

# **Where Secure Employment Meets Clients' Needs**

**Greenacres Disability Services  
Workforce Innovation Project**



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## Foreword

The NDIS is the nation's most significant reform to support people with disabilities live their lives with dignity, respect and inclusiveness. Its main object is to give people with disabilities choice and control over what, when and how they are supported in their lives.

Service providers supported the NDIS because their purpose has always been to improve the lives of people with disabilities. Whilst the NDIS is providing control and choice the hourly transactional system of funding whereby service providers receive monies for hours of support they have provided to people with disabilities is causing a significant shift to insecure employment in the disability sector as service providers try to organise their workforces to ensure workers are available when clients require support.

Due to its very nature, the individual transactional funding model of the NDIS has driven an increase in the use of casual employment as service providers try to avoid cost blowouts. These blowouts occur when permanent staff—who are on set rosters—are not engaged in productive work either due to client cancellations or as they are not able to rearrange their roster times at short notice to do the hours to meet the changed client needs.

For many employers the easiest option is to engage casuals as their hours can be turned off and on at will. While it may not be their preferred option, many service providers are using casual employment to enable them to respond to client changes.

The problem with the proliferation of casual employment in the medium to long term will be the creation of an industry which will not reach its potential to provide good quality services for people with disabilities. Casualisation is and will continue to create high turnover of staff who are seeking permanent and more secure work. Conversely employers themselves may begin to terminate casuals at strategic times to avoid the obligations to convert casuals to permanent jobs which are perceived as inflexible. This again will create high turnover.

The workforce shortages which are already present will be exacerbated if the industry is unable to create good quality secure employment where workers have a guaranteed minimum income to rely upon. High quality jobs are necessary to attract young people into the industry.

The challenge for Greenacres and for the report author Dr Fiona Macdonald of the RMIT was to arrive at a set of actions and/or recommendations, based on a clear understanding of the needs of people with disabilities, employees and service providers, to enable:

- good quality support at the times people with disabilities want supports.
- a guaranteed income in secure employment with reasonably predictable times of work for employees, and
- reduced costs to service providers of unproductive time through greater flexibility in rostering of permanent staff.

In my view the Report's findings, actions and recommendations seek to balance the needs of all major stakeholders in the industry and take us a step closer to achieving secure employment that meets client needs.

Chris Christodoulou  
**Chief Executive Officer - Greenacres Disability Services**  
3 May 2019

## Acronyms used in this report

ASU	Australian Services Union
DSW	Disability Support Worker
EBA	Enterprise Bargaining Agreement
GDS	Greenacres Disability Services
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NDS	National Disability Services
SCHADS Award	Social, Community, Home Care and Disability Services Award

## Project Contributors

*Where Secure Employment meets Clients' Needs, Greenacres Disability Services Workforce Innovation Project* was conceived and managed by Chris Christodoulou, CEO of Greenacres Disability Services. The Project received funding from the Commonwealth Government's Innovative Workforce Fund administered by the National Disability Services (NDS).

Fiona Macdonald conducted background research and wrote the project report. Karen Douglas and Eleanor Bentham, RMIT University undertook some of the background research including searching industrial instruments and literature. Chris Christodoulou developed some of the example enterprise agreement clauses provided in Appendix D of the report. Michael Pegg, Jobs Australia, facilitated a discussion and consultation session with representatives of disability service providers in the Illawarra Disability Alliance. Krysten Weaver, Human Resources Officer, Greenacres Disability Services acted as project officer and conducted the surveys and initial data analysis.

## Acknowledgements

The Project was supported by a Project Steering Committee comprising Nicky Sloan (Community Industry Group), Gillian Bathe (Carer representative), Maree Geraghty and Mark Ballesi (GDS employees), Christen Martin (GDS client) and Angus McFarland/Judith Wright (Australian Services Union). Caroline Alcorso and Gordon Duff (NDS) were observers on the Steering Committee and provided valuable feedback. Carers of GDS clients and support staff employed by GDS responded to surveys and/or participated in group discussions. Thanks go to all these people for their valuable contributions to the project. The content of this report, including any errors, are the responsibility of the report author Fiona Macdonald.

# Executive Summary

## The Project (Section 1)

The *Where Secure Employment meets Clients' Needs Project* was undertaken to explore how a permanent disability support workforce can be used in a collaborative way to respond to the needs of NDIS participants.<sup>1</sup>

The NDIS personalised support system and individualised pricing model present new challenges for workforce strategies and for the organisation of work in disability services. A key challenge is to building quality service provision based on a permanent, sustainable and skilled disability support workforce. This Project is concerned with identifying actions to address this challenge with a focus on collaborative workplace level approaches to employment arrangements.

The Project was scoped around the needs of Greenacres Disability Services (GDS) with the aim of identifying responses that would also be relevant to other disability support services providers. Surveys and consultations were undertaken with GDS staff and clients/carers. Employees were surveyed about their views of working arrangements and possible responses to new demands for flexibility in service provision. Participants and carers were asked about current supports and preferences relating to support timing and consistency of support workers. The views of Illawarra disability service providers on participant preferences and service demands, and on workforce strategy and sustainability, were canvassed in a facilitated discussion. Research involved a review of relevant literature including policy and other industry documents relating to quality support and the disability support workforce and a scan of industrial agreements and awards to identify any relevant examples of workplace arrangements.

Options for workforce strategies that enhance service responsiveness through increasing flexibility and security in part-time work using industrial mechanisms were scoped. A scan of employment arrangements in existing industrial awards and enterprise agreements, claims in Modern Award proceedings and other proposed/draft clauses was undertaken. Agreements, awards and clauses were examined to identify relevant actions currently being taken in disability services and other industries to enhance responsiveness and flexibility in disability support work while maintaining a stable and secure permanent workforce.

## Workforce and Service Provision Challenges (Section 2)

As the NDIS workforce expands, a significant challenge will be to build a skilled workforce with pay, job security and employment conditions that promote quality services through attracting and retaining workers with appropriate skills and experience. Trends in employment over the NDIS implementation period indicate the disability support workforce is becoming more casualised while part-time jobs in disability services may be offering fewer hours of work. The NDIS has introduced a number of significant challenges for attraction and retention of support workers in secure work. There are multiple new challenges to service providers' capacity to provide services that are responsive to client needs while also ensuring good practice in workforce management rather than devolving new risks to their employees. Three inter-related aspects of the NDIS model are critical drivers of these

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<sup>1</sup> In this report the terms 'clients' and 'participants' are used interchangeably to refer to disability services clients who are NDIS participants.

challenges: personalisation, the individualised pricing model and the competitive services market.

Some workforce management issues arise directly from the NDIS pricing model including that there is inadequate allocation for training, reduced opportunity for career development and progression and inadequate provision for risk audits.<sup>2</sup> In addition supervision ratios are higher than is common practice and higher than was supported under pre-NDIS funding arrangements by states. The nature of personalised support provision and its timing (in combination with the individualised pricing model) underpin some challenges. In general, there is less control, shorter notice, greater variability, individualised (and shorter) service periods. The NDIS introduces a new focus on managing and minimising even very small periods of unfunded time while requiring service provision over an increased spread of hours and locations and it introduces requirements for a greater range of skills and specialisms and diversity of support workers.

Significant growth in casual employment among the disability support workforce over the NDIS implementation period suggests that some service providers may be managing some of the new financial risks to their businesses by devolving these risks to their employees. Reliance on a workforce of casual employees allows employers to shift the risks of increased variability and unpredictability of service provision and its funding to workers. This may also shift risks to clients as it impacts on the skills and experience of the disability support workforce and on service quality and continuity.

### Perspectives: Illawarra Service Providers, GDS Employees and Carers (Section 3)

When considering service quality and workforce sustainability most employers consulted for this project valued training, workforce stability and supportive and/or collaborative approaches to work organisation. Quality personalised services were also seen as requiring organisational cultural change and workforce training and development. Stability was also valued by employees and carers, with these groups linking consistency of worker to service quality. Consistency of worker and familiarity between family members and support workers were identified by carers as very important to service quality. These views underpinned preferences for a permanent workforce and a desire by carers to ensure workers are appropriately skilled. A majority of part-time and full-time employees identified job security as the most important work aspect from a range of options.

Illawarra region employers are dealing with a range of problems aligning employees' working time to service requirements under the NDIS individualised funding model. They also noted problems and barriers in relation to deploying workers across service areas and clients. While employers varied in their views about appropriate solutions most considered low pay to be a barrier to recruitment and retention. The NDIS pricing model, including its assumption that Disability Support Workers (DSWs) providing 'standard' services should be paid at or below Level 2.3 of the SCHADS Award, underpins low pay. Anecdotal accounts suggest this has also led to the loss of skilled and experienced DSWs from the sector.

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<sup>2</sup> As this report was being finalised the NDIA announced price increases to take effect from July 2019. These increases (from 6.7% to 13.9% on base attendant care and community participation supports) should reduce some of the pressures on providers identified in this report. However, most of the pressures driving workforce casualisation remain.

While employees also saw increased working time flexibility (along with job security) as a preferred way to achieve personalised, responsive services they also want regular hours of work. Carers would like participants to be offered a greater variety of services at different times, including on weekends. They would value the ability to directly contact support workers.

### Casual Employment and Security and Flexibility in Work (Section 4)

Analysis of the costs and benefits to service providers of adopting a workforce strategy for responsive service provision based on casual employment suggests that some of the advantages of casual employment may not be as significant as commonly thought. In particular, the financial case for casual over permanent part-time employment does not appear to be strong.

From an employee perspective there is an international literature on decent work that highlights that security in work needs to be considered as broader than the security of a contract for ongoing employment with paid leave. There are multiple forms of security offered by permanent employment including security of working time and income that are provided through predictable, regular hours of work. As with the idea of security the notion of flexibility is often used without clarity as to its exact meaning. For example, while flexible working time is often presented as 'family-friendly' or positive for employees' work-life balance, flexible working time that undermines reasonable predictability of work can contribute to insecurity and poor-quality jobs.

Recent findings from an NDS survey of employers highlights that working time insecurity as well as job insecurity may be driving employee turnover. There are also some indications of increasing insecurity in work among permanent part-time DSWs. Critically, for the aims of this project, actions to maximise flexibility of service provision with a secure workforce should not create new insecurities for permanent part-time employees and, where possible, they should address some existing insecurities.

### Beyond Workplace Action (Section 4)

Changes at the workplace level will not resolve all of the issues and problems identified as presenting barriers to the creation of adjustable and responsive services based on sustainable workforces and secure work. Whole of sector approaches are needed, including to establish a comprehensive national workforce strategy based on collaboration between all the relevant stakeholders. The Federal Government is responsible for the national support system and is the key body with capacity to drive collaborative change at the national level. While industry bodies can act key actions that need to be taken by government include to:

- Prioritise the development of a comprehensive workforce strategy that recognises and responds to the NDIS quality and safeguarding requirements that establish worker skills as critical for effective and safe supports and provide for career pathways based on recognition of skills and experience and includes a system-wide approach to training.
- Support the establishment of an industry forum that brings together service providers and unions, along with government and NDIS participant representatives, to participate collaboratively in the development of a disability services workforce strategy.
- Re-design the NDIS pricing model to ensure it provides for appropriately skilled workers in decent, sustainable jobs and effective and safe personalised services.

- Review employment and NDIS policy and regulation to identify necessary amendments to ensure the publicly-funded disability support system is built on decent work for the growing workforce of frontline support workers.
- Provide support to enhance sector capacity to undertake research and development into innovative approaches that build on the sector history of collaboration between service providers and employees and that support service user engagement in solutions.

Not-for-profit service providers may consider collective action to establish business innovations that pool resources or collectivise some of the risks faced by individual service providers (and workers). Local labour market intermediary models include co-ordinated and supported pooled labour arrangements based on permanent employment. Providers should also explore the possibility of adopting, at a regional level, a collaborative model to share services and resources such as training, administration (including payroll and procurement) and advocacy to reduce costs and support careers.

### Options for Workplace Actions (Section 5)

In line with the Project goals Section 5 of the report identifies options for workplace-based actions using industrial arrangements to build flexible, high-quality services on the basis of secure employment. The main focus for action is on maximising utilisation of permanent part-time employees in ways that ensure workers have a reasonable income and reasonable predictability and stability of working time under agreed adjustable working time arrangements. While all the challenges to service provider financial viability of the NDIS pricing regime cannot be solved through workplace action, service providers and employees can work together to increase service responsiveness and maintain security.

Three areas for collaborative action by employer/s and unions to maximise service responsiveness are discussed, with these providing for greater flexibility (with security) in some permanent part-time employees' working time; increased flexibility of work across work locations; and increased flexibility in support provision across services and participants. Limiting the use of casual employment arrangements is also identified as an important accompanying action to any strategies that aim to increase service responsiveness and flexibility with a permanent workforce as it can facilitate workforce planning for engagement and retention of permanent employees. It is also critical to reducing worker insecurity. Specific options for action are identified, as outlined here:

#### **Action: Adopt secure, adjustable or responsive work arrangements as an option for permanent part-time employees.**

'Flexible part-time' work provisions in current enterprise agreements and some awards establish bands of minimum and maximum hours within which part-time employees' regular work hours can vary. The finer details of any such provisions are critical to the development of an option that provides for secure work. Considerations for the industry partners (employers and unions) in collaborating to establish more responsive, adjustable part-time arrangements include:

- Should the option be in addition to a regular part-time employment option?
- Should compensation be paid to part-time employees who agree to be available for increased availability?
- What period is reasonable for averaging an employee's hours (e.g. a fortnight)?

- What proportion of hours should be adjustable? (i.e. what range between minimum guaranteed and maximum hours is reasonable and does not lead to 'on-demand' work?).
- After what period on adjustable hours should there be a review of the employee's contract hours to offer a contract reflecting the actual minimum hours regularly worked by the employee?

**Action: Establish reasonable minimum engagement periods for part-time employees.**

This action is proposed to underpin workforce sustainability and the development of more responsive and adjustable part-time employment strategies. It supports employment security and mitigates against development of 'on-demand' and zero-hours disability support work.

While lengthy minimum engagement periods can be highly challenging, especially for small services, providers identified that provision of most disability services can be organised within reasonably long periods. Packaging support services provided by a single worker into reasonable minimum engagements entails risks and difficulties that are not unreasonable or unable to be managed in most cases. Further, engaging part-time DSWs for very short periods of work is likely to undermine retention and workforce sustainability and the practice will not support a viable adjustable and responsive part-time employment strategy.

