost its rights to have a regular review of their wages and allowances by the full bench of the AIRC in the National Wage Cases which resulted in 'Safety Net Adjustments'. Pay and allowance increases were commonly linked to this mechanism. Workers' incomes are therefore no longer guaranteed not to fall in real terms. In lieu, the funding arrangements need to guarantee that wages will not fall in real terms if the government wants to retain and attract a workforce to sustain the disability services sector.

This is currently a very real threat in the disability sector. The disability workforce has been put on notice that their terms and conditions of employment will be further reduced, utlising the Workchoices amendments, if more adequate funding is not made available.

Employers are explicitly informing the workforce, and broader stakeholders, that they will not be able to continue to deliver existing levels of services under existing funding arrangements, without resorting to utilising the new cost savings mechanisms provided by Workchoices. [26]

Service providers are explicitly threatening workers' income, working terms and conditions and perception of security, belonging and commitment to their client group. This has potentially grave consequences for recipients of disability services.

The current wave of NGOs' threatening employees with reducing wages and conditions appears to be a strategy to harness the resources of the union to lobby government for increases in funding. This is not an untraditional practice. However, notwithstanding the high degree of support which the HSU provides to Service Providers, we cannot support the use of inciting fear and insecurity amongst innocent workers, as a strategy. These practices cause real psychological and financial distress to a group of people who elect to work in the field, notwithstanding the inequitable incomes, because they are caring people. As a strategy it is cruel, exploitative and counter-productive.

The strategy is also flawed given that the resources of the union are currently heavily employed in protecting members from the use of Workchoices provision by unscrupulous employers. We are confident that the reputable Service Providers understand that a further reduction in working

[25] This is a result of a number of legislative amendments including abolition of the no disadvantage test, award 'simplification', and legislative restrictions on workers' representatives to access workplaces and disseminate information about working terms and conditions.

[26] See Appendix 2, Letter to Staff from Wesley

conditions and income would result in poor outcomes for everybody, predominantly service recipients.

The HSU supports a funding formula which separates revenue to be spent on the workforce from other revenue. This will eliminate the temptation for service providers to use employees as ransom and ammunition for lobbying for higher funding for other purposes. It also facilitates explicit recognition of income and income related inflation costs, to ensure service providers are adequately funded for inflation factors.

The Victorian State government has made a commitment to funding maintenance of terms and conditions or employment in the Government sector, but not the non-government sector. This puts the non-government sector at a distinct disadvantage in their ability to continue to deliver services. The non government sector must be placed on an equal footing with the government sector in terms of their ability to continue to attract and retain an effective workforce, through the funding agreement formula.

COAG Reforms

The Committee must be cognisant of the recent reforms to the disability workforce and their impacts. These have been significant in the last decade and escalating through recent reforms including Workchoices, and the Health Workforce reforms being driven through the Council of Australian Governments (COAG).

The lack of transparency around the billions of dollars of financial incentives to States through COAG to introduce health workforce reforms makes a developing a complementary funding formulae for the disability sector exceedingly difficult. The Reports commissioned by COAG for the Productivity Commission to scribe, clearly demonstrate the reforms linked to financial incentive payments include:

- increasing private sector provision of health and community services, and
- reducing the qualifications and regulatory oversight of the health workforce.

These reforms aim to reduce the cost of health workers, by replacing Health Professionals with generic Allied Health Assistants. This will significantly impact on the Disability Services given the high importance and use of health professionals such as Physiotherapists, Occupational Therapists, Speech Pathologists. This group of professionals is also critical to assisting people with a disability to achieve greater mobility, participation and quality of life.

The COAG funding agreement also stimulates the private marker of provides, over public or non-government provider, by providing a much higher level of subsidies to private practitioners. The federal government will provide an MBS subsidy to a private practitioner who delegates the delivery of treatments to an assistant. **This same subsidy is not provided to organisations that employ health professionals or allied health assistants.**

The consequences of these reforms could be significant for the disability sector and organisations which deliver disability services. It will no longer be cost effective to employ people to deliver treatments or services, when the alternative is MBS funded services. Thus organisations will lose specialist capacity, which will result in deskilling the existing disability workforce and divert revenue away from specialised disability services organisations.

