



ASU Submission

Productivity Commission

Indirect employment in aged care – Issues paper

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Date: 13 May 2022 [Extension granted]

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The ASU

The Australian Services Union ('ASU') is one of Australia's largest unions, representing approximately 135,000 members. Relevantly, we represent 50,000 workers in the community and disability sector (including mental health and aged services) and 6,000 workers in Victorian local government home and community care ('HAC').

Executive summary and recommendations

The ASU supports the recommendation of the Royal Commission into Aged Care Quality and Safety (the Royal Commission) that aged care providers be required to preference direct employment of workers engaged to provide personal care and nursing services.

The direct employment model in Victorian Local Government Home and Community Care (alongside Victorian public sector residential aged care) represents best practice in Australian aged care. Direct, stable employment by accountable service providers reduces workforce turnover and ensures adequate supervision, training and professional development. This leads to the best possible outcomes for aged people.

'Indirect employment' must be seen as part of a wider phenomenon of insecure and precarious work. The reality in disability services is that insecure employment, including independent contractors and platform employment, is driving employees from the sector and threatening the sustainability of e in home aged care and disability support services.

There is an integral connection between the employment conditions, health, safety and well-being of the aged care workforce and the health, safety and well-being of people using aged care services. Direct employment is the best model of employment for aged care clients and employees. Direct employment is the only way to ensure that the aged care sector attracts a sufficient number of skilled and motivated workers to meet its needs. Direct employment is the best way to ensure that aged care workers receive appropriate training, professional development and supervision.

Additionally, direct employment allows for risk management and quality control, which translates into improved quality outcomes for clients. The lack of a direct employment relationship and absence of responsibility for employees' health and safety when employed as gig or casual workers correlates with a decline in care standards.

Finally, The Productivity Commission should not quibble with the Royal Commission's findings, but should turn its attention to the best way to implement the recommendation. In addition to the Royal Commission, the Aged Care sector has been the subject of multiple reviews and studies over the past two decades. There is no need for another review, that work has been done. Now is the time to act, clearly and decisively.

Recommendations

1. The primary type of employment offered to workers in aged care should be ongoing full time permanent employment to attract and retain an experienced workforce.
2. Remuneration should be increased to reflect the level of skills and experience required to perform the work to a high standard.
3. Training and professional development funding must be guaranteed to ensure ongoing skill development, career development and quality of services.
4. Provide portable entitlements to paid annual leave, personal leave and long service leave.

5. A direct employment preference should also be adopted in the NDIS and other disability services.
6. Funding models that support a stable and secure workforce should be a priority. It should be a condition of funding contracts that employers provide their employees with permanent ongoing employment.

Direct Employment is the best way to deliver aged care services

This growth of indirect and other forms of precarious work poses a fundamental challenge to the sustainability of the aged care sector.

It is our experience that the purpose of indirect and other forms of insecure employment is to evade industrial regulations and the ensuing employment responsibilities. The impact of insecure employment is felt across the workforce, because it erodes the general standards of wages and conditions in the particular sector.

This has significant implications for essential services, such as aged care and disability services, because it makes the industry less attractive to skilled and motivated workers. The Senate Select Committee on Job Security found there were 'legitimate concerns' about the impact of platforms on the care services sector, particularly in relation to health and safety, insurance, unpaid work, and the training needs of the workforce. Quality of care has been compromised due to insecure working arrangements. The committee found current arrangements, conditions and pay rates for gig workers are not acceptable and do not provide them with sufficient income and other protections to provide for themselves and their families.¹ This is corroborated by the experience of our members in the disability sector, who report difficulty accessing training and supervision when they work as casuals, contractors, for multiple employers or platforms. Members also report burnout from their highly unstable, irregular working hours.

Platform employment undermines the capacity of workers to collectivise and bargain, leaving workers powerless. Rates of pay for platform workers are often significantly lower than the minimum wage.² The lack of direct employment compounds the issue of low earnings.

Platform employment and other forms of insecure employment that promotes insecure, underpaid and undervalued work must end. Focus should be on a direct employment model and maximising hours for workers. Aged care providers that offer a stable and permanent workforce will have better outcomes for care recipients.