**Action: Build flexibility across services and participants through self-managed teams and work**

This action is proposed to provide for employee self-management of work as part of a broader skilled team approach. The underlying rationale is to enable quality service provision based on a skilled workforce and secure support jobs within a flatter organisational structure. This action can also underpin greater flexibility in deployment of support workers across multiple service locations.

**Action: Minimise casual employment**

The minimisation of casual employment is an important complementary strategy to the establishment of an adjustable part-time work initiative and supports increased employment security. It is proposed this could be advanced through both restricting the use of casual employment arrangements to irregular short-term work and facilitating conversion of casual employees to permanent part-time employment.

**Recommendations (Section 5)**

Collaboration between disability service providers, their employees and unions is necessary to advance the actions presented in this report. Beyond the workplace, whole-of-sector responses for the creation of adjustable and responsive services based on sustainable workforces and secure work in the national support system need be led by the Federal Government.

**Therefore, it is recommended that:**

- **The Government establish a national forum for collaborative action by service providers, unions and participant representatives to develop and oversee a comprehensive national workforce strategy for disability support services that would enable the development of a high-quality workforce.**
- **Key industry bodies and unions enter into industry-wide consultations to consider implementation of the Options for Action. The Government should be involved in these discussions given their critical role in funding the NDIS.**
- **In the interim individual service providers engage their workforces and unions in a discussion of the options as part of enterprise bargaining in their workplaces (or through multi-employer bargaining processes).**

# 1 About the Project

## Project Aims and Goals

The *Where Secure Employment meets Clients Needs Project* was undertaken to explore how a permanent disability support workforce can be used in a collaborative way to respond to the needs of NDIS participants.

The personalised support system and individualised pricing model introduced by the NDIS require changes in service provision and present new challenges for workforce strategies and work organisation in disability services. One of the key challenges is to build quality services provision based on a sustainable permanent workforce. This Project aimed to identify how this could occur through a collaborative approach at the workplace level using enterprise agreements under the existing industrial award arrangements, as well as through identifying potential changes that could be made to the industrial award.

The *Greenacres Disability Services* goals for outcomes from the project are to:

1. Provide secure jobs by developing a model of employment arrangements that maintains a permanent workforce.
2. Demonstrate that casual employment can be minimised, and client responsiveness achieved under the NDIS.
3. Be able to respond efficiently and effectively to meet the needs of Participants with respect to when they require support with the context of 1 and 2 above.
4. Review the skills and roles of support workers (including the interchangeability approach) in the context of achieving 1, 2 and 3 above.
5. Illustrate an approach that minimises participant and worker turnover in an NDIS environment by being a best practice employer and providing a responsive and person-centred approach to participants and employees.

## Project Scope and Methods

The focus of the project is the organisation of work and employment arrangements of the disability support workers who make up the majority of frontline workers providing direct supports under the NDIS. The Project was scoped around the needs of GDS with the aim of identifying responses that would also be relevant to other organisations providing disability support services under NDIS arrangements. The Project methods reflect this organisational focus with surveys and consultations with disability support staff and NDIS participants and/or carers undertaken with GDS staff and clients/carers. Information about GDS is provided in Appendix A to this report.

GDS conducted surveys of their disability support employees and clients and/or carers over several weeks in July-August 2018. Survey responses were sought via email invitations containing a link to an online survey that could be completed anonymously. The employee survey sought information and the views of disability support staff on their working arrangements and on approaches their employer could take to respond to new demands for flexibility in service provision. The survey of GDS clients who are NDIS participants, and their carers, sought information about current supports and their timing and views and preferences relating to support timing and consistency of support workers. Further information, opinion and feedback on ideas was sought from both groups through small group discussions and consultations held at GDS in October 2018. The views of Illawarra disability service providers on participant preferences and service demands, and on workforce strategy and workforce sustainability were canvassed in a facilitated discussion

session held at GDS in July 2018. Further information about the surveys and consultations is provided in Section 4 and in Appendix B of this report.

To scope options for workplace strategies for increased service responsiveness through the use of industrial mechanisms a scan was undertaken of employment arrangements contained in existing industrial awards and enterprise agreements, claims in Modern Award proceedings and other proposed/draft clauses (see Appendix C for details of the instruments reviewed and process for identifying them). Agreements, awards and clauses were examined to identify relevant actions being taken in disability services and other industries to increase flexibility and responsiveness in disability support services while maintaining a stable and secure workforce through permanent employment.

## Outline of Report

This report documents the findings of the project and presents some options for workplace actions to support the project goals. Section 2 presents an overview of issues and trends in the disability support system impacting on workforce sustainability. It commences with a discussion of the main drivers of changes before outlining some of the key challenges. Section 3 reports on findings of surveys and consultations undertaken for this project to gain insight into perspectives of stakeholder groups, including Illawarra region service providers and GDS employees and clients and carers.

Section 4 examines casual employment as an effective workforce strategy for disability support services, outlining the main pros and cons for employers adopting this type of approach. The discussion then turns to a consideration of 'flexibility' and 'security' in employment from the perspective of decent work. Section 4 finishes with a brief discussion of some critical issues and areas for action that for the most part lie outside the project scope as they require action to be taken by government, or at the industry level and are not specifically focussed on industrial and workplace arrangements. In Section 5 areas for workplace action to build flexible, high quality service provision on the basis of secure employment are identified and some specific options for supporting the project goals are recommended.

## 2 Current Workforce Environment: Issues and Trends

### 2.1 Key Drivers of Change

#### Introduction

*Will the disability workforce of the future be a stable, highly-skilled and well-motivated workforce? Or will we see the emergence of pockets of heavily casualised and part-time work, where high turnover, low morale and inconsistent standards prevail? (NDS 2018a: 6)*

The workforce implications of the NDIS are significant. The ability of the market to meet the demand for many more workers, greater diversity of workers and greater diversity of skills will, to a large extent, be dependent on providers being able to attract new recruits to the sector, retain existing experienced workers, and successfully promote disability support work as a career (Disability Reform Council 2015). However, while greatly expanded funding and the move to personalisation through an individualised market-based model have focussed a lot of attention on issues of workforce supply and capacity, the NDIS has also introduced a number of significant challenges for attraction and retention of support workers including for training, development of career paths and creation of secure jobs in the sector. Three inter-related aspects of the NDIS model are critical drivers of these challenges: personalisation, the individualised pricing model and the competitive services market. An overview of these drivers and their implications are outlined below.

#### Personalisation: Choice, Control and Participant Expectations

A central principle of personalised support is that people with disability should have greater freedom to make choices about their lives including being actively engaged in decision-making about services they receive. Under the NDIS, as in other personalised support and care schemes, participant choice and control over the planning and delivery of supports is considered to be central to respecting people's dignity, autonomy and freedom.

In practice choice and control in relation to services is likely to mean very different things to different people, as needs and preferences vary. From a service provider perspective it is clear that, in time, different participant groupings will emerge, service geographies will change, and diverse service models will grow. However, at present, while the NDIS is new, there is considerable uncertainty regarding many aspects of demand and the ways in which the services landscape will be transformed. This changing environment translates into insecurity and increased risk for service providers under the new individualised model and aim to provide personalised, flexible and responsive services.

Identifying the parameters of service provision that meet the criteria of being personalised, flexible and responsive is a key challenge for service providers as these parameters are unlikely to be the same for different individuals, participant groups and service types. For example, we know that, in general, people with disability prefer to have their supports provided by people who they know and trust and with whom they have an ongoing relationship. This means certainty and consistency of support worker may be a service user's top priority. However, in some circumstances, and for some services, flexibility in the timing of the service may be very important and consistency of worker less so. Aligning service capacity with participants' needs and preferences is likely to require continuous

development and review. An important issue here is the fact that one in three NDIS participants have had no government support in the past (DSS 2018) and many longer-term users of disability services have previously had little or no choice about the supports they receive.

### The NDIS Individualised Pricing Model

The NDIS pricing model based on time and activity (i.e. a set price per hour for services in each category of support) and tied to each individual NDIS participant has many challenges for service providers. In short, the individualised pricing model effectively requires service providers to ensure that all labour time and other costs are 'billable' to individual NDIS participants. There are many circumstances where this may be very difficult for service providers including where support provision requires unanticipated or unfunded employee time. This might entail, for example, communicating with families and carers, debriefing and providing feedback to supervisors, or responding to emergencies and varying needs. Another example is where activities are structured around group participation, but individual service users prefer to start and finish their participation at different and varying times.

While providers must try to ensure all Disability Support Workers' (DSWs') time is utilised in the provision of supports the NDIS pricing model itself creates a number of barriers to doing this. One significant barrier relates to the engagement and deployment of DSWs who have the skills and experience to provide support to clients with complex needs. NDIS pricing does not fully cover wages if such workers' spend time supporting other clients who do not have complex needs, due to the pricing of supports for these other clients being at a lower level. Specifically, any SCHADS Level 3 DSWs employed in an organisation can only be assigned to work with participants whose supports are priced for a person with complex needs. If these workers are at any time redeployed to support clients whose supports are priced as 'standard' the price of the support will not adequately cover their pay. This is likely to be an impediment to the recruitment and retention of experienced and qualified staff (NDS 2018c, p. 3). To provide services within the pricing envelope organisations may be left with a choice of either engaging DSWs at the lower classification level (without the appropriate skills and experience) or engaging DSWs as casual employees on fewer and more variable hours. As discussed in Section 2.2 below both these options carry significant risks for service quality and workforce sustainability.

In addition to the challenges of individualised pricing, the current NDIS pricing model for some support services does not cover the true costs of providing the services. In particular, the set hourly price for personal support and care does not provide for: the real costs of minimum award entitlements; time spent performing necessary tasks other than face-to-face support; and time for supervision and training (Cortis et al. 2017; NDS 2018a; VCOSS 2017).

An NDS survey of over 600 providers published in November 2018 identified NDIS pricing as a priority for service providers with findings that '70% worry that they will not be able to provide NDIS services at NDIS prices and 54% say they would have to reduce the quality of services to meet current prices' (NDS 2018c, p. 11). Recently, the NDIA has made some changes to the pricing model to address some of the identified pricing issues. However, key problems remain in relation to the levels of pricing of personal support and care (for more information see Box 1 below).

Currently the National Disability Insurance Agency (NDIA) regulates prices by placing caps on the amount that service providers can charge for services, which are categorised by support/activity type. Once the NDIS market is fully established, it is intended that all or most

of these caps be removed. While this will allow providers to charge higher rates, the amount of government funding for disability support services will continue to have a major role in setting market prices as many people with disability are likely to be wholly or mostly reliant on NDIS payments to purchase their supports.

### **Box 1: NDIS Reasonable Costs Model & the Workforce**

The base hourly price for NDIS supports is derived from the NDIA's 'Reasonable Cost Model' (RCM) developed to identify and quantify all the costs of providing people with disability with support (NDIA and NDS, 2014). The RCM is supposed to set prices 'sufficient to cover the efficient costs of a reasonable quality support provider' and it is intended to cover the full costs of providing supports deemed 'reasonable and necessary'. NDIS prices set using this model should be adequate to ensure user co-payments are not required and enable providers to grow capacity (NDIA, 2014; 2016c).

Research and reviews of the pricing model have identified a range of issues relating to the RCM assumptions and the adequacy of prices established by the model (Cortis et al. 2017; see also McKinsey 2018; NDS 2018a). Issues include that prices do not enable minimum Award conditions to be met. In particular, there is no allowance for payment of permanent staff for public holidays or to back-fill rosters on holidays; prices do not account for some shift and leave allowances; they assume utilisation rates and spans of control that are unrealistically high; and provide inadequate time for necessary tasks in non-client facing time. Prices limit support workers' pay and career progression; do not allow employment of experienced staff and leave staff are unable to deliver 'personalised, co-ordinated, responsive and safe services' (Cortis et al. 2017).

Changes made to the pricing model in mid-2018 do not address the core problems. For example, increases for standard intensity attendant care include a 2.5% Temporary Support Overhead loading for 2018–19 reducing to 1.25% in 2019-20; with some other price increases merely covering increases due to the Award wage increases and Equal Remuneration Order increases (NDIA 2018). Price limit increases announced in March 2019 (see <https://www.ndis.gov.au/annual-price-review>) to take effect from mid-2019 may alleviate some of the identified issues.

### **The NDIS Competitive Market: Disability Support Work in the Gig Economy?**

The provision of disability support services under the NDIS relies on competition between service providers in a market now open to private for-profit companies, as well as the traditional not-for-profit, organisations. While the market model is intended to ensure effective and efficient delivery of support services to people with disabilities 'marketisation' brings new risks arising from the commercialisation of services and an increased focus on achieving competitive advantage and increasing profit margins (Fine & Davidson 2018).

Arguably, underlying a continuing problem of inadequate pricing under the NDIS is a view that many providers in the disability services market should operate on the type of lean business model that relies on a workforce of award-dependent casual employees and so-

called 'sole trader' personal support workers. For example, the 2017 pricing review undertaken for the NDIA (McKinsey 2018) suggests that providers of assistance with daily life and social/community participation can gain efficiencies by increasing labour utilisation rates through increasing their use of casualised labour. The report identifies the service providers that are finding the NDIS pricing 'challenging' as those providers 'with more qualified specialist or experienced workforces', those with 'EBAs that are more generous than the Award' and 'those serving complex participants or operating in low density areas' (McKinsey 2018, p. 25). If the view expressed in the McKinsey report prevails in the NDIA it is unlikely that the pricing model will be amended to ensure additional resources for employers wishing to provide quality flexible and responsive services based on skilled and supported employees in secure jobs.

New entrants to the NDIS disability services market may be able to compete for market share by providing some services more cheaply than traditional providers are able to provide them — including through relying on external flexibility and employing casual workers at low classification levels to keep labour costs down. Other new providers are likely to target the more lucrative segments of the services market, for example by focusing on the provision of particular services, such as some allied health services, to particular client groups.

Experiences of marketised social care and other social services in Australia and elsewhere are telling. There is considerable overseas experience of individualised and marketised care systems being built on large workforces of low-paid workers in insecure work with poor working conditions. The UK experience is significant in this regard, especially in the provision of care and support in the home (Christiano et al. 2016). In the adult social care sector in England, where there are severe cost pressures due to low levels of funding, it has been estimated that thousands of workers are not receiving the national minimum wage. Hayes (2015; 2017) identified key contributors to this situation as unpaid travel time, unpaid time spent in training and supervision, unpaid time assisting service users in emergencies, and overruns in support time beyond that time recognised in hourly prices.