This imbalance in funding, favoring smaller, less dedicated providers at the expense of the dedicated and reputable public and non-government providers, will need to be rectified through the Commonwealth State Disability Funding Formula.

The Commonwealth/State Funding Agreement formula must provide commensurate federal funding to public and non-government sector disability service deliverers which employ health professionals as will be provided to private practitioner health professionals providing services.

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Appendix E- Notes to Workforce Income Spread

The workforce income has been derived from the NGO & Government workforce studies cited in this paper. The distribution of classifications of workers across government and non government sectors have been correlated with the typical part time and full time rosters for each classification of worker. The figures are detailed below

Workforce Income

Non Government Sector

	Grade 2	**Y3**	**S/O**	**Grade 4**	**Y3**	**S/O**	**Grade 5**	**Y3**	**S/O**
	Rate	15.288	57	**Rate**	16.492	57	**Rate**	18.781	57
	Hours	**Gross Pay**		**Hours**	**Gross Pay**		**Hours**	**Gross Pay**	
Normal Rates	76	$1,161.89		76	$ 1,253.39		76	$ 1,427.36	
Evening 10%	30	$ 45.86		30	$ 49.48		30	$ 56.34	
Saturday	7.5	$ 57.33		7.5	$ 61.85		7.5	$ 70.43	
Sunday	7.5	$ 114.66		7.5	$ 123.69		7.5	$ 140.86	
Sleepover	2	$ 114.00		2	$ 114.00		2	$ 114.00	
			Normal			**Normal**			**Normal**
Total		$1,493.74	$ 1,275.89		$ 1,602.40	$ 1,367.39		$ 1,808.99	$ 1,541.36
DHS	**Sleepover**		$ 69.11						
	DDSO-1	**Y3**	**S/O**	**DDSO-2**	**Y3**	**S/O**	**DDSO-3**	**Y3**	**S/O**
	Rate	16.354	68.95	**Rate**	20.024	68.95	**Rate**	21.567	68.95
	Hours	**Gross Pay**		**Hours**	**Gross Pay**		**Hours**	**Gross Pay**	
Normal Rates	76	$1,242.90		76	$ 1,521.82		76	$1,639.09	
Evening 15%	30	$ 73.59		30	$ 90.11		30	$ 97.05	
Saturday	7.5	$ 61.33		7.5	$ 75.09		7.5	$ 80.88	
Sunday	7.5	$ 122.66		7.5	$ 150.18		7.5	$161.75	
Sleepover	2	$ 137.90		2	$ 137.90		2	$ 137.90	
			Normal			**Normal**			**Normal**
Total		$1,638.38	$1,380.80		$ 1,975.10	$1,659.72		$2,116.67	$1,776.99
Pay Difference		**-$ 144.64**			**-$ 372.70**			**-$307.69**	

Average Net income is based on average roster spread for individual employees, part time and full time in the Government and Non Government Residential Accommodation sector.

Average roster spread has been based on a HSU survey of 500 rosters for part time and full time staff in residential accommodation services, public and not for profit sector for the third quarter 2005.

The net figures are post-tax income, inclusive of tax calculation from the ATO's taxable income calculations, but excludes the 1.5% medicare levy, superannuation contributions, and other deductions. Salary packaging contribution to nett income has not been included, as there is no consistent pattern of usage of salary packaging to represent the entire sector

The distribution of classification bands used to calculate the total workforce by classification was derived from the Governments report of their distribution of classifications as at June 2003, as follows. The equivalent Non Government classification pay rates were paralleled with these classifications according to income parity.

