

## Position Statement: Accessing sexual services through the NDIS

As the National Disability Insurance Scheme (NDIS) rolls out across Australia, support services are signing up to become providers for the scheme. The NDIS market is estimated to be worth \$22 billion a year and promises significant growth opportunities for providers who respond to this new demand.<sup>i</sup> Individuals and organisations are vying for a chance to provide their services to the 460,000 Australians with a disability, and sexual service providers also want to be given access to this untapped market. However, the National Disability Insurance Agency (NDIA) has made an official statement that it ‘does not cover sexual services, sexual therapy or sex workers in a participant’s NDIS plan.’<sup>ii</sup> Proponents for people with disability (PWD) accessing commercial sexual services generally argue that: sex is an essential need or human right; sexual release will reduce aggression and sexual assault; and that sex is necessary for intimacy and love. These arguments are deeply gendered and carry implicit assumptions that we find concerning, particularly for the rights of women. Further, arguments for including sexual services on the NDIS fail to adequately develop the necessary frameworks to ensure meaningful consent is achieved, and fail to consider the health, welfare and safety of both the sex buyer and the person providing the sexual services. This paper aims to unpack the arguments for including sexual services on the NDIS and argues against this inclusion.

First, we need to acknowledge that this is a deeply gendered issue. Hiding beneath gender-neutral language proponents are fighting for the rights of mostly men with disability to access sexual services provided by mostly women. The underlying belief is that men require access to women’s bodies for sexual use and if they cannot obtain access through usual means, because of disability or otherwise, then they should be provided with assistance to obtain it. The underlying gendered nature of the argument for the right of PWD to access commercial sex is exposed by the fact that women with disability are not usually considered to have sexual “needs” at all. In fact, many women with disability are sterilised, often against their will,<sup>iii</sup> which can assist in concealing sexual abuse that happens to women with disability at rates higher than women without disability.<sup>iv</sup> When proponents argue for sexual services to be included on the NDIS because it is an essential need and a human right, they are arguing for men’s needs and rights. The belief that men have a right to sex is based on regressive gender roles and entrenched ideas of masculinity and male sexual entitlement which have been recognised as major drivers of violence against women.<sup>v</sup>

Moreover, violence against women has reached a crisis point in Australia and gender inequality has been recognised as the core of the problem.<sup>vi</sup> Both men and women with disability experience many forms of inequality, discrimination and violence, which is compounded for women with disability.<sup>vii</sup> Research shows that women in the sex industry experience additional and unique forms of violence, including sexual and physical violence within the workplace and being forced to work in the sex industry by acquaintances.<sup>viii</sup> In addition, women in the sex industry typically face high levels of PTSD, which can further marginalise and isolate them.<sup>ix</sup> Touching Base, a Sydney based organisation has recognised

an opportunity ‘to assist people with disability and sex workers to connect with each other’, and implies PWD accessing commercial sex is a win-win situation that benefits two marginalised groups, PWD and women in the sex industry.<sup>x</sup> Although the fight for disability rights is absolutely crucial for all PWD, disability rights for some, in this case men, to access commercial sex should not infringe on the rights of other marginalised groups such as women in the sex industry. Women in the sex industry face violence and discrimination precisely because they are in the sex industry, so keeping women in the industry to service men with disability is counterproductive to women’s human rights.

The idea that sex is necessary for intimacy and love has been used to argue for commercial sexual services to be included on the NDIS.<sup>xi</sup> Firstly, this argument wrongly assumes that PWD are incapable of forming intimate, loving and sexual relationships with other people in a non-commercial setting. In fact, this approach reinforces the discriminatory attitudes of some that PWD cannot be in loving physical relationships. Some advocates would prefer to see resources put in to increasing opportunities for people with disabilities to build respectful relationships, and increase opportunities to have social lives. Secondly, and aside from whether intimacy or love should be considered an essential need, this argument presumes that intimacy and love can only be obtained through paid sex. If we follow this logic, ignoring the fact that people are capable of experiencing intimacy and love in non-sexual relationships, what advocates are proposing is that women in the sex industry not only have to provide sexual services, but they are also expected to create feelings of intimacy and love for the men they are being paid to let access their body. There has been no consideration for the potential harm these extra emotional demands could have on women in the sex industry.<sup>xii</sup> Again, men’s perceived needs are put ahead of women’s basic human rights.