In Australia the marketisation of aged care has led to pressures to reduce costs by reducing employment conditions and the rights and protections of care staff (Fine and Davidson 2018). The creation of a market for publicly-funded employment services has led to a human services sector now dominated by large, mainly private sector firms and it has led to a growing concentration of service providers – from 306 core providers in 1997 to 65 providers in 2017 (ANAO 2017, p. 7; Finn 2011, p. 10). In that sector effective and efficient delivery of services, particularly to the most disadvantaged, is seen to have been undermined by the convergence of service provision around a 'low-cost low-quality service model' (ACOSS 2016).

In the new NDIS market there are indications that the entry of private for-profit firms with very lean business models could undermine support worker pay and conditions, including through undermining any opportunity for collective organisation and bargaining. In particular, ambiguities and gaps in industrial and employment regulation (including gaps in enforcement) have allowed the growth of service models whereby labour market 'intermediaries' or 'matching' services have been by-passing the employment relationship altogether, with support workers treated as self-employed or independent contractors. Other services ostensibly provide administrative services while workers are employed directly by NDIS participants. Compared with employees workers engaged as contractors carry many more of the risks associated with employment. Contractors have few protections; they are not covered by the Fair Work Act or most state industrial laws and there is very little scope

for them to bargain collectively, a particular concern for workers in low-paid jobs (Johnstone et al. 2012).

Recent developments since the introduction of the NDIS market include the emergence of a platform or 'gig' economy for disability support work with agencies operating as Uber-type organisations that 'match' NDIS participants with workers or that provide 'on-demand' labour (Yeh 2017). While some workers seeking work on these platforms appear to be able to charge rates that are consistent with or higher than the award pay rate (once all entitlements including superannuation are taken into account) websites also carry advertisements for disability support work to be performed by independent contractors at hourly pay rates that are below the relevant SCHADS Award rates for casuals, even before the agency fee is deducted and without taking superannuation and other costs into account.

Future growth in the 'self-employed contractor' disability support workforce will in part depend on the extent to which NDIS participants take up the option of self-managing or partly self-managing their plans. This proportion is increasing slowly and in the June 2018 quarter was 24% of NDIS participants who received a plan in that quarter (NDIS 2018, p. 10). The growth of platform and intermediary agencies may be affected by any developments in the regulation of sham contracting.

## 2.2 Key Challenges to Responsive Service Provision Based on a Skilled and Secure Workforce

A system of quality personalised support for people with disability is more likely to be built and sustained under the NDIS with a skilled and stable workforce (NDIA 2015). Further, as noted in recent inquiries into abuse and neglect of people with disability, such a workforce is necessary to reducing risks to people receiving support. As the NDIS-funded workforce expands, a significant challenge will be to build a skilled disability support workforce with pay, job security and employment conditions that promote quality services through attracting and retaining workers with appropriate skills and experience. As outlined in this section, while the demands of the NDIS personalised system are for a skilled and engaged workforce, service providers face numerous new challenges to achieving this. Trends in employment over the NDIS implementation period indicate the disability support workforce is becoming more casualised while part-time jobs may be offering fewer hours of work.

### Changing Skills Requirements and Work Contexts

Disability support workers (DSWs) provide support services to people with disability on a one-to-one basis and in group settings, including in people's homes, in respite accommodation and in the community. DSW skills, knowledge and experience requirements vary according to the type of supports provided, and the complexity of needs. Generally, disability support work with people with more complex support needs or a need for high levels of personal care requires higher level of skills, and often some specialised skills.

Aspects of disability support work in a personalised support system are potentially quite different from the work with which disability support workers are familiar. In some services and for some workers the NDIS will represent a major change. Over time support is likely to be less centre-based and workers may be more isolated from their peers and from supervisors. Research into personalisation highlights the need for strong worker-client relationships that are built on trust and offer flexibility to enable participant independence and autonomy (Needham 2011). A recent survey of disability services providers found that

employers are recruiting 'reactively' to match employees to the needs of particular clients, including recruiting for specific job skills or experiences, for personality or demographic characteristics and for ability to work flexible hours to fit shifts that clients want (NDS 2018c: 52).

Challenges to growing a skilled and responsive workforce that can sustain good practice in personalised disability support under the NDIS include many new challenges to organisations' capacity to ensure good practice in workforce management. As outlined above, some issues arise directly from the NDIS pricing model including that supervision ratios are higher than is common practice (and higher than was supported under pre-NDIS funding arrangements), there is inadequate allocation for training and reduced opportunity for career development and progression and there is inadequate provision for risk audits (See Cortis et al. 2017; Evesson and Oxenbridge 2017).

There are skills implications of personalised consumer-directed support (see Ryan and Stanford, 2018) and workers' skills and competence are central to the provision of quality service delivery and to participant safety in the NDIS. This has been made clear by the new NDIS Quality and Safeguarding Commission. The Commission has issued a number of documents that outline expectations of disability support and other workers under the NDIS Code of Conduct (see for example The NDIS Code of Conduct Guidance for Workers Version 1 – May 2018 [NDIS Quality and Safeguarding Commission 2018]). The documents outline a mix of skills, knowledge and personal qualities that employees are expected to demonstrate and for which they and their employers are expected to take responsibility. Some of these expectations appear to align closely to the competencies and skills in Certificate III and IV level qualifications. However, despite these expectations, there are no training or qualifications requirements for DSWs in the NDIS (with the exception of a requirement for workers to complete a mandatory online induction unit to be introduced in 2019).

Anecdotal accounts suggest there are now many unqualified workers being recruited to disability services and there is some evidence that this is creating risks for service users (see Cortis et al. 2017). Without common understanding and acknowledgement of the capabilities required by DSWs the safety and sustainability of the support system and provision for worker development and career paths will be difficult to achieve. The Government has a plan to develop a capability framework for NDIS providers and workers over the next three years (Australian Government 2019). However, there is a risk that by the time this framework is developed the capabilities of the DSW workforce will have been undermined by reliance on a casual workforce. There has already been work done by the NDS (2014) on worker capabilities and there are a variety of other initiatives being taken to identify the skills requirements of personalised support provision and develop appropriate training curricula, including through co-design (see for example: <https://www.futuresocial.org/curriculum-co-design/>). While these initiatives can assist employers in their workforce planning now, without NDIS system recognition and provision for capability development, this is likely to be limited.

The NDIS does not require that all service providers be registered, as NDIS participants who self-manage can use unregistered providers. International comparative research has highlighted that where care and support is subject to limited regulation and oversight there are significant risks for service quality as well as for support and care worker employment as it may be outside the effective reach of regulation (for further discussion, see Macdonald & Charlesworth 2016).

A critical issue for service providers wanting to adopt workforce strategies for a skilled workforce utilising permanent employees and internal flexibility (rather than low skill, external flexibility with a high level of casual employment) is an assumption underlying NDIS support pricing that standard (i.e. not complex) core supports— such as assistance with daily living and with social and community participation – must be performed by DSWs employed at Level 2 of the SCHADS Award classification structure. Supports are priced at Level 2.3 which is lower than the level at which many of the existing workforce of DSWs is employed as workers who have been in the industry for some length of time and have gained experience, skills and qualifications are likely to have progressed to a higher classification (Cortis et al. 2017). Under the NDIS if the bulk of an organisation’s support services are ‘standard’ supports it may not be possible for skilled DSWs to progress to higher pay levels.

As outlined below, there are various other pressures on employers to casualise their DSW workforces. There are also indications that the industry is adopting workforce strategies that do not provide sustainable secure jobs with adequate incomes, with this being a factor in workers’ decisions to leave their jobs.

### Type, Timing and Individualised Pricing of Supports: Casualising Support Work?

Some of the specific challenges to a workforce strategy based on permanent employment of DSWs under the NDIS arise from the nature of personalised support provision and its timing including, for example, that instances of support:

- may be very short in duration;
- are likely to be more variable in their timing in the day and/or the week;
- may be subject to cancellation with limited notice;
- may aggregate into periods of significant peaks and troughs in demand over the day (e.g. around personal care needs);
- may not be readily transferable to other times;
- may be more likely to include more after-hours and weekend work; and
- may not be easily transferable between workers.

Some of the key issues for service providers of NDIS-funded personalised support services arising from these challenges include:

- In general there is less control, shorter notice, greater variability, individualised (and shorter) service periods.
- There is a need to manage and minimise periods of unfunded time including:
  - time spent by support workers between periods of funded support provision;
  - administration, supervision, training, travel, staff meetings etc;
  - funding below workers’ classification level etc (including problem of utilising SCHADS level 3 employees for supports priced at SCHADS level 2); and
  - cancellations and other variability arising from participant preferences and changing needs.
- Services need to be provided over a greater range of times and over multiple locations; and there is increased evening, night and weekend work.
- There are new requirements for a greater range of skills, specialisms and diversity of support workers.

In the context of pressure to ensure all employee time is 'billable' time, these changes may be driving growth in casual employment in disability support. While the frontline disability support workforce was already relatively highly casualised prior to the NDIS, the pressures of the new system appear to be behind significant further casualisation. While this is an issue for the industry it also has significance for the broader labour force and the shape of future employment. In the last year or so, the NDIS has been a major source of employment growth in the Australian economy. An estimated additional 60,000 to 90,000 full-time equivalent workers (or 120,000-180,000 part-time workers) will be needed in the disability services workforce by 2020 (Productivity Commission [PC] 2017, p. 319).

The disability support workforce has a very high proportion of employees working part-time hours. Combined, employees in part-time and casual jobs account for about 60% of the predominantly female workforce, compared with an average across all industries of 30% (PC 2017, p. 3; see also NDS 2018a, p. 22). Prior to the implementation of the NDIS, there was already a high level of very short hours work among disability support workers and a high level of multiple job-holding, suggesting a problem of underemployment among employees in the sector (Martin and Healy 2010). As noted in a 2016 *State of the Sector* report, '*(c)ompared to the Australian labour force as a whole, jobs in disability are less likely to offer either a living wage or job security*' (NDS 2016, p.38).

Under the NDIS recent strong jobs growth in disability services has been dominated by the expansion of casual work and NDS research shows that the proportion of workers who were engaged as casuals rose from 40.9% to 45.2% and the percentage of workers engaged as permanent full-time dropped from 17.4% to 13.9% between the end of 2015 and September 2018, (NDS Workforce Wizard data provided by NDS). At the same time applicants for disability services jobs prefer permanent work (NDS 2018a; pp. 2, 4-5).

It also appears that part-time jobs for disability support workers could be getting 'smaller' in that they offer fewer hours work. According to NDS survey research, average part-time hours per worker are 22.6 a week, which is much shorter than the 26 hours a week in other workforces that have large numbers of part-time employees. While a reduced proportion of full-time employees is one factor behind an overall downward trend in the average number of hours being worked by each worker in disability services, it is also possible that there is a trend of part-time employees working shorter hours (NDS 2018a: 23). While there is no readily available information on current levels of underemployment and multiple job-holding among disability services employees qualitative research (see Macdonald et al. 2018) and anecdotal accounts of service providers suggest multiple job-holding may not be uncommon and that this is often due to workers' inability to get enough hours of work from a single employer.

## 3 Perspectives: A Skilled Workforce in Flexible Personalised Services

### 3.1 Introduction

This section canvasses some of the issues relating to personalised disability services, workforce sustainability, and employment security from the viewpoints of service providers, disability support workers and team leaders and carers of NDIS participants. The section reports on the findings from surveys of GDS employees, and carers who responded to surveys and participated in discussion groups as part of this project. It also provides a summary of key points made by Illawarra region service providers in a discussion group held at Greenacres. While most of the issues raised are likely to apply to many other disability service providers some issues may have greater or lesser applicability in different service contexts according to the nature of the services provided, the workforce make-up, particular client groups and their needs and preferences and the geographic spread of services, among other factors.

### 3.2 A Sustainable Workforce for Flexible, Quality Services: Provider Views

At a meeting of 11 Illawarra region disability services providers convened by GDS and facilitated by Michael Pegg (Workplace Relations Manager, Jobs Australia) on 2 July 2018 provider representatives were asked to name the characteristics of a sustainable workforce in a person-centred disability support system. Their responses included:

- A well-trained competent workforce.
- Work around the sector to make it an attractive career option.
- Stability and high utilisation i.e. Chargeability of the workforce.
- Flexible training and assessment on the job.
- A model that's just as supportive of the worker - that can meet their work-life needs.
- Collaborative models between organisations - a 38-hour contract between providers, a not-for-profit labour hire agency.
- Flexibility: employees being able to work hours they would like to work and meet clients' needs. To be able to do this is outside the scope of a contract of the person-centred contract.
- Skilled, trained, flexible, self-directed teams.
- Trained workers able to engage in flexibility of tasks.
- A multicultural gender-balanced workforce.
- A permanent workforce.

Providers in the group also identified a range of workforce problems they encountered under the NDIS arrangements. Many of these problems related to unfunded worker time and increased demands for service flexibility. There was seen to be a mismatch between NDIS funding and working time arrangements. Asked to identify barriers to achieving a sustainable workforce in a person-centred system, most providers in the group highlighted barriers to their organisations' sustainability in the NDIS, including:

- Low pay.
- Low pay mitigating against casuals converting to permanent (i.e. "why take a 25% wage cut?").

- Restrictions on workers' hours (span of hours, overtime and breaks)
- Disconnect/mismatched complexities, between pricing and Award conditions.
- Silos between different jobs and preferences for some jobs.
- Penalties for weekend work.

Key issues discussed in the meeting include:

*Worker interchangeability/internal flexibility:* The provision of services in shorter, more variable blocks of time and across locations has led to a need for employees to be willing and able to move between work groups and work locations and also to work with a greater variety of participants and participant groups. For many employees these requirements may also entail learning new skills.

*Matching employee work hours with service demand:* There is an increased need for employees to work in evenings and on weekends and to work broken shifts. Some staff can work variable hours, others want or need predictability and certainty of hours and cannot or do not wish to work 'flexibly'. Providers noted it was sometimes difficult to find staff to work outside ordinary daytime hours. Providers would like to be able to roster the same employees during peak periods in demand for personal supports at the beginning and end of the day but are unable to as the SCHADS Award specifies that an employee's working broken shifts in a single day can only work these shifts within a maximum span of 12 hours without attracting a double time pay premium. Some providers suggested support workers were 'getting around' this rule by holding multiple jobs. While some people argued the 12-hour span and the SCHADS Award requirement for a 10-hour break period between consecutive shifts as unduly restrictive, others disagreed arguing there were good reasons for the inclusion of these provisions in the Award.