			Govt Employees			Non Govt			
			4675			7,050			
			Full Time	Part Time		Full Time	Part Time		
		Percent	0.34	0.66		0.26	0.74		
		Number	1589.5	3085.5		1833	5,217		
							Gross	Nett	Nett
Full Time	Govt	percent	no penalties	Nett	with penalties	nett		no penalties	with penalties
	DDSO-1 yr3	0.83	35,900	**28,958**	42,597	**33,646**	DDO Grd 2yr3	33,173	27,049	38,873	31,039
	DDSO -2	0.054	43,152	**34,034**	49,194	**38,263**	DDO Grd 3yr3	**34,546**	**28,011**	**40,474**	32,160
	DDSO - 3	0.094	46,201	**36,168**	55,033	**42,351**	DDO Grd 4yr3	35,900	28,958	42,598	33,646
	DDSO - 4	0.14					DDO Grd 5yr3	40,075	33,133	47,075	36,780
	DDSO - 5	0.03									
	DDSO - 6	0.01									
Part Time	DDSO-1 yr3		18,467	**16,347**	24,526	**20,996**	DDO Grd 2yr3	16,876	15,027	22,142	19,372
	DDSO -2		21,807	**19,092**	29,226	**24,286**	DDO Grd 3yr3	**17,423**	**15,480**	**22,852**	19,825
	DDSO - 3		23,201	**20,068**	31,201	**25,668**	DDO Grd 4yr3	17,971	15,935	23,653	20,385
	DDSO - 4						DDO Grd 5yr3	20,054	17,664	26,524	22,394
	DDSO - 5										

	Without penalty rates	With Penalty Rates	Without Penalty Rates	With Penalty Rates
Total Non Gov Sector	$1,275.89	$1,602.40	$ 1,808.99	$ 1,541.36
Total Govt Sector	$1,380.80	$1,975.10	$2,116.67	$1,776.99

A letter from the CEO to all Staff *June 2006*

Wesley
Mission
Melbourne
People Caring
for People

The Uniting Church
in Australia

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Dear Staff Member,

I am writing to let you know about two issues of concern to the Mission that may pose a threat to our staff and eventually to our clients. One is the new Federal Government's Work Choices laws, and the other is the State Government's Pricing Index, which is used by to set annual increases in funding.

Work Choices has taken away many of the rules that previously protected your rights as a worker. Rules covering how many hours you work, how your level of pay was worked out, and what penalty rates you are entitled to have all changed. In the past, we have been able to give most staff a pay rise each year to keep wages in line with rising costs of living. Under Work Choices we no longer have to do this.

At the same time, community sector organisations like ours are facing cuts in the funding we receive because the Pricing Index has been set too low. At present the Pricing Index does not cover increases in wages for staff. This means that it costs us more to run our services than the money we get from the Government to do this.

We are concerned that in the future, instead of increasing the Pricing Index, the Government will expect us to use Work Choices to lower our wage costs. We may be expected to cut penalty rates or other conditions that were previously protected if we receive funding that only covers the lowest wage levels.

This would not be acceptable. We want to protect your working conditions and make sure we pay you as well as we can. We believe that people should get fair pay in return for the work they do. We do not believe that cutting the wages of staff is a fair way of keeping costs down in organisations like Wesley Mission.

Because of this, we are doing what we can to protect your pay and conditions.

We have written, along with other community services organisations, to the Minister for Industrial Relations asking for your wages to be protected in the same way wages in the public sector are protected. We have asked the Government to give us funding that will allow us to pay you the same amount as people who work in the public sector who are doing similar jobs to you.

The Chairman of our Board, along with the Boards of other agencies, has written to the Treasurer urging the Government to increase the Pricing Index. Our managers are taking copies of this letter to local Members of Parliament, urging them to protect our staff and our clients, who will be the ones that suffer if we loose good staff.

In addition, the Uniting Church is writing a set of principles designed to protect your conditions at work, including the hours you work, the pay you get and how you are treated. These principles should make up for what workers have lost through Work Choices. We are keen to support these principles, but we can only do this if we get a fair level of funding from the Government.

If you would like to know more about this please talk to your manager, who will be happy to discuss what it all means for you, and how you can help us to protect your rights and the rights of our clients.

Yours sincerely,

Judy Leitch
Chief Executive Officer

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