Direct employment in aged care: experience in Victorian Local Government and Public Sector

Victorian local government home and community care sector deliver best practice aged care (and disability supports) through direct employment.

Superior work conditions at local councils help to maintain a long-term workforce, which ensures continuity of care and appropriate supervision and training. Council services follow an 'enabling approach' to service delivery, which is intended to promote both wellbeing and independence. This is

¹ Senate Select Commission on Job Security, First interim report: on-demand platform work in Australia [online] Accessed at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Job_Security/JobSecurity/Interim_report

² Digital Platform Work in Australia, Prevalence, Nature and Impact [online] Accessed at: https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/7315/9254/1260/Digital_Platform_Work_in_Australia_-_Prevalence_Nature_and_Impact_-_November_2019.pdf

in comparison to privately owned home care providers where during the Royal Commission participants complained about the high turnover of unqualified, inexperienced and untrained support workers.

The quality of local government services is supported by two pillars: accountability and direct employment. Councils are elected and subject to the scrutiny of their residents and ratepayers, so they are accountable for service provision to consumers, funding bodies *and* their electoral constituencies. Consequently, Councils put a significant emphasis on supervision and training of employees. Councils also provide for very stable employment arrangements, with low staff turnover and low levels of casual employment.

Another strength of the local government model is the dual capacity of their care workforce to deliver services across both aged care and disability care.

Compared to the private sector, all Victorian local government home and community care workers are covered by union-negotiated enterprise agreements. There are 79 Victorian councils and the ASU has enterprise agreements in all of these councils.

On average, bargaining in local governments has produced annual wage increases of between 3% and 3.5% per annum. After many years of bargaining these cumulative increases are in excess of any safety net adjustments. The rate of pay for Victorian local government workers is \$4 to \$8 greater than the hourly rate of pay for an equivalent Certificate 3, Level 3 Home Care worker employed under Home Care Stream of the SCHDS Award.

Additionally, local government enterprise agreements provide improved workplace entitlements such as access to training and professional development (through grants, allowances and leave), paid travel time between jobs and fairer overtime rates.

There is great value in the peer support, supervision and professional development structures in local government which are critical as staff retention and career development strategies.

Lessons for Aged Care from the experience of the Disability Sector

The ASU's experience is that disability employers are struggling to attract, retain and develop enough staff to meet demand. This is a direct consequence of the disability sector's reliance on precarious and unstable work, including the use of contractors and platform employment. Simply put, disability support workers are walking away from the industry because they are burnt out and cannot rely on disability support work to support themselves and their families.

High staff turnover has consistently been identified as a key workforce challenge. The NDIS National Workforce Plan: 2021–2025 expects a churn of around 213,000 workers by 2024. This is in addition to the 83,000 new workers that are needed to meet anticipated growth and demand.³ The total recruitment required is a staggering 84% of the total workforce, in other words the NDIS will need to nearly replace its entire workforce by 2024.

In March 2020, the ASU together with the HSU and UWU surveyed 2,341 disability support workers in the NDIS with high turnover featuring as a major barrier to growing and maintaining the workforce. High turnover was linked to the casual and insecure nature of work, lack of supervision, unpaid work

³ NDIS National Workforce Plan: 2021–2025 [online] Accessed at: https://www.dss.gov.au/sites/default/files/documents/06_2021/ndis-national-workforce-plan-2021-2025.pdf

and the lack of relevant qualification pathways and professional training opportunities, as well as the low paying conditions offered to disability workers.

The COVID-19 pandemic has brought this crisis to a head, exacerbating the existing workforce churn. In February 2022, the ASU conducted a survey of community and disability workers to understand their experiences during the Omicron COVID-19 wave. 1,454 community and disability sector workers responded to the survey, 62% of whom worked in disability services. The survey asked workers to indicate where they would be in twelve months' time. More than a quarter of respondents indicated that they intended to work for a different organisation, work in a different industry or leave the workplace entirely. Of these respondents, more than half stated that the main reason they sought to change their jobs was because of insecure and unstable hours of work or to improve their job security.