*Client cancellations:* While the industry has always managed with some levels of variability in service demand due to cancellations in the NDIS providers have lost the capacity to readily transfer workers to other duties, including to transfer a support worker to another client, to administrative work or to undertake professional development, due to the pricing model. Some NDIS participants' support requirements vary quite frequently and unpredictably and this requires considerable flexibility on the part of service providers. It can be very difficult for providers to plan or organise support worker time to meet these demands. Employees at SCHADS level 3 who need to pick up extra hours due to cancellations are not able to be utilised for support work priced at SCHADS level 2.

*Employee preferences for casual work:* Providers were aware of some employees who preferred casual to permanent employment as the employees wanted or needed the casual loading.

The group discussed a *self-directed teams model* as an option for service provision based on a secure workforce (for more on self-directed teams see Section 4). There was some agreement that this would require cultural change. It was also noted that to make it feasible, there would need to be a pricing structure that enabled it and it would require a qualifications framework for workers. It was suggested that the main barriers to establishing this model are lack of time and resources to implement new approaches.

### 3.3 Flexibility, Security and Part-Time Hours: Employees' Views

An online survey of Greenacres disability support staff was conducted by Greenacres in August 2018 (See Appendix B for further information about the survey). Anonymous staff responses were received from 112 employees, comprising responses from 45 permanent

full-time employees, 30 permanent part-time employees and 37 casual employees. Approximately 47% of all eligible employees responded to the survey, with 66% of full-time, 35% of part-time and 45% of eligible casual employees responding. Thus, the survey responses provide a good indication of the views of many GDS employees, while they cannot be taken to be representative of all employees' views.

Most of the survey respondents worked regular hours, including four in five permanent part-time employees and two in five casual employees who worked more than 20 hours a week. When asked to nominate what was important to them in their jobs employees' responses generally reflected satisfaction with their current arrangements, with 'Job security' and 'Working regular hours' most often nominated as important job aspects by the majority of employees. As shown in Table 1 'Job Security' was most often nominated by both full-time and part-time permanent employees while around half of casual employees also nominated this.

**Table 1: Support Worker Survey: What is more important to you? (Please tick 2)**

	Casual	Permanent part-time	Permanent full-time
Receiving more hours of work?	9	2	2
Job security?	18	26	31
Having a certain income?	12	12	15
Working regular hours?	18	18	17
<b>Total Survey respondents</b>	<b>37</b>	<b>30</b>	<b>45</b>

One in ten employees nominated 'Receiving more hours of work'. Of the 37 casual employees responding to the survey two-thirds (25) indicated their ideal weekly work hours were more than the hours they normally worked. Of the 30 permanent part-time employee respondents six indicated their ideal hours were greater than the number of hours they usually worked, and another four workers indicated their ideal hours were equal to the maximum number of hours they usually worked, suggesting there is also some underemployment among the permanent part-time workforce.

Employees were asked to nominate their preference for a Greenacres workforce strategy. Given a choice of three approaches most employees nominated a collaborative approach introducing work arrangements that provide flexibility but minimise the use of casuals as shown in Table 2 below.

**Table 2: Support Worker Survey: Which of the following should Greenacres support?**

Options provided	no.	%
Prioritise its workforce strategy around the use of permanent rosters and minimal casual labour even if this means losing clients.	5	4%
Increase the use of casuals to give it more flexibility to take on new clients at times they want services.	33	29%
Collaborate with its permanent workforce to introduce working arrangements which provides a minimal use of casuals but enough flexibility to respond to when clients want services provided.	72	64%
No response provided	2	<2%
Total	112	100%

The majority of employees completing the survey also responded that Greenacres should adopt a model that relied on more flexible permanent jobs in preference to having a core of permanent jobs with unchanging hours and more casuals to work outside these hours, as shown in Table 3. However, just over a third of employees (36%), including a third of permanent employees, preferred the latter approach. Ten employees offered other responses including that: permanent employees should be offered overtime (2 responses), casuals should be used for shifts outside ordinary daytime hours (2 responses), casuals should be used for NDIS-funded services (1), casuals play an important role in filling in when permanent staff are on leave (1), permanent arrangements are required for weekend work such as having regular weekend staff (1), rostering staff across Greenacres services would remove the need for casuals and provide staff with variety (1), and 'casuals should have a roster as it is hard to plan your life' (1).

**Table 3: Support Worker Survey Response: Given what you know about the NDIS and the need for Greenacres to respond to the times that clients want support, how should Greenacres best utilise its workforce?**

Options provided	no.	%
Have a core number of permanent jobs with regular and unchanging hours of work and more casuals to work outside these hours to meet the changing needs of clients.	40	36%
Have more permanent jobs with greater flexibility to respond to the needs of clients and to reduce the need for extra casuals	62	55%
Other	10	9%
Total	112	100%

Permanent part-time employees were asked to indicate their preparedness to have a guaranteed minimum hours arrangement with additional hours worked in response to clients. Of the 30 part-time employees responding to the survey 18 indicated they would be prepared to work in this type of arrangement while nine indicated they would not be prepared to do so, with one of these nine noting family responsibilities as a key consideration in determining availability to work for some staff.

A focus group discussion was attended by seven GDS staff on 25 October 2018 in response to an invitation sent to all staff by the GDS project officer. Staff attended in their paid work time. People participating in the discussion were asked to reflect on and discuss their views of the changing demands for service flexibility, the experience of support workers, and possible solutions that might provide flexibility without relying on casualising the support workforce.

There was considerable discussion about what was important in relation to security for employees and group participants indicated that income security is an important aspect of security. The discussion also suggests that there was a sense of insecurity among staff currently that they believe is linked to uncertainty that has arisen with the NDIS. Some permanent part-time staff want more hours' work, but believed extra hours are going to casual staff. There was a belief that casuals are often multiple job holders to gain adequate and regular hours. Casual loading was understood to be important to many casuals.

In relation to 'working regular hours' employees may be interested in having flexible working time to gain extra hours but also want guaranteed minimum hours. With more variation or adjustability of part-time work it will be important to build in flexibility both ways (i.e. for Greenacres and for employees).

Having staff self-manage their working time in conjunction with participants to whom they provide support is something that is already happening in some circumstances. This type of arrangement could be introduced more widely but not universally and will require systems and management changes. It was recognised that this can be a very good option for participants and their carers and for staff where there are clear expectations and trust, enabling the parties to manage the flexible arrangements. In addition, generally it requires a team approach as individual client reliance on the same support worker all the time is not sustainable for the worker or the client.

### 3.4 Personalised Supports, Choice, Control and Consistency: Carers' Views

*"To me, as a parent, I want to know who my daughter is going with, she likes to have people who she knows, and it takes time for her to get to know them. We want people we can trust and feel safe with (Carer)."*

A survey of Greenacres NDIS participants and their carers conducted by the Greenacres project officer attracted 101 responses. Full details of the survey are contained in Appendix B. Almost all (96) responses were from carers of NDIS participants. Most people responding to the survey indicated that they or the person they care for currently access services in daytime hours, with 86 receiving most of their services between 8am and 4pm. This reflects current Greenacres service provision, much of which is daytime and centre-based supports. Most respondents received supports in fairly long blocks of time, with the longest blocks of time of support received by two-thirds of respondents being between five and seven hours. For a small number (14) of respondents the longest block of support was only three or four hours. In regard to the shortest blocks of support time one in five respondents (20%) received supports that were only one hour in duration and another 30% of respondents received supports of two hours' duration.

Overall, survey responses suggest that consistency in support workers is very important, but this does not mean that carers prefer the same support worker for all supports. They require consistency of worker or team of workers for each different type of services. Respondents were asked to choose what was most important to them in relation to the support services

they received from three options offered on the survey. As shown in Table 4, who provided the supports was identified by half the survey respondents as most important while other respondents were split evenly in their choice of time of service provision and variety of services to choose from as the most important aspect.

**Table 4: Participant and Carer Survey\*: What is most important to you?**

Options provided	no.	%
Which staff member provides your services	51	51%
What time the service is provided	20	20%
Having a greater variety of services to choose from	20	20%
No response	10	10%
Total	101	100%

\*the vast majority of respondents were carers.

All but three respondents agreed that Greenacres should 'try to provide its staff with permanent employment'. Survey responses indicate there is some preference for permanent staff providing a service over casual staff even if this means participants may not receive their service at the exact time they want, although almost as many respondents indicated their preference depended on the particular activity or support being provided. As shown in Table 5 below the responses suggest that consistency is very important to participants and that this is valued over timing in many instances

**Table 5: Participant and Carer Survey: If you were given a choice between a casual employee providing you a service at the time you want or a permanent employee providing you the same service but say an hour earlier which would you choose?**

Options provided	no.	%
Permanent staff member	49	48%
Casual staff member	2	2%
Depends on what the activity or support was	42	42%
Depends on if I like the staff member	8	8%
Total	101	100%

Respondents were also asked if they had found that Greenacres was unable to provide them with a service at a time they wanted. Four out of five responded that this had not been the case while the other one in five said they had found this, with all but one of these 20 people providing more details. Fourteen people indicated the services Greenacres had been unable to provide were services at a particular time of the day or week, with half identifying services on Saturdays, some also mentioning services at night-times, two identifying early morning support and one referring to temporary overnight care. Some people identified the support they wanted on weekends was for community access or social outings, one responded there was a lack of organised or peer/social activities on weekends and evenings and two others identified lack of available or trained staff on the weekend as the problem, with one referring to staff trained in tube feeding. Another respondent referred to lack of vehicles as well as staff for transport services. Two respondents mentioned specific supports including sex

education and domestic services. Two others identified their problems as arising from not having NDIS funding for the services they wanted. The survey also asked if carers and participants would like the flexibility to talk directly with support workers about the timing of services. All 101 respondents indicated that they would like to be able to do this.

The survey was followed up by a focus group discussion with six carers of NDIS participants held in October 2018 at GDS. The six carers had responded to an invitation that accompanied the survey inviting people to participate in a group discussion to provide further detail on their experiences and views on service provision arrangements.

Some major issues and concerns shared by the carers participating in the discussion related to NDIS planning processes and to the adequacy of NDIS support plans. A significant part of the discussion concerned carer frustrations with these issues that were not directly related to support provision.

The views expressed by the carers participating in the focus group concerning service quality and aspects of service provision considered to be important reflected the views captured in the survey. Participants identified a key requirement of service provision as consistency of worker/s for each type of service. Mutual familiarity and workers having a good understanding of participant needs, preferences, and ability to communicate effectively with participants are critical. The carers were vocal in their dislike of the use of casual support workers who are strangers to participants, and several spoke of the distress and disruption this could bring to their family members. Choices of time of service and variety of support services are important but often less critical than worker skills and familiarity. The carers linked worker permanency with consistency. They also linked work permanency to worker skills, with some having poor experiences with casual workers (from other services) who they perceived to be lacking training and experience. Some carers wanted to see more weekend supports on offer and some had experienced problems accessing weekend supports. In some cases this was because Greenacres was not providing particular services on weekends. However, in other cases this problem was related to NDIS funding for supports that did not cover weekends.

Overwhelmingly, the carers said they and participants would like the flexibility to talk directly with support workers about the timing of their services. Where families had established relationships with regular support workers on occasions there was already some informal direct liaison with workers about varying support times and this was valued by carers.

### 3.5 Summary

Some commonalities emerged in the employer, employee and carer perspectives on service requirements and employment arrangements and on what matters in relation to achieving quality services and workforce sustainability. However, there were also some tensions and contradictions in views among and between the three groups of stakeholders.

When considering service quality and workforce sustainability most employers valued training, workforce stability and supportive and/or collaborative approaches to work organisation. Quality personalised services were also seen as requiring organisational cultural change and workforce training and development. Stability was also valued by employees and carers, with carers and workers both linked consistency of worker to service quality. For carers, consistency of worker and familiarity between their family members and support workers are very important to service quality. A preference for a permanent workforce is underpinned by this and also by a desire to ensure workers are appropriately

skilled. A majority of part-time and full-time employees identified job security as most important to them.

Problems and issues identified by the Illawarra employers relating to flexibility echo the issues identified in Section 2 of this report and centre mainly around aligning working time to service requirements under the individualised funding model. Some issues concern barriers to workers moving across service areas while flexibility across time under the individualised pricing arrangements was identified as a major problem for employers. For some employers a solution would be for there to be greater flexibility to organise work in variable broken shifts over longer periods of the day and week without having to pay penalties, while others considered the NDIS pricing should better match the actual costs to employers. Most employers regarded low pay as a barrier to recruitment and retention. While employees also saw increased flexibility (along with job security) as a preferred way to achieve personalised, responsive services they also want regular hours of work. Carers would like for NDIS participants to be offered a greater variety of services at different times, including on weekends. In regard to flexibility to change service times they would value the ability to directly contact support workers.

Section 4 begins with a discussion of some of the issues that are at the heart of the tensions and contradictions evident in the perspectives presented in this section. On the one hand there is general recognition of the need for a well-trained and secure workforce, including to gain flexibility to meet the demands of personalised services and the needs and preferences of participants. On the other hand, the individualised pricing arrangements underpin pressures to achieve 'flexible' service delivery in ways that may undermine worker security and workforce sustainability.

## 4 Flexible Services and Secure Work: What Matters? What Action is Needed? Who Needs to Act?

### 4.1 Introduction

In asking ‘What matters?’ this section begins with a focus on some of the key issues for disability services employers and employees of organisational approaches to gaining greater flexibility in service provision. In Section 4.2 some of the costs and benefits to service providers of adopting a workforce strategy based on casual employment of DSWs to gain flexibility in service provision under the NDIS are considered. In Section 4.3 issues of ‘security’ and ‘flexibility’ in casual and permanent employment are discussed from the perspective of decent work. This discussion highlights the importance of looking beyond employment categories to identify what, in any particular context, security and flexibility actually entail. Following this, recent relevant findings from an NDS survey of employers are reported, highlighting what providers are seeing as driving employee turnover. Some indications of increasing insecurity in permanent part-time work are noted.

‘What action is needed?’ and ‘Who needs to act’ are the focus of Section 4.4 which discusses some areas for action emerging in the course of the project as critical to the project goals of flexible responsive services and secure work are discussed. The actions identified in Section 4.4 are those that are beyond the scope of individual workplace action and/or outside the scope of changes that could be achieved through industrial or enterprise arrangements (whether at the individual workplace, multi-employer or industry levels). Workplace and industrial relations actions are discussed in Section 5.