Similarly, there has been little consideration for the health and safety of the disability support workers potentially facilitating these commercial sexual transactions. Certain qualifications are required for disability support workers including a Certificate or Diploma in Disability Community Services, a Police Check, a Working With Children’s Check, current First Aid and/or CPR certificate. Unless women in the sex industry will be required to become qualified disability support workers it is reasonable to expect that a disability support worker will be present during a commercial sexual transaction. Providing sexual services on the NDIS would mean that disability support workers would be exposed to explicit sexual encounters at work which could have negative effects on their health and safety. The consequences of placing these extra demands on disability support workers, and potentially on women in the sex industry to become qualified disability support workers, is something that needs careful consideration.

Further to Work, Health and Safety compliance concerns is the issue of consent. Another unstated assumption proponents of including sexual services on the NDIS make is that men with disability all, or mostly all, want sexual services in the first place. This stems from the belief that men “need” sex and assumes that all or mostly all men with a disability want to

participate in commercial sexual encounters. There are concerns that some men with disability who may not be able to give meaningful consent will have sexual services decided for them as part of their NDIS plan. Further, it may be difficult for the woman providing the commercial sexual service to negotiate what is being consented to. This raises obvious concerns for men with disability being assumed to want to participate in commercial sex when they may not want that service.

Another argument put forth by proponents for including sexual services on the NDIS is that access to commercial sex will reduce aggression in men with disability. Unsurprisingly proponents are silent on women’s unmet sexual needs. It is argued that if men have sexual “release” they will be easier to deal with and it may even prevent men with disability from sexually assaulting female staff and women with disability. There is no evidence to support this claim. Instead it is premised on out-dated notions that men have a biological and uncontrollable sex drive. Women have been fighting against harmful rape myths like this for years. In fact, the national framework for the primary prevention of violence against women and their children in Australia recognises stereotyped constructions of masculinity such as the uncontrollable male sex drive as a primary driver of violence against women.<sup>xiii</sup> Including commercial sexual services on the NDIS would be going against national violence against women prevention strategies.

This paper has counteracted some of the main arguments for commercial sex to be included on the NDIS, and raised further considerations. We believe the NDIA has made the right decision not to ‘fund sexual services’ as part of the NDIS.<sup>xiv</sup> We urge the government to instead provide information and programs about rights and health in sex and relationships for PWD, as many disability advocates have recommended.<sup>xv</sup> We have argued that sexual services are not an essential service, a necessity or a human right and therefore should not be included on the NDIS. The ideas that underpin the arguments for commercial sex to be included on the NDIS are based on male sexual entitlement, which contributes to a culture of sexism and violence against women already prevalent in Australia. Men’s perceived needs are privileged above women’s human rights, as seen in the very different ways women with disability are treated, and though the complete lack of concern for the women in the sex industry expected to provide these services. We argue against men’s right to buy sexual access to women on the grounds of women’s human rights and gender equality. This includes men with disability.

<sup>i</sup> <https://www.ndis.gov.au/providers/ndis-providers>

<sup>ii</sup> <https://www.ndis.gov.au/news/media-response.html>

<sup>iii</sup> <https://www.theguardian.com/australia-news/2015/nov/10/un-examines-australias-forced-sterilisation-of-women-with-disabilities>

<sup>iv</sup> Woodlock Delanie, Healey Lucy, Howe Keran, McGuire Magdalena, Geddes Vig and Granek Sharon: Voices Against Violence Paper One: Summary Report and Recommendations (Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria, 2014).

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<sup>v</sup> Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*, Our Watch, Melbourne, Australia.

<sup>vi</sup> Our Watch, (2015) *Change the story*.

<sup>vii</sup> Woodlock, D et al., Voices Against Violence Paper One (2014), p. 140.

<sup>viii</sup> Farley, M, Cotton A, Lynne, J, Zumbek, S, Spiwak, F, Reyes, M E, Alvarez, D and Sezgin, U 2004, 'Prostitution and Trafficking in Nine Countries', *Journal of Trauma Practice*, vol. 2, no. 3-4, pp. 33-74. doi:10.1300/J189v02n03\_03

<sup>ix</sup> Ibid.

<sup>x</sup> <http://www.touchingbase.org/>

<sup>xi</sup> <http://theconversation.com/why-the-ndis-should-cover-the-services-of-sex-workers-12718>

<sup>xii</sup> For discussion of emotional harms see Kramer, L. (2003). Emotional experiences of performing prostitution. In M. Farley (Ed.), *Prostitution, trafficking, and traumatic stress* (pp. 187-198). Binghamton, NY: Haworth.

<sup>xiii</sup> Our Watch, (2015) *Change the story*.

<sup>xiv</sup> <https://www.ndis.gov.au/news/media-response.html>

<sup>xv</sup> Woodlock, D et al., Voices Against Violence Paper One (2014).