The traditional model of permanent direct employment with a single service provider is being eroded in a number of ways:

- A rise in the casualisation of workforce as providers shift risks associated with flexible service delivery onto the workforce;
- A rise in instances of employment across multiple disability service providers as workers try to maximise a stable income in the face of provider hesitancy to embrace permanent full-time work under the NDIS;
- A rise in self-employment as a sole trader providing services directly to clients as workers seek to cut out the 'middle man' of a controlling employer limiting their own hours and flexibility;
- A rise in individual contracts between the client and the support worker. Workers are required to have their own ABN, and liability insurance etc.
- A rise in 'gig-economy' work as platform services enter the market; and
- A rise in people with disability wanting to employ directly their own support workers to have greater control over the type of support they want and when they want it.

The consequence of this shift away from direct permanent employment has been a general deterioration of employment conditions in the disability workforce.

- A significant proportion of the workforce is engaged on a part-time and/or casual basis;
- A significant proportion of employees are engaged on temporary contracts;
- There is no scope to bargain for higher wages;
- Employees have limited access to paid overtime;
- High turnover of employees leading to very limited access to long service leave;
- Low wages meaning, limited accumulation of superannuation benefits;
- High levels of unpaid work; and
- Employees undertaking unpaid training in their own time.

Low wages and precarious conditions for disability support workers limit the attractiveness of the disability sector to skilled workers and increase employee turnover. There is little incentive for employees to seek additional skills or qualifications, because the funding arrangements limit the scope for career progression in the industry. Similarly, the funding arrangements and employment practices limit the opportunities for employees to undertake training.

To better support people with disability it is vital to attract and retain workers with the right skills. Greater choice and control for people with disability over the types of supports they want and need means the disability workforce needs to be supported to continuously develop new skills and qualifications relevant to the diverse needs of individual clients.

Disability sector workers are highly skilled and passionate about what they do – but their capacity to have their skills recognised, to develop new skills and to attain relevant person-centred qualifications is severely limited. Disability support work demands physical and interpersonal skills and high level communication skills. The range of cases one worker will deal with on a daily basis are diverse and complex. For these reasons we need to invest in the training and development of disability workers in a strategic and planned way. This is why the ASU has proposed a portable training entitlement to ensure that employees are able to seek training and professional development even though they work for multiple employers or are forced to regularly change their employer by market conditions.

Similarly, the fact that many employees hold multiple jobs *and* regularly change their employer, means that they may work in the sector for decades but never accrued paid long service leave. The ASU has campaigned for portable long service leave entitlements for community and disability sector workers. Disability support workers have won portable long service leave in the ACT, Victoria and Queensland and we believe it should now be available Australia-wide to cover all sectors, including aged care.

The solution to the workforce crises in aged care and disability sectors is to create direct permanent employment with living wages, good working conditions including training and development and clear career paths that reflect the clear differences between the two sectors.

Impact of a preference for direct employment in Aged Care on Disability Services

Finally, we must stress that disability support and aged care are distinct areas of practice. Pretending that Disability and Aged Care are one overlapping ‘care workforce’ will lead to deteriorating standards of care in both sectors. Different codes of practice apply, the programs are governed under different legislative schemes, and the needs of clients accessing services are not the same.

While some workers are employed in both Disability and Aged Care roles, the skills required for each role are different. A person working in both areas should be seen as a multi-skilled employee. Multi-skilling should be recognised and rewarded.

Any consideration of the workforce issues for either Aged Care or Disability Services must recognise that the challenge is to recruit two skilled and motivated workforces, not one amorphous ‘care workforce’.

Consequently, a direct employment preference in Aged Care is unlikely to have a negative impact on Disability Services.

Conclusion

Direct employment is the best model of employment for aged care clients and employees. Direct employment is the only way to ensure that the aged care sector attracts a sufficient number of skilled and motivated workers to meet its needs. Additionally, direct employment is the best way to ensure that aged care workers receive appropriate training, professional development and supervision.

The aged care workforce is struggling to attract, retain and develop its staff. Low wages and poor working arrangements limit the attractiveness of the aged care workforce sector to skilled workers. The aged care system desperately needs a strong and immediate strategy for ongoing investment in workforce development and training. Workers need an opportunity to accumulate skills.

The aged care sector should learn from the experience in disability sector, where insecure employment, including the use of labour hire, independent contractors and platform employment, is driving employees from the sector and threatening the long term sustainability of the NDIS.