### 4.2 Is a Casualised Workforce a Good Way to gain Greater Flexibility?<sup>3</sup>

#### Advantages and Disadvantages of Casual Employment for Organisations

For employers, there are both advantages and disadvantages of casual employment in the short and long term, as outlined in Table 6 below (see also NDS 2015). As indicated, long-term casuals have some rights to employment security unlike short-term casuals, meaning some of the apparent advantages of casual employment for employers only apply in the case of short-term employment.

Anecdotal accounts suggest disability services providers sometimes choose to employ new workers on a casual basis to ‘trial’ them or see ‘how they turn out’ before later offering employees permanent part-time employment. However, workers employed as casuals may decline offers of permanent employment as it means a lower hourly pay rate.

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<sup>3</sup> This section draws heavily on a presentation given by Michael Pegg, Jobs Australia to meetings of the Project Steering Committee and Illawarra disability service providers. Any errors are the responsibility of the author.

**Table 6: Does casual employment equal maximum flexibility for service providers?\***

Casuals	Short-term	Long-term
Definition	Usually less than 6-12 months. Ad hoc, irregular	More than 12 months and employed on a regular and systemic basis
When to use	To cover short-term needs, where workload is variable	Business case is weak for employing casuals although there are no technical/legal obstacles
Advantages	Easy to hire Easy to terminate employment Easy to change hours	There is some scope to manage unpredictable hours more easily than with part-time employees however most barriers to flexibility in part-time employment are not technical.
Disadvantages	Increased challenges for: <ul style="list-style-type: none"> <li>building a skilled workforce;</li> <li>managing performance; and</li> <li>providing continuity for clients.</li> </ul>	Paying premium casual loadings without advantage of easier termination. Slightly easier to change hours than for part-time but potential restrictions apply.

\* Based on presentations given by Michael Pegg, Jobs Australia to meetings of the GDS Project Steering Committee and Illawarra disability service providers.

When a comparison is made on the basis of the SCHADS Award provisions there does not appear to be a strong financial case for organisations to employ workers as casuals rather than as permanent part-time employees. As indicated in Table 7 below, estimates of the costs of Award provisions indicate that casual employment is generally far more expensive than permanent part-time, noting that these estimates do not take into account other cost differences that might be associated with all business and employment practices such as, for example, recruitment and training. On the basis of the SCHADS Award provisions alone, even in a case where permanent part-time employment costs are at their highest, the costs of employing casuals may be as much as 8 to 9% more than the costs of employing permanent part-time workers (for further details see NDS 2015).

**Table 7: Casual and Permanent Part-time Employment in the SCHADS Award\***

	Casual employment	Permanent part-time employment
Loading	25%	
Annual leave and loading		1.35% to 11.35% (if backfilled)
Sick leave		0% to 5% (if backfilled)
Redundancy		0-4% pa if needed
Minimum engagement	Two hours	
Public holidays		0-4% depending on roster

\* Based on presentations given by Michael Pegg, Jobs Australia to meetings of the GDS Project Steering Committee and Illawarra disability service providers.

Looking to the broader industrial context the expansion of casual employment and the growth of long-term casuals in a range of industries have generated increased attention to the utilisation and classification of workers as casuals. Notably, a 2018 Federal Court ruling found that a proper classification of workers as either casual or permanent was to be determined according to the characteristics of the working arrangements in each case

(WorkPac Pty Ltd v Skene [2018] FCAFC 131 [16 August 2018]). A Senate Select Committee on the Future of Work and Workers (Parliament of Australia 2018: viii) has recommended a review of the definition of casual work while another government committee dominated by Coalition Government MPs has called for a ‘review into the use of casualised workforces in the mining and other sectors with a view to amending the Fair Work Act 2009 (Cth) in order to prohibit the move towards replacing directly-employed, full time workers with “permanent casual” employees, and other similar casualised employee types’ (House of Representatives 2019: xvii).

While the financial case for casual employment does not appear strong, based on the analysis above, there are other reasons why casual employment is adopted by disability services employers. These reasons include the ability to allocate workers to shifts that arise at short notice, vary in their timing and/or that are subject to short cancellation. However, under the SCHADS Award employers do have considerable leeway to utilise part-time employees in these circumstances. An emerging issue, discussed further in the next section, is that the same pressures driving growing increased casual employment could also drive increased insecurity in permanent part-time work for DSWs.

### 4.3 Casual Employment, Flexibility and (In)security

Flexibility in the hours of employment is important for both employers and workers. The former often need to manage varying demand for staff, while workers often need flexibility to juggle their work and non-work lives. (NDS 2018a: 22)

While flexibility in working time is often cited as positive for work-life balance or as somehow intrinsically ‘family-friendly’ it is also the case that certainty and predictability of working hours are very important for employees combining work with other responsibilities and activities. Part-time employment supports work-life balance when employees have some say in their hours and when they are not usually called upon at the employer’s discretion or expected to make themselves available at very short notice (ILO 2016, p. 258). Flexibility that is not supportive of work-life balance is especially likely to be present where employees are employed for fewer hours of work than they would like, are in a labour market with limited other employment options, or are restricted in the hours they can work due to their own caring responsibilities (ILO 2016).

There are multiple aspects of security at work. Permanent employment normally offers employees greater security of ongoing employment – *job security* — than casual employment. This is not only because employees have protection against unfair dismissal. Permanent employees’ jobs are more secure because employees have access to paid sick leave, carers’ leave and annual leave enabling them to manage paid work and other responsibilities and to have time for rest and leisure. Access to paid leave also provides *income security*, as does a predictable pattern of adequate working hours, or *working time security*. Along with a minimum number of guaranteed hours, giving workers a say in their work schedules and limiting the variability of their working hours are important measures for security in part-time work (ILO 2016: 258). *Employment security* or *employability* is supported by access to training and development enabling workers to maintain and develop skills and competencies and access career paths over time.

Insecurity in casual employment can take multiple forms. While lack of certainty of ongoing work (lack of permanency) is often cited as the main form of insecurity in casual work, uncertainty of total working hours, and variability (and unpredictability) of hours also generate insecurity in relation to time, income and ability to balance work and other

responsibilities and activities. Lack of leave entitlements and career opportunities also contribute to these insecurities.

There are indications that insecurity at work is contributing to employee turnover in disability services. In a recent NDS (2019, forthcoming) survey of disability services organisations 118 respondents (CEOs, HR managers) gave their views on why *new* employees had left their organisations. Issues relating to working hours were the second most frequently cited reasons for new employees to leave disability organisations after issues relating to the worker not being suitable for the job. Among the working hours issues the two most common reasons cited were that employees were not happy with the roster/shift work (17) and did not get enough hours/shifts (16), followed by wanting more stable shift/hours (4). Ten respondents identified the reason for new workers leaving their organisations as being that they want a permanent job.

The survey also identified working hours issues as some of the main reasons for longer-term (employed for more than 6 months) workers leaving disability services organisations, with 23 of 128 responses mentioning these reasons, including: not enough hours (11), looking for work with reliable hours (5), unhappy with the roster (4), wanting work-life balance (2). Limited career development was also seen as a driver of dissatisfaction with 10 employers mentioning this as a main reason for longer-term employees leaving while another 10 said employees left because they 'want a permanent job'.

While the survey responses point to insecurity in work as a driver of employee dissatisfaction and turnover, conversely, where there is greater security, flexible work hours may be positive for employees. Some respondents (29) to the survey cited flexible work hours as reason their employees stayed with their organisation.

Claims to the SCHADS Award modernisation processes in the Fair Work Commission, anecdotal accounts heard in the course of this research and the findings of a recent qualitative study (Macdonald et al. 2018) indicate that, in some disability services, part-time employees are being employed on very short hours contracts (for example, five hours a week) and having their work hours regularly 'flexed up', effectively making these employees 'on-demand' workers. In these circumstances underemployed workers make themselves available for work over many days and work very fragmented and often unpredictable hours. As outlined below these types of arrangements provide poor quality work and are unlikely to support sustainable workforces.

Critically, for the aims of this project, actions to maximise flexibility of service provision with a secure workforce should not create new insecurities for permanent part-time employees and, where possible, they should address some existing insecurities. As outlined earlier, secure part-time work requires working time security as well as job security. It is also important to stress that, while effective utilisation of the disability support workforce may go some way to addressing some problems faced by service providers, it cannot resolve all of the financial, workforce and service quality challenges associated with service provision under the NDIS.

#### 4.4 What Can be Done and Who Needs to Do It? Beyond Workplace Action

So far, this report has described the ways in which the NDIS is shaping new demands for flexibility, outlined some of the challenges for building flexible high-quality service provision on the basis of secure employment and assessed the issues from different stakeholder viewpoints. Drawing on this information and analysis a number of areas for action can be identified for the achievement of flexible services and secure work. The focus of this project

is on changes at the workplace level that can be adopted in individual service organisations or in groups of organisations through bargaining and the use of industrial mechanisms, and areas for action that are within this scope are identified in Section 5. However, change at the workplace level will not resolve all of the issues and problems identified in this report as presenting barriers to the creation of flexible and responsive services based on sustainable workforces and secure work. Action will be required across the industry and by government as well as industry partners.

The design and funding of the NDIS and management of the market will continue to be critical to outcomes for disability workers (see Macdonald & Pegg 2018) as they are for NDIS participants. While there are many problems that may arise as system implementation issues there also appear to be some more fundamental design and governance issues. One problem is the lack of a comprehensive workforce strategy that recognises and responds to the NDIS quality and safeguarding requirements (that establish worker skills as critical for effective and safe supports) and which provides for career pathways based on recognition of skills and experience. It seems highly improbable that individual (mainly part-time) low-paid workers and/or service providers reliant on hourly-based low levels of funding for provision of individual services are going to drive the necessary skill acquisition and development required by the personalised system.

There is currently no industry-wide forum that brings together key actors/stakeholders to address workforce issues. Rather the future of the publicly-funded NDIS disability support workforce is being left to market forces and to unions and employers to battle over in Fair Work Commission Modern Award proceedings. An industry forum is needed to bring together service provider representatives and unions, along with government and NDIS participant representatives, to develop a comprehensive workforce strategy.

An NDIS pricing model that provides for appropriately skilled workers in decent, sustainable jobs and effective and safe personalised services is required as is a comprehensive system-wide approach to training. An effective pricing model should underpin quality and safeguarding and workforce strategy. The current model may be undermining workforce capacity, including by shifting risk to low-paid workers through casualising the workforce and by making it extremely difficult for providers to engage and retain skilled frontline support workers at SCHADS Level 3 or above.

In relation to training a suitable proposal has been put forward by the Australia Institute's Centre for Future Work (Ryan & Stanford 2018). This proposal is for a system-wide portable training entitlement system in which workers accrue entitlements to training linked to the number of hours they have delivered NDIS-funded supports. The entitlement would be transferable across providers and jurisdictions and earn workers' credit towards ongoing qualifications. A capacity-building fund for training across the sector, and registration of DSWs, would underpin the scheme.

Broader actions to support flexible care systems with sustainable workforces and secure work include initiatives that challenge trends towards casualisation, such as regulatory and policy options for decent working time arrangements at the individual industry or broader workforce level. For example, internationally, a common aim of regulatory (and bargained) options is to ensure personalised flexible and individualised support and care systems are built on the basis of decent jobs for support and care workers has been to prevent or minimise zero-hours, casual and on-call work in the context of the demands for flexible service provision in market-based systems. These types of initiatives are relevant to the Australian disability services context as they seek to minimise the use of casual employment arrangements through designing systems of good quality part-time work. An example of a

system-wide initiative for care and support workers is the New Zealand Government's 'Guaranteed Hours Framework', which is part of a 'Regularisation of the Workforce' initiative for home and community support workers. Under this scheme the government funds the guaranteed hours of all part-time support workers (excluding 'genuine' casual employees) so service providers can employ part-time workers without being left paying for unfunded hours that arise from unforeseen client variations and cancellations (Ministry of Health 2017).

There is considerable goodwill in the not-for-profit disability services sector and a tradition of collaboration between parties that could be harnessed by government to enhance sector capacity to formulate innovative workforce solutions that involve collaboration between service providers, unions and service users in their development. Not-for-profit service providers can also take collective action to establish business innovations that pool resources or collectivise some of the risks faced by individual service providers (and workers). Local labour market intermediary models include co-ordinated and supported pooled labour arrangements that enable workers in a region to maintain sustainable and secure employment across multiple employers. Another collaboration that warrants exploration is to establish a shared services organisation enabling service providers to share services and resources such as training, administration (including payroll and procurement) and advocacy to reduce costs. An example of such a model is PACE Aged Care on the Central New South Wales Coast (See <https://paceagedcare.org.au/pace-aged-care/>).

## 5 Workplace Actions: Flexible Services and Secure Part-Time Work

### 5.1 Identifying Areas and Options for Action

This section identifies workplace-level areas for action to build flexible high-quality service provision on the basis of secure employment and presents some specific options that support the project goals. The section finishes with a broad recommendation relating to taking suggested actions forward. In line with the project aims, the focus is on how industrial arrangements might be used to achieve desired changes and on options for workplace and employment arrangements that could be included in enterprise agreements or through broader industry-based bargaining or Award changes.

In addressing the questions '*What are the options for flexible services and secure work?*' and '*What changes can be made at the workplace level to address the issues identified in this report?*' it is apparent that different solutions may be required for different disability services organisations. Disability services and workplaces vary, and strategies that might meet one organisation's needs may not be the best solution for all disability services providers and their workforces. Among the important considerations are that levels of consultation, cooperation and trust will be critical to the development and implementation of working arrangements that will benefit all parties. The options put forward in this section of the report have been developed in the context of the needs of GDS in particular. However, they will be relevant to many disability services providers. Given this, in Section 5.6 recommendations are included for consideration as sector-wide actions to implement the options identified.

The main focus for action is the maximisation of permanent part-time employees in ways that preserve or enhance security at work. The purpose is to assist providers gain additional flexibility for financially viable personalised services provision in the NDIS pricing regime while ensuring worker security is not undermined. Three broad areas for maximising service flexibility are discussed, with these providing for:

- adjustability of employees' working time;
- flexibility of work across work locations; and/or
- flexibility in employees' support provision across services and participants.

A related area for action concerns *limiting the use of casual employment arrangements* and some options for doing this are outlined in Section 5.5. Limiting casual employment is an important accompanying action to increasing flexibility of working time with a permanent workforce. Limiting engagement of casual workers to occasions where there is a requirement for irregular short-term work can facilitate workforce planning for engagement and retention of permanent employees. It is also critical to reducing worker insecurity.

To scope possible actions for increased flexibility and a secure workforce a scan was undertaken of employment arrangements contained in existing industrial awards and enterprise agreements, claims in Modern Award proceedings and other proposed/draft clauses (see Appendix C for details of the instruments reviewed and the processes followed to identify them). Agreements, awards and clauses were examined to identify relevant actions being taken in disability services and other industries that increase flexibility in permanent work while maintaining employees' security.

## 5.2 Providing for Greater Working-Time Flexibility in Part-Time Employment

The pressures for increased flexibility of working time stemming from changed service arrangements under the NDIS arise, not only from participants' demands and preferences (for example, for different types of supports, supports at different times, particular workers), but also from individualised pricing based on hour/s of service, service type, complexity of needs and limited compensatory provisions for costs incurred in the event of cancellations and changes. Service provider organisations need to be able to provide some services over 24 hours of the day and across the days of the week while also responding to strong peaks in demand for services at particular times of the day, responding to variable demand and providing more services on an individual basis and in short blocks of time. Many provider organisations could benefit from greater capacity to assign workers more flexibly across services and time but need to do this in a way that does not push the financial risks associated with variable service demand and hourly pricing on to their workers. Strategies for facilitating greater flexibility should also support worker security, including working time security.

The SCHADS Award already provides for considerable working time flexibility for permanent part-time employees, including that it allows for:

- reasonable additional hours to be worked;
- flexible arrangements through accrual of time off in lieu and make-up time;
- shift workers to work broken shift and workers' rosters to change; and
- the averaging of weekly hours across a four-week period.

The Award requires agreement 'on a regular pattern of work including the number of hours to be worked each week, (and on) the days of the week the employee will work and the starting and finishing times each day' (clause 10.3(c)). The 'agreed regular pattern of work does not necessarily have to provide for the same guaranteed number of hours in each week' and can subsequently be varied by agreement '...for an ongoing or for a specified period of time' (see SCHADS Award clauses 10.3(d) and 10.3(e)). Overtime premiums and casual loadings in the SCHADS Award, as in other Modern Awards, compensate employees for work in non-standard or unsocial hours and for uncertainty of work (or unpredictability of working time).

While there is considerable scope for varying working time to meet service demands there is potential for employers and employees to establish more adjustable working arrangements that support secure permanent work at the workplace level through enterprise agreement negotiations. In the course of the project three particular areas for change to working time arrangements were identified (mainly by some service providers) as potential areas for change to increase flexibility. They are:

- increasing variability of working time within a framework of regular and predictable part-time work;
- reducing the length of minimum engagement periods; and
- lengthening the span of working hours in a day and reducing the length of break periods between shifts.

Issues relevant to each of these areas are discussed below and, where appropriate, reference is provided to examples of mechanisms (e.g. clauses in enterprise agreements) for workplace changes that support the project goals.

## Flexible Working Time Within a Framework of Regular and Predictable Part-Time work.

### **Option for Action: Adopt Secure, Responsive Part-time Work Arrangements**

**Action:** Establish adjustable and secure part-time work as an option for part-time employees.

**Rationale:** Enables service providers to better manage their responses to variable demand, especially where this is due to client cancellations and/or changes, while relying on and providing more hours to part-time employees, rather than using a casual workforce.

Maintains job security and predictability of working time while potentially offering workers additional work hours.

Working time arrangements providing for greater responsiveness and flexibility in service provision should assist service providers to manage their responses to variable demand – especially where variation is due to client cancellations and/or time changes – in ways that allow them to rely on and provide more hours to part-time employees, rather than using a casual workforce. Such arrangements should also aim to ensure predictability and certainty of working time for employees and provide for adjustment within agreed parameters (e.g. total minimum and maximum hours, available days). The main benefits for employees would be an increased proportion of DSW jobs that are part-time (rather than casual) and the opportunity to access additional work hours that might otherwise have gone to casual workers.

There are various examples of ‘flexible part-time’ work provisions in existing enterprise agreements. In common these arrangements establish bands of minimum and maximum hours within which part-time employees’ regular work hours can vary.

A condition for any actions for enhancing flexibility in part-time work arrangements should be that it does not create on-demand work arrangements that undermine reasonable predictability of working time. Recently, the New South Wales Business Chamber Limited and Australian Business Industrial (Australian Business Lawyers, 2018) have proposed amendments to a number of industrial awards –including the SCHADS Award – to create what has been referred to as ‘permaflexti’ employment. The proposal is for part-time employees to work with no guaranteed hours (i.e. totally flexible hours, subject to a minimum engagement and rostering principles applicable to casuals) and to receive a 10% loading on their pay as compensation. This proposal for flexibility for part-time employees would potentially create highly insecure work with many of the characteristics of casual work.

Important considerations in establishing more responsive, adjustable part-time arrangements include:

- Should an adjustable part-time option be *in addition to* a regular part-time employment option?
- Should compensation be paid to ‘adjustable part-time’ employees for their increased availability?
- What period is reasonable for averaging an employee’s hours (e.g. a fortnight)?
- What proportion of hours should be flexible? (i.e. what range between minimum guaranteed and maximum hours is reasonable and does not lead to ‘on-demand’ work?).

- After what period on adjustable hours should there be a review of the employee's contract hours to offer a contract reflecting the actual hours regularly worked by the employee?

Examples of clauses for adjustable part-time employment identified in the course of the project are provided in Appendix D (see example clauses 1-3).

## Minimum Engagement Periods

### Option for Action: Minimum Engagements

**Action:** Establish reasonable minimum engagement periods for part-time employees.

**Rationale:** Underpins workforce sustainability and the development of adjustable part-time employment strategies; supports employment security and mitigates against development of 'on-demand' and zero-hours disability support work.

For disability services providers, especially small organisations, lengthy minimum engagement periods are highly challenging under individualised pricing where funded service periods are short; spread out geographically, and/or require a variety of differently skilled workers. Under the NDIS pricing model there is also extremely little funded time for disability support workers to perform any duties that do not entail direct participant-facing time. At the same time providers identified that the provision of most disability services can be organised within reasonably long periods. Packaging support services provided by a single worker into periods of a minimum of two hours entails risks and difficulties that are not unreasonable or unable to be managed in most cases. For example, feedback to this project indicates that, for at least some supports, timing of supports can be negotiated. Further, engaging part-time DSWs for very short periods of work is likely to undermine retention and workforce sustainability and the practice will not support a viable adjustable and responsive part-time employment strategy.

For employees minimum engagement (and equivalent paid call-out) periods are critical. Very short periods of engagement can result in employees working for very low 'effective' wages once travel and other factors are taken into account, and there is some evidence that this is occurring. Very short engagements interspersed with unpaid breaks can lead to underemployment while also making it extremely difficult for employees' work-life balance.

The SCHADS Award does not specify a minimum engagement period for part-time employees while there is a two-hour minimum engagement for casual disability support workers, a one-hour minimum engagement for casual homecare workers and a three-hour minimum engagement for other social and community services employees. Under NDIS arrangements the absence of a minimum engagement period could support the development of highly fragmented working time arrangements that undermine security of work.

**Considerations:** In an enterprise agreement a minimum engagement clause for permanent employees could provide for some variation in *very specific* circumstances, such as where there is an agreement for an employee to self-manage their time when supporting nominated clients (see below for further discussion of self-managed time).

## Span of Working Hours and Minimum Break Periods between Shifts

The SCHADS Award provides for payment of double time (in addition to any applicable penalty or shift allowance) where an employee working broken shifts works beyond a 12-hour span in the day. In disability services peak periods of demand for some types of support can be concentrated at the beginning and end of the day; for example, assistance with self-care that involves supporting people to get in and out of bed or with showering. Some, but not all, service providers saw the penalty payment for work beyond a 12-hour span as an unreasonable constraint and cited examples of employees who were prepared to work over more than the 12 hours and who held multiple jobs to get shifts at both the beginning and end of the day. Some providers also saw the SCHADS Award requirement for an employee to have a minimum break of 10 hours between broken shifts rostered on successive days as an unreasonable constraint on their capacity to staff shifts.

There are some clear indications that underemployment among DSWs is high in the Illawarra region and elsewhere (see NDS workforce reports cited earlier). At the same time disability service providers report difficulties engaging and retaining staff. Given these circumstances some employers may consider the removal of constraints on the span of work hours and the breaks between shifts to be reasonable. However, these are neither sustainable solutions (for attracting and retaining workers) for organisations or for ensuring decent and safe work for employees, including as they could facilitate the development of a 24-hour on-call workforce. Limiting the span of working hours and paying a premium for work outside the 'normal' span of hours are necessary to prevent the engagement of workers over unduly long periods of the day. Similarly, providing reasonable breaks between consecutive shifts is necessary to maintain workers' health and safety and to enable work-life balance. Work arrangements that rely on unduly long work days may also undermine providers' capacity to ensure good quality and safe support for NDIS participants.

### 5.3 Gaining Greater Flexibility across Work Locations

Increasingly, personalised support provision may require employees to work across multiple locations. Working across multiple locations may also be necessary for workers to gain adequate hours of work as service providers diversify their service offerings. The practice is likely to be a significant change for many organisations and their employees and consultations for this project identified both logistic and cultural barriers to establishing this type of flexibility. At the workplace level these issues are likely to be best addressed through strategies for gaining flexibility across different types services and client groups. These are discussed in Section 5.4 below. Sector-wide strategies to support training and development (see Section 4 above) are also relevant here.

A relevant issue and emerging problem impacting on work security for disability support workers is the absence of a provision in the SCHADS Award for ensuring payment for time spent travelling directly between different work locations (i.e. not including travel to and from work location/s and home). This is not currently an issue for Greenacres Disability Support staff. The problem arises where consecutive periods of work providing individual supports are constructed as separate shifts, even where there is little time between these rostered periods of work for an employee to do anything other than travel between work locations. The prevention of this type of work organisation and the many insecurities that arise from fragmenting working time could be achieved through the inclusion in enterprise agreements of an explicit provision for payment for travel time directly between rostered locations. Travel time is provided for, albeit inadequately, in the NDIS pricing model.

## 5.4 Building Flexibility across Services and Participants

There appears to be little disagreement that the provision of quality personalised disability support requires a workforce strategy for a skilled and stable workforce. Work organisation, skills recognition, training and development, support and supervision, and classification and progression are matters that could be addressed in enterprise agreements to support such a workforce strategy.

Among others, matters for consideration that can be addressed at the workplace level include:

- matching employee skills and qualifications to client needs;
- recognising work complexity and variability for improved service quality and employee development opportunities; and
- enabling workers to exercise autonomy to provide personalised services.

### Self-Managed Teams and Self-Managed Time

#### **Option for Action: Self-Managed Teams and Work**

**Action:** Provide for employee self-management of work as part of a broader skilled team approach

**Rationale:** Enables quality service provision based on a skilled workforce and secure support jobs within a flatter organisational structure.

The organisation of support work through a self-managed team approach was identified by service providers as a potential strategy for work organisation supporting quality, personalised support and secure employment. Under a self-managed team model service providers adopt flatter structures and rely on skilled support workers who, with their peers, have responsibility for many operational decisions, including rostering.

In Australia and elsewhere, there has been a growing interest in using a 'self-managing' or 'high performance' team model. (For further information see the report of the *Evaluation of NDS Innovation for High Performance Project* [NDS 2016]; see also Box 2 below). The NDS has facilitated the establishment of a network of organisations using these approaches that can offer information to other organisations (See <https://www.nds.org.au/workforce-hub/optimising-your-workforce>).

In this type of arrangement, the level of initiative and problem-solving support workers are expected to exercise would be commensurate with at least SCHADS Level 3 (NDS, 2017). In a recent NDS (2018) report it is noted that in moving to this model generally 'middle management roles change in their focus from checking and directing how frontline delivers the service to coaching and enabling people at the frontline to work more autonomously.' Organisational savings are anticipated through reduced supervision and back office costs. Rostering is undertaken by the team ensuring that the client's needs are met and also ensuring award and agreement conditions are observed. These types of structures include team leader roles that can provide career paths for frontline support workers (Evesson and Oxenbridge 2017).

A self-managed team approach could be established through bargaining at the enterprise level. A framework could be established based on agreed levels of responsibility and parameters for adjusting working time.

### **Box 2: Self-Managed Teams and the Buurtzorg Model**

The best-known example of a self-managed team model is Buurtzorg Nederland, established in 2006, and now providing home-based care to around 70,000 people. It was developed in response to marketisation of care services in the Netherlands. Care is provided by self-managing teams of up to 12 workers. While initially applied to nurses the model has been extended to domestic workers and support workers. In collaboration with clients, GPs and families, teams are empowered to decide on services provided and a schedule for providing them. Employees work together to determine their own schedules and meet weekly to discuss worker and client issues. Teams are non-hierarchical and decisions are made by consensus. Part of the success of the model is in reducing overheads. A central office provides professional development and IT support, enabling rostering and sharing of notes within teams and with other care providers.

The interest in this model for care workforces is its potential to, not only preserve, but improve pay and conditions, as well as to increase work satisfaction, by adopting a 'high-skill' approach to delivering cost-effective services. The model is based around workers having autonomy in decision making around client care and workers' needs in relation to scheduling, skills development and so on. Workers are typically permanent employees.

Sources: Gray et al. (2015), Monsen & De Blok (2013), Royal College of Nursing (2015).

As part of a broader skills-based approach supporting and enabling support workers to exercise autonomy in a personalised support environment workers could be provided with capacity to self-manage their work hours within specified parameters. As noted in discussion of the self-managed team approach responsibility and discretion are likely to be at SCHADS Level 3. Establishing a framework for self-management of work hours will require a process of workplace consultation to identify the circumstances in which this option can be provided to workers. Examples of clauses for inclusion in an enterprise agreement as part of a self-managed team and work arrangement are provided in Appendix D.

## 5.5 Minimising Casual Employment to support Secure, Adjustable Employment.

### Option for action: Minimise Casual Employment

**Action:** Minimise casual employment through i) restricting the use of casual employment arrangements to irregular short-term work, and ii) facilitating conversion of casual employees to permanent part-time employment.

**Rationale:** The minimisation of casual employment is an important complementary strategy to the establishment of a flexible part-time work initiative and supports increased employment security.

The establishment of an adjustable part-time employment option is not likely to be achievable in a context where there is a significant workforce of long-term casual employees with regular work hours.

The SCHADS Award does not include any strong restrictions on casual employment, defining a casual employee as *'one who is engaged and paid as such but will not include a part-time or full-time employee'* and a part-time employee as *'one who is engaged to work less than 38 hours per week or an average of less than 38 hours per week and who has reasonably predictable hours of work'*. These clauses do not prevent the engagement of casuals over long periods.

Two approaches apparent in existing industrial instruments for reducing the use of casual employment arrangements — most effectively used in conjunction with each other — are: a) defining casual employment to limit its use to specified circumstances, b) providing casual employees with the opportunity to convert to permanent employment.

Several awards and agreements examined for this project contain clauses that provide tight definitions of casual employment and/or describe the specific circumstances in which staff can be employed on a casual basis, along with providing mechanisms for converting employees from casual to permanent employment. It is worth noting that the conversion options has not been particularly successful where it has been used on its own, as long-term casual employees often do not wish to convert, especially where they are in low-paid work and reliant on the additional income provided by the casual loading. The option of conversion to part-time employment is not likely to be attractive to many casual employees who are engaged in jobs in which they rely the casual loading and are aware there is an ongoing requirement for their labour. This is particularly likely to be the case where workers are underemployed (as is the case for many workers responding to the survey for this project) and/or in short hours' jobs. While the benefits of paid leave are important for workers, part-time employment should also offer the benefit over casual work of adequate work hours and greater certainty of working time. Therefore, strategies to minimise casual employment should be part of a broader strategy for secure part-time work.

**Examples** of possible clauses for reducing casual employment are provided in Appendix D.

## 5.6 Recommendations

Collaboration between disability service providers, their employees and unions is necessary to advance the actions presented in this report. Beyond the workplace, whole-of-sector responses for the creation of adjustable and responsive services based on sustainable workforces and secure work in the national support system need be led by the Federal Government.

**Therefore, it is recommended that:**

- **The Government establish a national forum for collaborative action by service providers, unions and participant representatives to develop and oversee a comprehensive national workforce strategy for disability support services that would enable the development of a high-quality workforce.**
- **Key industry bodies and unions enter into industry-wide consultations to consider implementation of the Options for Action. The Government should be involved in these discussions given their critical role in funding the NDIS.**
- **In the interim individual service providers engage their workforces and unions in a discussion of the options as part of enterprise bargaining in their workplaces (or through multi-employer bargaining processes).**

## References

- ARTD Consultants (2016) *Evaluation of NDS Innovation for high performance project*, NDS, Sydney, available at [https://www.nds.org.au/images/workforce/workforce-project/Evaluation\\_of\\_the\\_IHP\\_Project\\_final\\_ARTD\\_report-v5.pdf](https://www.nds.org.au/images/workforce/workforce-project/Evaluation_of_the_IHP_Project_final_ARTD_report-v5.pdf)
- Australian Business Lawyers (2018) 'Application to vary awards during the 4 yearly review of modern awards' Letter to the President of the Fair Work Commission, 44 September, downloaded from <https://cdn.workplaceexpress.com.au/files/2018/25NSWBCletter.pdf>.
- Australian Government (2019) *Growing the NDIS Market and Workforce*, Department of Social Services, Canberra, available at <https://www.dss.gov.au/disability-and-carers>.
- Cortis N, Macdonald F, Davidson B and Bentham E (2017), *Reasonable, Necessary and Valued: Pricing Disability Services for Quality Support and Decent Jobs*, Sydney: SPRC UNSW. Available at [https://www.sprc.unsw.edu.au/media/SPRCFile/NDIS\\_Pricing\\_Report.pdf](https://www.sprc.unsw.edu.au/media/SPRCFile/NDIS_Pricing_Report.pdf)
- COAG Disability Reform Council (2018), *NDIS Quarterly Report, Quarter 4*, 30 June, <https://www.ndis.gov.au/news/quarterly-report-q4-aug-18.html>.
- Cristiano G., Fernández J-L. and Wittenberg, R. (eds) (2016), *Long-term Care Reforms in OECD Countries*. Bristol: Policy Press.
- Dew, A., Gilroy, J. & Lincoln, M (2016), *A Sustainable Rural and Remote Workforce for Disability*. Centre for Applied Disability Research. Available at [www.cadr.org.au](http://www.cadr.org.au).
- Disability Reform Council (2015), *NDIS Integrated Market, Sector and Workforce Strategy*, available at <https://www.dss.gov.au/disability-and-carers/programmes-services/for-people-with-disability/ndis-integrated-market-sector-and-workforce-strategy>.
- Evesson, J. and Oxenbridge, S. (2017), *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, available at <https://www.cadr.org.au/>.
- Fine, M. and Davidson, B. (2018), 'The marketization of care: Global challenges and national responses in Australia' *Current Sociology Monograph*, 66(4): 503-516.
- Gray, B. Sarnak, D. and Burgers, J. (2015), *Home Care by Self-Governing Nursing Teams: The Netherlands' Buurtzorg Model*, The Commonwealth Fund, available at <https://www.commonwealthfund.org/publications/case-study/2015/may/home-care-self-governing-nursing-teams-netherlands-buurtzorg-model>.
- Johnstone, R., McCrystal, S., Nossar, I., Quinlan, M., Rawling, M., & Riley, J. (2012) *Beyond Employment: The Legal Regulation of Work Relationships*. The Federation Press, Sydney.
- Macdonald, F., Bentham, E. and Malone, J. (2018) 'Wage theft, underpayment and unpaid work in marketised social care' *The Economic and Labour Relations Review*, 29(1): 80-96.
- Macdonald, F. and Charlesworth, S. (2016) 'Cash for care under the NDIS: Shaping care workers' working conditions?' *Journal of Industrial Relations*, 58(5): 627 - 646.
- Macdonald, F and Pegg, M (2018) 'Contracting out community services, marketisation & wages' in Stewart, A, Stanford, J and Hardy, T (eds) *The Wages Crisis in Australia: What it is and what to do about it*. University of Adelaide Press, Adelaide: 129-142.

McKinsey & Company (2018), *Independent Pricing Review: National Disability Insurance Agency*, February, Department of Human Services, Canberra.

Ministry of Health (2017), *Guaranteed Hours Funding Framework*, New Zealand Government, available at <https://www.health.govt.nz/system/files/documents/pages/guaranteed-hours-funding-framework-october-2017.pdf>.

Monsen, K. and de Blok, J. (2013), 'Buurtzorg Nederland', *American Journal of Nursing*, Vol 113 Issue 8 p. 55-59, available at [https://journals.lww.com/ajnonline/Fulltext/2013/08000/Buurtzorg\\_Nederland.27.aspx](https://journals.lww.com/ajnonline/Fulltext/2013/08000/Buurtzorg_Nederland.27.aspx).

NDIA (2014), *NDIA Report on the Methodology of the Efficient Price*, NDIA, [https://www.ndis.gov.au/html/sites/default/files/documents/methodology\\_for\\_reasonable\\_cost\\_model.pdf](https://www.ndis.gov.au/html/sites/default/files/documents/methodology_for_reasonable_cost_model.pdf).

NDIA (2016), *NDIS Price Guide - Vic/NSW/Qld/Tas*, NDIA <https://www.ndis.gov.au/html/sites/default/files/documents/Provider/201617-vic-nsw-qld-tas-price-guide.pdf>.

NDIS Quality and Safeguards Commission (2018) 'The NDIS Code of Conduct Guidance for Workers Version 1 – May 2018' NDIS Quality and Safeguards Commission, Penrith.

NDS (2014) 'NDS Disability Career Planner and Capability Framework' available at <https://www.nds.org.au>.

NDS (2015) *Guide to employing a flexible workforce in a person-centred environment*, NDS, Sydney.

NDS (2016) *Evaluation of NDS Innovation for High Performance Project*, NDS Sydney, available at [https://www.nds.org.au/images/workforce/workforce-project/Evaluation\\_of\\_the\\_IHP\\_Project\\_final\\_ARTD\\_report-v5.pdf](https://www.nds.org.au/images/workforce/workforce-project/Evaluation_of_the_IHP_Project_final_ARTD_report-v5.pdf)

NDS (2017) *Classification of disability support work in a high performance model of work organisation*, NDS, Sydney, available at [https://www.nds.org.au/images/workforce/workforce-project/Classification-of-disability-support-work\\_Jobs-Australia-advice\\_final\\_v2.pdf](https://www.nds.org.au/images/workforce/workforce-project/Classification-of-disability-support-work_Jobs-Australia-advice_final_v2.pdf).

NDS (2018a), *Australian Disability Workforce Report*, February 2018, NDS, Sydney.

NDS (2018b) *FAQs on high performance work in self-organising teams*, NDS, Sydney, available at <https://www.nds.org.au/images/workforce/workforce-project/FAQs-on-high-performance-work-in-self-organising-teams.docx>

NDS (2018c), *State of the Disability Sector Report 2018* NDS, Sydney.

NDS (2019, forthcoming) *Australian Disability Workforce Report*, NDS, Sydney.

Parliament of the Commonwealth of Australia (2018) *Hope is not a Strategy – Our Shared Responsibility for the Future*, The Senate, Select Committee on the Future of Work and Workers, Commonwealth of Australia, Canberra.

Parliament of the Commonwealth of Australia (2019) *Keep it in the Regions: Mining and Resources Industry Support for Businesses in Regional Economies*, House of Representatives Standing Committee on Industry, Innovation, Science and Resources, Commonwealth of Australia, Canberra.

Royal College of Nursing (2015), The Buurtzorg Nederland (home care provider) model, RCN Policy and International Department, Policy Briefing 02/15, August 2015 (Updated April 2016).

Razavi S. and Staab, S. (2010), Underpaid and overworked: a cross-national perspective on care workers. *International Labour Review* 149(4): 407–422.

VCOSS (Victorian Council of Social Services) (2017), *VCOSS Submission to the NDIS 2017 Price Controls Review*, VCOSS, Melbourne.

Yeh, F (2017) 'Digitally disrupting disability', unpublished report for the National Disability Services, NDS, Sydney.

## Appendix A: Greenacres Disability Services

### Services and Clients

Greenacres has been providing services to people with disabilities for over 65 years. Three major types of services are provided:

- Supported work via Enterprises.
- Vocational and Life Skills Training.
- Community Participation Programs.

Supports are provided under NDIS funding according to participants' NDIS plans. Greenacres provides support to some 660 NDIS participants including 230 Greenacres supported employees. Greenacres operates in the Wollongong, Shellharbour and Shoalhaven local government areas in the Illawarra region of New South Wales.

### Enterprises

Greenacres provides supported employment in various locations in Greenacres Enterprises with employment in packaging, labelling and assembly, industrial sewing, light manufacturing and hospitality.

### Vocational and Life Skills Training

*The Kickstart program* is designed to give high school students with a developmental disability early work experience and access to the workforce. When participants complete the training and work experience program, they have the opportunity to move into paid work either after school or on the weekend.

*Kickstart Careers* is a two-year program, focussing on work and life skills. This program is available to school leavers with a range of needs. This service is provided mainly through School Leaver Employment Supports (SLES) and other capacity building supports under the NDIS. Staff work alongside people who would like to work in supported and or mainstream employment, and with people who would like to continue education through TAFE, University and other training organisations.

### Community Life and Leisure

This program provides a range of options for people with disabilities through a variety of day programs and activities including capacity building; leisure supports and community participation.

Greenacres provides a range of respite support options, including overnight accommodation, holiday programs and access to special events. These programs have recently been extended to supported employees after working hours.

### The Disability Support Workforce

Greenacres employ 154 permanent full and part time support staff. Since the introduction of the NDIS there has been a significant increase in the number of casual disability support workers engaged by the organisation, including that over the last 12 months the organisation has utilised approximately 80 casual employees.

## Appendix B: About the Surveys

### Greenacres Disability Services Clients – NDIS Participant and Carer Survey

An online survey of GDS clients who received supports as NDIS participants and/or their carers was conducted by the Greenacres project officer in August 2018. Clients and carers were sent an email containing a link to the online survey on the cloud-based survey application, *Survey Monkey*. Respondents were not asked to identify themselves and no identifying information was sought. The survey remained open for responses for a period of two weeks and a reminder email was sent during the survey period.

Surveys were emailed to supported employees and NDIS participants and their carers for whom GDS had email addresses. Greenacres staff encouraged people to participate in the Project. There was a large response from carers and this could be reflective of the issue being complex and beyond the understanding of most of the Greenacres participants who have intellectual disabilities.

The vast majority of the 101 responses received to the survey were from family carers of NDIS participants. The preponderance of responses from carers (rather than NDIS participants) could reflect the method adopted and also the complexity of the issues and survey. In addition, many Greenacres Community, Life and Leisure services clients have family carers who have the main primary responsibility for organising and managing their family members' supports.

It is recognised that NDIS participant engagement in this project has been limited. While employers and employees and their representatives are the parties who will need to consider the specific options put forward and use them to create solutions to the workforce issues identified, it will be important to secure the engagement of both participants and carers to ensure solutions facilitate participant choice and control of supports.

### Greenacres Disability Services Support Staff Survey

An online *Survey Monkey* survey of GDS staff was conducted by the Greenacres project officer in August 2018. All current employees who are support workers were sent an email containing a link to the survey. The survey remained open for responses for a period of two weeks and staff were emailed a reminder during the survey period. Neither respondents' names nor any information that could identify individuals was requested.

The survey was emailed to all staff covered by the SCHADS Award at the time (not including 14 managers), a total of 237 staff. Overall, responses were received from approximately 40% of relevant employees, with the breakdown by employment type shown in Table A1 below.

**Table A1: Employees responding to GDS support staff survey**

	<b>Permanent full-time</b>	<b>Permanent part-time</b>	<b>Casual</b>	<b>Total</b>
<b>Survey respondents</b>	45	30	37	112
<b>All GDS support employees</b>	68	86	83	237
<b>Respondents as a percentage of all employees*</b>	66%	35%	45%	47%

\*percentages rounded up to whole numbers.

## Appendix C: Industrial Instruments Reviewed

### About the Review

A range of enterprise agreements, industrial awards and draft clauses from other documents (e.g. claims in Modern Award Review cases) were examined to identify relevant actions being taken in other industries and by individual employers relevant to increase flexibility in permanent work while maintaining security and to reducing or minimising casual employment.

Industrial relations practitioners across three states, including members of the Project Steering Committee and others working in the disability services sector, were contacted to seek information on relevant innovation and/or good practice in enterprise agreements. The Fair Work Commission's list of Modern Awards was scanned to identify awards pertaining to occupations and industries that have needs for different types of flexibility. Selection of awards to examine was based on consideration of relevant industry and occupation characteristics, including for example, frontline human services and care work, multiple work locations, presence of split shifts and 24/7 service requirements, and on advice from practitioners. The scope of the scan of disability services enterprise agreements is outlined in the relevant section below. Childcare and Cleaning Services agreements were identified as potentially of interest for the project based on industry and workforce characteristics and a small number of recent agreements were examined, as listed below.

### List of Awards Reviewed

A number of Modern Awards were examined to identify different approaches to addressing matters such as flexible hours, minimum engagements, ordinary hours/span of hours/ breaks on shifts/ higher duties, split shifts, casual conversion, and travel time. Awards examined included:

- Children's Services Award 2010
- Cleaning Services Award 2010
- Hospitality Industry (General) Award 2010
- Legal Services Award 2010
- Manufacturing and Associated Industries and Occupations Award 2010
- Pastoral Award 2010
- Social, Community, Home Care and Disability Services Industry Award 2010
- Storage Services and Wholesale Award 2010

### List of Enterprise Agreements Reviewed

#### Disability Services Enterprise Agreements

Enterprise agreements listed on the Fair Work Commission website as created between January 2016 and December 2018 were examined including:

- Anglicare Southern Queensland Residential and Home Care Sector and Support Workers (AG2017/4327) Enterprise Agreement 2017-2019.
- Arthritis Foundation of South Australia Inc (AG2015/7728) Enterprise Agreement 2015.
- Australian Unity Home Care (AG2017/6064) Enterprise Agreement 2017.

- Break Thru (AG2016/228) Enterprise Agreement 2016-2019.
- Central Gippsland Health (CGH), Division of Community Services, Community Carers (AG2018/1273) Enterprise Agreement 2017.
- Disability Living Incorporated (AG2016/4950) Enterprise Agreement 2016.
- HACSU Department of Human Services (AG2013/4860) Disability Services Enterprise Agreement 2012-2016.
- House with No Steps Hunter Businesses Enterprise Agreement 2016 - 2019 (AG2016/1658).
- Junction Support Services Inc. (AG2017/3982) Enterprise Agreement 2017.
- Just Better Care (AG2018/1456) Multi Enterprise Agreement 2018.
- Kyeema Support Services Inc (AG2018/3442) Enterprise Agreement 2018.
- Lifestart Co-Operative Ltd (AG2013/11335) 2013 Enterprise Agreement.
- My Place (WA) Pty Ltd (AG2016/7026) Enterprise Agreement 2016.  
New Horizons Enterprises Limited (AG2018/1713) Enterprise Agreement 2018.
- Northcott (AG20186/6612) Enterprise Agreement 2016-2018.
- South Eastern Community Care Community and Disability Support Workers (AG2018/2506) Enterprise Agreement 2018.
- St Giles Society Inc Support Services (AG2016/5997) Enterprise Agreement 2015
- The Tipping Foundation TTF and Vista, Disability and Child, Youth, Family Services Enterprise Agreement 2017 (AG2017/1902).
- Townsend House Inc and Royal South Australian Deaf Society Inc (AG2018/930) Enterprise Agreement 2017.
- Vision Australia Unified (AG2015/3690) Enterprise Agreement 2013.
- Yooralla (AG2017/3720) Disability Support Workers Agreement 2017.

#### Childcare Enterprise Agreements

- A.B. Paterson Childcare Centre Pty Ltd T/A A.B. Paterson College Early Childhood Centre (AG2017/5386) A.B. Paterson College Early Childhood Centre Employee Collective Agreement 2016.
- Anglicare SA Limited (AG2017/5326) Anglicare Sa Ltd. Childcare Services Agreement 2016.
- Aldinga Community Child Care Centre Inc T/A Aldinga Community Child Care Centre (AG2018/3515) United Voice - Aldinga Community Children's Centre Inc. Collective Agreement 2017.

#### Cleaning Services Enterprise Agreements

- ISS Health Services Pty Ltd T/A ISS Facility Services (AG2018/1010) ISS Facility Services and United Voice Canberra Hospital Enterprise Agreement 2018 – 2021).
- Spotless Facility Services Pty Ltd T/A Spotless P & F Pty Ltd (AG2018/643) Spotless Street Cleaning Agreement 2017.
- Tuddys Cleaning Service Pty Ltd T/A Tuddys Cleaning (AG2017/6014) Tuddys Cleaning Service.

## Appendix D: Example Clauses

Enterprise agreements, industrial awards, claims in Modern Award proceedings and other proposed/draft clauses were examined to identify current approaches to actions that could be taken in disability services enterprises. Further details of the review of existing approaches and a list of the awards and agreements examined is provided in Appendix C.

The clauses provided here are examples that in some way address the options for action that are outlined in Section 5. These clauses are provided as examples only and their inclusion in the report should not be taken as indicating endorsement by the report author. The clauses cannot be considered in isolation from the underlying SCHADS Award.

### Variable or Flexible Working Time for Permanent Part-Time Employees

#### *Example 1: Responsive Permanent Part-Time*

A responsive permanent part time employee shall be employed pursuant to this clause.

##### **a. Minimum Contract Hours of Work**

As part of the employee's contract of employment they shall be offered one the following minimum and maximum fortnightly hour bands which can be averaged over a 4-weekly cycle.

<b>Min</b>		<b>Max</b>
24	to	36
32	to	44
40	to	52
48	to	60
56	to	68
64	to	72

##### **b. Payment for Work Beyond a part-time employee's maximum hours.**

A permanent part-time employee cannot be required to work beyond their contracted maximum hours other than by agreement. Such additional hours shall be paid at ordinary time unless the employee works:

- i. beyond 76 hours in the fortnight,
- ii. beyond ten hours in the shift, or
- iii. more than 5 consecutive shifts.

##### **c. Times of Work**

- I. As part of their contract of employment a responsive part time employee shall nominate those days and time periods when they would normally be available to work. These periods shall include when the employee could be available to fulfil their maximum hours of availability.

- II. The part time employee shall be provided nominal start and finish times in writing for their minimum contract hours. These start and finish times may be changed by the employer either verbally, through SMS, email or other communications in the following circumstances:
  1. Where the employer requests the employee to work extra hours so long as such extra hours do not exceed the employees maximum hours unless there is agreement between the employee and employer to do so, or
  2. To reduce the hours or cancel a shift because of client absences so long as the reduction in hours or shift cancelation does not result in the part-time employee being paid less than their minimum contract hours in the fortnight or
  3. To provide the employee with additional hours to fulfil the employers obligations to pay the employee their minimum contract hours.
- III. Where the circumstances of the responsive part time employee have changed they may request that their availability of hours be reviewed by the employer to ensure they continue to be able to maintain reasonable availability whilst at the same time facilitate the employee's reasonable request.

**d. Review of contract hours**

Each 12 months the employer shall review the employees contract hours. Where the employee regularly works above their maximum contract hours they shall be offered a higher set of minimum contract hours as set out in subclause.

(Greenacres draft clause)

*Example 2: Flexible Part-Time Work*

A flexible part-time employee is one who:

- a) works a minimum of XX hours work per week or an average of XX hours per week;
- b) works less than 35 hours per week; and
- c) does not have a regular pattern of work.

Before commencing employment, the employer and the employee will agree in writing on the minimum number of hours to be worked each week.

The employer will review the employee's minimum number of hours every X months to ensure that this reflects the actual number of hours regularly worked by the employee.

The employer and employee may agree, either verbally or in writing, that the employee will work will additional hours from time to time.

A flexible part-time employee will be paid per hour calculated at the rate of 1/38th of the weekly rate appropriate to the employee's classification. In addition, the employer will pay the employee a loading (of X% of that rate).

### Example 3: Flexible Part-Time Work

#### Flexible Part-Time Employee

An employee who is engaged to work a minimum of 10 hours but less than 38 hours per week, averaged over a period of one, two or four-weeks.

SCHADS Award Clause 10.3 applies to a flexible part-time employee except for clause 10.3(c).

Core hours are the minimum number of hours that an employee is entitled to work in a given week, fortnight or four-week period.

Flexible hours refer to hours that are in addition to core hours. The employer may roster an employee to work flexible hours by agreement and within their agreed availability.

The objectives of flexible part-time employment are to minimise the unnecessary use of casual employment and maximise:

- job security;
- recruitment and retention of a skilled workforce;
- continuity and responsiveness of care for clients; and
- work/life balance for employees.
- agreement on Availability between Employer and Employee

At the time employment commences the employer and the employee will agree in writing on the days of the week and periods of time within those days when the employee will be available to work.

These arrangements may only be changed by agreement in writing between the employer and the employee. An employee's request to change their availability will not be unreasonably refused.

The employer may roster the flexible part-time worker's hours within the agreed availability in accordance with the remaining provisions of this clause.

#### Setting Core Hours

At the time employment commences the employee will be offered a contract for minimum core hours to be worked each week, fortnight or four-week period in accordance with one of three bands set out below:

	WEEKLY		FORTNIGHT		FOUR-WEEKLY	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
BAND 1	10 hours	Less than 20	20 hours	Less than 40	40 hours	Less than 80
BAND 2	20 hours	Less than 28	40 hours	Less than 56	80 hours	Less than 112
BAND 3	28 hours	Less than 38	56 hours	Less than 76	112 hours	Less than 152

At the time employment commences, the employer and the employee will agree in writing on a regular pattern of work for the employee's core hours, including at least the days of the week to be worked.

The agreed regular pattern of work does not necessarily have to provide for the same number of core hours in each week.

#### *Rostering Flexible Part-Time Hours*

Rosters are set and varied in accordance with provisions of (roster clause in Award)

Employees may be rostered for hours in addition to their core hours (i.e. flexible hours) within their agreed availability.

If an employee's core hours are averaged over a fortnight or four-weekly period, the minimum number of hours an employee can be rostered in a single week cannot be less than 50% of the minimum weekly hours for their respective band, which are:

BAND	MINIMUM CORE HOURS ROSTERED PER WEEK
Band 1	5 hours
Band 2	10 hours
Band 3	14 hours

Additionally, variations in hours of work must not be excessive from pay period to pay period.

By agreement employees may work additional hours outside their agreed availability. The agreement to work outside their availability must be recorded in writing.

#### **Review of Hours**

Each six months the employer and the employee will review the employee's hours of work.

If an employee has regularly worked above the maximum number of core hours in their respective band over the preceding six-month period, they will be offered a new contract with a band of minimum core hours that reflect their regular hours of work in the previous six months. To avoid doubt, regular hours of work do not need to have been performed on the same day or at the same.

#### **Self-Managed Hours**

##### *Example 4: Self-Managed Hours for Permanent Employees including Support Workers*

#### *Self-Managed Hours for Permanent Employees*

An employer may offer an existing permanent fulltime or part time employee self-managed hours.

In general, these arrangements would apply to employees who provide one on one support for participants. Self - managed hours arrangements must be put in writing and be mutually agreed.

#### *Self-managed hours for support workers*

The employer may engage support workers to self-manage their hours where they are predominately engaged to work one on one with a client or in other circumstances where such arrangements may be conducive.

The parameters set for support workers who enter into self-managed hours arrangements shall be in lieu of clauses 25, 26, 27 and 28 of the award.

Support workers shall organise their start and finish times with clients directly on a mutually agreed basis within the contract hours set by the employer.

In lieu of the above-mentioned clauses support workers shall self-manage their hours of work including their start and finish times subject to the following conditions:

1. The employee's ordinary hours of work can be averaged over a 4-week cycle and subject to other provisions set out in this arrangement, the employee can organise to take a Rostered Day Off (RDO) once per month.
2. The employee may start and finish work as they choose between the hours of 6am and 8pm Monday to Friday but shall not work longer than 10 hours per day. The employer may authorise in advance or by request that that the support worker may carry out shift or weekend work, but this will depend on the service agreement with the client.
3. The employee shall take a paid crib break where entitled to do so as per the award.
4. Subject to subclause 5 below an employee shall not work overtime without the permission of their Employer;
5. Where the employee is authorised to work overtime or if part time employee works additional hours, they may accrue time off in lieu of overtime at single time rates, so long as they do not allow more than 3 full days to accumulate at any given time. When this occurs, the employee must not work any further additional hours beyond their contract hours until they have taken their accrual below 3 days unless their employer approves so.

In self-managing their hours of work and start and finish times (as per the above), the employee shall communicate to the person they report to and other members if they are going to be absent for more than 2 hours between the normal office hours. Monday to Friday.

(Greenacres draft clause)

## Minimising Casual Employment

### *Example 5: Combined Casual Limitation and Conversion Clause*

A casual employee is employed by the hour to work only in the following circumstances;

1. to relieve a permanent employee who is on leave.
2. to fill a vacant position where it is intended to have that position filled within 6 months.
3. to carry out a special project where that project will be completed within 6 months.
4. where the employee themselves wishes to remain a casual after the employer has offered them a permanent position and the employer has accepted the reasons for the rejection of the offer.

In relation to 4 above where a casual rejects the offer of permanent employment, they shall put it in writing to the employer with the reasons for the employer to consider. (Greenacres draft clause)

#### *Example 6: Casual Limitation Clause*

Casual Employees shall be employed only in response to unforeseen events such as filling gaps in rosters caused by sick leave or other unpredictable absences. Casual employment is not to be used in circumstances where the work undertaken is of an ongoing and predictable nature. (HACSU DHS Agreement)

#### *Example 7: Casual Conversion Clause*

Where a casual employee has worked shifts on a regular and systematic basis over a period of 26 weeks or more, the employer and the employee recognise that the employee may be more properly classified as part-time or full-time.

An employee will not be considered to be rostered on a regular and systematic basis where the shifts the employee has been working are replacing an employee on an absence (including but not limited to parental leave, long service leave, workers compensation leave and personal leave) or a flexible work arrangement.

Either the employer or the employee may request in writing the conversion of the employee to full-time or part-time employment (whichever is applicable) and such a request will not be unreasonably refused by either party. Where a request is refused, the written response will include reasons for the refusal.

The Tipping Foundation (AG2017/1902) TTF and Vista, Disability and Child, Youth, Family Services Enterprise Agreement 2017)